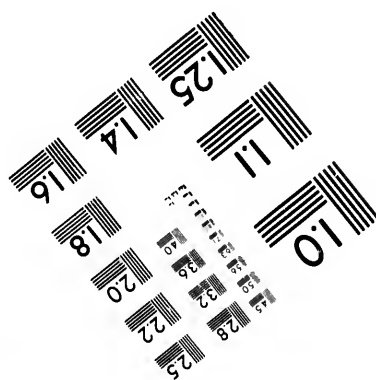
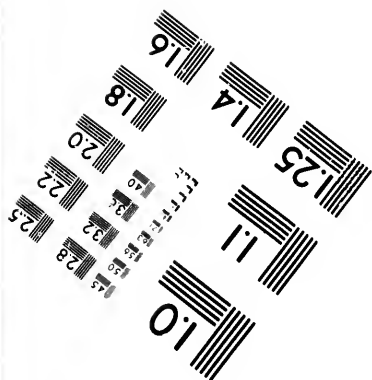
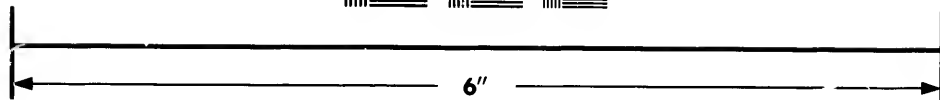
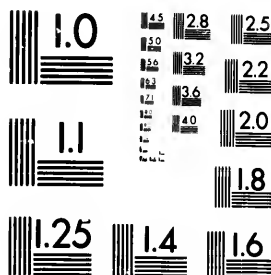


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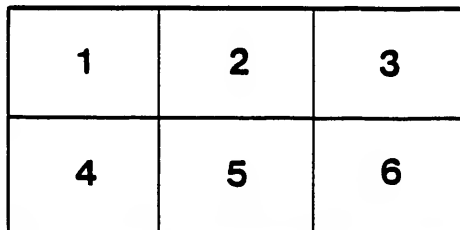
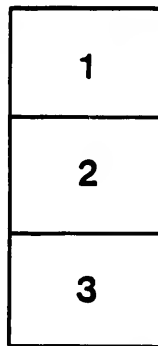
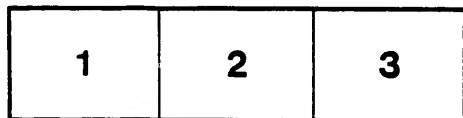
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A STATEMENT

OF

THE DISPUTE

BETWEEN



THE LATE MEDICAL BOARD

OF

The Provincial and City Hospital

AND

THE BOARD OF COMMISSIONERS OF

PUBLIC CHARITIES.

HALIFAX, N. S.  
1886



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# THE STATEMENT

—OF—

## THE MEDICAL STAFF.

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WITH a view to placing in a correct light the circumstances which culminated in the resignation of the Medical Board of the Provincial and City Hospital, and that our position in relation to that institution may be properly understood we have thought it advisable to place before the profession of the Province the following statement of the case :

In 1867 what was known as the "City Hospital," and, under the management of the city medical officer, was used for the reception of infectious diseases, was, as the result of negotiations between the City, Provincial and Dominion authorities converted into a *General Hospital* to be hereafter known as the "Provincial and City Hospital" and to be used for the reception of patients suffering from all forms of disease, from all parts of the Province, as well as the city of Halifax, and for the treatment of sick seamen. The Dominion government became parties to this arrangement from assurances given that not only would they thus be saved the expense of erecting a special hospital for their seamen and paying a special officer to look after them but that they would have the supreme advantage that every sick seaman would when necessary have the benefit of the skill and experience of a dozen or more physicians instead of one.

The Hospital as then organized was, together with the Poor's Asylum, placed under the management of twelve non-paid commissioners; eight of these being appointed by the government and four by the city, two of the former being medical men.

This state of matters continued till 1878 when by act of legislature the three humane institutions, Hospital for the Insane, Provincial and City Hospital and Poor's Asylum were combined under the management of the present Board of Charities, which, as is well known, consists of five members, a chairman, the Commissioner of Mines and Works *ex-officio*, the mayor *ex-officio*, and three paid commissioners appointed by government for a term of three years.

As regards the medical management this has from the first, in accordance with the custom of all similar general hospitals, consisted of a complete staff of attending and consulting physicians and surgeons giving their services without salary. Any change from this mode of service has never been considered advisable. In addition to these

visiting physicians and surgeons there was also established a house staff. At first and for some years this consisted simply of a resident house surgeon, who received a salary and whose appointment was permanent.

This arrangement continued in force until 1872, when the incumbent of the latter position having resigned, and it being also already felt that a change was necessary in order to bring the management of the Hospital more into accordance with similar institutions elsewhere, it was decided at a conference between the Commissioners and the Medical Board, that a new system be adopted for maintaining a resident staff, and the method which up to the present time has been in force was inaugurated, namely, of appointing by competitive examination two gentlemen to act as House Surgeon and Clinical Clerk respectively. The appointments were to be made annually, and it was required of the applicants that they be unmarried and prepared to reside constantly in the hospital. Being young men beginning their professional career their salaries were merely nominal, the experience gained under the guidance and instruction of the regular staff being always and everywhere regarded as fully compensating for services rendered under such circumstances. In the year referred to and in answer to public advertisement several candidates applied for each position and the Medical Board adopted regulations for conducting the examinations. It was decided that the subjects embraced should be Surgery, Medicine, Anatomy, Materia Medica and Therapeutics; candidates for each position to be examined on all four subjects, but greater stress to be placed upon the first two in the case of the House Surgeon and on the latter two in the case of the Clinical Clerk. Further, that there should be two examinations—a written and an oral—in each subject; and to obviate any charge of favoritism to students or graduates of the Halifax Medical College the examiners were as much as possible to be members of the board not on the staff of that institution. The papers from the written examination were to be submitted at a full meeting of the board and the oral examination was then to be proceeded with in the presence of the whole board.

This system of competitive appointment has continued ever since, the candidate receiving the highest number of marks being always\* appointed, and the advantage of this method has been very apparent. The present occasion is the only time that objections have been raised against it. It has been urged during the present dispute that it deprives the Board of Charities (the appointing body) of any discretionary power: in fact that it really makes the Medical Board the appointing body. This is clearly a fallacy. The applications are sent in to the Board of Charities, and if anything of a non-professional character is known against an applicant the board has full authority to disqualify him from the competition; but once a candidate is admitted

\*Except in the case mentioned hereafter.

to the professional examination if he makes the highest marks he is justly and legally entitled to the position for which he has been competing.

On two occasions previous to the present, difficulties have arisen with reference to the House Staff. In one case a gentleman was appointed by the Commissioners to the clerkship who was one point behind his competitor, and the position taken by the Medical Board and their emphatic protest against the appointment may be seen recorded in the proceedings of the Board of Commissioners. A few years later, in 1883, a gentleman was appointed to fill a vacancy caused by the resignation of the House Surgeon during his term of service, without being referred to the Medical Board for any examination whatever, in fact without the board being even consulted in the matter. The occurrence of this offensive action following so closely upon the former case so roused the indignation of the Medical Board that they would at that time have undoubtedly resigned had they not before taking that step received from the Commissioners an emphatic assurance that no such difficulty should again occur.

This year (1885) as usual in accordance with sect 3, chap. iii., of the Commissioners' by-laws and regulations—"The Board shall one month previous to the first of May in each year advertise for applicants for the position, and applicants shall undergo a *competitive* examination before the Medical Board, who shall communicate the results thereof to the Board"—an advertisement appeared for some weeks prior to May 1 inviting applications for the position and specifying the terms of the appointment to *competitive examination*. In response to this advertisement two gentlemen, Drs. Goodwin and Hawkins, applied for the position.

The applications were received by the Commissioners, who, considering both candidates in all other respects fully eligible, referred them to the Medical Board to determine by the competitive examination required by the by-law already quoted, which candidate was entitled to the position. The examinations were held at the Hospital on the 27th and 28th of April, and were conducted as already indicated. The result of these examinations, as reported to the Board of Charities, was that Dr. Goodwin had made an average of 80 per cent in all subjects while Dr. Hawkins had made only 66 per cent: in short, that Dr. Goodwin had won the position by 14 points.

It should here be remembered, as was also pointed out to the Commissioners, that Dr. Goodwin had already had the experience of twelve months in the Hospital as assistant house surgeon, and on several occasions had to take full charge of the institution, and had at all times proved himself a most capable officer, while Dr. Hawkins, except as an ordinary student, was a stranger to the Hospital. The indignation felt by the Medical Board may thus be well imagined when

on the first of May the Secretary was informed by the Board of Commissioners that the inferior candidate, Dr. Hawkins, had been appointed House Surgeon. A special meeting of the entire staff was called next day (May 2) when a resolution was passed denouncing the action of the Board of Commissioners and declaring that we would not allow ourselves to be made parties to any such objectionable procedure. A letter addressed, by the advice of the Hon. Provincial Secretary, to the Board of Charities asking an explanation of their action having elicited only a very curt reply, the Medical Board notified the Commissioners that after Tuesday, May 12, they would cease attendance upon the Hospital and resign their positions in connection with that institution.

In pursuing this course the medical staff have at the outset been accused of haste and a want of regard of the interests of the unfortunate patients who would be left without medical attendance. A letter published in the "Morning Chronicle" of Sept. 17, by Dr. W. J. Lewis, a retired medical gentleman residing in Halifax, answers this charge so completely that we think little more is needed than its insertion here to satisfy any unprejudiced mind that such was not the case.

*To the Editor of the Chronicle :*

SIR,—I regret to notice that your leading article in this day's issue, on the hospital difficulty, comments adversely and I think very unfairly, on the conduct of the late medical board. The conclusions you have arrived at are, I think, not warranted by the facts. I do not propose now to enter on a discussion of these facts—my present object in addressing you is to endeavor to show that the action of the medical board in resigning was not as you say "hasty" or "impetuous." I confess that when I first heard of the resignation I thought it was premature and so expressed myself to one of their body, but on perusing their statement as submitted to the public in the *Evening Mail*, of May 23rd, I satisfied myself that that resignation did not take place one hour too soon. The facts in the statement referred to have not I believe been disputed, and may, therefore, be assumed to be correct. These facts I shall summarize as briefly as possible and they are conclusive to my mind that the time had arrived for the medical board to resign. On the 27th and 28th April, Goodwin and Hawkins were subjected to a competitive examination the result of which was that the former made an average of 80 p. c.—the latter 69 p. c. On May 1st, the charities board made it known that Hawkins, the candidate making the lowest marks, had been appointed to the position. On the following day the medical board passed a resolution virtually protesting, and avowing that they "will not consent to have their honour compromised by being made parties to such an objectionable procedure." On the same day, May 2nd, they had an interview by appointment with the hon. provincial secretary, "submitted the purport of the resolution, stated their views fully, and indicated plainly, that the inevitable result of the action of the commissioners if persisted in, would be resignation of the medical staff. He promised to bring this matter before the members of the board of charities, and also advised that we ourselves (medical board) should communicate with the commissioners." This was done by letter immediately to the commissioners, asking if there was any misunderstanding of the return made of the result of the competitive examination, otherwise they could not comprehend why the gentleman who failed to make the highest number of marks at the examination had been appointed, and concluded by saying, "This board will be pleased to be informed of your reasons for departing from your rule and established custom in this matter." Again on May 6th, the medical board (believing that a re-consideration of the appointment would be made) addressed another letter to the commissioner strongly urging the appointing of Mr. Goodwin, and giving valid and sufficient reasons why he was the best qualified for the position. "The commissioners met on the following Wednesday, and an immediate answer was expected by the medical board, but Wednesday and Thursday passed without any reply." On Friday the doctors met and unanimously passed a resolution to resign, but decided to defer

their resignation until the commissioners had again met. That afternoon, however, six days after the letter of the medical board had been sent, the following reply was received and read at a special meeting held next day:

A. J. COWIE, M. D.:

DEAR SIR, I am instructed to acknowledge receipt of your communication of the 2nd inst, asking on behalf of the medical board for the reasons which guided the board of public charities in the recent appointment of house surgeon to the P. & C. Hospital, and I am to say that this board believing either gentleman qualified for the position exercised its own judgment in making the choice.

Respectfully yours,

R. T. MURRAY,

Secretary.

This of course was considered an ultimatum, and the resignation was at once sent in.

I think I have shown conclusively, Mr. Editor, that there was nothing "hasty" or "impetuous" in the actions of the medical board, and that they could have withheld their resignations no longer except at the sacrifice of self-respect.

September 1th, 1885.

W. J. LEWIS.

P. S. It must not be forgotten that a somewhat similar affair occurred in a previous hospital appointment not long ago, and which was then protested against and an intimation given that a recurrence would be followed by resignation.

On the other hand we think it should be evident to all that the resignation of the medical staff, even though apparently hasty, was with a view to the best interests of the patients. It is necessary, as has been well observed by the Hon. Dr. Parker, in his letter to the Commissioners when tendering his resignation, "that the person filling the position of house surgeon should have the entire confidence of his superiors as to integrity, industry and the disposition to obediently carry out their orders and instructions. To some extent the house surgeon holds in his hands as it were the reputation of his superiors; and if this fact is not morally appreciated it can readily be imagined what results might follow in the wake of an inefficient and unfaithful officer. An officer appointed in opposition to the rules and regulations of the hospital, and to the finding of the professional examiners of the competitors, cannot but be influenced by the thought that he is to a large extent independent of the medical staff, and is rather the subordinate of the board, to whose good offices alone he is indebted for his position."

The utter impossibility of any staff being able to work to the advantage of the patients with a house surgeon forced into that position and his appointment reaffirmed contrary to their protestations is, we think, in view of the above very apparent, and the sooner such a condition of affairs is brought to an end the better, even though, as in this case, it should demand the resignation of the staff.

The Medical Board has still further been accused of preventing a settlement of the difficulty,

1, by securing the outside members of the profession in a combination to "boycott" the Board of Charities and prevent the obtaining of a new staff.

2, in refusing to confer with the Commissioners on the question-in dispute.

3, in refusing to refer the matter to arbitration.

4, in frustrating efforts made to secure a legal decision.

The first charge was positively denied by Dr. R. S. Black, chairman of the late board, in a letter to the "Morning Chronicle" in Sept last, on the authority of a declaration signed by all the members of the staff concerned in the official resignation. We insert the original :

We, the undersigned, members of the late Medical Board of the Provincial & City Hospital, hereby declare that neither individually nor collectively was any attempt made by us to induce any one to refuse duty at the Hospital in the event of our resigning our positions in connexion with that institution. Any action that the outside members of the profession may have taken was entirely voluntary on their part.

(Sg'd)	R. S. BLACK, Chairman,	W. N. WICKWIRE,
	W. B. SLAYTER,	JOHN SOMERS,
	ANDREW J. COWIE,	W. M. CAMERON,
	EDWD. FARRELL,	STEPHEN DODGE,
	A. W. H. LINDSAY.	

[N. B.—Drs. Parker and J. F. Black were away from home at the time of the resignation of the Medical Board, but subsequently informed the Board of Charities of their approval of the course of the other members. Dr. Campbell also resigned his connection with the Hospital as curator of the museum and microscopist.]

But we are fortunate in being able to cite the statements of one of the outside physicians themselves in refutation of this false insinuation. In a letter to the "Morning Chronicle," Oct. 14, Dr. Rigby, in defending his own and his friends' action in accepting positions as members of the new staff, says: "It is perfectly true that the physicians who were not connected with the Hospital *readily and voluntarily* offered their support to the late Medical Board previous to their tendering their resignation." A little further on he says: "A meeting of all the profession in the city was at that time suggested by me to one of the principal members of the old board, but the suggestion was not listened to. The old medical board not only did not consult their professional brethren but they actually left them to gather whatever information they could from public rumors and the newspapers," etc. Still further in corroboration of what is so strongly insisted upon by Dr. Rigby we have the correspondence from Dr. Goodwin which appeared in the "Herald" of Oct. 19, and which speaks for itself:

To the Editor of the Herald:

SIR,—In a recent issue of the *Morning Chronicle* I notice that the late medical board has been compelled to defend itself against charges of using means to prevent the outside medical men from taking positions upon the hospital staff, and of thus 'boycotting'

the board of charities. I regret that in espousing my cause the gentlemen composing the late staff should have met with such insulting treatment from the board of commissioners and their sympathizers, and still more do I regret it when I believe that a certain action of mine undertaken by the advice of one of the outside profession and without the knowledge of the medical board, has been designedly made use of against the late staff, in fact attributed to them. I wish, therefore, to make the following explanation: Immediately after the appointment of Dr. Hawkins was announced, I was assured by the members of the medical board that unless the decision of the board of charities was reversed, or a satisfactory explanation given, they would resign their positions in connection with the hospital. In conversation with other members of the profession I found that they professed to regard the appointment in the same light as the late board. Talking over the matter one day with Dr. Rigby, however, he endeavoured to give me the impression that neither the medical board nor the outside members of the profession could be depended upon. The best thing, he thought, was to get up two papers—one to be signed by the staff, the other by the outside men. Without consulting the members of the board I fell in with his suggestion. Dr. Rigby then dictated the paper hereto annexed. Dr. Rigby then signed the paper and acting under his advice alone, I went to other member of the profession including Drs. Fraser, Marshall, Lathern, McFatrige, Campbell, Fitch, and secured their signatures. When the matter came to the knowledge of the medical board, or rather of members of it (for some I believe never knew of it at all) they advised me that I was making a mistake, and gave me every assurance of their intention of resigning, unless the wrong was rectified; and so I was dissuaded by them from seeking any more signatures and thus the matter ended. I hope the above explanation will be taken as wholly absolving the medical board from originating or endorsing any attempt to boycott the board of charities.

F. W. GOODWIN.

Hartland, Carlton Co., N. B.

The following is the paper written from Dr. Rigby's dictation with the signatures obtained:—

HALIFAX, May 2nd, 1885.

We, the undersigned physicians of Halifax, being aware that Dr. Hawkins has been appointed house surgeon of the provincial and city hospital, notwithstanding that another applicant, Dr. Goodwin, in competition for the said position before the medical board, had passed a far more successful examination, and not being aware of any reason why the latter gentleman should not have been appointed; hereby agree that should the members of the medical board of the city hospital resign their position on the staff of the said hospital we will not accept any positions that may be offered therein under the following conditions: viz., that the present members of the medical board promise or agree among themselves that they will not again serve in the said hospital in any capacity until Dr. Goodwin has been regularly appointed in the place of the present incumbent.

CHARLES D. RIGBY, M. D.  
D. A. FRASER, M. D.  
T. R. MARSHALL, M. D.  
ROBERT McFATRIDGE, M. D.  
J. S. LATHERN, M. D.  
D. A. CAMPBELL, M. D.  
S. FITCH, M. D.

As regards the second ground of complaint against the Medical Board,—had the Commissioners *before deciding* upon their most unjustifiable course of appointing the inferior candidate asked a conference of the Medical Board, intimating that while they had every reason to believe that Dr. Goodwin might professionally be the superior, still that they had other and higher reasons which, when explained, would more than counterbalance this claim of professional knowledge, notwithstanding that this, if true, should, as already stated, have positively debarred Dr. Goodwin from being admitted to the competition—the Medical Board would willingly have consented. Believing, however, from the fact that no such conference was asked that there was no tenable or just ground of complaint against Dr. Goodwin, and being strengthened in that belief by the offensive reply given by the

Commissioners when asked for an explanation of their unusual course, the Medical Board felt justified in refusing a conference on this particular point. For, as was admitted by all, the Commissioners had at least in this particular committed a grave mistake. They, however, stated that as soon as this one mistake was rectified they were ready at once to confer with the Commissioners on the many other matters upon which, as was pointed out in their first "statement," a conference was most desirable. Subsequently, however, through the intervention of the Hon. Mr. Fielding, a conference was held in his office, but as the representatives from the Commissioners failed to confine themselves in the outset to the point at issue it resulted, as was expected, in nothing definite.

The third objection raised against the action of the medical staff was reference to the so-called arbitration.

About the middle of July, over two months after the resignation of the Medical Board, a prominent supporter of the government called on the Secretary, apparently as the representative of the Hon. Mr. Fielding, proposing that the matter be submitted to arbitration. Thinking that the proposal emanated from the government the Secretary at once called a meeting for the purpose of considering it. Subsequently to his having done so, however, he met the Hon. Mr. Fielding himself, who expressed regret that this had been done, as he had no authority to make any such proposal on behalf of the Charities Board. As he had nothing official to propose he was sorry that a formal meeting of the board had been called, and he did not wish to receive any formal resolution, or any official representative from the Medical Board, on the matter; all he could say was that if he were satisfied that the leading members of the Medical Board would favor submitting the case to arbitration he thought he could secure the co-operation of the Charities Board. Other members of the board were approached in the same indefinite way, but consideration of the question was deferred to the meeting which had been called. On Friday, July 17, the board met, and some of the members were favorably disposed towards the idea; but there being no definite proposal either from the government or from the Charities Board before the meeting they decided that they were unwilling under such circumstances to commit themselves to any course of action.

We now come to the last and perhaps most serious charge preferred against us, namely, that having agreed to submit the question in dispute to a Judge of the Supreme Court we later on, through fear of an adverse decision, receded from that position.

A careful consideration of the circumstances which led to this proposal, and the various steps subsequently taken, will convince any candid person that failure to obtain a decision in this way was due to no fault of ours. It is first necessary to explain how the proposal



came about. The continuance of the Halifax Medical College, which had been in existence for the last eighteen years, was endangered by the resignation of the Hospital staff. The College issues an announcement about the second week in June in each year. It was prepared as usual this year, but its publication was deferred from time to time with the hope that the difficulty would be adjusted. On the 16th of July, one month after the time when the announcement is generally issued, a special meeting of the faculty of the College was summoned to consider the question. After a lengthy discussion of the matter the following resolution was passed :

"*Whereas* a difficulty between the Commissioners of Public Charities and the Medical Board of the Provincial and City Hospital has led to the resignation of the latter; *and Whereas* the resignation of the Medical Board will prevent students of the Halifax Medical College receiving instruction at the Provincial and City Hospital; *and Whereas* the restoration of the Medical Board does not appear probable before the time of publishing the Annual Announcement of the Medical College; *and Whereas* it is necessary for the Halifax Medical College to publish an Announcement, *therefore Resolved*, that if the Medical Board do not resume duty before the 7th of August next the Halifax Medical College will announce its inability to continue courses of lectures during the coming winter."

The Secretary was directed to forward a copy of this resolution to the Governors of Dalhousie College, with which body the school had recently become affiliated. The Governors met shortly after and requested their chairman, Sir Adams G. Archibald, to take action in the matter to prevent if possible the closure of the school. He at once called on the Hon Mr. Fielding. The substance of the interview and what followed thereupon is stated by Mr. Fielding in his letter to the *Morning Chronicle* of Oct. 3, as follows :

"After a protracted discussion of the whole subject my visitor said he thought that if the parties chiefly concerned could be got together a means of settlement could surely be found. He spoke of the governors of Dalhousie, at their next meeting, taking some action and offering their services to try to bring about a better state of affairs. I said that the delay was not calculated to make a settlement easier, and that whatever was to be done should be done quickly. I proposed that informally a conference be had on that same day. This suggestion was at once accepted and within a few hours three governors of Dalhousie college, two members of the medical board, and two members of the charities board met with me at my office and fully discussed the question. An eminent lawyer, who had a part in the conference said after looking into the statute and bye-laws of the hospital, that the appointment of Dr. Hawkins was "illegal". One of the doctors said that had been the view of the medical board. I asked why the medical gentlemen had not acted on that belief and taken the case into the courts? The doctor, replying, asked why the members of the medical board, or Dr. Goodwin, should be required to go the expense of a law suit to make the charities board do right? I then said that if the expense was the difficulty it could be removed, as the government would pay any reasonable expense of submitting a case to the court if the two boards would agree to accept the court's decision. This was generally accepted as a fair offer and a basis of settlement. There was some discussion as to the means of getting a hearing—whether the full court or a single judge should dispose of the question. The objection to the full court was that there might be delay. The sentiment of the confer

ence was that if a single judge could hear the case his decision should be accepted without appeal, but no definite understanding was come to as to the form of the reference, further than that the question at issue was to be the legal one."

Mr. Fielding in the course of the discussions gave the assurance that if the Medical Board should agree to the proposal he would secure the co-operation of the Charities Board.

The Medical board met next day and agreed chiefly in the interests of the college to submit the case to the decision of a single judge, but under the following conditions :

1st. That the judge be either the Chief Justice or Judge Thompson.

2nd. In event of return to duty the board have assurance of amendment of by-laws governing their positions.

3rd. That letters sent to members by commissioners be withdrawn. (On July 29th a letter was sent to each member of the old board informing them that the resignations tendered in May last would be accepted, if not withdrawn on or before the 5th of August.) Unfortunately about this time the Hon. Mr. Fielding left the city and some difficulty and delay was experienced in conveying the decisions of the medical staff to himself and through him to the commissioners. To hasten matters Dr. Parker telegraphed Mr. Fielding as follows :

"Reference agreed to, in case charities last letter is withdrawn and a promise given to amend by-laws. Another condition which I will talk to you about. Please put case before Farrell for his concurrence." He received the following reply : "Your message favorably received. Please write me as to conditions. Now that a settlement is approaching I hope no conditions will be made that can be objected to. Farrell agrees." Dr. Parker immediately replied as follows :

HON W S. FIELDING, Hubbard's Cove.

In reply to your telegram of this date I have but little to add to that which mine of this morning contained. The "other condition" about which I said I would speak to you on your return had reference to the judiciary, and I think it would be better to let this matter stand until we meet. I do not think any difficulty will arise in connection with it. The necessity for a revision of the by-laws is manifest, and there need be no delay or opposition on that point. All the Medical board require in relation to the professional management of the hospital is what has been conceded by the trustees and directors of similar institutions elsewhere. The withdrawal of the letters sent to the individual members of the Medical Board by the Board of Charities under date July 29th, is a necessary part of the procedure. . . .

I am yours truly,

D. McN. PARKER.

A day or two after, at the direction of Mr. Fielding, the hon. Mr. Church, Chairman of the Commissioners, called on Dr. Parker and was

fully informed of the decision of the Medical Board. On the 6th of August Dr. Parker received from Mr. Church the following communication : "In the absence of the Secretary and from other causes, only routine business was transacted at the meeting of Board of Charities yesterday. The board meets on Monday 10th inst., at which meeting I hope that a solution of the hospital difficulty may be arranged. In the meantime no action will be taken as to the acceptance of the resignation of the Medical Board." The board met as intimated by Mr. Church on Monday, and in reference to the matter passed the following resolution :

"*Whereas* it has been informally brought to the notice of this board that the Medical Board of the Provincial and City Hospital have decided to resume duty at the Hospital when a case on the question at issue between the two boards has been submitted to the Supreme Court ; *and Whereas* this board has delayed further action in respect to the resignation of the Medical Board pending a settlement ; *therefore Resolved*, that this board shall retain counsel at once to look after their interests before the Court ; *and further Resolved*, that a copy of this resolution be sent to the Medical Board, with a request that they communicate to this board the name of the counsel who will represent them."

This communication and resolution was read at a meeting of the Medical Board on the 13th, and the following letter was sent in answer :

"In reply to your communication, it was understood by the Medical Board that the case was to be left to *one* of the Judges to be decided upon thereafter, in order to obtain a speedy decision, as the Medical Board did not at any time propose to resume their duties at the Hospital until the decision was given. In respect to the name of a solicitor, the Medical Board has asked Mr. Wallace Graham to act for it in the case."

The receipt of this letter was acknowledged in a communication from the Charities Board dated August 15, and the Medical Board were informed that Mr. Graham would be communicated with by the Commissioners' counsel, but no name was given as such counsel.

On Monday, the 24th of August, the suspension of the Halifax Medical College was announced. Two reasons determined this action : 1st, There being no prospect of a speedy settlement of the Hospital difficulty. The Secretary of the Faculty called several times at Mr. Graham's office to see if any communication had been received from the Commissioners or their counsel, but was informed that he had not as yet been advised who was their counsel. Mr. Borden, Mr. Graham's partner, at the Secretary's request, endeavored to ascertain who had been appointed to represent the Charities Board, so that the matter might be urged on. He received a note from Mr. Borden saying :

"Both the Provincial Secretary and the Commissioner of Mines are out of town. The Secretary of Board of Charities would give me no information." Finally it was accidentally learned that Mr. McCoy had been appointed, but he also was out of town. 2nd, The delay occasioned had already so damaged the prospects of a successful session that continuance would have been a mere matter of form ; and further, as most of the American schools open at an earlier date than the Halifax College, it was necessary to announce the intention of the faculty at once in order that those going abroad might have all arrangements completed.

On the same day that this suspension was announced, and nearly four weeks after the conferece, the Board of Charities are first definitely heard from in the following letter :

HALIFAX, Aug. 24, 1885.

MESSRS. GRAHAM, TUPPER, BORDEN & PARKER :

*Gentlemen,*—We beg leave to inform you that we have been retained by the Commissioners of Public Charities to have a case submitted to the Court as to the legality of the appointment of Dr. Hawkins to the position of House Surgeon in the Provincial and City Hospital. If you have not already prepared a case, we will do so at once on hearing from you, and submit it for your approval and arrange for the argument without further delay. If you have prepared a case, please submit it to us at once in order that we may see if it is satisfactory.

Yours truly,

MACCOY & MORRISON.

At the request of Mr. Borden, a case was prepared by Mr. MacCoy and submitted to Mr. Graham. It was as follows :—

IN THE SUPREME COURT, 1885.

The Provincial Medical Board.  
and  
The Commissioners of Public Charities.

A dispute having arisen between the "The commissioners of public charities" and the "Medical board" of the provincial and city hospital relative to the appointment of house surgeon recently made by the commissioners to that institution, and both parties with a view of preventing prolonged litigation and obtaining a speedy settlement of their difficulties have agreed to submit the following facts to the Supreme Court and upon which they desire their opinion :

1. "The commissioners of public charities" were created a body corporate by the local legislature by chap. 16 of the acts of 1878, which act was amended by chap. 26 of the acts of 1879 and again by chap. 11 of the acts of 1883 and consolidated into chap. 33 R. S. (5th series), so far as concerns the said hospital, and possesses and did possess and exercise at the time of the appointment hereinafter referred to all the authority conferred upon them by law in relation to the said hospital.

2. "The medical board" is a board created and appointed by the commissioners and consist of the consulting and attending physicians and surgeons who hold office during the pleasure of the commissioners.

3. The powers and duties of said board is defined by the by-laws made by the said commissioners and are contained in the book annexed marked "A" and is to form and to be taken as part of this case.

4. The appointment of "house surgeon" of said hospital has always been made by the commissioners and he holds his office from the 1st May for one year.

5. The powers and duties of said "house surgeon" is defined by the by-laws made by said commissioners and contained in the book marked "A."

6. The time of the house surgeon appointed in 1884 expiring on the first day of last May the commissioners one month previous thereto advertised for applicants for the position, which advertisement is annexed hereto marked "B," and Drs. Hawkins and Goodwin applied therefor.

7. Dr. Hawkins was at the time a graduate of a recognized school of medicine in good standing (McGill university, and passed a successful examination and was duly registered to practice medicine in this province previous to his application, according to chap. 28 R. S. (4 series) and the acts in amendment thereof and consolidated in chap. 21 R. S. (5 series). But Dr. Goodwin at the time of his application was not a graduate of any school of medicine and did not complete his graduating examination until the 22nd day of April, 1885, and he received his degree on the 21th day of said April, from the Halifax medical school.

8. The application of these gentlemen were referred to the medical board in order that they should undergo a practical competitive examination according to the commissioners' bye-laws contained in book marked "A."

9. That after said examination the medical board communicated the result of said examination to the commissioners, the standard for said examination by said board being 50 per cent. The result of said examination is hereunto annexed marked "C" and is to form part of this case.

10. After the receipt of the said report by the commissioners they duly appointed Dr. Hawkins to the position of house surgeon to said hospital in May last and he immediately entered upon his duties as such, whereupon the medical board resigned claiming that the commissioners of public charities had no power to appoint Dr. Hawkins but must appoint Dr. Goodwin on the ground that he passed the best examination although under similar circumstances the commissioners appointed the gentleman having the lowest marks on a former occasion.

The questions for the opinion of the court are :—

First—Had the "commissioners of public charities" authority under the above facts and under the law to appoint Dr. Hawkins.

Second—Is the medical board entitled to a writ of mandamus to compel the commissioners to appoint Dr. Goodwin.

Third—If these two questions are answered in the affirmative then a writ of mandamus to issue.

The following is Mr. Graham's reply to Mr. MacCoy :—

HALIFAX, N. S., Aug. 28, '85.

*Dear Sir,*—The case proposed by you was received at noon on the 26th inst. It is very wide of all previous understandings as to what should be submitted for determination, and it comes after a lapse of time during which the doctors have been obliged to suspend the Medical College. I shall therefore be obliged, instead of dealing with it myself, to submit it to the doctors composing the late Medical Board for instructions.

As far back as the 10th inst. the Board of Charities forwarded a copy of a resolution to Dr. Black which recited two facts entirely different from all previous propositions, namely, that the doctors should resume their places on the Medical Board as soon as the case was agreed on ; secondly, that this case should be submitted to the Supreme Court.

The Commissioners of Public Charities were informed, in a reply from Dr. Black, that the doctors had understood the proposition had been to submit the question in dispute to a Judge, not the Court, in

order to have a speedy decision. The object, no doubt, was to enable the doctors to determine upon their course with reference to the Medical College. It was in the interest of that College that Sir Adams Archibald, the Hon. A. G. Jones and others had an interview with the Provincial Secretary and others.

Dr. Black also informed the Commissioners that the doctors could not take any step in respect of a return to the Hospital until a decision was arrived at by a Judge. Dr. Black further gave the name of Counsel. As such Counsel I called on the Hon. Mr. Church, chairman of the board, but he could not give me the name of Counsel to represent the board. On the 15th the Secretary informed Dr. Black that its Counsel (not named) would communicate with Mr. Graham. Nothing, however, was done until the 26th inst., and the doctors meanwhile had given up the idea of carrying on the Medical College.

1. The case now proposed contains the idea still of a submission to *the Court*. This was never entertained and was expressly objected to. The Court does not sit until next December; a decision could not in the ordinary course be given until Dr. Hawkins' year expires, when it would be entirely useless.

2. It is not a fact that the standard for the competitive examination is 50 per cent. There is no standard of any kind. To consent to the insertion of that in the case would be giving away one of the chief contentions in the case.

3. The fact that the Commissioners once before, according to our contention *violated* the bye-laws and appointed a person having the lowest instead of the highest marks, should not be inserted in the case even if it is a fact. The doctors then protested against it and gave notice of their resignation if it was repeated.

4. The case states that Dr. Hawkins was "duly appointed."

I could not possibly assent to such a statement.

5. The fact that Dr. Goodwin was not a graduate at the time of application for examination is now raised in the case for the first time. If he was not qualified for examination why did the Commissioners allow him to be examined? They have always placed their refusal to appoint Dr. Goodwin on other grounds. They have appointed applicants from time to time who have been in the same position as Goodwin at the time of examination. This should not be in the case, or if it is the foregoing facts should be stated with it.

6. It is not necessary to ask the court the second question. Is the Medical Board entitled to a writ of "Mandamus," etc? The Medical Board is not a corporation and cannot be a party to the case as you have made it. The remedy may be by means of a writ of "Quo warranto," or some other extraordinary writ, but it is no use to

ask the Court difficult questions which would not result in any practical good. A writ of Mandamus cannot issue upon a special case.

The doctors cannot meet before Monday night when they will consider your proposition.

Yours truly,

WALLACE GRAHAM.

W. F. MACCOY, Esq.

As the result of correspondence Mr. Graham secured the elimination of several objectionable points from the case as first prepared by Mr. MacCoy, but as the latter still adhered to the contention that Dr. Goodwin was not a graduate at the time of his application, and also that the case should be submitted to the Supreme Court; at Mr. Graham's request a meeting of the Medical Board was called to consider the matter as it then stood. The meeting was held September 2nd and the Board decided that although they had, in consideration of, Dalhousie College and the Medical School already done more than they had ever proposed doing, still that having begun they were willing to continue negotiations in the hopes of obtaining a settlement of the difficulty. They therefore directed Mr. Graham to prepare a case embodying the necessary facts, and also the propositions to which they had always declared themselves willing to agree.

Acting under their directions Mr. Graham prepared the following as a statement of the case:—

"A dispute having arisen between the commissioners of public charities hereinafter called the 'board' and the medical board of the provincial and city hospital relative to the appointment of the house surgeon in connection with that institution, the said board and medical board, in order to prevent litigation and obtain a speedy settlement, have agreed to submit the said dispute to the chief justice or a judge of the Supreme Court for his determination.

Previously to the first of May, 1885, Arthur C. Hawkins and Fred. W. Goodwin were applicants for the position of house surgeon in connection with the provincial and city hospital under the bye-laws hereto annexed marked 'A.' Their applications were received by the 'board' and the applicants were referred to the medical board in order that they should undergo the competitive examination required by the said bye-laws.

The said applicants were duly examined by the said medical board, and the results of the examination were communicated to the 'board.'

The report of the result of said examinations is hereto annexed, marked 'B.'

After receiving said report, the 'board' appointed Hawkins to the position of house surgeon. At the time of the appointment both Hawkins and Goodwin were graduates of recognized schools in good standing, and were, except so far as is indicated by the results of the examination, equally qualified and eligible for the position.

If the judge is of opinion that the commissioners did right in appointing Hawkins, notwithstanding that Goodwin had passed the best examination, the medical board agrees forthwith to enter upon its duties in connection with said hospital. If the judge thinks otherwise, the board agrees forthwith to remove Dr. Hawkins from the position of house surgeon and appoint Goodwin thereto."

The case as prepared by Mr. Graham was submitted to Mr. MacCoy on the 4th Sept., but it was only after Mr. Graham had twice written Mr. MacCoy that the following definite answer was received. It is dated Sept. 17th:—

DEAR SIR,—I beg leave to acknowledge the receipt of yours of yesterday

The board of charities have always contended that they had the right under the law and facts in this case to appoint Dr. Hawkins, and they are willing to submit that question to the court for a judicial decision. But they are not willing while they possess that right to submit the propriety of their conduct in making that appointment to a Judge.

There may be facts and circumstances which would fully justify the board in appointing a person to the position of house surgeon, notwithstanding he had not obtained the highest marks in a competitive examination providing he was otherwise qualified.

Yours truly,

WALLACE GRAHAM, Esq., Q. C.

WILLIAM F. MACCOY.

And so ended the negotiations to obtain a settlement by reference to a Judge, in agreeing to which the Medical Board considered that it had done all in its power to facilitate a settlement of the matter. Shortly after this the Secretary of the Medical Board received a communication informing him that the resignation of its members had been accepted.

The foregoing we believe to be a full and true statement of the facts so far as we know them. We have to regret the existence of the unfortunate state of affairs, but in looking back we cannot see that we could in any way have acted differently, either with respect to the best ulterior interests of the Hospital or our own professional honor; and we still consider that the action of the Board of Charities was not only a grievous wrong to a deserving man—Dr. Goodwin, and a most discourteous treatment of a body of professional gentlemen, but also a great blow to the usefulness of an important public institution.

Of the course which certain medical gentlemen have seen fit to pursue in accepting positions at the Hospital under existing conditions, we shall say nothing at present.

(Signed),

D. McN. PARKER,  
W. B. SLAYTER,  
R. S. BLACK, per J. F. B.  
AND J. COWIE,  
W. N. WICKWIRE,  
EDWD. FARRELL,  
J. F. BLACK,  
JOHN SOMERS,  
W. M. CAMERON,  
A. W. H. LINDSAY,  
STEPHEN DODGE,  
D. A. CAMPBELL.



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