

Aylmer James Crompton

Appellant

v.

General Medical Council

Respondent

FROM

THE HEALTH COMMITTEE OF
THE GENERAL MEDICAL COUNCIL

REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL OF THE 26TH FEBRUARY 1985,
DELIVERED THE 2ND APRIL 1985

Present at the Hearing:

LORD BRANDON OF OAKBROOK

LORD BRIGHTMAN

LORD TEMPLEMAN

[Delivered by Lord Brightman]

This is an appeal under section 40 of the Medical Act 1983 from a decision of the Health Committee of the General Medical Council that the fitness to practise of the petitioner, Dr. A.J. Crompton, is seriously impaired by reason of his mental condition and from a direction that his registration as a fully registered medical practitioner shall be conditional for twelve months on his compliance with three requirements: in short, that he should practise only in a laboratory post, that he should consult a psychiatrist and that he should also consult a neurologist.

Under section 1(3) of the Medical Act 1983 the Professional Conduct Committee and the Health Committee are Committees of the General Medical Council, which is a body corporate. The Professional Conduct Committee were formerly known as the Disciplinary Committee. The Health Committee, and another Committee known as the Preliminary Proceedings Committee, came into being as a result of the Medical Act 1978, the predecessor of the 1983 Act. The Professional Conduct Committee have jurisdiction to give certain directions, including erasure or suspension of registration where a medical practitioner has been convicted of a criminal offence or is judged to have been guilty of serious

professional misconduct. The principal jurisdiction of the Health Committee is defined as follows:-

"37.(1) Where the fitness to practise of a fully registered person is judged by the Health Committee to be seriously impaired by reason of his physical or mental condition the Committee may, if they think fit, direct-

- (a) that his registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding twelve months as may be specified in the direction; or
- (b) that his registration shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Committee think fit to impose for the protection of members of the public or in his interests."

Under section 40 an appeal lies to Her Majesty in Council from a decision of the Health Committee under this section, but confined to a question of law. Their Lordships have been told that the instant appeal is the first of its kind.

The principal function of the Preliminary Proceedings Committee is to decide whether a case referred to them for consideration ought to be referred to the Professional Conduct Committee or the Health Committee.

The constitution and proceedings of the Health Committee are governed by rules made by the General Medical Council and approved by Order of the Privy Council. Under The General Medical Council (Constitution of Fitness to Practise Committees) Rules Order of Council 1980 (S.I. 1980 No. 861) (made under the 1978 Act but still in force) the Health Committee consist of a panel of twelve including one lay member. The quorum of the Committee is five. The proceedings of the Health Committee are regulated by rules similarly made and approved by The General Medical Council Health Committee (Procedure) Rules Order of Council 1980 (S.I. 1980 No. 859).

The procedural rules are conveniently divided into "Arrangements for the Initial Consideration of cases", "Procedure of the Health Committee at the First Hearing of any case" and "Resumed Hearings by the Health Committee". This is an appeal from a decision made at a Resumed Hearing.

The initial consideration of a case is regulated by Part II. It begins with a referral, which can come either from the Preliminary Proceedings Committee, or

from the Professional Conduct Committee or from the person appointed by the Council to undertake the initial consideration of cases or (as in the instant case) from the President of the Council under rule 8(5). Their Lordships take this opportunity to mention that although a written reference by "the person appointed" or the President is not prescribed by the rules, this is desirable in order to avoid any question being raised at a later date (as occurred in this case) as to the existence of a referral. The preliminaries to a referral, where (as in this case) the Registrar of the Council has received information about a practitioner which raises a question whether his fitness to practise is seriously impaired by reason of his physical or mental condition, are set out in great detail in rules 6, 7 and 8. Put briefly, the information is passed by the Registrar to the President, and (rule 6 sub-rule (3)) unless the case is vetoed by him, the Registrar writes to the medical practitioner accordingly; in his letter the practitioner is invited to agree within fourteen days to submit to examination by two medical examiners chosen by the President to report on his fitness to practise; he is also told that it is open to him to nominate other medical practitioners to report to the President on his fitness to practise; and he is also invited to submit any observations or other evidence as to his fitness to practise.

It may be (as happened in this case) that the practitioner will not agree to be medically examined. In this case rule 8(5) applies; "If the practitioner ... has refused to submit to medical examination, the President may, if he thinks fit, refer the information received ... to the Health Committee". But before so referring the President must consult with two other members of the Council from a panel established to assist the President; sub-rule (6).

The proceedings of the Health Committee at the First Hearing of a case are regulated by Part III. The first step is to send to the practitioner a twenty-eight day "notice of referral"; rule 11(1). This must "indicate the physical or mental condition by reason of which it is alleged that his fitness to practise is seriously impaired", and also state the date and place of the meeting of the Committee. The Registrar is to send with the notice of referral a copy of the rules and of any information which it is proposed to present to the Health Committee; sub-rule (5). The practitioner is to be asked to state fourteen days before the hearing whether he will "require evidence of any part of the information ... to be given orally before the Health Committee"; sub-rule (7). The Health Committee are assisted by one or more medical assessors who are not members of the Council. The duty of a medical assessor is to advise the Committee on the medical significance of the

evidence before the Committee. Under rule 15 the practitioner or his representative may cross-examine witnesses called by the Council, and under rule 17 he may adduce evidence himself as to his fitness to practise.

At the conclusion of the proceedings (rule 19) the Committee are first to consider and determine whether they judge the fitness of the practitioner to be seriously impaired by reason of his physical or mental condition; next the Committee are to consider and determine whether it shall be sufficient to direct that the registration of the practitioner shall be conditional on his compliance, for a period not exceeding three years, with such requirements as the Committee may think fit to impose "for the protection of members of the public or in his interests"; if they have so determined the Committee are next to consider and decide "what conditions (of whatever nature) shall be imposed in accordance with section 8(1) [now section 37(1)] of the Act".

If the Committee decide against conditional registration, they are left with the final alternative of suspension of the registration of the practitioner.

If the Committee have decided upon conditional registration for a period, they must intimate that they will, prior to the expiration of that period, resume consideration of the case; they must also indicate the medical evidence of the practitioner's fitness to practise which they will require at that meeting; and they "may require the practitioner to submit to examination, at a future date specified by them, by at least two medical examiners chosen by the Committee as provided in the Second Schedule to these rules"; rule 22.

Part IV regulates Resumed Hearings of the Health Committee. Rule 26 provides for notice to be given to the practitioner. The notice may invite the practitioner to submit to examination by medical examiners chosen by the Committee or by the President, and may also invite the practitioner to name persons to whom the Committee can apply for confidential information as to their knowledge of the practitioner's fitness to practise since the time of the original enquiries. Certain other requirements in the interests of a practitioner which are appropriate to the First Hearing also apply to a Resumed Hearing.

Their Lordships have felt it necessary to summarise the statutory provisions and rules at some length in order to set the various events in this case in their context.

Dr. Crompton was registered as a medical practitioner in 1964. In 1975, 1977 and 1978 he was convicted of certain criminal offences, as a result of which he became subject to an inquiry by the Disciplinary Committee, and his registration was suspended. At the conclusion of a hearing in December 1980, Dr. Crompton was asked to furnish the names of two consultants in adult psychiatry to whom the Council could apply for information to be given in confidence of his fitness to resume medical practice. In the result Dr. Crompton was examined by Dr. Herridge and Dr. Fleminger, who reported to the General Medical Council by letters dated 16th February and 6th March 1981. Dr. Crompton was not shown these reports. The decision of the Committee at their meeting in March 1981 was that his name should be erased from the Register. Dr. Crompton appealed to this Board on the ground (*inter alia*) of the Committee's refusal to let him see the reports. On that ground alone this Board, with expressed reluctance, felt compelled to recommend to Her Majesty in Council that the appeal should be allowed. *Crompton v. General Medical Council* [1981] 1 W.L.R. 1435. The report of the Board concluded with the following paragraphs:-

" Their Lordships have not thought it right to read for themselves the psychiatric reports relied on by the Committee, since they could not in fairness to Dr. Crompton do so without showing them to him and they could not show them to Dr. Crompton without breaking the promise of confidentiality under which the reports were furnished by the consultants.

In these circumstances their Lordships do not consider it to be appropriate to remit the case to the Professional Conduct Committee for further consideration. If there are good reasons, as there may well be, for questioning Dr. Crompton's fitness to practise upon psychiatric grounds, proceedings may be started *de novo* under the Health Committee Rules that are now in force to deal with such a situation."

On 3rd September 1981 the Registrar wrote to Dr. Crompton in the terms of rule 6(3) notifying him that the Council had received information which appeared to raise a question whether his fitness to practise was seriously impaired by reason of mental disorder, and inviting him pursuant to sub-rule (3)(b) to agree within fourteen days to submit to a medical examination by two examiners chosen on behalf of the Council, and also asking him whether he wished to nominate his own medical examiners. Despite reminders Dr. Crompton failed to respond. Accordingly, in accordance with rule 8(5) a notice of referral to the Health Committee dated 11th February 1982 was sent to Dr. Crompton under rule 11(1), giving 18th March 1982

as the date of the hearing. The Notice stated, as required by rule 11(5), that "copies of the information which it is proposed to present to the Health Committee are enclosed with this letter", and in accordance with sub-rule (7), Dr. Crompton was asked whether he would require evidence of any such information to be given orally. Their Lordships desire to say that it would be a convenience to those who may later be called upon to review a case if a Notice of Referral listed the documents containing the information, which pursuant to rule 11(5) accompany the Notice, so that they can be subsequently identified with ease. This observation also applies to a rule 26 Notice of a Resumed Hearing.

The hearing of 18th March 1982 was a First Hearing, to which accordingly Part III of the rules applied. Dr. Crompton was not present nor was he represented. At this meeting Dr. Herridge and Dr. Fleminger produced their reports of 16th February and 6th March 1981 and gave oral evidence. Their Lordships refer to the following passages in the evidence of Dr. Herridge:-

"Q. When you saw him was he fit for medical practice?

A. In my opinion totally unfit.

Q. I would like to clarify one point. I think you have answered by implication. On the basis of your examination a little over a year ago would you expect substantial improvement now?

A. I would not."

And in the evidence of Dr. Fleminger:-

"Q. On the basis of your experience, a man with a severe personality disorder of this nature in February 1981, when you felt he was unfit to practise, in your view is it likely that he would have radically improved by now?

A. Certainly not."

The Committee on the advice of the Legal Assessor adjourned the hearing under rule 29 to 23rd June 1982 in order to enable Dr. Crompton to consider the reports of the two psychiatrists and a transcript of their evidence. These were sent to Dr. Crompton with a letter dated 2nd April 1982. He was asked whether he wished their evidence to be given orally at the adjourned hearing, and he was told that he would be entitled to cross-examine.

The adjourned First Hearing duly took place on 23rd June 1982. Dr. Crompton was not present or represented. The Committee judged that his fitness to practise was seriously impaired by reason of his mental condition, and directed that his registration should be suspended for twelve months. The Committee

also directed pursuant to section 9(1) of the 1978 Act (now section 38(1) of the 1983 Act) that such suspension should take effect forthwith on service of notification of the order, instead of being deferred under schedule 4 pending a possible appeal.

Notification was sent to Dr. Crompton by letter dated 24th June 1982 pursuant to section 8(6) of the Act, including notice of his right of appeal. Dr. Crompton did not appeal the Committee's finding of unfitness or the direction for suspension.

The first Resumed Hearing was fixed for 13th June 1983. The procedure set out in Part IV of the rules accordingly came into operation. Prior to the formal notice of the Resumed Hearing required under rule 26(1), the Assistant Registrar sent a preliminary letter to Dr. Crompton, dated 16th March, again asking whether he would agree to being medically examined, and to give the names of persons to whom the Council might write for information about his fitness to practise. Dr. Crompton replied on 21st March, saying that he was unaware of the existence of any referral to the Health Committee, and implying that none of the Council's communications from and after their letter of 3rd September 1981 had ever reached him. Their Lordships do not find it necessary to deal with this aspect, because it is not in dispute that he received due notice of the first and second Resumed Hearings, the decision of the latter being the one under appeal.

On 19th April 1983 the Assistant Registrar repeated his request that Dr. Crompton should agree to a medical examination, and should provide referees. This letter was followed by a formal notice dated 16th May 1983 of the Resumed Hearing, containing all the requisite information and further requests to submit to a medical examination as required by the rules. Dr. Crompton again elected not to respond to the invitation to be medically examined or to furnish the names of referees.

The first Resumed Hearing was duly held on 13th June 1983. Dr. Crompton was again absent and unrepresented. His registration was suspended for a further period of twelve months. Formal notification to him is contained in a letter dated 16th June 1983. Apparently on this occasion he exhibited some distress at his further suspension. As a result he was told that he could, if he wished, apply for an expedited Resumed Hearing under rule 25(1). He did not do this.

On 13th July 1983 Dr. Crompton lodged a Petition of Appeal to Her Majesty in Council. This was dismissed on 19th October 1983 for want of prosecution.

By a letter dated 3rd April 1984 Dr. Crompton was informed that the second Resumed Hearing would take place on 18th/20th June. He was again invited to agree to a medical examination and to provide the names of referees, an invitation to which again he failed to respond. By a letter dated 18th May 1984 he was given formal notice of the second Resumed Hearing to take place on 18th June.

At the second Resumed Hearing Dr. Crompton appeared in person. He raised as a preliminary matter ten procedural points. It is only necessary for their Lordships to mention one of them, which they will consider later, whether the description "mental disorder" is a sufficient description of a practitioner's "mental condition" which is said to be the reason for the impairment of his fitness to practise.

The Committee at the invitation of Dr. Crompton decided to adjourn to 25th July 1984. This was primarily to enable an additional medical assessor to be present, experienced in clinical pathology which Dr. Crompton said was the nature of his practice; also to enable Dr. Fleminger, Dr. Herridge and Dr. Crompton's own general practitioner Dr. Edwards, to be available to give their oral evidence. The Committee once again stressed the importance which they attached to Dr. Crompton's attending in the meantime for medical examination by medical examiners chosen on behalf of the Council in accordance with rule 26(1)(iii); the Committee again mentioned that it was open to him to nominate another medical examiner to examine him and report to the Committee. In a follow-up letter of 20th June 1984 the Assistant Registrar stated that provisional arrangements had been made for Dr. Crompton to be examined by two named psychiatrists and Dr. Crompton was again invited to nominate a medical examiner of his own choosing. He was asked to indicate by 25th June whether he would consent to a medical examination. He was also told that he would be reimbursed his travelling and hotel expenses in connection with his attendance at the adjourned hearing, and also his travelling expenses in connection with his medical examination by the Committee's nominees if he so agreed. Dr. Crompton did not respond to this repeated invitation to be medically examined.

The adjourned second Resumed Hearing was duly held on 25th July 1984, and Dr. Crompton again appeared in person. Oral evidence was given by Dr. Edwards, Dr. Fleminger and Dr. Herridge, all of whom were cross-examined at length by Dr. Crompton. At the conclusion of the evidence, Dr. Crompton addressed the Committee. He made two submissions, first that he should be restored to the Register unconditionally or, if that were not possible, that he should be

restored conditionally. He also offered for the first time to co-operate with medical examiners. It is instructive to see exactly what Dr. Crompton submitted to the Committee, in view of the directions which the Committee ultimately gave:-

"So if you do want to make a condition that I see a practitioner, I would think it would be very sensible for you to suggest one psychiatrist and one neurologist." (Transcript, page 74)

"Now, with my biochemistry background I could quite reasonably look for science jobs and research jobs. I am bit over 35 and most of those jobs go to people under 35, but it is conceivable that I could find a job that was not wanted by younger people that I could do and be acceptable for in a scientific field, but a condition of getting such a job would be a confidential enquiry that found that I had in fact been returned to the Medical Register. It is really immensely difficult for a man of my age to get employment away from medicine if he is not on the Register." (Transcript page 78)

"So if you wanted me to see two physicians I would prefer a physician and perhaps a neurologist and a psychiatrist." (Transcript page 81)

"So there is the option that we did have that you could return me with conditions. I would object, obviously, if you made conditions without returning me, but if you did, if you named - I have no objection to the two psychiatrists in your recent - take one of them, and perhaps another neurologist, and I suggest the name of Professor So if you did send me to, say, a neurologist, and a psychiatrist within 80 miles radius of London, well I would co-operate. I would see it as second best and would hope you would not make the condition for too long. If you made the condition that I did not engage in psychiatric practice I would certainly co-operate with it.

I say I will try, probably, to get employment in a laboratory, possibly a University laboratory rather than a hospital laboratory, but I would not want to narrow my choices. ... So there are two choices." (Transcript page 83)

After deliberating the Committee announced their decision in the following terms:-

"The Committee have carefully considered the further evidence of your physical and mental condition which has been presented to them today, and have judged your fitness to practise to be seriously impaired.

They have, however, taken account of the representations you have made on your own behalf.

They have accordingly directed that for a period of twelve months your registration shall be conditional on your compliance with the following requirements:

(a) You shall practise only in laboratory posts within the National Health Service in which your work will be supervised by another fully registered medical practitioner.

(b) You shall consult a psychiatrist, chosen on behalf of the Committee, whose name will be notified to you following this hearing, at such intervals as he may require, and follow any medical advice and/or treatment he may offer.

(c) To exclude the possibility of an organic basis for your condition you will consult a neurologist, whose name will be notified to you following this hearing, and undergo such tests as he may direct, with a view to his submitting a report to the Council.

The Committee will resume consideration of your case at a meeting to be held before the end of the period of your conditional registration. They will then consider whether they should take further action in relation to your registration. You will be informed of the date of the meeting, which you will be expected to attend.

Your medical supervisor will be asked to report periodically to the Council on your physical and mental condition and on your fitness to engage in practice. He will also be asked to notify the Council of any deterioration in your condition.

Before your case is resumed, you will be asked to furnish the Council with the names of professional colleagues and other persons of standing to whom the Council may apply for information as to their knowledge of your fitness to practise in the period since this hearing of your case. The names furnished should include that of your general practitioner, Dr. A. Edwards."

It will be observed that the decision of the Committee followed, in its essential features, one of the "two choices" which Dr. Crompton had represented to the Committee were open to them.

Dr. Crompton thereafter lodged an appeal to Her Majesty in Council. He presented a petition and two supplemental petitions and also lodged a written case, all of which have been carefully considered by

their Lordships. His primary submission is that there was not sufficient evidence to support a finding that his fitness to practise was seriously impaired by reason of his mental condition. Their Lordships have no hesitation in saying that in their opinion the Health Committee had before them ample evidence to justify such a finding. They have these further comments. Dr. Crompton's submission is itself a somewhat surprising one in view of the fact that the Committee's finding is a *sine qua non* of the second choice which Dr. Crompton during his final speech submitted was open to the Committee. Secondly, only in an exceptional case would this Board feel justified in rejecting a finding of the Health Committee, assisted by medical assessors, on an issue which is a matter of medical judgment. Thirdly, Dr. Crompton, throughout the long history of his case since September 1981, has persistently declined to submit to any medical examination in relation to his mental condition.

His second submission of substance is that the conditions imposed on him are unworkable and unfair. As regards condition (a), he says that there are no appointments in the National Health Service where a fully registered medical practitioner works as such in a laboratory post under the supervision of another fully registered medical practitioner. That may or may not be so. But there is nothing in condition (a) which confines Dr. Crompton to a laboratory post that has to be filled by a fully registered medical practitioner. As regards conditions (b) and (c), he complains that the Health Committee cannot, as they purport to do, lawfully impose on him any treatment, however unpleasant or dangerous, which may be offered by the nominated psychiatrist, or lawfully compel him to undergo any tests, however unpleasant or dangerous, which may be directed by the nominated neurologist. There is nothing in this objection. It is implicit in conditions (b) and (c) that the treatment or tests should be reasonable in the circumstances. The conditions do not deprive Dr. Crompton of his common law right to refuse to undergo any treatment or tests which he may wish to decline. If he fails to comply with a condition, the Committee have a discretion under section 37(2) of the 1983 Act whether or not to suspend his registration. Clearly the Committee would not seek to suspend his registration if his refusal to undergo a particular treatment or test was reasonable. Additionally, the President has power under rule 25(1) to expedite the third Resumed Hearing to enable the Committee to vary the conditions under rule 28(ii). If a particular condition were shown by Dr. Crompton to be occasioning hardship, it would be open to him to request an expedited Resumed Hearing, and in an appropriate case the President would no doubt so direct.

In addition to his primary submissions, Dr. Crompton raised a number of alleged procedural irregularities, and also made a number of peripheral allegations which have nothing to do with this case. Their Lordships have considered each of them, and have found them to be without substance so far as this appeal is concerned. There are only two matters to which their Lordships wish to advert. They relate to the meaning of "mental condition" in section 37(1) of the 1983 Act, and to the particularity required when preliminary notification is given to the practitioner under rule 6(3).

Dr. Crompton made a great point throughout the case that there was no evidence that he suffered from "mental disorder" within the meaning of the Mental Health Act 1983. That Act is concerned with the reception, care and treatment of "mentally disordered" patients, the management of their property and other related matters. As was explained to Dr. Crompton by the Chairman of the Committee, the provisions of the Act in general and the definition of "mental disorder" in particular are not relevant to the issue whether his fitness to practise is seriously impaired by reason of his "mental condition". An adverse "mental condition" under the Medical Act 1983 is not synonymous with a "mental disorder" which would bring the Mental Health Act 1983 into play.

The second matter concerns rule 6(3)(a). The preliminary notification under that rule, which is dated 3rd September 1981 and to which their Lordships have already referred, told Dr. Crompton that the Council had received information which appeared to raise a question whether his fitness to practise was seriously impaired "by reason of mental disorder". Rule 6(3)(a) reads "... by reason of his ... mental condition and indicating the clinical conditions which are alleged to affect his fitness to practise". In the instant case the clinical condition was identified only as "mental disorder". It is clearly desirable that the mental condition which triggers section 37 of the Act should be notified to the practitioner with as much particularity as is reasonable and practical, so that he knows what case he has to meet. Their Lordships understand that the difficulty in the present case has been to make a clinical diagnosis, and therefore they consider that the letter was adequate for its purpose, particularly in the light of the reports of Dr. Herridge and Dr. Fleminger which made it perfectly clear to Dr. Crompton what case he had to meet. However their Lordships wish to stress the desirability in a case of this sort of identifying so far as possible the clinical conditions which are alleged to affect the practitioner's fitness to practise.

As regards the imposition of conditions in general, their Lordships suggest for the consideration of the Council that in a future case where conditions are imposed it might be helpful if the precise conditions were indicated to the practitioner before being finalised; in that way any possible misunderstandings could be avoided and problems ironed out in advance.

Their Lordships have a further comment which arises out of the conditions imposed by the Health Committee. Condition (a) empowers Dr. Crompton to accept a laboratory post within the National Health Service "in which your work will be supervised by another fully registered medical practitioner". The penultimate paragraph of the decision states that "your medical supervisor will be asked to report periodically ...". As a matter of language it is plainly to be inferred that the "medical supervisor" in the second quotation is the "medical practitioner" by whom Dr. Crompton's laboratory work will be "supervised" in the first quotation. There is no objection to the Health Committee inviting the supervising medical practitioner to report periodically on Dr. Crompton's physical and mental condition and fitness to engage in practice. However the Deputy Registrar's letter of 26th July and the Assistant Registrar's letter of 30th August 1984 name the psychiatrist in condition (b) as Dr. Crompton's "medical supervisor". It is plain that Dr. Crompton is not confined to a laboratory post where his work will be supervised by a medical practitioner named by the Council or the Health Committee. All that their Lordships wish to do is to indicate (i) that there is no objection to the supervising medical practitioner mentioned in condition (a) being asked to report periodically on Dr. Crompton, but (ii) neither the Council nor the Health Committee are entitled to specify who such medical practitioner shall be.

Their Lordships also wish to refer to Rule 22. This Rule is in the following terms:-

"22. (1) In any case in which the Committee have imposed conditions on, or suspended, the registration of the practitioner for a period they shall, when announcing such decision, intimate that they will, at a meeting to be held before the end of such period, resume consideration of the case, and shall indicate the medical evidence of the practitioner's fitness to practise which they will require at that meeting.

(2) For the purpose of the foregoing paragraph the Committee may require the practitioner to submit to examination, at a future date specified by them, by at least two medical examiners chosen by the Committee as provided in the Second Schedule to these rules."

The effect of the Rule is therefore as follows:-

(i) The Committee must, when announcing their decision, intimate that they will, at a meeting to be held before the end of such period, resume consideration of the case. The Health Committee did so.

(ii) The Committee are also to indicate the medical evidence of the practitioner's fitness to practice which they will require at the resumed hearing. The Committee complied with this requirement in the final paragraph of their decision, where they said, "Before your case is resumed, you will be asked to furnish the Council with the names of professional colleagues and other persons of standing to whom the Council may apply for information as to their knowledge of your fitness to practise in the period since this hearing of your case. The names furnished should include that of your general practitioner, Dr. A. Edwards."

(iii) The Committee also have a discretion for the purpose of paragraph (2) of Rule 22 to require the practitioner to submit to examination at a future date specified by them, by at least two medical examiners chosen by the Committee as provided in the Second Schedule to these rules. The Committee have not, so far as their Lordships are aware, exercised this particular discretion, although it is possible that the Committee regarded conditions (b) and (c) as answering this paragraph. In the opinion of their Lordships the Committee may exercise this discretion at any reasonable time in advance of the resumed hearing.

In general, their Lordships consider it to be desirable that the Committee, when performing their functions under the second part of paragraph (1) and under paragraph (2) of the Rule, should distinguish between them by indicating the paragraph under which they are acting.

For the reasons indicated, their Lordships on 26th February humbly recommended to Her Majesty in Council that the appeal of Dr. Crompton should be dismissed, and directed that Dr. Crompton should pay the costs of the respondent to the appeal.



