

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**THE SENATE**

**COMMITTEE OF PRIVILEGES**

**PERSON REFERRED TO IN THE SENATE**

**(DR P. INGRAM CROMACK)**

**(24TH REPORT)**

**SEPTEMBER 1990**



## MEMBERS OF THE COMMITTEE

Senator Patricia Giles (Western Australia), Chair

Senator Vicki Bourne (New South Wales)

Senator Bruce Childs (New South Wales)

Senator John Coates (Tasmania)

Senator Barney Cooney (Victoria)

Senator Austin Lewis (Victoria)

Senator Baden Teague (South Australia)

The Senate

Parliament House

CANBERRA ACT 2600



## REPORT

1. On 9 July 1990 Dr P. Ingram Cromack wrote to the President of the Senate, Senator the Honourable Kerry W. Sibraa, seeking redress under the Resolution of the Senate of 25 February 1988 relating to the protection of persons referred to in the Senate (Privilege Resolution 5). The letter referred to remarks made by former Senator Jenkins in the Senate during the adjournment debate on 28 May 1990. In the absence overseas of the President, the then Deputy-President, Senator D.J. Hamer, D.S.C., having accepted Dr Cromack's letter as a submission for the purposes of the resolution, referred the letter to the Committee of Privileges (see Appendix 1).
2. On 19 July 1990 the Secretary wrote to Dr Cromack informing him that the Committee would consider the submission as soon as possible following the resumption of Parliament in August. The Committee met in private session on 12 September and decided, pursuant to paragraph 3 of Privilege Resolution 5, to consider the submission from Dr Cromack.
3. In considering the submission, the Committee did not find it necessary to confer with either Dr Cromack or former Senator Jenkins. After deciding to recommend to the Senate that an agreed statement be incorporated in Hansard, the Committee contacted Dr Cromack and the statement at Appendix 2 has been agreed to by Dr Cromack and the Committee in accordance with Resolution 5(7)(b).

4. The Committee recommends:

**That a response by Dr P. Ingram Cromack, in the terms specified at Appendix 2, and agreed to by Dr Cromack and the Committee, be incorporated in Hansard.**

Patricia Giles  
Chair



PRESIDENT OF THE SENATE

APPENDIX 1

PARLIAMENT HOUSE  
CANBERRA

18 July 1990

Senator P.J. Giles  
Chair  
Committee of Privileges  
The Senate  
Parliament House  
CANBERRA ACT 2600

Dear Senator Giles

In accordance with Resolution 5 of the Senate's Privilege Resolutions of 25 February 1988, relating to persons referred to in debate in the Senate, I refer to the Committee of Privileges, for consideration under that resolution, the attached submission dated 9 July 1990 from Dr P. Ingram Cromack.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'David Hamer', written over a horizontal line.

(DAVID HAMER)

RESPONSE BY DR P. INGRAM CROMACK  
AGREED TO BY DR CROMACK  
AND THE COMMITTEE OF PRIVILEGES  
PURSUANT TO RESOLUTION 5(7)(b) OF THE SENATE OF  
25 FEBRUARY 1988

I wish to make a rebuttal statement in relation to the unfair and damaging remarks made by former Senator Jenkins in the Senate in which she personally named me (Hansard 28th May, 1990). My reputation has been adversely affected, I have suffered professional injury, financial loss and stress (and my family as well) as a result of these allegations. These allegations have been described by Mr. Gavan Troy, Productivity & Labour Relations Minister, W.A. Parliament, in the West Australian of Saturday, June 2nd, 1990 as being unsubstantiated. These were again repeated by former Senator Jenkins in The Australian Doctor Weekly of 15.6.90.

Like a few of my Senior Orthopaedic colleagues in this State, I do see (for the purposes of a medico-legal opinion) difficult compensation claims. I am asked to give an opinion based on the history, clinical examination and investigations in claims which have dragged on sometimes for two or three years at least, and where the patient has seen six, seven or eight different doctors, all with differing shades of opinion. These are very difficult and time-consuming cases and require the expertise of long years of experience in the speciality. Hence, the demand usually falls upon the shoulders of the few more senior members for these types of complex cases. It is not that any organisation is choosing "pet Doctors".

One has several duties to perform - the chief being to give a privileged medico-legal report without fear or favour whether it be in the patient's interest or in an insurance organisation's interest. These opinions have always been regarded as sacrosanct and not to be distributed to third parties. Unfortunately, this has occurred and medico-legal privilege has been broken and abused.

It is important also that public monies be protected from false claims in these difficult economic times when there have been cut-backs in Public Hospital funding thereby reducing their working capacity and producing long waiting lists of patients for hip arthroplasties, etc.

Doctors do not "cease patients' compensation payments". It is a decision of the Court based on evidence.

Most of these claims are referred by Solicitors and Insurance Companies and only a few are purely private patients. This is because of the Medicare and Hospital Benefit restrictions where the patient can obtain no refund whatsoever for an Insurance examination. In this State, there are only a handful of Doctors willing to see these difficult claims because of their complex nature, the problems associated with being called to Court and if the referrals are not under the auspices of the Legal profession or an Insurance organisation, then there is a considerable risk that the fees will never be paid at all or if they are paid, the waiting time is often three or four years.

Complaints have been made and two such serve as good examples:-

- (a) I was accused of being responsible for a patient's workers' compensation payments ceasing. However, in actual fact, the evidence is quite to the contrary because the patient's solicitor omitted to lodge the required claim within the time specified by the Court.
- (b) Another complaint was that I did not accept the patient's alleged degree of severe disability and this is correct, as I did not feel that this patient (who had a minor, simple, tennis elbow) did have very much disability. I agreed with the patient's own treating Orthopaedic Surgeon who stated that the patient had only 10% disability in the affected arm i.e. the tennis elbow.

These are two documented complaints where the proof shows me to be entirely innocent of these unsubstantiated allegations.

As a result of former Senator Jenkins' statements (repeated on the A.B.C.) the front and name plate of my consulting rooms were filmed by Channel 2 and were clearly identified and shown on the 6.00 p.m. News on 3.6.90. My consent was not obtained and I consider this an invasion of privacy.

On the subject of R.S.I., cervico-brachial neuritis or whatever other name one likes to give this alleged condition, over a period of 17 months in 1,100 patients, I have only seen eleven cases of alleged R.S.I. - this is only 1% of the total.

I see compensation cases for Australia Post however, since it is well known (like the majority of my colleagues) that I do not believe R.S.I. to be a discrete clinical entity, to obviate any dispute it has been thought wise for me not to see any R.S.I. cases for Australia Post. This evidence is also documented.

Regarding the alleged condition of R.S.I., it is not a clinical condition accepted by Australian Orthopaedic Surgeons or the Society of Hand Surgeons as being a condition in its own right. Pain in the arm is a common complaint, and we believe in this day and age, that with sophisticated investigation, coupled with careful clinical observation, a diagnosis can always be made of a definitive type such as "disc disease" in the neck or a pinched nerve at the elbow, for instance. I am supported in this contention by other Specialists in other fields.

The umbrella term "R.S.I." is used to explain symptoms without signs and is thought to co-exist with diagnosed organic disorders (Browne 1984) and to be the explanation for symptoms in excess of those to be expected with diagnosed physical disorders and for symptoms continuing for longer than expected, with diagnosed physical disorders. Used in these ways, the concept of R.S.I. is in all ways, consistent with what is known as functional overlay in legal circles and conversion symptoms amongst psychiatrists.

(See Lucinda Lucire's Submission to the R.S.I. Task Force Committee 1984/85.)

I therefore, like my Orthopaedic colleagues and many other colleagues, am not alone in my beliefs of the pathology of this alleged condition.

I trust the above is an adequate explanation and does explain the damage done to my professional reputation and integrity and the suffering it has caused, both stress and financial. As has been said, former Senator Jenkins has been using unsubstantiated information.

I would ask the Privileges Committee in its wisdom, to table this rebuttal in the Senate so that it may be incorporated in Hansard as a permanent record.

Yours faithfully,

P. INGRAM CROMACK

Emeritus Consultant Orthopaedic  
Surgeon, Royal Perth Hospital.  
Clinical Lecturer in Orthopaedic  
Surgery, University of W.A.  
Commonwealth Referee  
Member of the Royal Society of  
Medicine  
Fellow of the Australian Orthopaedic  
Assoc.  
Fellow of the British Orthopaedic  
Assoc.  
Fellow of the Western Pacific  
Orthopaedic Association.