

IN-CONFIDENCE

FILE No.

C.37 /

Parliamentary Commission of Inquiry
G.P.O. Box 5218,
Sydney, N.S.W. 2001.

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ALLEGATION No. 24

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FILE No. C.37

Mrs Dorothy Ryan



Dear Mrs Ryan,

Re: Parliamentary Commission of Inquiry

I refer to the summons which has been served on you pursuant to section 11(1) of the Parliamentary Commission of Inquiry Act and note that your attendance is required on 5 August 1986.

However, I would appreciate it if you would contact the Commission and advise a telephone number upon which you can readily be reached in order that a date other than the 5 August 1986, for your attendance, can be communicated to you.

Yours sincerely,


J F Thomson
Secretary

25 July 1986

COMMONWEALTH OF AUSTRALIA

Parliamentary Commission of Inquiry Act 1986

SUMMONS TO APPEAR BEFORE THE COMMISSION

Mrs Dorothy Ryan
[REDACTED]

I, Sir George Hermann Lush, a member of the Parliamentary Commission of Inquiry appointed under the Parliamentary Commission of Inquiry Act 1986 hereby summon you, pursuant to sub-section 11(1) of that Act

- (a) to appear before the Commission at the hearing to be held in the Hearing Room, 8th Floor, 99 Elizabeth Street, Sydney, on Tuesday 5 August 1986 at 10.00 a.m. to give evidence in relation to the matters into which the Commission is inquiring; and
- (b) to attend from day to day unless excused or released from further attendance.

Dated 25 July 1986

[REDACTED]
.....
Presiding Member

ALLEGATION NO 24

*Copy of allegation
delivered 16/7/86*

Particulars of Allegation

The Honourable Lionel Keith Murphy, on or about the second day of April 1980, at Sydney or elsewhere, and whilst a Justice of the High Court of Australia, engaged in a telephone conversation with Dorothy Ryan, the wife of Morgan Ryan. During the course of that conversation, the Judge said to Mrs Ryan that her husband should arrange to have a Government member of the New South Wales Parliament assert that that member had made enquiries about Ryan, and that he, Ryan, had "come up smelling like a rose". By that statement, the Judge intended that the Member should convey that enquiries had been conducted, and that Ryan had been exonerated of any wrongdoing. The Judge knew that no such enquiries had been conducted at the time he made this suggestion. Further, the Judge intended that the statement by the member be made irrespective of whether any such inquiries be conducted. The Judge also knew that Ryan had not been exonerated of any wrongdoing.

At the relevant time, Morgan Ryan was under investigation by the Australian Federal Police for the part, if any, he had

played in the alleged illegal activities of Korean nationals who had obtained permanent resident status in Australia. It had also been alleged in the New South Wales Parliament that Ryan had been involved in perverting the course of justice in relation to summary proceedings in which Roy Cessna and Timothy Milner were the defendants.

It will be contended that this conduct by the Judge amounted to misbehaviour within the meaning of Section 72 of the Constitution in the following respect -

urging or encouraging a person to cause a Member of Parliament to make false statements for the purpose of misleading or preventing legitimate enquiry into matters of public concern.

As such it constituted conduct contrary to accepted standards of judicial behaviour.

Extract from Weinberg/Phelan Memorandum
dated 3 July 1986 (full copy on File C51

ALLEGATION NO. 24 - "SMELLING LIKE A ROSE"

There is a summary of this conversation which, even if it accurately records the substance of what occurred between the Judge and Mrs. Ryan does not seem to us to be capable of amounting to misbehaviour in the relevant sense. It is possible, for example, that the conversation amounted to no more than a joke. It could conceivably be the subject of cross-examination. The only person who might be spoken to regarding this matter is Mrs. Ryan.