

IN-CONFIDENCE

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

FILE No. **C 49 /**

ARCHIVAL ACTION

FORMER PAPERS	LATER PAPERS

TITLE **ALLEGATION No 36**

Related Papers _____

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Folio No.	Referred to	Date	Cleared	Resubmit	Folio No.	Referred to	Date	Cleared	Resubmit

FILE No. **C. 49**

MEMORANDUM RE MATTERS NUMBERED 6 AND 36

Matters Raised With Counsel Assisting But Where No Decision Had Been Made Whether To Draw Allegations

Allegation No.6 - Safety deposit boxes and overseas shares

It was alleged that in 1975 the Judge had had allotted to him a parcel of shares in a Swiss bank, the shares being of considerable value. It was also alleged that he had in 1975 become the holder, with others, of safety deposit boxes in Switzerland. Photocopies of documents were provided in support of the allegation.

At the relevant time it was not unlawful under the Banking (Foreign Exchange) Regulations for a resident of Australia to hold a safety deposit box in Switzerland but it was unlawful to own, without approval, foreign securities.

The provenance of the photocopies provided was such that there was some ground, based on a report to the Attorney-General by J T Howard in 1976, for suspecting that they may have been forgeries. Nonetheless those assisting the Commission did not feel able to disregard entirely the possibility that the documents were genuine. The documents had not been referred to or dealt with in the report by Mr Howard.

It was decided to ask the Commonwealth Government to approach the Swiss Government with a view to establishing whether or not the documents were authentic, and this step was duly taken on 17 July 1986.

Before any approach was made, it became clear that the Parliamentary Commission of Inquiry would not proceed to finality and was likely to be terminated. Therefore no further action was taken.

Allegation No.36 - Extra-curial intervention concerning submissions of litigant before the High Court

It was alleged that the Judge, whilst a Justice of the High Court, and during the course of a case upon which he was sitting, had communicated improperly with the Premier of a State, that State being a party or intervener in the case before the High Court. The purpose of the communication, it was alleged, was to persuade the Premier to direct counsel appearing for the State to alter the submissions being put to the Court.

Upon preliminary investigation, the person who was alleged to have been told of this incident by the Judge denied that he had been so informed by the Judge and gave a version of events which suggested that a remark of his own had been misinterpreted and ascribed to the Judge.

Those assisting the Commission proposed to interview the Premier of the State and counsel allegedly involved. Before those steps were taken it became clear that the Parliamentary Commission of Inquiry would not proceed to finality. Therefore no further action was taken.

[REDACTED]
S Charles

[REDACTED]
M Weinberg

[REDACTED]
A Robertson

[REDACTED]
D Durack

[REDACTED]
P Sharp

[REDACTED]
A Phelan

21 August 1986

File note

24-7-86

S. Charles and M. Weirby saw Justice Staples in his Chambers at 5:00. S. Charles put the allegation to Staples that he had told various persons the matters set out under item 2 of the memorandum dated 24/6/86.

Staples asked whether anyone had given evidence of this? Upon being informed no evidence had been led at this stage, he relaxed, and recounted the incident to us.

Points to note

- (a) He and LHM had met in Staples' Chambers for 6-7 hours some years ago. They discussed the quality of various Barristers.
- (b) They each expressed displeasure that the NSW Govt. continued to brief Rofe & C.
- (c) Later, Staples told another person that

"It's a wonder LHM doesn't ring Neville and
get him to stop briefing Rofe".

No other relevant conversation occurred.


24-7-80

Sieman

The Hon Mr N K Wran QC
Level 20
Aetna Life Tower
Cnr Elizabeth and Bathurst Streets
SYDNEY NSW 2000

Dear Mr Wran,

PARLIAMENTARY COMMISSION OF INQUIRY - MR JUSTICE L K MURPHY

As you may be aware the Parliamentary Commission of Inquiry established pursuant to the Parliamentary Commission of Inquiry Act 1986 has commenced its task of inquiring into and advising the Parliament whether any conduct of the honourable Lionel Keith Murphy has been such as to amount, in its opinion, to proved misbehaviour within the meaning of section 72 of the Constitution.

Mr S Charles QC, Senior Counsel assisting the Commission, has informed me that he would be assisted by having a discussion with you in relation to some aspects of the Commission's Inquiry. Accordingly, I should be glad if you would contact Mr Charles on telephone number (02) 232 4922 to arrange a suitable time for an appointment to be made.

Yours faithfully



Sir George Lush
Presiding Member

21 July 1986

The Hon Mr Justice James F Staples
Level 16
Law Courts Building
Queens Square
SYDNEY NSW 2000

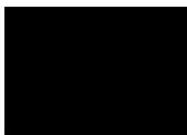
Dear Judge,

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Sir George Lush
Presiding Member

21 July 1986

1. Staunton - McLelland
 - (a) Did Murphy speak to McLelland before or after McLelland first went to see Staunton?
 - (b) In the Murphy-McLelland conversation, did Murphy ask McLelland to talk to Staunton, with McLelland replying on at least two occasions, "You mean, you want me, to nobble him"? Murphy on each occasion replying "No, not at all".
 - (c) Did Judge Foord meet Murphy on several occasions also, in the course of this exercise, including at Murphy's Darling Point flat?
 - (d) Did McLelland perjure himself in Murphy's trial
 - (i) by not telling the full story of the conversation - as to nobbling. Arguably not ;
 - (ii) by saying that Murphy frequently referred to people as his "mates"?
2. Murphy-Staples
 - (a) Did Murphy tell Staples about his intervention in a constitutional case, telling Wran, as Premier, that he didn't like the argument the A/G (Mary Gaudron) was putting and that it ought to be changed?
 - (b) Staples is reported to take the view that there is nothing wrong in Murphy doing so.
 - (c) What case was it?
3. Areas of Intervention as A/G
 - (a) Did Murphy ask to be shown all files relating to heroin trafficking?
 - (b) Did Murphy intervene in any files concerning Felipe Ysmac⁶?
 - (c) List of Morgan Ryan's clients.

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

ALLEGATION NO. 36 - THE DAMS CASE ALLEGATIONS

This may not refer to the Dams case at all. If the Judge personally intervened with the Premier of New South Wales in order to have instructions given to the Solicitor-General to conduct the case for New South Wales in a different fashion, the Judge would have committed the Common Law misdemeanor of misconduct by an officer of Justice - see paragraph 24/29 of Archbold. Even if his conduct did not amount to this common law misdemeanor, it would almost certainly be regarded as misbehaviour within the meaning of Section 72 arising out of conduct pertaining to his office.

Matters to be investigated

1. Judge Staples to be interviewed
2. Brian Toohey to be spoken to
3. David Williamson to be spoken to
4. The Solicitor General for New South Wales to be spoken to
5. Neville Wran

When the name of the case has been discovered (if it can be discovered) the transcript of argument addressed by the New South Wales Solicitor General to the High Court should be obtained. It should be ascertained whether that argument changed tack between the first day, and the next day of argument.