

ALLEGATION NO 39

*Copy of allegation
dated 17/7/86*

Particulars of Allegation

The Honourable Lionel Keith Murphy, on or about the sixth day of January 1982, at Sydney, and whilst a Justice of the High Court of Australia, engaged in a conversation with Clarence Briese, the Chief Stipendiary Magistrate for New South Wales, during the course of which the Judge spoke about a case that was then being heard before Bruce Brown, a Stipendiary Magistrate in New South Wales. That case was known colloquially as the "Greek Conspiracy" case. During the course of the conversation, the Judge described it as having been one of the greatest scandals in legal history. Further, the Judge said that it was "oppressive that 180 people could be charged with a single conspiracy". The Judge went on to say that the Magistrate would be a hero in the community if he dismissed the case, and, for emphasis, in one paragraph.

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 -

- a) expressing to a judicial officer of an inferior court a strong and concluded view as to the merits of a case which might come before the Judge in his judicial capacity;

further or in the alternative

- b) expressing such a view to a judicial officer of an inferior court in circumstances where it might be communicated to another judicial officer within the same court, who was then hearing the matter, and where this view, being known to be held by a Justice of the High Court of Australia, would or might influence, in the performance of his duties, the judicial officer then hearing the matter.

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