

Queensland



Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 7 JUNE 1989

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Mr SPEAKER (Hon. L. W. Powell, Isis) read prayers and took the chair at 2.30 p.m.

PAPERS

The following papers were laid on the table—

Orders in Council under—

Gas Act 1965-1988

Mines Regulation Act 1964-1983

Petroleum Act 1923-1988

Explosives Act 1952-1981

Regulations under Real Property Act 1861-1988

Interim Report of the National Companies and Securities Commission to the Ministerial Council for Companies and Securities

Report on the operations of the Valuers Registration Board for the year ended 31 December 1988.

MINISTERIAL STATEMENT**Movement for Democracy in China**

Hon. M. J. AHERN (Landsborough—Premier and Treasurer and Minister for State Development and the Arts) (2.33 p.m.), by leave: Honourable members would have been shocked and appalled by the barbaric attacks on unarmed civilians by the army in China. There has been worldwide condemnation of the Chinese Government for the use of armed force against its own people.

On Monday I met a protest delegation of 100 Chinese people in Brisbane and told them that Australian people were strongly supportive of and sympathetic to the movement for democracy in China and were shocked by the brute force being used to stamp out those democratic aspirations. I have passed on their protest letter to the Federal Government for transmission to China.

Honourable members will recall that last month I led a joint Government and business delegation to Shanghai in China where the Mayor, Mr Zhu Rongji, and I signed a joint Queensland/Shanghai sister city-State agreement. My ministerial colleague Rob Borbidge subsequently visited Beijing and other centres. All members of our party saw first-hand the mass popular support that the democracy movement enjoyed.

I note that since the carnage in Beijing the Shanghai agreement has been criticised and there are calls for it to be cancelled. I remind the House that the agreement was with Shanghai, a provincial Government, and not with the central Government in Beijing. My Government believes that such contact with the West, as represented by the agreement, should not be cut off. The Chinese people are fighting and dying for democratic reforms which we take for granted. The Shanghai people are looking strongly to the West. Severing links which give them access not only to our technological know-how, but also to our political and cultural values is not the way to go.

Nevertheless, the scheduled visits to China by my ministerial colleagues Mr Lester and Mr Harper have been cancelled. The Queensland Government looks forward to the day when some sanity returns to the Beijing Government and when that contact can be resumed.

TELEVISION AND PHOTOGRAPHING OF PROCEEDINGS

Mr SPEAKER: Order! Honourable members are aware of the significance of the day. Some time during question-time television cameras will be brought in to record live footage of the Parliament. There will be no sound or artificial lighting. Also, people will be taking still photographs from the press gallery, but there will be no flashlights.

PRIVILEGE

Denigration of Office of Speaker by Sir Robert Sparkes

Mr PREST (Port Curtis) (2.34 p.m.): I rise on a matter of privilege. I wish to draw to the attention of the House an article in the *Courier-Mail* on 8 May 1989 which stated that Sir Robert Sparkes, National Party president, said—

“It is incredible that any member of Parliament, let alone the bloody Speaker should think you can get away with blackmail.”

I am disgusted that the words “bloody Speaker” were used and that Sir Robert has so little respect for the office of Speaker. I believe that the office of Speaker is unquestionable and that the parliamentary system, especially the office of Speaker of Parliament, should not be denigrated because of internal brawling in the National Party. I move—

“That this matter be referred to the Committee of Privileges for consideration.”

Question put; and the House divided—

AYES, 40		NOES, 44	
Ardill	Milliner	Ahern	Lingard
Beanland	Palaszczyk	Alison	Littleproud
Beard	Santoro	Austin	McCauley
Braddy	Schuntner	Berghofer	McKechnie
Burns	Scott	Booth	McPhie
Campbell	Shaw	Burreket	Menzel
Casey	Sherlock	Chapman	Muntz
Comben	Smith	Clauson	Neal
D'Arcy	Smyth	Cooper	Nelson
De Lacy	Underwood	Elliott	Newton
Eaton	Vaughan	Fraser	Perrett
Gibbs, R. J.	Warburton	Gamin	Randell
Goss	Warner	Gately	Row
Gygar	Wells	Gibbs, I. J.	Sherrin
Hamill	White	Gilmore	Simpson
Hayward		Glasson	Slack
Innes		Gunn	Stoneman
Knox		Henderson	Tenni
Lee		Hinton	Veivers
Lickiss		Hobbs	
McElligott	<i>Tellers:</i>	Hynd	<i>Tellers:</i>
Mackenroth	Davis	Katter	FitzGerald
McLean	Prest	Lester	Stephan
Yewdale		Borbidge	

PAIR:

Resolved in the negative.

QUESTIONS UPON NOTICE

1. Housing Commission Accommodation in Brisbane

Mr ARDILL asked the Deputy Premier and Minister for Public Works, Housing and Main Roads—

“In view of the extensive waiting list for rental housing in the southern suburbs of Brisbane City, particularly for family dwellings and pensioner units, which indicate waiting times of over three years, will he give a high priority to

developing land and constructing family dwellings and pensioner units for rental within the Brisbane City boundary?"

Mr GUNN: The waiting-times for public rental housing in Queensland are, on average, the lowest for any State in Australia. Waiting-times vary from suburb to suburb. They depend on demand for, and supply of, the types of accommodation offered by the Housing Commission. The waiting-times in the southern Brisbane city suburbs are comparable with those in many other areas.

At present there are 16 000 applicants listed for public rental housing in Queensland, as against 86 000 in New South Wales. The Housing Commission prepares its construction and purchase program for new public rental housing based on this waiting-list. In 1988-89, an additional 472 rental dwellings were provided on the south side within Brisbane city. A similar number may be provided in 1989-90, depending on offers received from builders under the commission's house/land package. In addition, priority is being given to developing land in the area for future public housing programs.

2. Home and Community Care Program

Mr ARDILL asked the Minister for Health—

“(1) Will he explain why a number of aged, ill, and disabled people on the southside of Brisbane have, in 1989, been refused a continuation of community home help despite disabilities such as osteo complaints, cancer and blindness?”

(2) Has the Government instructed officers of the Health Department to reduce the numbers that have previously been serviced?

(3) Why have certificates by private doctors been ignored or over-ruled by the Annerley office?”

Mr I. J. GIBBS: (1) Home help is provided to eligible aged persons with a disability and the younger disabled persons. Those in receipt of full age, invalid or widow's pension plus full rental assistance pursuant to the Social Service Act are exempted from the payment of a fee for service. Other persons are subject to a means test to determine eligibility for subsidised home help ranging from free to \$3 per hour with a maximum payment of \$17.30 per week. However, such a fee may be waived or reduced in certain circumstances.

(2) I emphasise that Queensland's elderly and frail residents in need will not be denied Government-funded home help services, despite an ever-increasing demand on financial resources. My department's Division of Community Medicine has recently contacted all community centres reaffirming that home help services were to be maintained at current levels.

(3) Medical certificates have always been fully considered by the medical officer in charge of the community home care services for the Brisbane south-side region as one of the factors taken into consideration before home help is provided.

QUESTIONS WITHOUT NOTICE

Premier's Criticism of Inspector Huey

Mr GOSS: In asking a question of the Premier and Treasurer, I refer to the recently released State Cabinet minutes showing the current Premier as one of the strongest critics of Police Inspector Huey behind the closed doors of the Cabinet room. I now ask: can he inform the House of the circumstances surrounding his attack on Huey? Did his character assassination of Huey coincide with that officer's investigation into cattle-duffing in north Queensland and his attempts to reopen the Mareeba drugs investigation?

Mr AHERN: The answer to the honourable member's question is "No". The whole issue is currently before the Parliamentary Judges Commission of Inquiry. It should be left before the judges commission.

Mr GOSS: I rise to a point of order. The issue is not before the commission. As the Premier well knows, the question of his involvement has been ruled out by the commission chairman. The question should be answered.

Mr SPEAKER: Order! The Leader of the Opposition may ask questions and they may be answered. He will ask his second question.

World Expo Fun Park

Mr GOSS: I will see if the Premier also runs away from my second question without notice.

I refer him to the possible or apparent conflict between statements attributed to him and those of Sir Llew Edwards over the purchase of the World Expo Fun Park. I ask: will he now provide the House with full details of the purchase, and in two particular respects? Firstly, what was the full purchase price, how much will the two or more instalments be and when will they be paid? Secondly, what is the true figure for rent payable by the fun park back to the Government? Is it \$1 per annum, as suggested by the Premier, or another figure not nominated by Sir Llew Edwards after he rejected that figure as rubbish and claimed that the true figure was included in the overall price? In short, what is the true figure for rent?

Mr AHERN: I seek leave to lay on the table of the House a copy of a press statement that I made at the time which communicates the facts in relation to the matter, from which I do not resile.

Leave granted.

Mr AHERN: The balance of issues are described in the press statement, which are the facts as I understand them.

I draw the attention of honourable members to the *Weekend Australian*, which carried an article on this matter headed "Govt laughing all the way . . ." in reference to the deal that has been done. "In The Know" thinks that the site would be worth considerably more than the \$750 a square metre which was paid for the land. There is certainly the view in the financial community that the Government has done an excellent deal in that respect. It is my strong view that the Government has done an excellent deal in that matter.

Whereupon the honourable member laid on the table the document referred to.

Commonwealth Government Accountability

Mr FITZGERALD: I ask the Premier: has his attention been drawn to comments by the head of the Federal Public Accounts Committee, Mr Robert Tickner, that the level of accountability in the Commonwealth Government is a joke? Can he advise if the Queensland Public Accounts Committee is likely to have any more success in dealing with Queensland issues?

Mr AHERN: It is passing strange that, although Labor Party members are talking about the issue of accountability in this place, their own Federal Labor colleagues are copping a belting in respect of the real issue in the Federal Parliament. That is the real truth of the matter. In Federal Parliament, Labor is thumbing its nose at the Public Accounts Committee.

I assure all honourable members and the public of Queensland that the Public Accounts Committee in this place, which has the toughest legislation in Australia backing it up, will have strong support of the Government in its quest for information.

The Honourable Minister for Finance has drawn to my attention a recent newspaper report under the heading "Government accounts a 'farce'", which stated—

"Public accountability by federal government departments was 'a joke, a farce' and 'non-existent', the chairman of the Public Accounts Committee, Mr Robert Tickner, said yesterday.

The committee heard evidence yesterday from departmental secretaries on why they failed to comply with guidelines in their annual reports and had not provided Parliament with adequate information about their activities."

That is the type of accountability that Labor is espousing federally. It makes a joke of their bleatings in this place.

Sporting Activities of Redbank Branch of ALP

Mr FITZGERALD: I ask the Premier: will he advise what truth there is in the rumours of weird sporting activities involving the Redbank branch of the ALP?

Mr AHERN: A very serious issue has been raised. The honourable member for Lockyer rightly points out that there does appear to be a serious problem with the factions in the Labor Party at present. Over the past 12 months or so the Leader of the Opposition has had spent on his own personal image about \$3½ million, yet the poor old representative of the Left Wing faction of the party is left to do his own fund-raising.

My attention has been drawn to a notice of a social function, which states—

"The Redbank A.L.P. Presents
'Sports Night and Super Auction'
Saturday 6th May
7.30 p.m — 11.30 p.m.

\$10.00 entrance fee gives you \$10,000 of 'play money' to use on a variety of fun games of chance!"

Poor old Bob Gibbs only gets play money, while his leader gets \$3½ million of the real thing!

I expect that a complaint will be received from the RSPCA, because the notice continues—

"One of the evening's highlights will be the running of mouse races. You can even become the proud owner of one of these little furry friends and collect the 'honours' if he wins. By the end of the evening, your little mouse could be odds on favourite in the grand finale, the Wolston Dash!

After all the fun and games are over a super auction will be held when you will be able to use your 'play money' to bid for lots of super prizes including beer, wines, spirits,"

and so on.

There is no doubt about it: in the Labor Party there do appear to be fractions for factions.

Mr R. J. GIBBS: I rise to a point of order immediately to point out to the Premier that each of the rodents carried the name of a Minister, including the Premier's.

Mr SPEAKER: Order! That is not a point of order. I call the member for Lytton.

Mr BURNS: I understand that the Premier ran last, too.

Mr SPEAKER: Order!

Sale by Estate of D. G. Thompson of Land on West Bank of Coomera River

Mr BURNS: In directing a question to the Minister for Land Management, I refer to the proposed sale by the estate of D. G. Thompson of 294 hectares of land on the west bank of the Coomera River. In the Minister's press release of 6 June—that is,

yesterday—he said that the Crown recreation reserve known as William Guise Foxwell Park was sold to the Thompson estate in an arrangement that included the surrender of a special lease, the surrender of 15.4 hectares of freehold land and a monetary consideration of \$116,200.

I ask the Minister: can he explain how a check carried out today at both the Albert Shire Council and the Department of Freehold Land Titles still shows the land in question as Crown reserve for parks and recreation, bearing in mind the Minister's claim yesterday that there was no secrecy in the deal and that full details are available to the public?

Mr GLASSON: The Opposition Finance spokesman, the member for Cairns, revealed all sorts of “shady” dealings on the part of the department in regard to dealings with the parcel of land referred to by the Deputy Leader of the Opposition. The contents of my statement yesterday are 100 per cent factual. All of that information was obtained from the file, which was started back in 1969.

In regard to the accusations made by the member for Cairns in relation to the exchange of X number of kilometres—I think he said kilometres—of land along the riverfront—I suggest that the honourable member take a few measurements of the area and learn a little bit about what he is talking about. It was indeed land that was ceded to the Crown by virtue of a requirement of the Albert Shire when dealing with a previous application for subdivision.

The road closure to which the honourable member referred was also approved by the Albert Shire Council. Any dealing with that land was all done with the approval of the Albert Shire Council.

If the Deputy Leader of the Opposition is prepared to put on notice the specific allegations, they will be answered in toto.

Mr SPEAKER: Order! Before calling on the member for Lytton to ask his second question, I draw the attention of honourable members to the fact that the attendants are attempting to set up the lectern for Mr Justice Vasta when he comes before the bar of the Parliament. If honourable members wish to move in and out of the Chamber, it would be easier if they did so by using the exit either on my left or on my right rather than using the passageway in which the bar of the Parliament is situated.

Mr BURNS: I agree to the Minister's request and place that question on notice for tomorrow.

Mr SPEAKER: Order! The honourable member cannot have a double-barrel question.

Mr BURNS: The Minister asked me to put my question on notice for tomorrow.

Mr SPEAKER: Order! I will look at the question and I will look at what has been said already, and if that is in accordance with the rules, the question will be placed on notice for tomorrow.

Ex Gratia Payment to Families of Police Constables Kidd and Low

Mr STEPHAN: In directing a question to the Minister for Corrective Services and Administrative Services, I draw his attention to media reports of the ex gratia payments to the families of Police Constables Kidd and Low, who were killed in the line of duty. I ask: are there any other members of the police force who are eligible for this type of retrospective payment?

Mr SPEAKER: Order! I call the Minister for Police and Minister for Emergency Services and Administrative Services.

Mr COOPER: Thank you, Mr Speaker, for correcting the honourable member in regard to my portfolio.

The question relates to a very serious matter. A few weeks ago this Government was very pleased to announce that all police officers will now be treated on the same basis as other public servants, that is, if they are killed under malicious circumstances or totally incapacitated under malicious circumstances, they will be entitled to an ex gratia payment of \$100,000. Previously police officers were not in this category, and some weeks ago the Government moved to correct that anomaly.

It was only on Monday of this week that Cabinet also made the decision to ensure that the widows of Police Constables Kidd and Low would receive not just the amount of workers' compensation that they have already received—which was approximately \$49,000 in one instance and \$54,000 in the other—but also that that gap would be closed up to the level of \$100,000.

I think that that decision was commendable. It was certainly very appropriate. The widows concerned were very deserving of it. All honourable members would be aware that nothing will bring back those police officers. However, I believe it is very appropriate that those widows are now in receipt of what the families of other public servants would have received.

Phasing-out of Chinook Helicopters

Mr STEPHAN: I direct a further question to the same Minister and I thank him for correcting the Emergency Services part. My question relates to his portfolio of Emergency Services. I refer to the excellent record of service by Chinook helicopters. I ask the Minister: bearing in mind the excellent service record of those machines over a period of years, is he satisfied with the Commonwealth's decision to phase out those helicopters?

Mr COOPER: The matter of the Chinooks being phased out of Amberley is certainly one of concern to the south-east Queensland region. All honourable members who have constituents in the south-eastern area should also be concerned. Quite frankly, I believe that they should bring pressure to bear on the Government in Canberra to reconsider that decision.

The Chinooks have been in operation since about 1974. They were introduced after the 1974 floods and have played a tremendous role in rescue operations and during floods in western Queensland for the purposes of feeding stock and the like. Honourable members will recall the recent rescue off the coast of south-east Queensland of a family of four. I am told that the Chinook helicopter was the only type of machine capable of carrying out such a rescue. Yet those machines are to be phased out. That matter certainly concerns me. I have no doubt that it would concern everyone in this place. The Black Hawks that will be replacing the Chinooks will be based in Townsville, and good luck to Townsville. However, the south-east corner is to be exposed, without such a service. The payload of a Chinook is three times that of a Black Hawk. Honourable members can imagine the effect that would have on attempting to feed livestock in flood-time. That detracts very much from the value of the Black Hawks. The Federal Government's decision is irresponsible and must be reconsidered.

I, too, can play with figures. I am told that, although the Chinooks are getting old, it would be in everybody's interests to keep one or two of them in the south-east region for rescue work. The Federal Government has indicated that the cost of running a Chinook is about \$7,000 an hour. However, the Boeing company has indicated that the cost is about \$4,500 an hour. Sometimes people play irresponsibly with figures, especially when they are dealing with people's lives. It is not too late for the Federal Government's decision to be reversed. Representations are being made by the Queensland Government to the Federal Government on that matter. I ask members of the Opposition to ensure that the Federal Government keeps some of these machines to ensure a level of safety for the people of south-east Queensland.

Capitol Consortium's Proposal for Third Airline

Mr INNES: In directing a question to the Premier, I refer to the proposal for a third domestic airline in Australia, and I ask: has the Queensland Treasury Corporation had negotiations with Capitol Consortium? Did he give a letter to Capitol Consortium guaranteeing State Government support? Has that support been withdrawn? Did the consortium propose to establish its servicing centre in Brisbane at the old airport site in conjunction with other high-technology interests associated with the consortium?

Mr AHERN: With the deregulation of domestic airlines in Australia, there is an excellent opportunity for the entry of a third airline into the domestic airlines competition. Queensland, like other States, has been negotiating with a number of parties to try to get the headquarters of such an operation in this State. Honourable members would be aware of the difficulties that are clearly associated with the siting of any such facility in Sydney: because there is too much congestion, it just simply cannot be done there. Similarly, Melbourne has considerable problems. There is plenty of space in Adelaide, but the Queensland Government has been arguing strongly with the operators that Queensland represents the best place to site such an operation. It would be at the centre of a substantial amount of the main line traffic and could be sited at our domestic airport, which has plenty of space, and opportunities for further growth in the future obviously abound.

Two proposals have been brought to the Government, one by a company called Capitol and one by a company called Compass. Both organisations have interesting proposals. They have been studied by Government agencies. However, no commitment has been given. I would hope that one of the operations proposed is sited in Queensland. I make no apology for saying that, because literally hundreds of people would be associated with the employment that would be generated. In addition, a range of opportunities would be provided, such as flight simulation and the servicing of international aircraft. It would represent a very large new industry for Queensland.

If the honourable member is trying to imply that I have given a categorical undertaking to one of those companies, he is wrong. The Queensland Government is interested in both of them. I do not know whether one or other or both will proceed. However, the Queensland Government is very active in getting this particular work sited in Brisbane. Substantial benefits will be derived if the Queensland Government is able to bring this very substantial new industry to Queensland. The Government believes that there are natural benefits to those who will be involved. Of course, the Government is trying to keep any Government concessions for investment to an absolute minimum but still gain the project for Queensland because Queensland needs it and deserves it.

Gold Coast Monorail

Mr INNES: I ask the Minister for Transport: during the examination of the Gold Coast monorail proposal was a specialist assessment team set up under a senior officer? Did the assessment team use a points system for the objective assessment of the merits of each proposal? Were the points awarded to that time changed during an overseas absence of the officer in charge and was documentation changed? During the assessment period was the home of the senior officer the subject of threatening phone calls relating to the documentation and was the home of that senior officer broken into? Is the Minister prepared to have the matter of the Gold Coast monorail proposal referred to the parliamentary Public Works Committee for full examination? If the Minister wants me to put my question on notice, I will defer to his wish.

Mr McKECHNIE: The Gold Coast monorail proposal was gone into with a great deal of detail by several officers in my department. Eventually a decision was made by Cabinet. I think that the honourable member is trying to imply that the decision would be made only on technical grounds.

I assure the honourable member that in my submission to Cabinet, I was very interested in the financial side of the deal and as to whether or not the tax-payers of Queensland would get true justice from the three proposals.

As to the lobbying that occurred in regard to the Gold Coast monorail—the company that was granted preferred-developer status did very little lobbying. I wish I could say the same about one of the other contenders. Be that as it may, I never refuse a request from anybody in any of the companies to come and see me and talk about it.

I made sure that the Commissioner for Transport was fully aware of all views within the department and that, in turn, he informed me. I looked at almost every detail that I could obtain. I am fully aware of the honourable member's implication. He is totally wrong. The submission that eventually went to Cabinet outlined the various advantages of the system. It was quite clear that the right decision had been made. If the Public Works Committee wants to have a look at it, that would not worry me at all.

Premier's Portion of Defamation Action Costs Awarded to Deputy Leader of Opposition

Mr WARBURTON: I ask a question of the Premier. By now he would be aware that he personally owes \$3,790, being his share of ordered costs in the Tom Burns defamation action. In 1986, the Premier was one of the 18 Cabinet Ministers who decided to issue writs and use public funds for the processing and pursuit of those writs. This year the Ahern Cabinet decided that any costs against those who took out the writs also would be met from public funds.

In the interests of true accountability regarding the spending of public moneys, I ask the Premier if it is his intention to be accountable for his own financial liabilities and, therefore, pay his own personal bill? Or is it his intention to once again put his hands in the public till?

Mr AHERN: The Labor Party ought to be hung, drawn and quartered for raising this issue.

Mr Burns interjected.

Mr SPEAKER: Order!

Mr AHERN: It was well known through my Government's legal advisers that it was prepared to let sleeping dogs lie, with each party paying its own costs. That was the clear indication that was given.

Mr Burns interjected.

Mr SPEAKER: Order!

Mr AHERN: Those writs were not activated by this Government. The Labor Party spent \$3.5m on promoting the Leader of the Opposition and decided to put its hand in the public till.

Mr Burns interjected.

Mr SPEAKER: Order! I warn the member for Lytton under Standing Order 123A. Persistent interjections will not be tolerated. I call the Premier.

Mr AHERN: The issue is quite clear. This matter was raised by the Labor Party. In so doing, the Labor Party knew that it would be putting its hand into the public till. It is an absolute disgrace that the Labor Party has sought to do that in an attempt to create political embarrassment for this Government. It is a nonsense, and the Labor Party stands condemned.

Ministers' Portion of Defamation Action Costs Awarded to Deputy Leader of Opposition

Mr WARBURTON: In directing a second question to the Premier, I refer to his response—pathetic as it might have been—to my first question. I ask: regarding three of the 1986 Ministers, namely, Bjelke-Petersen, Russ Hinze and Don Lane, who are currently under investigation as a result of evidence given in the Fitzgerald inquiry, will their bill totalling \$11,370 be paid out of the public till?

Secondly, in the case of Don Lane, who is a self-confessed misuser of public moneys, what is the Premier's reasoning behind his allowing and supporting Don Lane—of all people—to once again put his hands in the public till?

Mr AHERN: At that time action was taken on behalf of the Ministers of the Government. There is no doubt that an obligation which eventually had to be met was raised. I remind honourable members that the Labor Party raised the issue of costs.

Mr Burns interjected.

Mr SPEAKER: Order!

Mr AHERN: The whole matter could have been let lie. However, the Labor Party raised the issue on that occasion. The Labor Party stands condemned.

Police Body-armour

Mr ELLIOTT: I ask the Minister for Police: will he advise the House when it is planned to supply working police with efficient body-armour?

Mr COOPER: For quite some time this Government has been addressing this very important issue. The Government and the Police Department want to ensure that the best type of body-armour is purchased.

Differences of opinion have occurred, even within the Police Department itself. In order to correct that, recently, in Melbourne, various suits of armour were tested in accordance with international standards. The results of those tests have now been collated, and a special committee involving the operational arm of the Police Department as well as the police union has been set up to consider them. Those reports are to hand. Tenders are being called.

At present, about 50 suits of body-armour are available. The tactical response groups in Brisbane as well as those in the various provincial cities along the coast have them. When the best type of body-armour is determined—not just the type that is utilised for the tactical response groups but also that which is utilised by police patrolling in cars or on motor bikes; it is all different—the Government will be in a position to make a decision. It will not be too long, only a matter of weeks. As the money is available, the Government will be able to go ahead and purchase enough suits that will certainly protect those police who are in the front line and then move steadily towards ensuring that the entire force is properly and adequately protected.

Public Funding of Legal Actions by Ministers against Opposition Members

Mr De LACY: In directing a question to the Premier, I refer to the two reasons given by him for his Government's refusal to meet any part of the legal costs of Mr Justice Vasta, namely, that the judge called for the special inquiry in the first place and, secondly, that he had lost the case by virtue of its adverse findings. I ask: how does he relate those guide-lines for legal assistance with the defamation actions taken by himself and past and present National Party Ministers, at total tax-payer expense, against Labor Party figures? Is it not a fact that these actions were initiated by him and 17 other National Party politicians and, when details of ministerial expenses were required, dropped to stop them proceeding towards an adverse finding? Can he explain the different standards of legal assistance in regard to Judge Vasta, ordinary citizens subject to rigid

asset and income tests and present and past National Party figures including Don Lane, Russ Hinze and Bjelke-Petersen?

Mr AHERN: There is no inconsistency.

Funding of Trip to New Zealand by Mr D. F. Lane

Mr De LACY: In directing a second question to the Premier, I refer to the recent trip to New Zealand undertaken by the former member for Merthyr, Mr Lane, during the Merthyr by-election campaign, and I ask him to advise the House whether the trip was paid for by the Queensland tax-payer.

Mr AHERN: I am not aware of the matter at all. I think the honourable member should approach the Parliamentary Service Commission for the necessary information.

Establishment of Christian University in Brisbane

Mr SIMPSON: I ask the Minister for Education: following the good progress that was made towards the establishment of a Christian university for Brisbane in 1987, could he inform the House what has happened since late 1987 and what the present situation is regarding the establishment of such a desirable institution.

Mr LITTLEPROUD: I thank the honourable member for the question. Prior to my becoming Minister for Education, a group of people who were interested in forming a Christian university in the southern parts of Brisbane did in fact go to the Corporate Affairs Commissioner's Office and registered a name which I think is the Queensland Christian University.

Since then, events have overtaken what was happening. It will be remembered that in November 1987 Mr Dawkins introduced his master plan to change the face of tertiary education in Australia. At that time he did away with the binary system—the binary system meaning some were universities and some were colleges of advanced education or institutes. Mr Dawkins wanted to introduce a unified system under which every institution was the same. That stirred things up right across Australia.

Here in Queensland colleges of advanced education, which thought they were of a standing good enough to bring them up to university status, sought leave from the Government to in fact be redesignated as universities. Because at least three of those applications were submitted, the Queensland Board of Advanced Education advised me that something should be done about the matter. In fact, it was important that the term “university” and its standing should be safeguarded. So, for the very first time, guide-lines were implemented for the redesignation of colleges that wanted to become universities.

Since then, of course, Mr Dawkins has played his cards again—and he plays them pretty hard because he holds all the aces. He works by the golden rule: he who owns the gold makes the rules. He has now come up with modifications to the guide-lines that Queensland had put in place. Those modifications go further than the guide-lines that the Queensland Government adopted. They insist on a sponsorship by an existing university of an institution that wants to become a university. In fact, it is that sponsorship that will play a role in some of the mergers that were announced just recently in the paper that was released about what will happen in Queensland.

Getting back to the question asked by the member for Cooroora—these people have obviously been talking with me about what their chances are. They readily understand that if the high standing of universities in Queensland is to be safeguarded, they should comply with the guide-lines that the Government put in place. They now accept that the State Government has been bullied by the Federal Government and that they will have to comply with the Federal Government's rules.

The latest developments are that they are very much aware that in Sydney a brand-new university with only 60 students is being designated as a university because it has received a sponsorship from an existing university in the United States of America.

Because of that, these people are now quite agreeable to going out and searching off shore for a university that is established on the same sorts of lines as the one they want to establish—a Christian university. The agreement between them and me is that if they are able to come up with a university off shore that will offer sponsorship, they then will apply to the Federal Government and the Queensland Government for permission to establish a university. They are quite prepared to meet those guide-lines. That is the present situation.

Roseville Restaurant Function Attended by Deputy Premier and Mr Justice Vasta

Mr WELLS: In directing a question to the Deputy Premier, I refer to a dinner party that he attended on 4 February 1986 at the Roseville Restaurant and remind him that other guests at that dinner party included former Premier Sir Joh Bjelke-Petersen, former Police Commissioner, Sir Terence Lewis, former National Party power-broker Sir Edward Lyons and Mr Justice Angelo Vasta. I ask: would the Deputy Premier inform the House of approximately how many other exclusive social gatherings he attended in the company of Mr Justice Vasta?

Mr GUNN: I have had about 2 000 dinner parties since about that time. I do not recall it; I do not recall what I ate; and I do not recall if I had dessert, either, Mr Speaker. I am not quite certain of that at all.

Mr R. J. Gibbs: They reckon your table manners were appalling.

Mr GUNN: That is a great compliment, coming from the member for Wolston, because even the pigs in Wolston turn their backs on him, which will give honourable members an indication of what they thought of him when he was doing a month in the cooler.

I do not recall who was at that particular dinner party on that occasion, Mr Speaker; I would have to look up my diary. If the honourable member would like to see me next week, I can tell him all about it. I could give him a copy of the menu, too.

Conversations between Deputy Premier and Mr Justice Vasta at Social Functions

Mr WELLS: In directing a further question to the Deputy Premier, I refer him to social functions attended by him in the company of Mr Justice Angelo Vasta, and I ask: did he and the judge ever engage in conversations relating to political or legal matters? Did these conversations ever relate to matters before the courts? Did the Deputy Premier ever advise Mr Justice Vasta of the Government's attitude to particular offences, or categories of offences?

Mr GUNN: I have no recollection of that at all. I think that the honourable member has a great imagination, if he has nothing else.

Federal Government's Unified Education Plan; Amalgamation of Tertiary Institutions

Mr SCHUNTNER: In directing a question to the Minister for Education, Youth and Sport, I refer to the answer given to the honourable member for Cooroora and to the severe disruption to Queensland's tertiary education system arising from the Federal Labor Government's single-handed implementation of its centralised, unified national system; to its callous action in withholding funds; and to the ongoing Federal/State conflict. I ask: what is the specific situation regarding each particular institution directly affected by amalgamation negotiations?

Mr LITTLEPROUD: I refer to 19 November 1987 when, before I went to Canberra for the very first meeting with Mr Dawkins and all other Ministers for Education in Australia to discuss the implications of the Green Paper on higher education, I had a meeting with all the vice-chancellors and directors of the various tertiary institutions in Queensland. We determined that for the good of the strategic delivery of tertiary education

across Queensland, we would try to preserve the autonomy of all existing institutions. We knew that that was going to be difficult and that the Commonwealth Government held all the money. We knew also that, as the honourable member indicated, the Federal Government would withhold funds unless Queensland complied.

Since that time, protracted negotiations with Canberra have taken place. Consultation with various institutions has been engaged in and the tertiary education forum of Queensland has also been formalised. All people involved meet with me, Dr Botsman and the director-general. As we have proceeded through this torturous 18 months, we have argued for some clauses to be put into the Green Paper. The Federal Government argued for equity in opportunity and, on those grounds, we were able to convince Mr Dawkins that institutions such as the James Cook University of North Queensland, the Capricornia Institute and the Darling Downs Institute should remain autonomous because they were strategically placed geographically across the State. That was our first win.

Mr Vaughan: What about the Gold Coast college?

Mr LITTLEPROUD: I am coming to that. Subsequently, at the end of last year, the Queensland Institute of Technology was successfully changed to the Queensland University of Technology. The more difficult tasks related to the Brisbane College of Advanced Education and its four campuses, the Conservatorium of Music and the Gold Coast CAE.

I will deal with the Gold Coast CAE first. Protracted negotiations took place over a number of years to establish a college of advanced education on the Gold Coast. The Labor Government in Canberra refused point blank to establish the college until it was shamed into doing so. The college started a couple of years ago. In two years it has grown to an enrolment of approximately 1 100 students. In spite of great potential to grow quickly, the poor people at the Gold Coast college were cut off midstream. Given sufficient funding, the college had every chance of reaching the limit of 5 000 that Mr Dawkins had set.

For the last 18 months, the Queensland Government has argued that, given the funding that is required to meet the great demand that exists, the Gold Coast College of Advanced Education should be allowed to remain autonomous and continue to grow. Unfortunately, as late as last week, the Queensland Government fought its last round. I refer again to the golden rule. Mr Dawkins holds the gold and he refuses to release funding for all plans for tertiary education in Queensland unless the Gold Coast gives in.

After negotiating with Mr Dawkins, I went back to the Gold Coast people and said to them, "The game's up. He won't let you into the unified system as you are, and your funding for projects in 1990 will be wiped. On top of that, funding for distance education and for various buildings on other campuses in Queensland will be stopped."

Mr R. J. Gibbs interjected.

Mr DEPUTY SPEAKER (Mr Row): Order! I call to order the honourable member for Wolston.

Mr LITTLEPROUD: In the interests of tertiary education in Queensland, the people involved at the Gold Coast college came to me and said, "We've been bullied. We give in." Currently, negotiations are under way between the Gold Coast CAE and three universities in southern Queensland to work out some type of merger. That merger will be developed at a later stage. Canberra has been informed that that arrangement will apply so that funding will be released.

With regard to the Brisbane College of Advanced Education, honourable members will remember that in about the middle of last year the Queensland Government was prepared to investigate amalgamation of a few campuses in south-east Queensland to establish a university of south-east Queensland. I set up an interim committee to investigate the matter and in the new year that committee reported back to me that it

would not work. I informed Mr Dawkins of that fact and since that time Mr Dawkins and I have negotiated and reached a compromise. He now understands some of my reasoning and I have given ground in other areas.

The result is that the Brisbane College of Advanced Education, which used to have four campuses, will now be split up with the Mount Gravatt campus and will come under the Griffith University. However, there will be a qualification that at least some of the courses established at Mount Gravatt will be transferred back to the northern campuses. Negotiations will follow by means of a working party comprising people representing both campuses and the Board of Advanced Education in Queensland.

I am currently undertaking further negotiations with the Queensland Conservatorium of Music and Brisbane universities to determine how the conservatorium's rights can be best preserved. One criticism from the conservatorium is that when conservatoriums of music have been merged with academic institutions in other places in Australia, the quality of the conservatorium has suffered badly.

I agree with the findings, but once again Queensland is being bullied because these institutions will never attain the size laid down by Mr Dawkins and meet the criteria. They are being forced into a merger and the Queensland Government is embarking upon difficult negotiations in an attempt to make the best of a very bad situation.

Amalgamation of Tertiary Institutions

Mr SCHUNTNER: My second question refers to another aspect of those amalgamations and to the Minister's answer to my question on 13 April.

Honourable members interjected.

Mr DEPUTY SPEAKER (Mr Row): Order! The Chamber will come to order. There is far too much audible conversation. It is difficult to hear the member who is asking the question. Will the honourable member for Mount Coot-tha please repeat the question?

Mr SCHUNTNER: I ask: is the Minister aware that his answer indicating that there has been regular contact with the governing bodies of the higher-education institutions, the chief executive, staff representatives and student representatives has been treated with disbelief and derision? Will the Minister give a commitment to initiate urgent and effective consultation with Queensland's higher-education institutions and other relevant interested parties?

Mr LITTLEPROUD: The honourable member for Mount Coot-tha must understand that even though my negotiations have been exhaustive, in the main I have restricted them to discussions with either chancellors, vice-chancellors, directors or chairmen of the councils. Negotiations within their own institutions should be undertaken by them. I have received written submissions from staff associations and student bodies within those organisations and have considered them. However, the magnitude of the process of consultation was such that I had to restrict myself to discussions with the leaders of those institutions. I have met them collectively as a forum in order to work out a strategy for the whole of Queensland.

As recently as 2.15 this afternoon I was talking to the chairman and director of the conservatorium and the consultation has been exhaustive. It has taken place not with individual factions within each institution, but with the institution leaders themselves.

Disposal of Liquid Effluent into Port Curtis Harbour

Mr PREST: In directing a question to the Minister for Environment, Conservation and Forestry, I refer to an application made to alter the preliminary design concept of a pipeline to transport liquid effluent, that is trade waste, to the Port Curtis harbour from a sodium cyanide/caustic chlorine complex that is to be constructed by ICI Australia at the Yarwun industrial estate. This design concept change has been given the approval

of the Department of Environment and Conservation and is a change from the proposed complex described in September 1988 in the IAS. I ask: why has the request for the alteration been made and what monitoring will take place of these trade wastes to ensure that no effluent will be discharged directly into Port Curtis harbour which may damage the adjacent wetlands and environment?

Mr MUNTZ: Obviously all necessary monitoring will take place. I am not aware of the full details, and ask that the honourable member place the question on notice.

Mr PREST: I do so accordingly.

Shire Divisional Boundaries

Mr McELLIGOTT: In directing a question to the Minister for Local Government and Racing, I refer to all the shires in Queensland and the fact that they are divided into divisions for the purpose of electing councillors, and I ask: firstly, how were the boundaries of those divisions determined, and, secondly, are the boundaries subject to regular review to take account of population changes and, if so, when was the last such review undertaken?

Mr RANDELL: What was the first part of the question?

Mr McElligott: Are all shires in Queensland divided into divisions?

Mr RANDELL: No, not all councils in Queensland are divided into divisions. As far as boundaries are concerned, I do not know when they were established.

Mr Gunn: A few years ago.

Mr RANDELL: They were established quite a few years ago.

In relation to boundary changes, where two councils desire to make a change and come to an agreement, they can come to me and tell me that they agree on the changes and I will consider them.

Mr McElligott: They are never reviewed?

Mr RANDELL: They are never reviewed. I have received many requests to review local government boundaries.

Mr McElligott interjected.

Mr SPEAKER: Order!

Mr RANDELL: I could hardly hear the honourable member's question. With his interruptions, I am not sure what he is saying. Could he repeat his question?

Mr McELLIGOTT: Put very simply, I want to know how the divisional boundaries in the shires of Queensland were formed. Are they subject to review? If so, when was the last review conducted?

Mr RANDELL: They were reviewed many, many years ago. I do not know if any review is planned in the future. If any shire wants the boundaries reviewed, it can make application to me and that application will be judged on its merits.

Seminar on Greenhouse Effect

Mrs NELSON: In asking a question of the Minister for Environment, Conservation and Forestry, I refer to the free public seminar held in Brisbane on Monday, 5 June, to provide an opportunity for interested members of the public to hear differing views on the possible climatic and social effects of the greenhouse effect. I now ask: will he advise the House what steps his department is planning to take as a result of the various suggestions put forward by individuals and organisations present at that seminar?

Mr MUNTZ: The seminar to which the honourable member refers is one she attended along with more than 400 other people. She would agree that it was well supported. It gave an opportunity for all community organisations, all Government departments and industry and commerce to put their views and express their opinions.

Mr SPEAKER: Order! There is far too much audible conversation in the Chamber.

Mr MUNTZ: That seminar allowed for discussion on the greenhouse effect by way of a rational debate so that rational decisions could be made about future development and conservation policies.

A number of commitments will be made by this Government. I intend to put a full report before Cabinet on some of those suggestions. I believe that what must be addressed in the future are things such as solar-heating systems, greening Australia and greening Queensland. This Government has already taken many positive initiatives; in fact it has led the way. On World Environment Day on Monday, I have no doubt that this State led the way in rational debate. Unfortunately the opportunity was misinterpreted by 12 to 20 radical groups within the environmental movement. Thousands of people went through the static displays on the ground floor of my department at 160 Ann Street and others viewed various displays along Ann Street and within the seminar. All of those people could be described as being very positive, and the seminar was a success.

Jarden Morgan Study into Queensland's Banking Sector

Mr R. J. GIBBS: In asking a question of the Premier and Treasurer, I refer to the study into Queensland's banking sector by Jarden Morgan commissioned by the Government at a cost to the public purse of \$300,000, an amount in addition to the half a million dollars cost of the now-forgotten *Quality Queensland* document and on top of its associated publicly funded advertising campaign. I now ask: as the report was recently presented to the Government, will he table it so the tax-payers can see what they have paid for? When will concrete action be taken on the report and what action is planned?

Mr AHERN: The Quality Queensland strategy is alive and well and being acted on each week. The timing of the decision-making process which was announced at its release has been strictly adhered to and is on target.

In respect of the banking report, when the Government is ready to act on it, it will do so and it will present the report at an appropriate time. The honourable member is obviously not aware of the commercial sensitivities that are involved in this exercise. There could well be some substantial ramifications in the stock market, so the whole matter has to be handled in a highly professional manner. I assure all honourable members of the House that that matter will be dealt with in an entirely responsible manner by this Government.

Mr SPEAKER: Order! The time allotted for questions has now expired.

MR JUSTICE ANGELO VASTA

Leave to Appear at Bar of House

Mr SPEAKER: Honourable members, I wish to inform the House that I have received the following letter from His Honour, Mr Justice Angelo Vasta—

"Dear Mr. Speaker,

Thank you for your letter to me of 30th May, 1989 informing me of the Resolution of the Legislative Assembly passed on Tuesday.

I note that the Parliament granted leave to me to attend either in person or by my legal representative to address the House in relation to the specific matters set out in Part A(2) of the Resolution.

I wish to inform you that pursuant to the leave granted to me I will attend the Bar of the Parliament in person to address the House.

Yours faithfully,
(Sgd A. Vasta)
A. VASTA J."

Honourable members, in pursuance of the resolution agreed to by the House on 30 May, I now propose to allow His Honour Mr Justice Angelo Vasta to appear in person at the bar of the House and to address the House in relation to the specific matters set out in the report of the Parliamentary Judges Commission of Inquiry and contained in part A (2) of the resolution and to show cause why he should not be removed from office.

I would request that all honourable members extend to His Honour all courtesies during his address to the House. Honourable members and Chamber staff are requested to enter and leave the Chamber by the entrances on either side of the Speaker's chair only.

With respect to any proposal to extend His Honour's speaking time, I suggest that an appropriate time for the House to consider this will be at the conclusion of the time-limit allocated by the resolution. The House may then give leave for the time to be extended, if it so desires.

I also remind honourable members that, while His Honour is addressing the House, the doors at the back of the Chamber near the bar will remain open. However, no person other than His Honour and attendants will be able to be in that immediate vicinity. That is simply to allow room for the matter to take place.

Mr Justice Angelo Vasta was introduced at the bar of the House by the Sergeant-at-Arms.

Mr SPEAKER: Your Honour, the Legislative Assembly has given you leave to appear in person at the bar of the House and to address the House only in relation to the specific matters set out in part 12.2 of the report of the Parliamentary Judges Commission of Inquiry and to show cause why you should not be removed from office. The time allowed for such address is not to exceed 75 minutes.

You may proceed with your address.

Mr JUSTICE VASTA: Mr Speaker, honourable members, this is indeed an historic occasion. It is the first time that a member of the judiciary has been asked to address this House upon a motion for his removal. I come here with a great deal of trepidation. This is a fear not generated by my having to speak to you but because I have a distinct apprehension that most of you consider that my fate has been sealed. I have been asked to "ride the bronco"—whatever that expression means. May I tell you what it conjures up in my mind?

It paints a picture of the procedure followed in the Wild West of the United States where the lynch-mob mentality was so often displayed. A posse would round up an alleged law-breaker, bring him back to town and the leader of the group would publicly declare, "We will give him a fair trial and hang him afterwards." What then was I to make of the declarations of the leaders of the parties that they will vote for my removal without having given me an opportunity to be heard?

One may therefore ask, "What is the nature of this procedure? Is it intended that there be a public spectacle of the ultimate humiliation of a Supreme Court judge?" I feel quite sure that you all would not want this to be such an event. However, it has this element in it in the public's perception of things. The process has been referred to as a "ceremonial beheading". I am comforted by more recent statements that this sitting will not turn into a circus and that the question relating to my removal ought not to be pre-judged. I endorse those responsible remarks and commend those who have made them.

The removal of a Supreme Court judge is one for the Parliament and for the Parliament only. It is not a function that can be delegated. The report of the Parliamentary Judges Commission of Inquiry is to assist you in the discharge of that duty. You cannot salve your conscience by saying "This is their opinion and I will follow it blindly." The decision that you make will not be for today or tomorrow but for all time. What you are deciding is a most important question. It is not to be treated as a formality and this House ought not to be seen as a mere rubber stamp endorsing the opinions of others, no matter how eminent you may consider those holding the view expressed. The commissioners are very distinguished retired superior court judges. With the greatest respect, however, they are not the Blessed Trinity and are prone to ordinary human fallibility. Our system of justice recognises that judges make errors and, for this reason, we have structured avenues of appeal. The knowledge that dire consequences flow from your adverse decision and the fact that from the commissioners' findings there are no avenues of appeal dictate that, in the interests of basic fairness and justice, you look at this matter carefully.

How then can you as elected members of Parliament show that this procedure is not a farce and not an abuse of the parliamentary process? You may do it, as no doubt many of you already have with some success, by demanding of your leaders that you be allowed to vote freely and according to your individual consciences. This is as important a matter as any other issue that has, in the past, called for a vote according to conscience. Unless this occurs, what I am to say to you is a mere waste of breath and I might as well stop here and now and remove myself from the bar of this House.

In the sincere belief that you will bring an independent mind to bear upon this subject-matter, I continue to address you. To adopt the words at page 11 of the commissioners' report (1.5.13)—

"The power given to the legislature should never be exercised in order to remove a Judge because of political, religious or racial antagonism or because he is unpopular or because the media generally or some pressure group have launched attacks upon him. The only ground for the exercise of the power is that the legislature has formed a collective opinion that the Judge is not fit to remain in office."

Those words chosen by the commissioners are not words that are taken from some text; they are well chosen because they have reference to my situation. It is well to heed them carefully.

May I mention at the outset that, according to my researches, there is no precedent in England, and certainly there is no case in Australia, where a superior court judge has been removed from office because of behaviour unconnected with the discharge of his judicial functions and where that behaviour has not resulted in a conviction for an infamous offence. And so in the case of the late the Honourable Mr Justice Murphy the Commissioners Sir George Lush, Sir Richard Blackburn and the Honourable Andrew Wells, QC, had to decide whether "misbehaviour" as contained in section 72 of the Australian Constitution meant only (a) misconduct in office and (b) conviction for an infamous offence. The commissioners ruled that to remove a judge for behaviour not connected with his judicial duties it was unnecessary that there be a conviction. They ruled, and the parliamentary commission in my case followed that ruling, that a judge may be removed for behaviour other than misconduct in office if and only if a judge was guilty of conduct—

"whether criminal or not and whether or not displayed in the actual exercise of judicial functions, as, being morally wrong, (and) demonstrates unfitness for office of the judge in question."

This is, as I have said, a question for you and for you alone after considering the report and hearing what I have to say. I know that as honourable members representing the community you will not treat the matter lightly. My appeal to you therefore is to be even-handed in judging me and above all that you give me a fair hearing.

The fact is that I have given 21 years of service to the public. Sixteen years of that time has been mainly as a prosecutor, reaching the position of Chief Crown Prosecutor. During the last five years I have served this State, if I may be so bold to say so, as a dedicated and conscientious judge, discharging my duties in accordance with my oath of office.

Despite the fact that during my term of office there has been some turbulence, exaggerated in some media reports, I may say, I have found those years to be the most rewarding, challenging and satisfying of the whole of my professional life. During that time I have presided over approximately 150 criminal trials—more than any other judge in that time. Out of those trials there have been seven successful appeals against conviction—far less than what the media would have you believe. In the civil sphere I have made close to 1 000 decisions in civil trials, chamber work and appellate court work. Successful appeals from those decisions would number less than 10. The High Court of Australia has never overturned a decision of mine, and has in fact in one case endorsed my dissenting view over that of other judges. As well as that, I feel I have made a very important contribution in the field of mental health in this State through my work as the Mental Health Tribunal.

The consequence of an adverse vote is that I cannot, as a matter of convention, practise as a barrister before the Supreme Court and in those circumstances I would not practise as a barrister at all. I am entitled to no superannuation and to no pension. This is mentioned not to engender sympathy but to point out to you that what follows upon an adverse vote is that my career in the practice of the law will end. In addition, I am virtually to be fined a sum in the order of \$750,000. Therefore the seriousness of such a decision and its consequences requires that I do the best I can to convince you all that I be given adequate time in which to speak and to plead my case.

To illustrate how important this is, may I contrast my case with that of a person charged with dangerous driving. Such a person is given particulars of the manner and place where it is alleged he drove dangerously. He is entitled to a hearing in the lower court. He may be committed to a District Court. He need not answer any charge unless a *prima facie* case is established. If he or she is convicted the consequences would be nowhere near as dire as mine. Yet he has an appeal to the Court of Criminal Appeal and if that fails, he or she may seek special leave to appeal to the High Court.

The only avenue of redress that I have, Mr Speaker, is an appeal to this House.

From the moment I was forced to stand down to the present time I have maintained that I have done nothing which is morally wrong and which demonstrates unfitness for office. This stance remains unchanged and will do so for evermore.

It must be remembered, and the commission makes it clear, that the independence of the judiciary is a fundamental principle of government in this State. If the standard of behaviour of a judge in his private life is set at a standard which is too high, then this independence will be lost. If the standard does not allow for common human frailty but requires a level which approaches sainthood, then you would have a bench of judges who would lack the common touch and who would fail to acknowledge the weaknesses of human nature and the qualities of compassion and understanding.

What then is it that the inquiry has found that I have done which is “morally wrong and demonstrates unfitness for office”?

The commission has referred to five matters which viewed in conjunction with one another demonstrate unfitness for office.

I intend to refer to them one by one and make submissions in relation to each of them.

In respect of one series of those matters I will be submitting to you that the commission has made such a fundamental error that those matters will have to be eliminated from all consideration. The result of that will be that this House will be unable to vote for my removal.

I turn firstly to what has been described as the AAT incident. Let me describe briefly how this matter became relevant. In a publication called *Matilda* there was an article written to the effect that I was so stupid that I had mistaken the Administrative Appeals Tribunal, called AAT for short, for the bus company called AAT Kings. I sued the publication in respect of a number of matters contained in that magazine, including this item. Some of the defendants whom I sued did not put in a defence. As a result, I had judgment entered against those who did not file a defence. The amount of the judgment depended upon the assessment of damages, which Senior Master Lee, QC, as he then was, was required to make.

I gave evidence, as did others, including Sir Edward Williams, Sir Terence Lewis and Dr Gordon Urquhart. The assessment was not made because Master Lee ruled that as a matter of law he could not do so whilst the action was still defended by the printers and the distributors of the magazine.

In relation to the AAT matter, I stated that the words attributed to me were a fabrication. At the parliamentary inquiry I repeated that evidence. I still maintain that it was a fabrication.

At the judges inquiry, in order to prove that what I said before Master Lee was false, two journalists called Goff and Campbell were called. They said that on one night during a convention held in Melbourne between 4 August and 9 August 1985 they had ridden in a taxi with me and my wife and that during that journey in a cab a certain conversation took place. The commission preferred the evidence of the two journalists over my evidence and that of my wife. In doing so, the judges made mention of a number of matters which are contained at pages 25 to 33 of the report. I will swear till the day I die that I did not have such a conversation with those two journalists. This I can tell you is also the attitude of my wife.

Consider this fundamental question, Mr Speaker and honourable members. The conversation allegedly took place in August 1985. The article was published in September of the same year and I sued the magazine in March 1986. If I had spoken those words, one would expect that I would have remembered in September when I read the article, and certainly in March 1986 when I sued, that this discussion took place. In those circumstances, may I ask rhetorically: would I have taken the step of suing these people knowing this fact? Such an action would have been foolish in the extreme for any litigant, especially one who was a Supreme Court judge.

Moreover, when this matter was first raised during the opening by Mr Hanger, QC, I sought details of the time and place of the journey. The fact that I discussed it with my wife and asked her if she remembered such an incident is the most natural thing to do and reinforces the suggestion that it came as a real surprise to us. Because our versions could not in any way be shaken, it was concluded that our evidence should be given less weight than it otherwise should. The fact is that my cross-examination about the matter could have been taken as almost an acceptance of my version. To illustrate the point I must refer to it in full. It appears at pages 2385 to 2388 of the transcript. It states—

“BY MR HANGER: If I could go on to the AAT matter, the simple fact of it is you absolutely deny any conversation as alleged by Mr Goff and Mr Campbell?— Yes.

You are quite sure about that?— Yes, I am.

It is being put quite specifically by those people as to the events of that night?— Yes, I realise that.

I presume that, if such a conversation had taken place, you would remember it?— Yes.

Do you agree — put it this way: the alleged conversation, according to the evidence, took place on or about 8 August 1985?— Do I agree?

I was going to say, “Do you agree it took place . . .”, and I realised I could not. What I am saying is that the alleged conversation allegedly took place on 8

August 1985 and it was published — referred to in the September 1985 issue of *Matilda*?— Yes.

So that you read the article shortly after it was published — it was drawn to your attention?— Yes.

And it follows that, if any such conversation took place, it took place not long before you read the article?— Yes, it did.

And at that point in time there was no jogging of your memory as to such a conversation?— No.

Prior to the commencement of the hearing, or prior to these gentlemen, Goff and Campbell, giving evidence, once again, I take it, you conferred with Mr Shand about the issue?— Yes.

Did you recognise Mr Campbell when he came into the Commission room?— No, I did not recognise Mr Campbell.

Did you recognise Mr Goff?— No, I did not recognise Mr Goff. I note that he said that he met me at the High Court. I am not saying that that is not a possibility, but I have absolutely no recollection of ever having met Mr Goff at all. As for saying that he drank with me at a club called the Grosvenor School of Law, that is arrant nonsense.

You have no recollection of being approached by either of them at any High Court sittings in Brisbane?— No. I note that he said that he used to drink with me, or he came to a group where I drank, at the Grosvenor School of Law. I could count on one hand the number of times I went to the Grosvenor School of Law to have a drink, and it certainly would not have been during the course of a High Court sittings, in which I used to do most of the special leave applications. So he has got that absolutely, completely wrong.

I do not want to waste time. As far as you are concerned, you have never met him at any time?— I have no memory at all of ever having met him. I asked Mr Shand if, somehow, he could get some information as to whether he always had a beard, but it just absolutely had no impact upon my memory at all when he came in, and when Mr Campbell came in, and I had to ask the circumstances in which this alleged conversation took place after your opening to try and get some details.

Turning to the alleged conversation, it is a fact that you were attending the Australian Legal Convention, staying at the Southern Cross Hotel?— Yes.

And that on the evening of Thursday, 8 August 1985 you had been invited to attend a private dinner?— No.

Sorry, I misunderstood you. I thought you did say that?— It was not a private dinner. It was one organised by the Law ———

BY SIR GEORGE LUSH: You had been invited to attend one but, eventually, it had been cancelled, or you had cancelled?— Yes, that's right. That was Mr Bellafiore's one, yes.

BY MR HANGER: The restaurant at which the function — you ended up going, I think, to — what dinner was it?— The Country Lawyer's Association.

The restaurant at which that function was to be held, was it at South Yarra?— Yes.

And South Yarra, as you recall, was the place — ?— Yes, I know all of that.

And you, in fact, caught a taxi to the function?— Yes.

Let us just go back to look at a couple of other things. Do you know how long you waited in the taxi queue?— No, but not a great length of time.

Were you waiting in the queue with your wife?— Yes.

And did you speak to anyone while you were waiting?— I cannot recall having spoken to anyone. My wife may have spoken to someone.

I suppose other people, other delegates from the legal convention were staying at the Southern Cross Hotel?— Yes, quite a few.

Did you recognise any other persons from the conference waiting in the queue?— No.

Was it in fact raining on that night?— It may have been.

Did you at any stage leave the queue for any reason?— No.

I asked that because there was some suggestion——?— Yes, I heard him say that I left at some stage, and I was in front at one stage and behind at another.

Did you invite anyone to share your taxi?— No.

Did you know at the time of this alleged conversation that TAA had a subsidiary called AAT, or had had one?— Did I know? I have seen buses with AAT Kings, or something, on them.

Did you know at that time that TAA had sold off AAT, the coach service, at some time prior to that date?— No, I had no knowledge of anything to do with the selling of it. I do not know to this day who owns it, whether TAA still has some connection with it.

It would be true to say that, as a criminal barrister, which you were all your life prior to going to the Bench, or for donkey's years anyway, that you had nothing yourself to do with the Administrative Appeals Tribunal?— No, but I knew enough about it that, when that by-law for Cosco was refused, I spoke to Mr Ryder about the possibility of going to the AAT on that.

When was that—it does not matter?—1981 or 1982.

You had never appeared before the Tribunal I presume?— No.

I will turn now to the next issue.”

The additional matter is that the reason Goff claims to have known me outside my wig and gown is that he drank with me at the Grosvenor Hotel. Some reference to that is made in the transcript which I have read. Now, that is quite wrong. The last time that I went to the Grosvenor was in December 1982, and I can count on one hand the number of times that I went there in the last 10 years. Goff stated that he last drank with me at the Grosvenor in July 1984. It was only after it was pointed out that that was after I had been appointed to the bench that he said that it was in 1983. Even that was incorrect.

The consequences of the finding by the commission are that in August 1985 I, a Supreme Court judge, knew nothing of the Administrative Appeals Tribunal and that I mistook it for a bus company. With the greatest respect, that is patently an absurd conclusion. The commission failed to refer to my evidence that I had heard of such tribunals mooted as far back as 1972 by the then shadow Attorney-General, the late Lionel Murphy. In 1981 I knew that the AAT was an appeal tribunal from a decision made by the Customs Department. Moreover, early in the week of the Melbourne conference I spoke to Judge Alwyn Rowlands of the Victorian County Court, who had been recently appointed President of the AAT, and we spoke of his work in that regard.

The evidence of Goff and Campbell is that we had a discussion on administrative law in the context of a paper I had not attended. I was supposed to have said, when AAT was mentioned, “I’m not interested in transport.” Subsequently, I was supposed to have said, “We don’t need such tribunals in Queensland—we do all right as it is.” So practically in the same breath I am supposed to have made a remark indicating that I knew nothing of such a tribunal and one that shows I was conversant with such a tribunal. This is the lawyers’ equivalent of talking about the greenhouse effect and not knowing what the ozone layer is. A conversation about a subject cannot occur without knowledge of that matter.

There are other inconsistencies in the versions of Goff and Campbell which are too numerous to mention but which the commission acknowledged. For example, Campbell stated that he was in the front seat and twisted himself around, saw the expression on my face and was able to say that I was serious when I spoke the words. Goff says the

very same thing; that he was in the front seat and he twisted around from time to time. Goff says that Campbell started the conversation and that Goff was only listening. Campbell says that Goff started the conversation and Campbell was only listening. Contrasted to this is my evidence and that of my wife. There are no inconsistencies in our testimony nor are there any absurd propositions. In cross-examination, as I have illustrated, that testimony was not discredited in any way whatsoever. The simple reason for this is that we were telling the truth. Such a reason was rejected by the commission solely because our testimony was similar and because we had more of an interest in this aspect of the inquiry than did Goff and Campbell.

The commission has virtually stated that my evidence concerning the AAT would not, of itself, have been sufficient to warrant my removal. Nevertheless, with respect, the finding is strenuously challenged, and my wife and I are grossly offended by it.

Before I turn to the next topic, may I make reference to two very important matters, because they impinge upon this subject-matter. Firstly, may I draw your attention to an article—which some honourable members may have read—which appeared recently in the *Courier-Mail* of 29 May 1989. It was contained in a column Day by Day by Des Partridge. It reads—

“An ABC-TV cameraman on assignment to Sydney found himself sharing a taxi from the airport with another passenger who’d flown from Brisbane.

When the cab driver learned his passengers has just arrived from the North, he commented, ‘I bet you’ve changed your brand of toilet paper since that judges’ inquiry up there.’

Mr. Justice Angelo Vasta, sitting in the front seat of the cab, said nothing.”

Now, when I read that article I considered that to be a total fabrication and I would have sworn to that effect, because I have not travelled to Sydney since the inquiry started. I understand that a cameraman who was employed by the ABC and who was at the judges inquiry nearly every day, stated that he recognised me and believed that I was in a cab in Sydney with him in mid-May of this year. This illustrates the unreliability of identification evidence. That man would have been prepared probably to swear to the fact that he had seen me, and his ability to identify me would have been based on reasonable grounds, namely, that he saw me frequently during the inquiry hearing. It illustrates how—to put it kindly—people can make genuine mistakes as to a person’s identity or—to put a more sinister interpretation upon it—how a story can be invented and given the air of reality about it.

That article has now been retracted in Mr Partridge’s column in the *Courier-Mail* on 31 May in this way—

“An ABC-TV news cameraman who was involved in covering the judges’ inquiry concerning Mr Justice Vasta told us he’d shared a cab ride with His Honour in Sydney, the basis of an item in DBD on Monday.

Mr Justice Vasta’s lawyers have assured us that Mr Justice Vasta has not flown interstate during or since the inquiry.

DBD’s source says a man in the cab was an astonishing look-a-like.

The DBDesk apologises to Mr Justice Vasta for any embarrassment.”

The most notorious cases of miscarriages of justice have occurred where identification evidence is relied upon heavily. History has shown that it is extremely unreliable. Yet in this case there has been no mention of this important principle, notwithstanding the fact that Goff’s identification of me was based upon his having had drinks with me at the Grosvenor Hotel—a fact which I strenuously denied and about which I was not challenged. Yet the basis of such identification was not referred to at all in the reasons.

What I have referred to thus far is, in my respectful submission, sufficient to show that there has been a serious miscarriage of justice here. However, that is not the whole picture. And so I come to the second of the two important matters I mentioned.

One of the two journalists, Roderick Campbell, stated that he was staying at the Southern Cross Hotel and that he was to meet Goff in the foyer of the hotel. From there they proceeded to a taxi-cab rank where they said they later saw me and my wife. If, of course, Campbell was not staying at the Southern Cross Hotel, the whole basis of their story falls down. A piece of startling new evidence has recently come to light indicating that Campbell may not have stayed at the Southern Cross Hotel at all. If this is so, there are very serious implications associated with his evidence before the judges commission.

I seek leave to table a statutory declaration of one Brian James McCormack, which I will read, and ask that it be incorporated in *Hansard*.

Leave granted.

Mr JUSTICE VASTA: The statutory declaration reads as follows—

“Brian James McCormack

States

My full name is Brian James McCormack, I am 40 years of age and am currently employed at the Southern Cross Hotel, 131 Exhibition Street Melbourne.

I have worked for the hotel since September 1981. My present duty is that of front office manager. Prior to that I was a duty manager.

The hotel records are computerised, and have been since early 1985.

I have this day checked the hotel records for guests who stayed here between the 4th August and the 9th August, 1985. There are no records of any persons by the name of Roderick Campbell or William Goff.

It should also be noted that persons who stay at this hotel for only one (1) night do not remain a record after a period of three years. This is a policy of the hotel. The computer records are the only records of previous guests kept.

I hereby acknowledge that this statement is true and correct and I make it in the belief that a person making a false statement in the circumstances is liable to the penalties of perjury.”

The statutory declaration is acknowledged and taken in Melbourne on 30 May 1988 at 2 p.m. and witnessed.

Whereupon the document was laid on the table.

Mr JUSTICE VASTA: It is my respectful submission to you that you will disregard this feature of the commission’s findings, but in the light of that statutory declaration some serious questions need to be asked in relation to this evidence.

I turn then to matter (c) of paragraph 12.2 at page 163 of the report. It reads—

“Falsely stating to the accountant who was preparing the income tax returns of Cosco that the cost of the company’s plant was \$14m and, knowing that the company had been deceiving the income tax authorities with regard to the cost of the plant, taking no steps to end the deception”.

The first thing that must be said about that finding is that it is an adverse finding against Cosco Holdings that it had been deceiving the tax department, when the unchallenged evidence of Cosco’s first accountant, Roger Ng, was that the figure of \$14m was a valuation sum and not an amount representing the cost of the equipment. The commission refused to receive a written submission by Cosco Holdings, ruling that it was an inquiry not concerned with that company. However, this finding may not have been made if such a submission had been received. There was evidence that Mr Coco, the managing director, knew very little about accounts and relied implicitly upon his financial advisers. It was also established conclusively that the decision to put the figure of \$14m into Cosco’s books at cost was that of the accountant only and it was not done at Mr Coco’s direction.

The evidence was also clear that I had nothing to do with the nomination of the figure of \$14m. See page 684 of the transcript. At page 709 it was also established beyond doubt that the sum of \$14m was not discussed with me. I was unaware of the details of Cosco's tax returns and the commission did not find otherwise.

On 22 October 1985 I attended a meeting at Cosco's premises. The reason for my attendance was that the accountant for Coopers and Lybrand, Mr Maloney, specifically requested my presence. He thought, at that time, that I was a director, whereas in fact I had ceased to be a director for over two years. At page 1182 Mr Maloney stated that either Mr Coco or I told him that the plant cost \$14m, but he was unable to recall who actually told him. However, he later said that I advised in summing up the situation that the plant cost at least \$14m.

I refer to page 2238 of the transcript. I was being asked—

“You realised, in fact, that it was a very important meeting?— No, I did not. I said to Santo, ‘What is it that he wants?’ He said, ‘I don’t know; something about the cost of this equipment and he wants you along.’ I said, ‘Why does he want me along?’ He said, ‘I don’t know. He wants you to come along.’ Now I know, as I say, that he was labouring under the misapprehension that I was a director.”

This further question was asked of me—

“Whether or not there was a misapprehension—obviously, you were not a director at that time—but it was, obviously, a matter that Mr Maloney regarded as important?— Well, he did not give me the impression that it was earth-shattering.

He was insisting that you be there?— He told Santo that he was insisting I be there but, having regard to the fact that he was under the misapprehension that I was a director, I can understand why he insisted on my being there. However, when I arrived there he did not make out as if it was an earth-shattering matter.”

At page 2244, the following evidence that I gave appears as cross-examination by Mr Hanger—

“Did you not tell Mr Maloney that Mr Costantino played a major part in organising the purchase of the equipment?— I may have reiterated what Santo said. I may—yes, I mentioned that, I think.

Prior to that meeting had you ever been told that the plant and equipment were shown in the books at a cost of \$14 million?— No, never knew it at all; never went near the accounts; never knew there was a problem until that day.

Were you greatly surprised when it was suggested that it was shown in the books at a cost of \$14 million as opposed to its worth—a cost of \$14 million?— I didn’t understand the significance of it. It was only during this inquiry that I understood the significance of it, that it can’t be depreciated upon a valuation; it can only be depreciated at cost. That was not something which I regarded of any significance at the time of this meeting. This meeting was not an earth-shattering meeting so far as I was concerned. I was there because I was asked to attend. Sometimes I am asked to pour oil on troubled waters because Santo gets excitable, and I was merely there to assist.

BY SIR GEORGE LUSH: Did Maloney say anything on that day which gave you the impression that the company was deriving or would in the future derive such substantial advantages from depreciating that large sum?— No, not at all.

Did you realise that was possibly the position?— I didn’t give it any consideration at all.

BY MR HANGER: As a judge of the Supreme Court you have to sit on tax cases—did have to sit on a tax case, I think it has gone to the Federal Court now?— I haven’t sat on any at all.

It was part of your jurisdiction?— Oh yes. Mr Justice Ryan used to get all of those.

I would suggest that your knowledge of tax law would be such that you would know that you can only depreciate on cost rather than on valuation?— I am sorry; it is a terrible concession to make, to express this ignorance, but I didn't know until this—this inquiry that that is—that that is so.”

The Commissioner, the Honourable Mr Helsham said, “I must confess my ignorance until this inquiry, too, Mr Hanger.”

At paragraph 7.8.2, the commission report states—

“There is no evidence that the Judge was responsible for the initial overstatement of the cost of the plant. At the time when it was proved that he knew that it was in the books at a cost of \$14 million he was no longer a director of Cosco, but as the husband of a director and a close associate of another he had a considerable opportunity to influence the affairs of the company and he took no action to bring the deception of the Income Tax authorities to an end.”

That is the finding that is made, and the answer that I make to that is: if one does not know that plant cannot be depreciated at valuation but only at cost, one cannot be guilty of deception. I left that meeting on the basis that Santo would endeavour to obtain some documentation substantiating the cost. Any accountant who does his job in a conscientious way would have insisted upon the production of that sort of documentation before he would leave that figure in the books of a company as indicating cost. I did what I could to ensure that that happened.

At page 2254, I gave evidence as follows—

“BY HON. M.M. HELSHAM: At this meeting, you have said, the position made it clear—and I quote your words—‘there was a necessity for the production of further documentation.’?— Yes.

Did you follow that up?— I asked Santo, at the conclusion of the meeting, ‘Santo, you have got to do something about getting this documentation.’

I am asking whether you did follow that up?— Yes, I did, in that way.

But after that meeting?— Yes, I kept on saying it to him at the Sunday meetings, and he said, ‘Don’t you worry about that.’

So it did concern you enough to make you ask further questions about it?— Yes, to ensure that we got to the bottom of it.

Did he ever tell you that there was the further documentation?— No, he did not tell me that there was. All I did was to urge him to follow it up. He never at any stage told me that there was any further documentation.

So you just let it slide at that?— I had no choice. There comes a time—

I am just asking: that is how far you took it?— Yes.”

With respect, it is difficult to see how a finding of deception on the part of Cosco could be made when the accountant Roger Ng stated that the managing director told him that the figure of \$14m in relation to the plant was a valuation—and he put such a statement in the company’s balance sheet. Moreover, there was no evidence that I knew of the existence of any deception. In those circumstances, what was I supposed to do, or fail to do, which constitutes conduct unbecoming?

The moment it was conceded that if one did not know that depreciation could not be made on valuation, there could have been no deception of which I was aware. What is there to say that I conducted myself in a way which is morally wrong and shows unfitness for retention of office? With the greatest respect, this finding is quite ridiculous and untenable.

I turn then to paragraph (e) on page 163 of the report, which reads—

“Making false claims for taxation deductions in respect of the lease of the library.”

The answer to this matter is simply this: I acquired my library as a judge in February 1984 soon after I was appointed. It was formally transferred to my family trust in April.

The intention was at all times to have the rent run from the date of acquisition of the library. However, because the formal arrangements were not put into place until April and until the various bank authorities allowing the transfer of the funds came into place in April, the rental for February and March was unable to be claimed. The matter was made abundantly clear from a question posed by Sir George Lush which is contained at page 3037 of the transcript as follows—

“Judge, the trouble seems to be that paragraph 1 of this letter runs the rent from the date of appointment in February 1984 instead of the date of the transfer of the library to Salroand which was April. Therefore, it is being put to you that your reckoning from February put down \$3,750 for five payments and that you should have put in \$2,250 for three payments?—Yes, I know.”

Now, there is no suggestion that in making this error there was any suggestion of dishonesty and none has been made by the commission. This aspect of my 1983-84 tax returns is unquestionably a mistake made without intention to deceive or to be dishonest. Therefore Mr Speaker and honourable members, I ask: how can this possibly amount to conduct unbecoming?

I turn now to what I would submit are the most important findings made by the commission. It is quite clear from the report that without these findings there would be no basis for the forming of an opinion that there existed behaviour warranting removal. These matters relate to a series of what are referred to as sham transactions. May I refer to one of these transactions before I refer to them all generally? That transaction is the one that deals with the consultancy fee paid to me by Cosco and I refer to page 145 of the report, paragraph 9.5.3. There is a reference at that page of the report to the evidence of Mr Maloney, the accountant from Coopers and Lybrand. Mr Maloney said that there was no reference in the Cosco books to the consultancy fee. The absence in the books of Cosco was the crux of the reasoning behind the finding that the transaction in question was a sham. The following passage appears at page 146 of the report containing a question directed to Mr Maloney by Commissioner Helsham—

“BY HON. M.M. HELSHAM: When you say they are not shown, I suppose they could have been included in the disbursements, could they?— Yes, sir. They could have been included anywhere, but they were not shown in the operating expenses of the company that we could find as a consulting fee or any fee paid to a director or shareholder or associate thereof.

Had they been recorded as being payments to Mr Justice Vasta in the books that were made available to you, then they would have appeared in the tax returns?— They should have been separately isolated for showing in the tax return.”

The report continues, and this is the crux of the finding in respect of this—

“This evidence is quoted not for the purpose of pointing to any wrongdoing on the part of Cosco, but merely to indicate that the complete absence of any record at all, taken with the manner in which Mr Justice Vasta obtained payment, tends to indicate that the existence of any agreement pursuant to which a fee became payable or was paid to him is simply a myth.”

That is the basis for finding that this consultancy fee question is a sham. This finding is, with respect, clearly wrong. I mean no criticism to the commissioners for this error and for a most fundamental error to which I will refer shortly. They were given a mammoth task. They had two weeks after the conclusion of evidence and addresses to compile a report on a matter that occupied 43 days of hearing. A court would not be criticised if in a similar situation it reserved its decision for two months.

Whatever the reason for the error, it is an error which, if pointed out in a normal case of litigation to an appellate court, would be put right and put right immediately without question. In this case there is no right of appeal, and I can only appeal to you, Mr Speaker and honourable members. The mistake made is that in cross-examination

Mr Maloney was shown Cosco's ledger and he agreed that the \$5,000 consultancy fee appeared in the Cosco books. I refer to page 1189 of the transcript, which states—

“BY MR SHAND: I will now refer you to what I trust is and seems to be a copy of the general ledger for the year ending 27 June 1986 and 19 August 1987—I think it is. Can I show you those documents which I suggest to you is the general ledger for Cosco under a heading 5025 consultants fees?— (Handed to witness.)

Have you seen that before?—”

Sir George Lush then wanted to know what document was being referred to and the questioning by Mr Shand continues—

“If you look at it under the heading ‘consultants fees’, there are two pages I will direct your attention to; you will see, will you not, payments on regular intervals to Mr Justice Vasta under that heading?— At regular intervals?

Not at regular intervals. There is one payment?— Yes sir.

I have not got the other year—of \$5,000?— There is certainly a payment here of that—of that order.

What is the date of that if you can tell us?— 17 June 1987.

The question as to whether or not payments such as that as consultants fees is included in the company tax return against item 26 is, of course, a task for those who have the job of compiling the tax return, is it not?—That is correct.

Who had the task for the period during which that payment you have identified was made?”

Mr Maloney, speaking for Coopers and Lybrand, answered—

“We had that task in conjunction with the accountant at Cosco.”

The transcript continues—

“Can you tell us why item 26 was not satisfied?— I can't, sir, because I didn't go out to Cosco to prepare the tax return — my staff did — in conjunction with an employee of Cosco.

It is pretty clear someone fell down on the job?— It certainly appears someone fell down on the job.

Someone from Coopers & Lybrand?— Either someone from my office or somebody from Cosco.

BY HON. M.M. HELSHAM: Or both?— Or both.

BY MR SHAND: One thing is clear, there is certainly no disguise of the payment to Mr Justice Vasta?— Not from my review of this page.”

I seek leave to table copies of the relevant Cosco ledger entries and ask that they be incorporated in *Hansard*.

Leave granted.

Whereupon the following document was laid on the table—

DETAILED CASH BOOK from Period 12 to Period 12 as at 18/07/88

Sorted by Date

Date	Ref Nos	Source	Code	Description	Comment	Amount
15/06/88	491541	GL Pymt	5036	INSURANCE—MEDICAL	M.B.F. AUSTRALIA/	1158.52
15/06/88	491542	GL Pymt	5030	GENERAL ADMINISTRATION EXPENSES	P.C. ACORNERED/	504.00
16/06/88	491543	GL Pymt	2670P2	REPAIRS & MAINTENANCE—PAPER MACHINE 2	PALM WORLD/	1300.50
16/06/88	491543	GL Pymt	2670P1	REPAIRS & MAINTENANCE—PAPER MACHINE 1	PALM WORLD/	136.00
16/06/88	491543	GL Pymt	3950	REPAIRS—DESPATCH FORKLIFTS	PALM WORLD/	34.00
16/06/88	491543	GL Pymt	4032	MOTOR VEHICLE EXPENSES—REPAIRS & MTCE	PALM WORLD/	93.50
16/06/88	491543	GL Pymt	2503	CLEANING—FACTORY	PALM WORLD/	-46.00
16/06/88	491543	GL Pymt	7450	PAYROLL BANK—PAPER MILL	NATIONAL AUSTRALIA BANK/	40262.13
16/06/88	491545	Cr Man Py	9/ZHALFWIN	WINDSOR GARDENS HALF CASE		10500.00
16/06/88	491546	GL Pymt	7041	S'HLDR LOANS—UNSECURED—S.COCO		10500.00
16/06/88	491547	GL Pymt	5025	CONSULTANTS FEES	SALROAND HOLDINGS/	5000.00
17/06/88	1021	Cr Auto Py	2/ALLP	ALLPAPER PTY LTD	A. VASTAL	24782.91
17/06/88	1022	Cr Auto Py	3/ABM	ABM PLASTICS (AUST) PTY LTD	CHQ 000444	11689.32
17/06/88	1023	Cr Auto Py	3/CARG	CARGO NEWPACK INDUSTRIES	CHQ 000445	13764.00
17/06/88	1024	Cr Auto Py	3/GRAP	GRAPHIC PLATES LTD	CHQ 000446	680.00
17/06/88	1025	Cr Auto Py	3/JUBI	JUBILEE PACKAGING AUSTRALIA	CHQ 000447	48699.16
17/06/88	1026	Cr Auto Py	3/VISY	VISY BOARD PTY LTD	CHQ 000448	20015.11
17/06/88	1027	Cr Auto Py	5/CAST	CASTROL AUSTRALIA	CHQ 000450	5778.06
17/06/88	1028	Cr Auto Py	5/HERC	HERCULES CHEMICALS AUSTRALIA	CHQ 000451	8209.20
17/06/88	1029	Cr Auto Py	5/INTE	NATIONAL STARCH PTY LTD	CHQ 000452	8040.92
17/06/88	1030	Cr Auto Py	5/NBLO	N.B. LOVE ADHESIVES	CHQ 000453	2649.60
17/06/88	1031	Cr Auto Py	6/ALLI	ALLIED COLLOID	CHQ 000454	240.00
17/06/88	1032	Cr Auto Py	6/APPL	APPLIED ELECTRO SYSTEMS PTY LTD	CHQ 000455	7032.00
17/06/88	1033	Cr Auto Py	6/ARCH	ARCHIMEDES CONVEYORS	CHQ 000456	0.00
17/06/88	1034	Cr Auto Py	6/ATLA	ATLAS COPCO AUSTRALIA PTY LTD	CHQ 000457	553.05
17/06/88	1035	Cr Auto Py	6/BASI	BASIL V.R. GREATREX PTY LTD	CHQ 000458	1709.56
17/06/88	1036	Cr Auto Py	6/COMM	COMMERCIAL MINERALS LTD	CHQ 000459	6615.00
17/06/88	1037	Cr Auto Py	6/CONT	CONTROL LOGIC QUEENSLAND	CHQ 000460	4567.45
17/06/88	1038	Cr Auto Py	6/DUNI	DUNLOP INDUSTRIAL PRODUCTS	CHQ 000461	1820.00
17/06/88	1039	Cr Auto Py	6/ELEM	ELECTRIC MOTORS & CONTROL SERVICES PTY LTD	CHQ 000462	7736.90
17/06/88	1040	Cr Auto Py	6/FEED	FEEDWATER ENGINEERING COMPANY	CHQ 000463	4115.64
17/06/88	1041	Cr Auto Py	6/HOEY	HOEY INDUSTRIAL SALES	CHQ 000464	1561.00
17/06/88	1042	Cr Auto Py	6/MCNE	MCNEAL PLASTIC ENGINEERING	CHQ 000465	3181.00
17/06/88	1043	Cr Auto Py	6/MORE	BRAMBLES HOLDING LTD	CHQ 000466	926.96
17/06/88	1044	Cr Auto Py	6/MORR	MORRIS MAINTENANCE SERVICES	CHQ 000467	0.00
17/06/88	1045	Cr Auto Py	6/PACI	PACIFIC SALT	CHQ 000468	559.00
17/06/88	1046	Cr Auto Py	6/SMCP	SMC PNEUMATICS	CHQ 000469	1006.50
17/06/88	1047	Cr Auto Py	6/SPRA	SPRAYMET ENGINEERING	CHQ 000470	1128.00
17/06/88	1048	Cr Auto Py	6/THER	THERMOCOUPLE SUPPLIES	CHQ 000471	108.10
17/06/88	1049	Cr Auto Py	6/TRSE	T. R. SERVICES PTY LTD	CHQ 000472	228.02
17/06/88	1050	Cr Auto Py	7/AMPO	AMPOL PETROLEUM PTY LTD	CHQ 000473	2100.72
17/06/88	1051	Cr Auto Py	7/BMW	BRISBANE B.M.W.	CHQ 000474	880.05
17/06/88	1052	Cr Auto Py	7/BOBD	BOB JANE T MART DARRA	CHQ 000475	453.00
17/06/88	1053	Cr Auto Py	7/BOBJ	BOB JANE T MART		4774.42
17/06/88	1054	Cr Auto Py	7/BRST	B & R STORAGE		9378.00

GENERAL LEDGER PRINT for GL End of Year for 27/06/86 as at 19/08/87

From Period 1 to Period 12 (28/06/86 to 26/06/87)

Date	Source	Ref No	Comments	Debit	Credit	A/C Total
30/01/87	GL Journals	104	REVERSAL DEC ACC			12000.00
30/01/87	GL Journals	105	JAN ACCRUALS	2000.00	2000.00	14000.00
27/02/87	GL Journals	124	REVERSAL JAN ACC		2000.00	12000.00
27/02/87	GL Journals	125	FEB ACCRUALS	2000.00		14000.00
5/02/87	GL Payments	167201	G & S DALLOLIO/	2000.00		16000.00
9/03/87	GL Payments	669662	G & S DALLOLIO/	2000.00		18000.00
27/03/87	GL Journals	141	REVERSAL FEB ACC		2000.00	16000.00
27/03/87	GL Journals	142	MARCH ACCRUALS	2000.00		18000.00
6/04/87	GL Payments	98878	G & S DALLOLIO/	2000.00		20000.00
1/05/87	GL Journals	162	REVERSAL MARCH A		2000.00	18000.00
11/05/87	GL Journals	163	APRIL ACCRUALS	2000.00		20000.00
29/05/87	GL Payments	77090	G & S DALLOLIO/	2000.00		22000.00
29/05/87	GL Journals	183	REVERSAL APRIL A		2000.00	20000.00
29/05/87	GL Journals	184	MAY ACCRUALS	2000.00		22000.00
1/06/87	GL Payments	626086	G & S DALLOLIO/	2000.00		24000.00
17/06/87	GL Payments	36606	A VASTA/	5000.00		29000.00
26/06/87	GL Journals	202	REVERSAL MAY ACC		2000.00	27000.00
26/06/87	GL Journals	203	JUNE ACCRUAL			29000.00
26/06/87	Trading P & L En		Transfer to Prof	2000.00		
						29000

5026—CLEANING—DOMESTIC

29/08/86	CR Invoices — GL	1196	Opening Balance	558.35		558.35
6/09/86	CR Invoices — GL	2004	7/PICK (237)	97.00		655.35
29/09/86	CR Invoices — GL	3143	7/WAFL (7355)	912.66		1568.01
31/10/86	CR Invoices — GL	3226	7/PICK (337)	761.00		2329.01
21/11/86	CR Invoices — GL	4233	7/PICK (437)	105.00		2434.00
28/11/86	CR Invoices — GL	4320	7/WAFL (50)	761.00		3195.01
12/11/86	GL Payments	510102	7/PICK (537)	700.00		3995.01
26/12/86	CR Invoices — GL	5084	SUPERSHIELD P/S/	1023.50		4918.51
30/01/87	CR Invoices — GL	6231	7/PICK (637)	761.00		5679.51
26/02/87	CR Invoices — GL	7160	7/PICK (737)	773.75		6453.25
27/03/87	CR Invoices — GL	8069	7/PICK (837)	105.00		6558.25
19/03/87	CR Invoices — GL	8172	7/WAFL (9)	951.25		7509.51
12/03/87	GL Payments	669682	7/PICK (937)	130.00		7639.51
7/04/87	CR Invoices — GL	8917	BUNNYS PEST CONT	54.00		7693.51
30/04/87	CR Invoices — GL	9056	7/DEEP (3313)	789.40		8482.91
2/05/87	CR Invoices — GL	10848	7/PICK (1037)	802.15		9285.06
6/06/87	CR Invoices — GL	11076	7/PICK (1137)	105.00		9390.06
25/06/87	CR Invoices — GL	11952	7/WAFL (12)	936.75		10376.81
26/06/87	Trading P & L En		7/PICK (1237)			
			Transfer to Prof			10376

Mr JUSTICE VASTA: It was never suggested by counsel assisting the commission that the consultancy fee was a sham transaction and, in the light of the evidence to which I have referred, nor could it be. Indeed, it was considered a true transaction which, it was submitted, breached section 12 of the Supreme Court Act. Now the question as to whether section 12 was breached depends upon the meaning of the words "office of profit or emolument". If the payment to me by Cosco of consultancy fees of \$5,000 per annum in June 1987 and June 1988 constituted my holding an office of profit or my receiving an emolument, then all judges who receive royalties from books or who are retained by publishing houses to bring periodical works up to date year by year are also occupying an office of profit or are receiving an emolument. In my view section 12 does not apply to those judges, as it does not apply to me. This is a question of law too detailed to canvass now. I intend merely to refer to a short passage in the debate concerning the Judges Validating Bill of 1888 during which that great jurist Sir Samuel Griffith made reference to Mr Justice Mein and his directorship of a company. At page 417 of the Queensland Legislative Assembly reports 1888, volume LV, Sir Samuel observed—

"So far as the office of local director of a company is concerned, I do not hesitate to say that I have not the slightest doubt whatever on the subject. It is not an office of profit, and would not be held to be so by any lawyer. I do not entertain the slightest doubt about it. The terms 'office or place of profit or emolument,' are well known terms frequently used in treatises and it has never occurred to anybody who has dealt with or written upon the subject to say that the purely private position of a director of a company or the executor of a will is an 'office' or 'place' within the meaning of the Act."

However, this failure to have regard to the ledger entries in Cosco's books, although serious, pales into insignificance when compared with what I would respectfully refer to as a most fundamental mistake made by the commission concerning so-called sham transactions, including the one which I have mentioned. What the commission was empowered to do was to advise this Parliament whether behaviour on my part warranted removal. It had no power to make any rulings on matters of law. It is for this reason that it could not make a binding ruling on the applicability of section 12 of the Supreme Court Act, nor did it purport to. It acknowledged that that was the province of the courts, and so it is. Therefore, if the commission has made rulings on matters of law, then it has exceeded its powers.

But the Act which created the judges commission gives to nobody any power to challenge any of its findings. So again I say: my only appeal is to this House. And the proposition that I put to this House is that a sham is not a sham unless the Taxation Department says it is a sham. A tax arrangement or transaction which is in accordance with the Income Tax Assessment Act is not a sham. Whether the transaction breaches the Income Tax Act is a matter for the Taxation Department. If it considers transactions are shams, it will issue amended assessments.

Insofar as the commission stated that I arranged sham transactions, which are referred to in (d) on page 163, to gain income tax advantages, it exceeded its powers. That is because the commission had no power to make any decisions that are the province of another body or court. There can be no evidence of any tax sham until the Taxation Department has submitted to the tax-payer amended assessments. Thereafter, the tax-payer has a right of appeal to the Administrative Appeals Tribunal, called AAT for short, and to the Federal Court and by special leave to the High Court. Until there has been a determination that the transactions in question are shams according to law, there is no proof of misbehaviour. At the inquiry there was no evidence that the Taxation Department issued amended assessments.

To illustrate the point I make, may I emphasise that this was not a case in which there was evidence that in my tax returns during the period of my tenure of office there were instances of transactions which were declared by the Taxation Department as shams. Prior to the commencement of the inquiry the Taxation Department had never

queried my tax returns. The commission therefore, in declaring these transactions as shams, has usurped the jurisdiction of another body and other courts and has no power to do so. The decision which the commission has made is, by the Act which set it up, as I say, unable to be challenged in any court. The decision is plainly wrong and it can be corrected only by this House. This is not a submission, Mr Speaker, which is lightly made. It is an argument which is plainly correct.

Put in a slightly different manner, the question of the behaviour unbecoming is identified with the setting-up of alleged shams. Whether such shams exist is a matter for the Taxation Department. There was no evidence before the commission that either the department or a tribunal or a court of law considered the transactions shams. Accordingly, there has been no evidence of conduct unbecoming. May I stress that this is an argument which has to be considered seriously and, in that regard, you may consider that it cannot be made today. I would request that this House consider the matter carefully and to that end the decision may be sought to be postponed to a later date.

This submission is not made in order to avoid making explanations concerning the transactions referred to as the Gold Coast unit lease; the loan of \$75,000 from Cosco to me and the exchange of cheques. If these transactions are queried by the Taxation Department, there are complete answers to them. If those answers are not accepted, there are avenues of appeal to higher courts or tribunals. What comfort is it to me if you vote against me on these vital matters and these transactions will be found to have been made in accordance with the provisions of the Income Tax Assessment Act? Can I come back to this House and appeal and say, "Will you reinstate me?"

The problem which confronts this House on this issue illustrates the lack of wisdom by counsel assisting the inquiry in delving into the very nature of tax returns and subjecting them to this very close scrutiny. That should never have occurred. If looking at a person's financial affairs is justified, such justification is found in examining whether all income received has been declared. It may be relevant to know also the source of the undeclared income, especially if it is suggested that it stems from unlawful activities. However, in the absence of any such suggestion, there is no warrant for indulging in the most nit-picking investigation in the hope of finding something for the purposes of having one removed at all costs. What is it that allows this scrutiny into the very private and intimate nature of the tax returns?

And make no mistake about it, Mr Speaker, those assisting the inquiry who had an open-ended Government cheque-book went to the Justice Department and to many other places and queried people there about my expenses. However, those discoveries at the Justice Department which would have been favourable to me were never brought out. The scrutiny to which I was subjected should send shivers up the spine of any person who treasures his freedom. Yet, despite such scrutiny, they would have seen that on no occasion during the five years of my tenure of office did I claim actual expenses whilst on circuit. There were no \$200-a-night hotel suites and costly wines and spirits on my circuit account. I was, at all times, conscious of the public purse, so that in the expensive circuits such as Cairns and Townsville my son and I shared a room to keep within the gazetted allowance. What other public official could make this claim?

Once when my telephone account was higher than usual and in the order of \$500 for a quarter, I offered the Justice Department to pay half because I had a son who was overseas and I made some ISD calls. I was told that if all accounts were like mine there would be no problems. I was told that some accounts paid by the Justice Department for the same period were in the order of \$5,000. And so we talk of accountability! Is it that in an election year I am being put up as an example of how even judges have been made to account? What are we to make of a statement at least twice made that this procedure is a signal to the judiciary that we have high standards in Queensland and the will to implement them? Does this mean that all judges will be subjected to the same sort of scrutiny and investigation as I was? If so, I fear for the principle of the independence of the judiciary. If not, may I ask why I am being singled out as the

The next day my associate contacted Mr R. Needham of counsel, who was attached to the commission, and made a request to have copies of the diaries furnished prior to the media having access to them. Needham stated that the request would be considered by counsel assisting the inquiry. Needham told my associate that no witness was expected to mention me in evidence.

The same day, Friday, a second notice—which I again seek leave to table and to have incorporated in *Hansard*—was served at my home.

Leave granted.

Whereupon the following document was laid on the table—

Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct

Commissioner: Mr G. E. Fitzgerald Q.C.

Counsel Assisting: Mr G. W. Crooke Q.C.
Mr R. P. Devlin

Secretary: Mr G. L. Lynch
Telephone: (07) 221 2261

26th February 1988

Mr Justice A. Vasta
3 Errey Street
CAMP HILL 4152

Dear Judge,

Re: SIR TERENCE LEWIS' DIARIES

A number of copies of the diaries are being prepared and, subject to objections, a copy will be available for any person to whom a notice has been given by 11 a.m. on Monday morning.

The exhibit will not be available for general inspection prior to Tuesday morning, which will provide an opportunity for any person to whom a notice has been given to make a statement prior to the diaries becoming public.

Yours faithfully

(Signed)

per G. W. CROOKE Q.C.
SENIOR COUNSEL ASSISTING

Mr JUSTICE VASTA: That notice stated that copies of the diaries could be obtained from the commission on the Monday and the media would be given access to the diaries on the Tuesday. I regarded this as still unsatisfactory but less so than the original arrangement. I had to arrange for a solicitor in Brisbane to attend the inquiry and to send the copies of the diaries by courier to the Mackay court. These were delivered late on the morning of the Tuesday. The diaries were voluminous in nature and required hours of work in order to read the relevant entries. Nevertheless, after having worked extensively on the Wednesday evening, I managed to sift out those entries which referred to me. I considered that if the entries were published without comment there was no need to make a statement either at the inquiry or otherwise.

On Wednesday night, one Quentin Dempster, the compere of the ABC current affairs program *7.30 Report*, made a grossly offensive reference to me in relation to the diaries.

From that time onwards the daily newspapers published the entries in the diaries according to the volumes as and when released by the inquiry.

The following Sunday, the newspaper called *Times on Sunday* carried an article, which I seek leave to table and to have incorporated in *Hansard*.

Leave granted.

Whereupon the following document was laid on the table—

Conflicting evidence given to the Muirhead and Fitzgerald inquiries

Lewis diaries contradict Supreme Court evidence

By MURRAY HOGARTH

ENTRIES in the official diaries of stood-down Police Commissioner Sir Terence Lewis directly contradict evidence he gave in the Queensland Supreme Court regarding the closeness of his relationship with Supreme Court judge Justice Angelo Vasta.

Constant references to contacts with Justice Vasta and District Court Judge Eric Pratt, who doubles as chairman of the controversial Police Complaints Tribunal, strike at the heart

of the issue of judicial independence and potentially are among the most explosive revelations in the voluminous Lewis diaries.

The Queensland Premier, Mike Ahern, has already expressed dismay at the diary contents, saying "they unveil a litany of what I consider to be inappropriate consultation between the judiciary and police . . .", but has ruled out taking any hurried action.

In 1986 Justice Vasta, a one-time ALP member, took great exception to defamatory suggestions, published in the satirical magazine *Matilda*, that he had allowed his friendship with Sir Terence to influence his judgments.

Supreme Court records show that Sir Terence, who gave evidence in support of Justice Vasta's action, claimed on September 10, 1986, that he had not had "close contact" with him and that "I certainly have never had any discussion of any note with Mr Justice Vasta on any case".

However, according to his diaries, which record numerous business and social contacts with Justice Vasta stretching over several years, Sir Terence was telephoned by the judge on at least two occasions regarding murder cases and on a number of occasions in relation to the selection of new Supreme Court judges.

Entries relating to Justice Vasta include: October 10, 1984: "Mr Justice Vasta 'phoned re several cases of good police work"; "March 18, 1985: "Mr Justice Vasta 'phoned re Kennedy murder trial"; April 24, 1985: "Mr Justice Vasta phoned re possible Supreme Court appointments"; September 19, 1985: "Mr Justice Vasta phoned re Ilio Belluomini arriving in Australia from Rome"; November 20, 1985: "Mr Justice Vasta phoned re Carroll conviction dismissal."

Other entries relate to Justice Vasta's time as Chief Crown Prosecutor, when Sir Terence, Sir Edward Lyons and former Premier Sir Joh Bjelke-Petersen were considering him for a Supreme Court appointment. For example: September 25, 1983 "Premier 'phoned re Angelo Vasta, Angelo phoned. Off at 7 pm. Phoned Premier at Cairns re Vasta."

Justice Vasta was subsequently appointed on February 13, 1984.

One intriguing entry is for November 8, 1983: "At 5.30 pm with Deputy Commissioner Atkinson, A. Vasta and Sir Edward Lyons to Mansfield re drinks with police charged over 'Bikie' bandits. Drove Sir Edward home. Off 9 pm." (As Chief Crown Prosecutor, the then Mr Vasta had ultimate responsibility for the prosecution case against six police who were charged with conspiracy to pervert the course of justice. In the end they were cleared without facing a jury trial.)

Other entries include: March 14, 1984: "To Milano (Milano's Restaurant) re luncheon with Mr Justice Vasta [a month after his Supreme Court appointment]; September 12, 1985: "At 7.30 pm with Hazel to O'Neill's [restaurant], Market St, dinner with Mr Justice Angelo Vasta, Sir Edward Lyons, Sir Justin Hickey and respective wives until M. N. [mid-night]"; January 14, 1986: "To 2nd 11 [The Penthouses, at Gold Coast] dinner with Angelo and Ella Vasta until 11 pm"; February 5, 1986: "Mr Justice Vasta phoned re Andrew wanting to join police as a mechanic"; March 4, 1986: "At 6 pm with Hazel to Roseville Restaurant, dinner with Premier, Hon and Mrs Gunn, Sir Edward and Lady Lyons, Mr Justice and Mrs Vasta and Judge and Mrs Pratt until 10.30 pm."

When Justice Vasta gave evidence before Master Lee QC in the Supreme Court in regard to the *Matilda* case, he was asked: "Is it a fact that you are a friend of Sir Joh, Sir Edward Lyons and Sir Terence Lewis?"

He replied: "They are acquaintances in the sense that I met them on social occasions and at functions like the opening of Parliament. But they are not friends in the sense as suggested in the article." He continued: "... there is no suggestion that the discharge of my duties is in any way compromised by my knowledge of the three persons mentioned in the article and in particular the Commissioner of Police."

Sir Terence gave evidence that Justice Vasta was a friend, but that he saw no more of him, "than I would say most of the other members of the judiciary". He added: "I certainly would not consider him biased . . . and I am trying to think if we have ever discussed any sort of case even on a passing nature, I certainly have never had any discussion of any note with Mr Justice Vasta on any case."

The diaries record that Sir Terence, Sir Edward and Sir Joh spent almost a year discussing the elevation of Justice Vasta from Chief Crown Prosecutor to Supreme Court judge before he was appointed on February 13, along with Justices Ryan and Moynihan. They also show that similar discussions preceded the appointments of Judge Pratt to the Police Complaints Tribunal in 1984 and Russ Hinze as Minister for Police in 1980.

Sir Terence records in his diary that he spoke with Justice Vasta, Judge Pratt and Mr Hinze before they took up their respective positions. He was also in regular contact with Justice Vasta on many matters when he was Chief Crown Prosecutor and the diaries show constant exchanges between Sir Terence and Judge Pratt, especially in his time on the police tribunal.

Queensland's Chief Justice, Sir Dormer Andrews, and the Director of Prosecutions, Des Sturgess QC, are the other important legal figures mentioned by Sir Terence on a number of occasions in both business and social contexts. But he records other judges ringing with requests or comments.

Mr JUSTICE VASTA: That article referred to the action I had taken against the satirical magazine *Matilda* and to the evidence Lewis and I gave in the assessment of damages hearing before Senior Master Lee, QC.

The article also made reference to the Bikie Bandits case and to the fact that as Chief Crown Prosecutor it was my decision to terminate prosecution proceedings against the police and that that decision was one coloured by my friendship with Lewis.

I subsequently took out a writ against the *Times on Sunday* newspaper. In this regard I engaged a barrister by the name of Tony Morris.

All of the relevant entries in the diaries which referred to me were published in the daily newspapers. This was somewhat embarrassing but in my view did not warrant the taking of any action at the inquiry. I decided that if there appeared to be comments in the diaries which were considered defamatory I would institute proceedings through the courts.

On 27 April 1988 I received a letter from the Fitzgerald commission asking me to furnish a statement. This is set out on page 53 of the report. I do not seek leave to table page 53 of the report but merely to refer to it.

Apart from speaking to a journalist by the name of Margot Kingston and attempting to dissuade her from writing anything at all about the diaries insofar as they referred to me, I had maintained the view that consistent with the dignity of the court of which I was a member, I should maintain a silence about the matters referred to in the diaries. There was one matter before the courts which would have touched upon my relationship with Lewis. At that time I believed that a second action had been commenced. The words "it would be of assistance" in the Fitzgerald letter suggested that I had a choice in the matter.

I wrote to the commission on 3 May 1988 and informed it that I considered it inappropriate to make any statement about the matter. That reply is also set out on page 53 of the report.

During the course of the inquiry Sir Harry Gibbs remarked about the letter to me by the commission dated 27 April—

"You couldn't expect a judge to answer a letter like this—you wouldn't expect a private citizen to answer it."

See page 2511 of the transcript, the comments of Sir Harry Gibbs and Commissioner Helsham.

Whilst I was overseas a letter dated 31 May 1988—which I seek leave to table and to have incorporated in *Hansard*—was received in my chambers.

Leave granted.

Whereupon the following document was laid on the table—

Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct
Commissioner: Mr G. E. Fitzgerald Q.C.

Counsel Assisting: Mr G. W. Crooke Q.C.
Mr R. P. Devlin

Secretary: Mr G. L. Lynch
Telephone: (07) 221 2261

31st May 1988

PRIVATE AND CONFIDENTIAL
The Honourable Mr Justice Vasta
Judges' Chambers
Supreme Court
BRISBANE

Dear Judge,

Consideration has been given to your letter of 3rd instant.

It is not apparent why the fact that issues raised in existing proceedings may overlap (even assuming this to be the case) affords a reason to exclude the Commission from canvassing issues raised in one or other proceedings. Especially is this so when, so far as this Commission is concerned, the matter has been expressly dealt with by the Parliament in the 1987 Amendments to 'Commissions of Inquiry Acts 1950'.

Accordingly, you are respectfully requested to reconsider your decision that it is inappropriate for you to make any statement to the Commission about this matter.

Yours faithfully,
G. W. CROOKE Q.C.
SENIOR COUNSEL ASSISTING

Mr JUSTICE VASTA: I was informed as to the contents of that letter whilst I was overseas, and I considered the matter. Since my view had not changed I decided not to answer this letter. Subsequent discussions I had with Mr Doug Spence, solicitor of Thynne and Macartney, who was acting for me in the *Matilda* action and the *Times on Sunday* action, and Mr Tony Morris, barrister, were consistently to the effect that I should keep away from the inquiry. It was my view that it would be inappropriate for me as a judge to give evidence and to be examined by counsel appearing for various interested parties.

On Tuesday, 11 October 1988, without any prior notice having been given to me, Lewis gave evidence that out of a list of 14 names supplied to him by the commission staff, I was one of his "five closest friends". I learned of his having given this evidence whilst I was watching the evening television news. Although the transcript shows that Lewis stated that he had other very close friends, that qualification was not reported in the press, nor was it reported that he had been furnished with a list of 14 names only and that he put those persons into various categories of friendship.

I would expect that each member of this House knows that Lewis named me as one of his five "special friends". May I ask rhetorically: how many members would know that it was five special friends out of a list of 14?

On 17 October 1988 I received a letter and a further notice from the Fitzgerald inquiry, which are set out at page 73 of the report. They stated that—

"... it is possible that evidence may emerge ... which may raise an issue as to the untruthfulness of the evidence which you gave before Master Lee Q.C. on the 10th September, 1986."

From the correspondence sent to me in April and May 1988 it was obvious to me that the Fitzgerald commission wanted me to make a statement. I considered that this notice was a further invitation to me to make a statement. I took no action because I had done no wrong, and the judges commission has found that I did no wrong.

My associate was informed that Lewis was being questioned about his relationship with me. My associate attended the inquiry—

Mr SPEAKER: Order! I must draw to the attention of honourable members that the time set out in the resolution has expired.

Hon. B. D. AUSTIN (Nicklin—Leader of the House) (5.03 p.m.): I move—

"That the House grant an uninterrupted extension of time not exceeding 75 minutes to enable His Honour to conclude his address."

Motion agreed to.

Mr SPEAKER: Your Honour, you may proceed.

Mr JUSTICE VASTA: Thank you, Mr Speaker.

My associate was informed that Lewis was being questioned about his relationship with me. Drummond, QC, who was examining Lewis, put to Lewis matters about which I considered he obviously did not have instructions. I took exception to three aspects of those matters. They were conveyed orally to the commission via my associate on 18 and 19 October 1988. They were—

1. Lunch at Milano in September 1982 with Lewis, V. McDonald and S. A. Atkinson.

Drummond put to Lewis that S. Atkinson was Sid Atkinson, the then Deputy Commissioner and that the luncheon was a “gathering” of the Commissioner of Police, two subordinates, and the Chief Crown Prosecutor. The S. Atkinson was Sallyanne Atkinson, the then deputy leader of the council opposition. (see page 18022 of the Fitzgerald transcript.)

2. Cosco Holdings opening on 12 May 1983.

Both Drummond, QC, and Fitzgerald, QC, put to Lewis that I had invited Lewis to the Cosco Holdings opening. I refer particularly to pages 18031 and 18032 of the transcript of the Fitzgerald inquiry. I considered that the questioning amounted to badgering and bullying in order to elicit an answer which I knew to be untrue. The fact is that Lewis was invited without any suggestion whatsoever from me by the public relations firm Eric White Associates.

3. The third matter to which I took exception was the “Bikie Bandits”.

This reference was the subject of an article in the *Times on Sunday* and I had instituted an action in respect of that matter. Drummond put to Lewis that he went to the party with Sir Edward Lyons and that I was in the same motor vehicle. This was untrue. I travelled with a sergeant by the name of Ray Platz at whose invitation I attended the party. I did not realise that Lewis or Lyons would be attending. It was on this occasion that I first met Sir Edward Lyons.

These matters were not specifically put to the witness despite representations on my behalf by my associate and therefore were not corrected. My associate reported to me on the Tuesday afternoon that he had spoken to Drummond. He complained of the Cosco matter and said, “We didn’t get a notice about this.” Drummond said, “You should have got a notice.” My associate said, “We did about the *Matilda* stuff but not about any of this.” Drummond said, “Well we’re not making any allegations against your father; we’re just exploring the relationship.”

With regard to the Cosco Holdings matter, Drummond said that he would “look at the matter and fix it up in the morning”. After my associate reported this, Mr Morris phoned and said that he had on that afternoon wandered into the inquiry and had remarked on the effectiveness of Drummond’s cross-examination. He said, “Let me know if I can be of any help.”

Subsequently, I obtained a copy of the transcript insofar as it related to me. I formed the view that the examination of Lewis had become much broader than was necessary to suggest that Lewis had committed perjury before Master Lee, QC, and that that cross-examination was aimed at me in the sense that there was a suggestion of impropriety in my friendship with Lewis. I later formed the view that this course was designed to generate adverse publicity, thus attempting to induce me to make a statement to the inquiry.

The newspapers of 19 October 1988 were particularly embarrassing to me. On the evening of 18 October press helicopters had been flying over the premises of Cosco Holdings and this had been reported to me. I had my associate telephone Russell Kenzler, who was an assistant to Fitzgerald, at 9.30 a.m. on Wednesday, the 19th. My associate told Kenzler that the media coverage of Lewis’ evidence had been somewhat distorted

and Kenzler told him that he realised that, having seen the front page of the *Courier-Mail* that morning. Kenzler told my associate that Mr Fitzgerald had told the media so many times to be fair. My associate also mentioned that the press had helicopters flying over the Cosco premises and cameras at the gates, at which Kenzler expressed surprise. He told my associate, "That's shocking. I know Mr Fitzgerald wouldn't be pleased." Salvatore asked him if he would do something about it by having Fitzgerald, QC, mention it to the media. My associate also mentioned to Kenzler that Drummond had assured him, Salvatore, that the commission was not alleging anything against me but was just "exploring the relationship" between Lewis and me. My associate added that one would not realise that that was the objective of the cross-examination from the nature of the media reports. He asked Kenzler if he would see if anything could be done. Kenzler told my associate that Mr Fitzgerald could do no more than to "tell them", referring to the media. Kenzler added, "He has beaten them over the head about being fair." He further said that he would pass on my associate's comments to Mr Fitzgerald.

At 10.10 a.m. that same morning I was informed by my associate that he had spoken to Drummond, QC, and was told that in respect of the three matters he had raised yesterday, namely the Cosco invitation, the Sallyanne Atkinson and the "Bikie Bandits" matters, he was not able to receive information in that manner. My associate told him that he just wanted to have those matters corrected, and Mr Drummond called him into a particular room and said, "Now, I can't have you coming to me with information every time you feel like it." My associate said, "I've got things here that you put that were incorrect." Drummond said, "Now hold it. I said I would correct the thing with Cosco, but that's it. We have a job to do here. I can't be looking at your complaints all the time." My associate said, "But look, there are helicopters over Cosco. Workers don't know what's going on." He said to my associate, "Well, but your father hasn't given us a statement or co-operated. We've asked him a number of times, and now you come down here whenever you don't like something." My associate commenced to say something but was cut off. Salvatore tried to give to Drummond the piece of paper with the three listed matters, but Drummond refused to receive it. Drummond said, "You said you didn't get a notice. Well, that notice covers all of this." My associate commenced to say something, but was again cut off by Drummond. He finally said, "You don't understand. If my father comes to this inquiry, he brings the other 18 judges of the Supreme Court with him." Drummond answered, "Well, he'll just have to consider his position."

At 11 a.m. that same day I was telephoned by Gary Crooke, QC, who said that Drummond had contacted him. Mr Crooke said that if I wished to correct matters which were given in evidence by a witness, the correct procedure was to make a statement in the form provided in the guide-lines. I told Mr Crooke that my complaint did not relate to incorrect answers given by Lewis to Fitzgerald but to the manner in which Drummond was cross-examining Lewis in that he was putting to him facts in respect of which Drummond could have had no instructions at all, which was a completely different complaint. Crooke, QC, reiterated his advice that the commission had drafted certain guide-lines concerning the procedure which was to be adopted when complaints were made in relation to errors which required to be corrected. He stated that he would send a copy of those guide-lines under cover of a letter, which he sent. I regarded these communications as steps designed to induce me to make a statement and to possibly appear as a witness.

I received a letter dated 19 October 1988 from Crooke, QC, and a copy of the guide-lines incorporated in the transcript. They are set out on page 76 of the report.

On Thursday, 20 October 1988, I travelled to Sydney to attend a conference. That afternoon, Mr Morris, a barrister whom I had engaged in the two defamation cases, phoned my associate and asked him how I was bearing up. My associate said that I was in Sydney. He said, "We're just going to ride out the storm." Morris reiterated his earlier offer of help. Later on that evening I was contacted by my family and told that it was announced that the Opposition would move in Parliament for my removal from the

bench. I felt that I should contact the Chief Justice about this matter that night, and I did. I rang him at home, and he said to me, "Angelo, I can understand your concern, but let's not talk about this on the phone. I don't like phones." Might I say that I share his worry. He said, "Just come in and see me on the Monday before you go into court and we will talk about it."

On that Monday morning I was scheduled to commence a criminal trial. Prior to the commencement of that criminal trial I had to deliver a judgment in the Full Court. I asked my associate if he would telephone Mr Morris and ask him if he would mind speaking to Mr Fitzgerald to ask Fitzgerald if he—that is, Fitzgerald—would make a statement to the media to the effect that the cross-examination of Lewis was not designed to indicate that I was under investigation, as my associate had been assured so often by Drummond.

My associate telephoned me in return and told me that Morris had advised that I should not go near the inquiry nor should I make a statement; that it was a storm that I had to ride out. I told Salvatore, "Look, you have misunderstood what I wanted you to say to Morris." He then suggested that I phone him, and I did. I said, "Tony, I understand Salvatore has contacted you about an approach to Fitzgerald. He may have misunderstood what I was endeavouring to do. I agree with you that we should not go to the inquiry to make a statement. What I wanted to explore is the possibility of Fitzgerald making a statement to the press to confirm what Drummond told Salvatore, that is, that the inquiry was not investigating my conduct and that since the press have not reported it in that way, perhaps he might correct it." Morris said words to the effect that he thought that was a good idea and that he would be happy to approach Fitzgerald on an unofficial basis to see what could be done. It must be remembered that Mr Morris is a former associate of Mr Fitzgerald and that the two are quite close.

On Friday, 21 October 1988, at approximately 10.15 p.m. I received a message from Brisbane and telephoned Mr Morris to ascertain what had transpired. He told me that persons at the commission had told him that there had been no intention to attack me, but the fact was that I had not given a statement to the commission and that I had not co-operated with the commission. Morris said that he had been told that if I helped the commission, it would help me. The following is as accurately as I can recollect the exchange—

"Vasta: What, they are offering me a bloody indemnity, are they?"

Morris: It was not put quite like that, but they said that if you helped them they will look after you. They cannot help you unless you help them."

Mr Morris and I had a discussion about other matters and then he suggested that we make arrangements to meet with Mr Doug Spence, and that we should meet at my chambers at 9.30 a.m. on Sunday, 23 October. Morris said that he would contact Mr Spence and inform him of those arrangements.

That evening, having been told that Fitzgerald would not make the statement to the press that I had asked, I drafted a statement myself, which I had intended to make from the bench on Monday, 24 October 1988. I considered that there was a precedent for the making of such a statement in that one of my brother judges, Mr Justice Matthews, sitting in the Industrial Court, was forced to make a statement in support of his bench when there was an attack made upon it by the Premier of the day. I had intended to refer to this action by my brother judge as being a precedent for making an announcement contained in the statement which I had headed, "In defence of the bench". I have not retained a copy of the statement which I had intended to make. However, it was in the form identical with the statement which I released to the press on Monday, 24 October, except that it omitted reference to the precedent to which I have referred, and instead of the words, "I will step down", the original statement had contained the words, "I will not step down."

On Sunday, 23 October, I had the conference with my solicitor, as I had previously arranged. We discussed the nature of an article which appeared that day in the *Sunday*

Mail referring to me and alleging that I had discussed redistribution with Lewis. The advice I received was that there was sufficient basis for proceeding by way of criminal defamation. I gave instructions to my present solicitors on the Sunday to issue a writ for civil defamation in respect of that article, and that was done.

The most relevant part of those discussions that took place on Sunday was that Mr Morris of counsel spoke to me of three options that I could exercise. He said he had thought about it a lot. He said the first option was to do nothing about it. The second option was that I could tough it out and wake up in the mornings and "have the Dempsters of this world writing nasty things about me". The third option, he said, was a very dramatic one, but was the one which he favoured because he had thought about it a lot. He said, "You could announce that you are going to stand down and announce that you are prepared to co-operate with the Fitzgerald inquiry." He added, "There is no doubt in my mind that if you took that course nothing would prevent you from serving on this bench until you are 70." I disagreed strongly with that suggestion and stated that I would not contemplate any such move. Mr Doug Spence also advised against such a move. He said to me to "stay away from that den of iniquity". I stated that I would speak to the Chief Justice at some time on Monday after 9 o'clock, as I had arranged, and that I may possibly speak to Mr Justice Connolly. I said that I would consider my position after such consultation.

On the same day I noted a report in the *Brisbane Sunday Sun*, a copy of which I seek leave to table and to have incorporated in *Hansard*.

Leave granted.

Whereupon the following document was laid on the table.

Named judges to stay

Premier Mike Ahern yesterday ruled out any immediate action against Justice Angelo Vasta and Judge Eric Pratt who have been named at the Fitzgerald Inquiry.

"My State Government won't be pressed by Labor cowboy lawyers into premature action against any judge or politician just because they have been named," Mr Ahern said.

"We are pledged to clear up corruption in Queensland.

"But we have no intention of doing violence to the criminal justice system."

Mr Ahern was replying to a call by Deputy Opposition leader Tom Burns who said the two judges should be stood down until allegations made about them could be investigated.

Mr Ahern said evidence at the inquiry was being monitored daily by the best lawyers in the State and he was in close consultation with Mr Fitzgerald and Attorney-General Paul Clauson.

"Any perjury or misconduct revealed at the inquiry will be dealt with bearing the best principles of British justice in mind," the Premier said.

Mr Ahern has taken action to increase department accountability.

—John Stubbs

Mr JUSTICE VASTA: That article was to the effect that the Premier was quoted as saying that "the Government would not move prematurely against the judges"; and that the Government would move only in accordance with "the best traditions of British justice".

During the whole of the period from Thursday night to the Monday morning there was no endeavour made by the Chief Justice to contact me, even though, as I believed, he was well aware of my whereabouts and despite the fact that he knew of my concern from the conversation I had had with him on the Thursday night. I did not become aware until after the Monday morning meeting with the Chief Justice that as and from 24 October he was acting as Governor and in that capacity, together with Cabinet, he was in a position to alter the court calendar.

On Monday, 24 October, I arrived at my chambers at approximately 9.12 a.m. I was immediately asked by the Chief Justice's secretary to come to see the Chief Justice.

I attended upon him and noticed that he was in the company of the senior puisne judge, Mr Justice Kelly. He said, "Angelo, this is not an easy matter, it's about the present controversy." I said, "I know, I had a conference with my legal advisers yesterday in my chambers and I was advised that there was sufficient evidence to proceed against Dempster for criminal defamation. Dempster says that I discussed redistribution with Lewis and that that was in his diaries. I discussed nothing of the sort and there is no such entry in his diaries."

The Chief Justice said, "Look, I know. The press is shocking. But Angelo, I have got a decision to make. I have come to the conclusion you have to stand down. You are under investigation. Let me say at once there is nothing wrong with being a friend of Terry Lewis. It is an investigation under section 132 of the Criminal Code—perjury, a very serious offence. You gave evidence before Bill Lee. I have read the material. You said you were not a friend of Ted, Joh or Terry in any sense of the word." I said, "I did not. I said they were not friends in the sense that in knowing them they were friends for whom I would compromise the discharge of my judicial duties." He said, "That doesn't matter." I said, "Bob, it's the difference that makes the difference." He said, "Angelo, you are going to stand down." I said, "Can you give me some time, say seven days, to consider my position?" He said, "No." I said, "Can you give me 48 hours?" He said, "No." I said, "Can I write to the Attorney?" He said, "The Attorney doesn't stand you down. I stand you down."

I then believed that as Chief Justice he had no power to stand me down, and subsequent legal advice shows that that is in fact the case. I said, "You mentioned an investigation. Who is investigating it?" He said, "I don't know—the commission, the police. Angelo, you would know how these things are done. You have got your counsel. You can be represented at the inquiry and cross-examine Lewis. You can give a statement and give evidence." He was reading from a letter, which he had already had typed, when he spoke these words, and which letter I was able to observe as addressed to, "My dear Attorney". He said, "As I have said in my letter to the Attorney, you have not had the opportunity to refute evidence before the commission or the inferences which might be drawn from it or to cross-examine the police commissioner." I said, "Bob, a Supreme Court judge should not have to go before an inquiry consisting of a QC. He should have a panel of retired judges as suggested in Jim Thomas' book. All of our judges would agree with that." He said, "You can ask the Attorney for that if you wish." He said that in a way which obviously suggested it would be a waste of time. I said, "I want to write to the Attorney and inform him that I wish to voluntarily stand down. There's a difference between being made to stand down and wishing to stand down." He said, "Yes, that will be all right. Can I tell him you wish to write to him and want to stand down?" I said, "Yes." He said, "You know you'll be on full pay, not that that will worry you."

After some further brief discussion, I returned to my chambers and I told my associate that I had been forced to stand down. I asked him to alter the statement that I had intended to make from the bench by deleting that paragraph concerning there being a precedent for this action and the reference to my brother judge in another jurisdiction, and to make a further amendment to the statement by deleting the words, "I will not step down", and inserting in their stead the words, "I will step down."

I then attended to delivering the judgment in the Full Court with Mr Justice Kelly and returned to my chambers. I then checked through the typed statement, as amended. I asked my associate to distribute to the media the statement that has been reproduced on page 79 of the judges commission report.

Subsequently, I ascertained that the meeting of the Governor in Council had been arranged prior to my having gone to see the Chief Justice, and that that was to have my name removed from the court calendar. I asked my associate to let Mr Morris know that I had stepped down. He phoned Mr Morris at approximately 11 o'clock and informed him.

At approximately 2.30 that afternoon, Mr Morris telephoned me, stating that he had gone to the bar common room at lunch-time and that the members of the bar almost unanimously had supported my action in stepping down. He added, "If it's of any comfort, Tony Fitzgerald supports the action." He also informed me that Gary Crooke, QC, had telephoned him saying, "Now that the judge has stepped down, when would it be convenient to obtain a statement from him?" I said that I would consider the matter. The clear impression I obtained was that, now I had stood down, the commission was waiting for me to make a statement to it.

On 25 October 1988, I wrote to the Premier. I received a reply from the Premier. I replied to the Premier by letter. Those letters are set out on pages 56, 57 and 58 of the report. On the Tuesday afternoon, it became apparent that the Government was not going to accede to my request to have a panel of three Supreme Court judges set up. On that evening, I examined the whole of the chronology of the events from the first communication to me from the Fitzgerald inquiry.

I had initially thought that the refusal on Friday, 21 October 1988—when Morris approached Fitzgerald, QC, with a view to having him make a statement to the media—was a mere expression of a refusal to grant an indulgence because I had not seen fit to co-operate with the inquiry; but, having considered the matter more deeply, I thought that the refusal was of much greater moment. I concluded that the Government wanted to be able to have Sir Terence Lewis charged with perjury in respect of his *Matilda* evidence so that it could avoid further embarrassment and so that it could make a final decision about Lewis' future. As some of you will observe, the charge of perjury seems to be the flavour of the month. I had regard to a number of facts, including the facts that—

- (i) the Government initially provided Lewis with publicly funded legal representation;
- (ii) it subsequently directed that Lewis be stood down on full pay, but that his legal representation continue to be publicly funded;
- (iii) his resignation was refused to be accepted because to accept it would mean the payment to him in excess of \$800,000;
- (iv) subsequently, legal funding was withdrawn, yet Lewis remained on full pay;
- (v) after Herbert spoke of Lewis' corruption, Lewis was served with a show-cause notice as to why he should not be dismissed, and the result was that Lewis was not dismissed but that his pay was suspended;
- (vi) advice was given—including, I understand, one opinion from Commissioner Fitzgerald—that Lewis should not be dismissed;
- (vii) Fitzgerald stated from the bench of the commission of inquiry that the Government had acted correctly in not dismissing Lewis; and
- (viii) the Government's need to convict Lewis was, in my view, one which was necessary because of a perceived public pressure that a Government should not pay in excess of \$800,000 to a person who was seen, in the eyes of the public, to have been mentioned in evidence as having been corrupt.

I then considered the evidence which would support possible charges against Lewis. I considered the charges of official corruption, perjury in relation to Lewis' knowing one Rooklyn, and perjury in the defamation case involving my action against *Matilda*. I also considered the provisions of section 125 of the Criminal Code and I realised that, if there was sufficient evidence upon which it could be said that Lewis had knowingly misstated the nature of the relationship between himself and me when giving evidence, there was sufficient corroboration in the diary entries to satisfy the requirements of section 125.

I then had regard to the letter of 27 April 1988 from the Fitzgerald inquiry to me; my letter of 3 May, in which I said I would not make a statement; the further letter from the commission and my failure to reply to it; and to the fact that on Tuesday, 11

October—without prior notice to me—Lewis gave evidence that I was one of his five closest friends. I had further regard to the letter from the Fitzgerald inquiry dated 17 October 1988 in which it was suggested that I had said something untruthful. I also had regard to these additional matters, that is, the Fitzgerald inquiry indicated a constant anxiety that I furnish it with a statement concerning my relationship with Lewis. If only they had come to me and said, “Judge, we know that you don’t protect malefactors. Give us a statement.”

I had regard also to the notice of allegation referred to as “evidence which may raise an issue as to the truthfulness of the evidence”. Drummond’s questioning of Lewis had been directed to matters concerning the propriety or otherwise of my association with Lewis. After Lewis had said that I was one of his five closest friends, why in the name of goodness was there the necessity to cross-examine Lewis in respect of the association I had with him in relation to possible perjury? He had already said that I was one of his five closest friends. Why was it not sufficient to take Lewis to the evidence that he had given in *Matilda*? Why was it that for a day and a half counsel cross-examined Lewis and went through this relationship between Lewis and myself? It was in order to turn up the heat on me, throw me into the arms of the Fitzgerald inquiry and force me to make a statement to it. When my associate raised with Drummond this complaint about these matters being put to Lewis without instructions, my associate was assured that there were no allegations of impropriety, but that the questioning was to “explore the relationship”. The media sensationalised these aspects of Lewis’ evidence to the point of unfairness. Salvatore asked Kenzler if he would ask Fitzgerald to publicly confirm Drummond’s assurance, and no statement was made by Fitzgerald.

I contacted the Chief Justice after I heard about the Opposition’s proposed motion in Parliament. He told me to see him on the Monday to have a talk about it. I contacted Morris and asked him to unofficially approach Fitzgerald with a view to having the commission make a public statement. He reported that “they can’t help you unless you help them. If you help them, they will look after you”.

I noted the statement in the *Sunday Sun* attributed to the Premier and, when the Chief Justice called me on the Monday, it quickly became obvious that he had made up his mind to compel me to stand down. He said that I had counsel and that I could go to the commission. When I raised the appropriateness of the three retired judges commission, he said—as I have already mentioned—“You can ask the Attorney-General for that if you like.” He also referred to the letter addressed to “My dear Attorney”, and to the fact that I could go to the Fitzgerald inquiry.

I further considered that there was some connection between the clearly changed attitude of Mr Morris from the Thursday night when he said that I would be ill-advised to attend the Fitzgerald inquiry or make a statement, and the view which he expressed on the Friday night after he had spoken to Fitzgerald and others. This changed stance by him continued on the Sunday. His advice to me that I should announce that I was standing down and state that I would co-operate with the Fitzgerald inquiry was, in my view, an attitude which was diametrically opposed to any which he had previously expressed. I concluded that my firm response—that I would not accept the Morris advice—had become known to Fitzgerald and/or the Chief Justice. I drew the inference that Fitzgerald and those assisting him believed that the only method to achieve the obtaining of a statement from me was to force me to stand down, and give me the only forum available to resolve the matter—the Fitzgerald inquiry. I considered that the Government, through the agency of the Attorney-General, had sought the intervention of the Chief Justice to help extricate itself from the political dilemma to which I have referred.

The Attorney-General told a press conference, “Justices do not stand down. The Chief Justice chooses to rearrange the court calendar so not to allocate work for them.” He added that the matters raised were within the terms of reference of the Fitzgerald inquiry, and that I could cross-examine witnesses and give evidence at the inquiry. I learnt that the Chief Justice was acting as Governor and that, immediately after I stood

down, he presided over an Executive Council meeting to have my name removed from the court calendar. I concluded that such arrangements were in place before I saw the Chief Justice on the Monday morning.

On the Tuesday night, as I examined the chronology of events, I thought that the Fitzgerald inquiry considered my evidence vital to a perjury prosecution against Lewis. To this day I know that there has been no refutation of the fact that the Fitzgerald commission was intent on looking at the possibility of a perjury prosecution against Lewis in respect of the *Matilda* evidence which he gave. It was then, on the Tuesday night, that I considered that section 125 was very relevant and concluded that corroboration, as required by that section, was constituted by the Lewis diaries. I came to the conclusion—and one may say on the available circumstantial evidence—not without reason, that, when all else had failed to have me make a statement, the threesome, namely the Chief Justice, the Attorney-General, and Mr Fitzgerald, had believed that the only method to ensure that I made a statement was to stand me down, purportedly to give me a forum to resolve the allegation of perjury against me, but in reality to provide evidence against Lewis. This belief was confirmed when, soon after I stood down, Morris telephoned me to say that Mr Crooke, QC, contacted him and asked, “When would it be convenient to obtain a statement?”

Despite repeated requests to the Government, I was refused a forum of three judges. It was stated that I could go before the Fitzgerald inquiry and that there would be no special treatment for judges. It was said, “Some people get hurt. So what? It’s worth it.” I concluded that the threesome—who had all spoken about the appropriateness of my attending the Fitzgerald inquiry as a forum—had a common aim and must have considered the matter together. As I have said, I recalled the fact that on Friday, 21 October, Morris said to me that the commission could not help me unless I helped them, and that if I helped them, they would look after me. For reasons which I have already stated, I considered these words to be of much moment, in that the commission badly required my assistance to launch a perjury prosecution against Sir Terence Lewis.

Having come to that conclusion, I considered it most important to note accurately what it was that Fitzgerald, QC, and/or Crooke, QC, had said to Morris, so that if subsequently I had to quote it I could be sure that I was being completely accurate. And it is for that reason that I used a tape recording and recorded a conversation with Morris in which he reiterated the words that he had spoken to me whilst I was in Sydney on the Friday night.

I regarded what Fitzgerald and/or Crooke had said to me through Morris to be an outrageous proposition, and one which would reflect no credit upon either of them if it became known. I decided to have a record of what Fitzgerald had said, anticipating that Morris would be reluctant at any subsequent inquiry to recount that conversation. I also regarded such a conversation as probative of, and a further reason for my continuing to refuse to furnish a statement to, the Fitzgerald inquiry. Who would blame me, after this sort of conduct by Fitzgerald, for refusing to go to the Fitzgerald inquiry?

At the time I was aware of a close relationship existing between Fitzgerald and Morris involving strong loyalty one to the other. It was with this in mind that I did not inform Morris that I was recording the conversation with him. I considered that, had I done so, he would have felt a conflict between his duty to me and his loyalty to Fitzgerald in recounting to me what Fitzgerald had said to him.

The contents of the conversation with Morris that was taped have been transcribed and can be found on page 59 of the report. When one reads it, one can see the significant parts are that Mr Crooke had said to Mr Morris that they were not out to get me, which is exactly what Drummond had conveyed to my associate. He also said that it was not in the terms of reference to be able to deal with me. This is in sharp conflict with what the Chief Justice and the Attorney-General had said about the Fitzgerald inquiry having appropriate terms of reference to deal with my alleged misbehaviour.

Those of you who have read the report will have noted that at page 59 Mr Morris volunteered that the only reason he was speaking to Fitzgerald on the Friday was to ask

if they would be prepared to make it clear to the public, through the media, that there were no allegations against me. Mr Morris said that it sounded like a bit of a threat, but at the time it didn't; but he admitted that it was still a quid pro quo in a sense. The true nature of what was being asked is found at the end of the taped conversation, which you will see in the report. Morris said—

“The impression I got from him”—

that was referring to Gary Crooke—

“was one of sympathy with your position and concern that you may think that they're out to get you. He really wanted to paint the picture to me that if anything they were, they were there to help you if you wanted their help and were prepared for your part to co-operate with them.”

For two lawyers as eminent as Mr Crooke and Mr Fitzgerald to attempt to be doing deals with a Supreme Court judge is a situation which is quite despicable and which I found to be intolerable. It was something which I considered, in the public interest, to warrant further inquiry. Any suggestion from that time onwards that the Fitzgerald inquiry was the proper forum would have been ludicrous.

When it is considered, four things emerge from that statement by Mr Crooke—

- (1) If, as he says, they were not out to get me, why does the Chief Justice say that I was under investigation? All the information given to me thus far was, “Your father is not under investigation. We're only exploring the relationship.” Why is it that the Chief Justice then says, “You are under investigation, Angelo.”
- (2) If they were not out to get me, why then does Fitzgerald not make that clear to the media, as I had asked him to do on two separate occasions? Was that not a reasonable request, having regard to the dignity of the bench and to the damage that this was doing to the bench?
- (3) If I am not being investigated, what is the pre-occupation by Mr Crooke that he wanted my co-operation and that he would help me if I gave it?
- (4) Why did Fitzgerald virtually put a price on my request to him that he make a statement to the media when, if one could go on what Drummond and Crooke had said, the inquiry was not investigating me?

To add salt to the wounds, the effect of section 10 (2) and section 10 (3) of the Parliamentary (Judges) Commission of Inquiry Act meant that these important questions were not allowed to be even asked, let alone answered. Mr Speaker and honourable members, examine those two sections, which appear in the appendix of the report, because they provide that the commission was unable to exercise any of its powers in relation to Fitzgerald, QC, and those assisting him. What was it? Deification of Fitzgerald Act—because that is in fact what was being done. Fitzgerald was being put above the law by those two sections.

At the end of the conversation with Mr Morris, Morris was left with the clear impression—that is on that Wednesday when I taped him—that I would be ringing Mr Crooke and talking to him about making a statement. Consider, if you will, that conversation as transcribed in the report. That Wednesday night I was in contact with certain journalists whom I had been in contact with during the day. The information to me was that I was not going to get three judges because something big was going to happen to me, and that something big was that I was about to roll over and I was going to co-operate with the Fitzgerald inquiry. How did that information get to those people? This explains why there was advice given to set up a three retired judges inquiry and that, when such advice was given, such step was not taken. That emerges from the advice from Mr Fitzgerald dated 26 October 1988, which I seek leave to table and to have incorporated in *Hansard*.

Leave granted.

Whereupon the following document was laid on the table.

Commission of Inquiry into Possible Illegal Activities
and Associated Police Misconduct

Commissioner: Mr G. E. Fitzgerald Q.C.

Counsel Assisting: Mr G. W. Crooke Q.C.
Mr R. P. Devlin

Secretary: Mr G. L. Lynch
Telephone: (07) 221 2261

October 26, 1988

The Honourable M. J. Ahern M.L.A.
Premier of Queensland,
Premier's Department,
Executive Building,
100 George Street,
BRISBANE, QLD. 4000.

Dear Premier,

The Honourable Mr. Justice Vasta is reported to have ceased performing his judicial duties for the time being amidst increasing political and public controversy. As usual, most of the numerous conflicting stances which have been adopted and opinions which have been expressed involve a claim to the high moral ground and a denunciation of others for their abandonment of fundamental principles or cherished ideals such as the independence of the judiciary and justice and fair play. The dispute is being largely conducted in terms of emotive generalities, and serious damage will soon be done to important institutions. One of my publicly stated reasons for an early end to this Inquiry was my concern that benefits might come to be outweighed by disadvantages. My anxiety at the current developments has led me to consult this morning with the Right Honourable Sir Harry Gibbs, G.C.M.G., K.B.E., former Chief Justice of the High Court of Australia. I have his permission to mention him as I do in this letter.

Mr. Justice Vasta asks that he should be placed outside the purview of the Inquiry which I am attempting to conduct, both because of my inferior status and for one of two "special reasons" which, so far, he seems to have described only as involving the conduct of my Inquiry insofar as it relates to him. I readily acknowledge the difference in our respective status, and, while I have no idea what his "special reasons" concern and leave them out of account entirely, nothing would suit me better personally than having part, or preferably all, of my thoroughly unpleasant task removed from me. So far as Mr. Justice Vasta is concerned, there is also the complication that I was, briefly and somewhat peripherally, involved in the defamation litigation which he commenced arising out of publications in "Matilda" magazine and in which he gave evidence which forms part of the current controversy.

However, there are a number of considerations, some merely practical and others involving issues of principle, which need to be considered.

1. I am not presently confident that it would be proper to disclose the contact which has occurred in the course of the Inquiry between those assisting me and Mr. Justice Vasta, but it is necessary to notice that, in accordance with rulings of which I believe he is aware, the Judge has rights in relation to this Inquiry, including the right to provide it with verified information (which I understand counsel assisting would normally invite material witnesses to comment upon), and the rights to seek leave to appear (which would be granted as of course), to cross-examine and to make submissions. If he does not do so, that omission could cause some complications in my consideration of the evidence and in my findings, including those in relation to other possible witnesses who might otherwise be questioned on matters which concern the Judge. However, I think that it will be possible to deal with those difficulties.
2. The proceedings which I am conducting are inquisitorial, which undoubtedly involves disadvantages for those who are investigated or interrogated, who are obliged to answer what is asked and sometimes provide evidence of matters which are perhaps suspected but could not otherwise be discovered. There are protections in the legislation, but this process is nonetheless distasteful to me and, I am sure, to many others. Yet it has undoubtedly been an essential course in order to expose the serious problems which are now known to exist. Many who have been caught up in the Inquiry share Mr. Justice Vasta's wish to be excluded from such a process and to be called upon only to face particularised allegations of which evidence is already available. I do not wish to comment at this time upon the validity of his request, but I do draw attention to what it involves.
3. The Judge wishes a hearing in camera. Again, most others who have been the subject of evidence or called as witnesses would have had a similar desire, but public hearings are not only generally intended by the Commissions of Inquiry Act but have been vital to the progress

of the Inquiry and its attempt to restore confidence in public administration. Again, I do not wish to comment at this time, beyond noting, that, so far as the Judge's "special reasons" concern the conduct of the Inquiry, my strong personal preference would be for all relevant matters to be publicly ventilated. (At this time, I find it difficult to conceive how the Judge's perception of his treatment by this Inquiry could be material to an inquiry into his conduct).

4. The independence of the judiciary is undoubtedly the most important feature associated with Mr. Justice Vasta's position. A commitment to equal treatment for all may have to yield if such an approach would imperil the judiciary's independence. Conversely, especially having regard to the public concern at what has been revealed in the Inquiry, care must be taken to ensure that concern for the judiciary's independence does not lead to a less thorough scrutiny of judicial conduct, create a public perception that there are special rules and perhaps "cover-ups" available for a privileged few, or possibly cause a failure to dispel any doubts which may exist concerning judicial integrity.

The solution which has Sir Harry Gibbs' approval is a separate Commission of Inquiry, headed by three retired Supreme Court judges from Queensland or elsewhere in Australia, with my Commission's powers and access to my Commission's staff, resources, and information, to inquire whether the Honourable Mr. Justice Vasta has been guilty of any misbehaviour or misconduct contrary to constitutional principles, and to report concerning whether any evidence exists for any action against the judge and to recommend what, if any, action should be taken. My tentative view is that such a course could be implemented by a resolution of Parliament that such a Commission of Inquiry be appointed under the Commissions of Inquiry Act and that its report be presented by the responsible Minister to Parliament within 14 days of its receipt or on the next sitting day thereafter. Parliament, when it had thus been informed, would determine whether or not to proceed against the Judge and, if it decided to do so, it would proceed in strict conformity with the Constitution Act and the Supreme Court Act and constitutional usage. However, the procedural aspects will doubtless be considered by the Government's legal advisers.

There has also been some recent reference in the media, and perhaps Parliament, to his Honour Judge Pratt, who is continuing to sit and has not asked to be excluded from my Inquiry. However, it might be thought appropriate that any question concerning his Honour's conduct should also be excluded from my consideration and, if considered desirable, referred to the Commission constituted by the retired judges, although I should not be understood as urging that such a step be taken.

While the course proposed may not meet Mr. Justice Vasta's requirements, it does recognize and give effect to the special position of the judiciary and the vital importance, in the interests of the community, of protecting the judiciary's independence to the fullest extent consistent with any desirable scrutiny of judicial conduct.

Your sincerely,
G. E. FITZGERALD

Mr JUSTICE VASTA: At that time, I was told that there was talk of Fitzgerald bringing down an interim report which would clear me of any wrongdoing. I saw this as further proof of a plan to get me to give evidence against Lewis and using this so-called perjury against me as a smokescreen for me to come to the inquiry and to give a statement. All this led to my letter of 27 October 1988, which is reproduced in the report on page 63.

What do the judges say about this? At page 83 of the report, the three judges say—

"A factor of particular cogency in this is the fact that the basis of the whole problem was the allegation, too readily accepted, that the Judge had said something untrue about his relationship with Sir Terence Lewis; the Judge believed this to be wrong and this Commission has found it to be wrong. He was told that the only way he could explain it was to go to the Fitzgerald Inquiry. The Judge firmly believed that to do so would be an interference with the independence of the Judiciary and he was not prepared to succumb to what appeared to be pressure to force him there. This Commission does not have to decide whether this belief was rightly held or not but Mr. Justice Vasta was certainly entitled to hold it. He had been under media attack most of it unjustified and all of it sensational. He was being forced unjustifiably towards what he considered an inappropriate forum and then the devastating news that he as a serving Supreme Court Judge was being stood down was announced to him as a *fait accompli*."

What the judges here are saying is what I have said all along, that there was absolutely no truth that there was any impropriety in my relationship with Sir Terence Lewis. There was absolutely no suggestion of any misleading of evidence in my defamation action. That being so, why was it that I was being forced to this Fitzgerald inquiry? Why was it that the Chief Justice, the Attorney-General and Mr Fitzgerald were making out to everyone that these allegations were so serious that they warranted my standing down from the Supreme Court bench? Why was it that the media was acting with a McCarthyist fervour to try to say that there was something sinister with my relationship with Sir Terence Lewis? I considered that this whole allegation of any impropriety was nothing more than an elaborate device to get me before the Fitzgerald inquiry. The report says I was entitled to stand firm against an interference with judicial independence—in short, I was acting quite properly in refusing to go to the Fitzgerald inquiry.

The commission found that I had a sincere belief that there was a plan to have me go to the Fitzgerald inquiry. My letter of 27 October called for an inquiry into the conduct of those who indicated an anxiety that I co-operate with that inquiry. Was that an unreasonable request?

That same day the Government announced an inquiry and it was stated that it was going to set up such an inquiry anyhow, and there were tabled in the Parliament opinions of Mr Callinan, QC, and Mr Fitzgerald, QC. Those documents show that on 26 October 1988 Sir Harry Gibbs had advised that an inquiry before three retired judges was the proper forum.

But the matter just does not rest there when the suggestion is made that the judge called for the inquiry.

On 9 November, following the tabling in the Parliament of a letter from the Chief Justice my solicitors wrote to the Government. The letter of the Chief Justice of 24 October indicated that the only issue was whether I had given false evidence concerning my relationship with Sir Terence Lewis. The letter that my solicitors sent to the Premier is produced at page 67 of the report. The last paragraph reads—

“In the light of these factors a lengthy and costly public inquiry would not be justified when it would serve no other purpose but to investigate perjury on the part of His Honour.”

So there it was, and there it is very clear that I was saying, “Let’s not have an inquiry. For the first time the particulars are set out in the Chief Justice’s letter. It is perjury, and if there is no room for perjury, then there is no room for any other misconduct.” We said, “We will agree to an ex officio indictment. Charge me and let’s dispense with a costly investigation.” But no! How then can it be said that it was the judge who called for the inquiry?

The Government’s reply was that the inquiry would be set up, and it became obvious that the Government would make its terms of reference in the widest possible form.

I sought particulars. As I said, the indication was that it was perjury. Having regard to this being the only real issue, I was concerned to avoid a costly inquiry. It is obvious that the Government was intent upon getting even with me and making sure that it vented its spleen upon me for having embarrassed it. Its vindictiveness has been demonstrated in actions since the report was handed down, and they are all too obvious.

A precedent had been set for legislation of this kind in the inquiry into the late Mr Justice Murphy. This was model legislation. It was fair in its terms and thorough in its powers of investigation. That legislation provided for an inquiry into that judge’s conduct to ascertain whether there had been any “proved misbehaviour”.

The legislation passed by this House with indecent haste called for an inquiry into my behaviour “either of itself or in conjunction with other behaviour”. Therefore this legislation empowered inquiry into every facet of my life, of my personal affairs.

The Murphy legislation forbade the making of a finding except upon evidence which would be admissible in a court. This was not a requirement in my case.

The Murphy inquiry was conducted in private. The inquiry into my behaviour was not only in public but also publicised with the utmost of sensational flavour.

By virtue of section 6 of that Act, Mr Justice Murphy was not required to give evidence unless the commission was of the opinion that there was evidence of misbehaviour. The legislation passed by this House contained no such provision.

I seek leave to table a copy of the Parliamentary Commission of Inquiry Act 1986, passed by the Commonwealth, and I ask that it be incorporated in *Hansard*.

Leave granted.

Whereupon the following document was laid on the table—

Parliamentary Commission of Inquiry Act 1986

No. 9 of 1986

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Parliamentary Commission of Inquiry Act 1986

No. 9 of 1986

An Act to provide for the establishment of a Parliamentary Commission of Inquiry

[Assented to 13 May 1986]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Parliamentary Commission of Inquiry Act 1986.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. In this Act, unless the contrary intention appears—

“Commission” means the Parliamentary Commission of Inquiry appointed in accordance with section 4;

“Judge” means a Judge of a court created by the Parliament or of the Supreme Court of a State or Territory;

“legal practitioner” means a barrister, a solicitor, a barrister and solicitor, or a legal practitioner, of the High Court or of the Supreme Court of a State or Territory;

“member” means a member of the Commission;

“National Crime Authority” means the Authority established by section 7 of the National Crime Authority Act 1984;

“Presiding Member” means the member of the Commission holding an appointment under sub-section 4 (4) or 9 (2).

PART II—PARLIAMENTARY COMMISSION OF INQUIRY

Division 1—Establishment and Functions of the Commission

Establishment of Commission

4. (1) As soon as practicable after the commencement of this Act, a Commission to be known as the Parliamentary Commission of Inquiry shall be appointed.

(2) The Commission shall consist of 3 members appointed by resolution of the Senate and by resolution of the House of Representatives.

(3) A person shall not be appointed as a member unless the person is or has been a Judge.

(4) The resolution of the Senate and the resolution of the House of Representatives appointing the members shall also appoint one of the members to be the Presiding Member.

Functions

5. (1) The Commission shall, in accordance with this section, inquire, and advise 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.

(2) In carrying out its inquiry the Commission shall consider only specific allegations made in precise terms.

(3) In considering any allegation, the Commission shall have regard to the outcome of any previous official inquiry into that allegation, and only consider it to the extent that the Commission believes it necessary or desirable to do so, and shall not be precluded by any

other law or by any privileges of either House of the Parliament from obtaining access to the records of evidence given at, or findings made as a result of, such an inquiry.

(4) The Commission shall not consider—

- (a) the issues dealt with in the trials leading to the acquittal of the Honourable Lionel Keith Murphy of certain criminal charges on 5 July 1985 and 28 April 1986 and, in particular, the issue of the Honourable Lionel Keith Murphy's guilt or innocence of those charges; or
- (b) whether the conduct to which those charges related was such as to constitute proved misbehaviour within the meaning of section 72 of the Constitution,

except to the extent that the Commission considers necessary for the proper examination of other issues arising in the course of the Commission's inquiry.

Evidence

6. (1) The Honourable Lionel Keith Murphy shall not be required to give evidence on a matter before the Commission unless the Commission is of the opinion that there is before the Commission evidence of misbehaviour within the meaning of section 72 of the Constitution sufficient to require an answer and the Commission has given to the Honourable Lionel Keith Murphy particulars in writing of that evidence.

(2) In the conduct of its inquiry, the Commission shall not make a finding except upon evidence that would be admissible in proceedings in a court.

Conduct of proceedings

7. (1) The Commission shall, unless it thinks the circumstances require otherwise, conduct the whole of its inquiry in private.

(2) The Commission shall conduct its inquiry as quickly as a proper consideration of the matters before the Commission will permit.

Report to Parliament

8. (1) The Commission shall report to the President of the Senate and the Speaker of the House of Representatives—

- (a) its findings of fact; and
- (b) its conclusions 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.

(2) The report under sub-section (1) shall be made on or before 30 September 1986, unless that date is extended by a resolution of each House of the Parliament.

(3) The Commission shall submit with its report a record of so much of the evidence before the Commission as the Commission thinks necessary to substantiate its findings of fact and its conclusions.

(4) Subject to sub-section (6), the President of the Senate and the Speaker of the House of Representatives shall, as soon as practicable after they receive the report of the Commission and the record of evidence, cause copies of the report and record to be laid before the Senate and the House of Representatives.

(5) If the Commission is of the opinion that, if any of its findings or conclusions, or any of the evidence given before the Commission were to be laid before the Houses of the Parliament—

- (a) a person who has been or may be charged with an offence may not receive a fair trial for the offence;
- (b) the conduct of an investigation of a breach or possible breach, of the law, may be prejudiced;
- (c) the existence or identity of a confidential source of information in relation to the enforcement or administration of the law may be disclosed or a person enabled to ascertain the existence or identity of that source; or
- (d) there may be prejudice to the safety or reputation of a person,

the commission may include those findings or conclusions, or that evidence, in a separate report and deliver the report to the President of the Senate and the Speaker of the House of Representatives, together with a statement of its opinion.

(6) Where a separate report is prepared in accordance with sub-section (5), the President of the Senate and the Speaker of the House of Representatives shall not cause that separate report to be laid before the Houses of the Parliament.

Death or incapacity of member

9. (1) If a member dies, becomes physically or mentally incapable of performing the functions of a member or, by notice in writing to the President of the Senate and the Speaker of the House of Representatives, resigns his or her appointment, the remaining members shall thereafter constitute the Commission, and this Act shall have effect as if sub-section 4 (2) required the appointment of 2 members.

(2) If the Presiding Member dies, becomes physically or mentally incapable of performing the functions of a member or, by notice in writing to the President of the Senate and the Speaker of the House of Representatives, resigns his or her appointment, one of the remaining members shall be appointed by resolution of the Senate and by resolution of the House of Representatives to be the Presiding member.

Decision of questions

10. (1) Questions arising before the Commission shall be decided in accordance with the opinion of a majority of the members or, if the Commission consists of 2 members and those members are divided in opinion, in accordance with the opinion of the Presiding Member.

(2) Where the members are not unanimous in opinion on a question arising before the Commission, there shall, if a member so requires, be recorded in the report of the Commission particulars of the opinions of the members of that question.

Division 2—Powers of the Commission

Powers to summon witnesses and take evidence

11. (1) Subject to sub-section 6 (1), a member may summon a person to appear before the Commission at a hearing to give evidence and to produce such documents or other things (if any) as are referred to in the summons.

(2) The President Member may require a person appearing at a hearing to produce a document or other thing.

(3) The Commission may, at a hearing, take evidence on oath or affirmation and, for that purpose—

(a) a member may require a person appearing at the hearing to give evidence either to take an oath or to make an affirmation in a form approved by the Presiding member; and

(b) a member, or a person who is an authorised person in relation to the Commission, may administer an oath or affirmation to a person so appearing at the hearing.

(4) In this section, a reference to a person who is an authorised person in relation to the Commission is a reference to a person authorised in writing, or a person included in a class of persons authorised in writing, for the purposes of this section by the Presiding Member.

Search warrants

12. (1) Where—

(a) the Commission has reasonable grounds for suspecting that there may be, at that time or within the next following 24 hours, upon any land or upon or in any premises, vessel, aircraft or vehicle, a thing or things of a particular kind connected with the matter into which the Commission is inquiring (in this section referred to as “thing of the relevant kind”); and

(b) the commission believes on reasonable grounds that, if a summons were not issued for the production of the thing or things, a thing or things might be concealed, lost, mutilated or destroyed,

the Commission may issue a search warrant.

(2) A reference in sub-section (1) to the Commission includes a reference to a member authorised by the Commission to act under that sub-section.

(3) A search warrant issued under sub-section (1) shall authorise a member of the Australian Federal Police or of the Police Force of a State or of the Northern Territory or any other

person, named in the warrant, with such assistance as that member or person thinks necessary and if necessary by force—

- (a) to enter upon the land or upon or into the premises, vessel, aircraft or vehicle;
 - (b) to search the land, premises, vessel, aircraft or vehicle for things of the relevant kind; and
 - (c) to seize any things of the relevant kind found upon the land or upon or in the premises, vessel, aircraft or vehicle and deliver things so seized to the Commission.
- (4) A warrant issued under this section shall—
- (a) state whether entry is authorised to be made at any time of the day or night;
 - (c) include a description of the kind of things authorised to be seized; and
 - (d) specify a day, not being later than one month after the date of issue of the warrant, at the expiration of which the warrant ceases to have effect.

(5) A warrant issued under this section may be executed, in accordance with its terms, at any time during the period commencing on the date of issue of the warrant and ending at the expiration of the day specified for the purpose of paragraph (4) (d).

(6) If, in the course of searching, in accordance with a warrant issued under this section, for things of the particular kind connected with the matter into which the Commission is inquiring, the person executing the warrant finds any thing of another kind that the person believes on reasonable grounds to be connected with that subject-matter and the person believes on reasonable grounds that it is necessary to seize that thing in order to prevent its concealment, loss, mutilation or destruction, the warrant shall be deemed to authorise the person to seized that thing.

Access to certain material held by National Crime Authority

13. (1) The Presiding Member may, by notice in writing given to the Chairman or Acting Chairman of the National Crime Authority, require the Authority—

- (a) to produce to the Commission documents and other materials in the possession of the Authority relating to the inquiry conducted by the Honourable Donald Gerard Steward under Letters Patent issued on 25 June 1981, as varied by Letters Patent issued on 28 March 1983 and 29 March 1985, including documents or materials delivered by the Honourable Donald Gerard Steward to the Authority upon the termination of that inquiry; or
- (b) to permit the Commission, or a member authorised for that purpose by the Commission and specified in the notice, together with such other persons as are specified in the notice, to have access to documents or materials referred to in paragraph (a).

(2) The National Crime Authority shall comply with a notice under sub-section (1).

(3) The National Crime Authority may make available to the Commission, at the request of the Presiding Member, documents or materials (other than documents or materials referred to in sub-section (1)), being documents or materials relevant to the matter into which the Commission is inquiring.

Hearings

14. (1) For the purposes of its inquiry the Commission may hold hearings.

(2) Hearings before the Commission may be held at such places within Australia as the Commission determines.

(3) The Presiding Member shall preside at a hearing before the Commission.

(4) At a hearing before the Commission, the Honourable Lionel Keith Murphy is entitled to appear, and to be represented by a legal practitioner, at any time during the hearing.

(5) Subject to sub-section (4), in relation to a hearing conducted in private, the Commission may give directions as to the persons who may be present.

(6) Nothing in this Act prevents the presence, when evidence is being taken at a hearing, of a person representing the person giving evidence or representing a person who, by reason of a direction given by the Commission under sub-section (5), is entitled to be present.

(7) Where the Commission conducts a hearing in private, a person (other than a member, counsel assisting the Commission or a member of the staff of the Commission approved by the Commission) shall not be present at that hearing unless the person is entitled to be present by virtue of a direction under sub-section (5) or by virtue of sub-section (6).

(8) At a hearing before the Commission—

- (a) counsel assisting the Commission;
- (b) any person authorised by the Commission or entitled to appear before it at the hearing; or
- (c) any legal practitioner authorised by the Commission to appear before it for the purpose of representing a person at the hearing pursuant to sub-section (4),

may, so far as the Commission, thinks appropriate, examine or cross-examine any witness on any matter that the Commission considers relevant to its inquiry.

(9) Subject to this Act, the procedure at a hearing before the Commission shall be such as the Commission directs.

(10) Except in accordance with a direction of the Commission—

- (a) evidence given before the Commission;
- (b) the contents of a document, or a description of a thing, produced to the Commission or seized pursuant to a warrant issued under section 12;
- (c) any information that might enable a person who has given evidence before the Commission to be identified; or
- (d) the fact that any person has given or may be about to give evidence at a hearing,

shall not be published, and the Commission shall not give such a direction if to do so might prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been or may be charged with an offence.

(11) A person who—

- (a) is present at a hearing in contravention of sub-section (7); or
- (b) makes a publication in contravention of sub-section (10),

is guilty of an offence punishable, on summary conviction, by a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months.

Counsel assisting the Commission

15. The Commission may appoint a legal practitioner to assist the Commission as counsel, either generally or in relation to a particular matter or matters.

Statement made by witness not admissible in evidence

16. A statement or disclosure made, or a document or thing produced, by a witness in the course of giving evidence before the Commission, or any information, document or thing obtained as a direct or indirect consequence of the statement or disclosure or the production of the first-mentioned document or thing, is not (except in proceedings for an offence against this Act) admissible in evidence in any civil or criminal proceedings in any court of the Commonwealth, of a State or of a Territory.

Arrest of witness failing to appear

17. (1) If a person served with a summons to attend before the Commission as a witness fails to attend in accordance with the summons, the Presiding Member may, on proof of the service of the summons, issue a warrant for the apprehension of the person.

(2) A warrant under sub-section (1) shall authorise the apprehension of the witness and the bringing of the witness before the Commission and the detention of the witness in custody for that purpose until the witness is released by order of the Presiding Member.

(3) A warrant under sub-section (1) may be executed by any member of the Australian Federal Police or of the police force of a State or of the Northern Territory, or by any person to whom it is addressed, and the person executing the warrant has power to break and enter any place, building or vessel for the purpose of executing it.

(4) The apprehension of a witness under this section does not relieve the witness from any liability incurred by reason of non-compliance by the witness with the summons.

Powers of Commission in relation to documents and other things

18. (1) The Commission, a member or a person who is an authorised person in relation to the Commission may—

- (a) inspect any documents or other things produced before, or delivered to, the Commission;
- (b) retain the documents or other things for so long as is reasonably necessary for the purposes of the Commission's inquiry; and

(c) in the case of documents produced before, or delivered to, the Commission—make copies of matter contained in the documents, being matter that is relevant to the Commission's inquiry.

(2) Where the retention of a document or other thing by the Commission ceases to be reasonably necessary for the purposes of the Commission's inquiry, the Commission shall, if a person who appears to the Commission to be entitled to the document or other thing so requests, cause the document or other thing to be delivered to that person.

(3) In sub-section (1), a reference to a person who is an authorised person in relation to the Commission is a reference to a person authorised in writing, for the purposes of that sub-section, by the Presiding Member.

Division 3—Administrative Provisions

Remuneration and allowances

19. (1) Subject to sub-section (4), a member shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration is in operation, the member shall be paid such remuneration as is prescribed.

(2) A member shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

(4) If a person who is a Judge is appointed as a member, the person is not, while receiving salary or annual allowance as a Judge, entitled to remuneration under this Act.

(5) A member ceases to hold office as a member when a copy of the report of the Commission has been laid before each House of the Parliament.

Staff of the Commission

20. (1) Subject to sub-section (2), the staff of the Commission shall be persons made available to the Commission by the president of the Senate and the Speaker of the House of Representatives.

(2) The President of the Senate and the Speaker of the House of Representatives may arrange with the Secretary of a Department of the Australian Public Service for the services of officers or employees in the Department to be made available to the Commission.

(3) While a person is performing services for the Commission pursuant to an arrangement under this section, that person shall perform his or her functions and duties in accordance with the directions of the Presiding Member and not otherwise.

Protection of members, &c.

21. (1) A member has, in the performance of the functions or the exercise of the powers of a member, the same protection and immunity as a Justice of the High Court.

(2) A legal practitioner assisting the Commission or representing a person at a hearing before the Commission has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

(3) Subject to this Act, a person summoned to attend or appearing before the Commission as a witness has the same protection as a witness in proceeding in the High Court.

Legal and financial assistance

22. (1) A person who is appearing or is about to appear, or a person who is entitled to appear, before the Commission may make an application to the Attorney-General for the provision of assistance under this section in respect of the appearance of the person.

(2) An application under sub-section (1) shall be forwarded by the Attorney-General to the President of the Senate and the Speaker of the House of Representatives.

(3) Where an application is made by a person under sub-section (1), the President of the Senate and the Speaker of the House of Representatives may, if they are satisfied that—

(a) it would involve substantial hardship to the person to refuse the application; or

(b) the circumstances of the case are of such a nature that the application should be granted,

request the Attorney-General to authorise the provision by the Commonwealth to that person, either unconditionally or subject to such conditions as the President and the Speaker determine, of such legal or financial assistance in respect of the appearance of that person before the Commission as the President and the Speaker determine.

(4) The Attorney-General shall comply with a request under sub-section (3).

Reimbursement of expenses of witnesses

23. A witness appearing before the Commission shall be paid by the Commonwealth in respect of the expenses of the attendance of the witness an amount authorised in accordance with the prescribed scale or, if there is no prescribed scale, such amount as the Commission determines.

PART III—OFFENCES

Failure of witnesses to attend or produce documents

24. (1) A person served, as prescribed, with a summons to appear as a witness at a hearing before the Commission shall not, without reasonable excuse—

- (a) fail to attend as required by the summons; or
- (b) fail to attend from day to day unless excused, or released from further attendance, by a member of the Commission.

Penalty: \$1,000 or imprisonment for 6 months.

(2) A person appearing as a witness at a hearing before the Commission shall not, without reasonable excuse, refuse or fail to produce a document or other thing that the person was required to produce by a summons under this Act served on the person as prescribed or that the person was required to produce by the Presiding Member.

Penalty: \$1,000 or imprisonment for 6 months.

(3) It is a defence to a prosecution for an offence against sub-section (2) constituted by a refusal or failure to produce a document or other thing to the Commission that the document or other thing was not relevant to the matter into which the Commission was inquiring.

Penalty for refusing to be sworn or give evidence

25. A person appearing as a witness at a hearing before the Commission shall not, without reasonable excuse—

- (a) when required pursuant to sub-section 11 (3) either to take an oath or make an affirmation—refuse or fail to comply with the requirement; or
- (b) refuse or fail to answer a question that the person is required to answer by the Presiding Member.

Penalty: \$1,000 or imprisonment for 6 months.

Acts or omissions on different days to constitute separate offences

26. Where a person has on any day done or omitted to do something, being an act or omission that amounts to an offence against section 25, and the person does or omits to do the same thing at a hearing of the Commission held on some other day, each such act or omission constitutes a separate offence.

Self-incrimination

27. (1) It is not a reasonable excuse for the purposes of section 24 for a person to refuse or fail to produce a document or other thing that the person was required to produce at a hearing before the Commission that the production of the document or other thing might tend to incriminate the person.

(2) A person is not entitled to refuse or fail to answer a question that the person is required to answer by the Presiding Member on the ground that the answer to the question might tend to incriminate the person.

False or misleading evidence

28. (1) A person shall not, at a hearing before the Commission, give evidence that is to the knowledge of the person false or misleading with respect to any matter, being a matter that is material to the inquiry being made by the Commission.

(2) A contravention of sub-section (1) is an indictable offence and, subject to this section, is punishable by a fine not exceeding \$20,000 or by imprisonment for a period not exceeding 5 years.

(3) Notwithstanding that an offence against sub-section (1) is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and prosecutor consent.

(4) Where, in accordance with sub-section (3), a court of summary jurisdiction convicts a person of an offence against sub-section (1), the penalty that the court may impose is a fine not exceeding \$2,000 or imprisonment for a period not exceeding 1 year.

Destroying documents or other things

29. (1) A person who, knowing or having reasonable grounds to believe that a document or other thing is or may be required in evidence before the Commission, wilfully—

- (a) conceals, mutilates or destroys the document;
- (b) renders the document or other thing incapable of identification; or
- (c) in the case of a document, renders it illegible or indecipherable,

is guilty of an offence.

(2) An offence against sub-section (1) is an indictable offence and, subject to this section, is punishable on conviction by a fine not exceeding \$10,000 or by imprisonment for a period not exceeding 2 years.

Appropriation

36. The remuneration and allowances of members and any other expenses occasioned by the operation of this Act shall be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

Regulations

37. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
House of Representatives on 8 May 1986
Senate on 8 May 1986]*

Mr JUSTICE VASTA: And so there was embarked upon an inquiry into my life, unlimited in its terms. Personnel from the inquiry against whom I had much to complain were seconded to the judges inquiry. Mr Drummond, QC, was initially asked to assist the judges inquiry until a strong protest by my solicitors caused common sense to prevail. Questionnaires which I need not have answered were sent at a furious pace. I answered them because I had nothing to hide. However, the use to which they were put caused my counsel, experienced in royal commissions, to say that he would never again advise a client of his to answer questionnaires or to ever again co-operate with an inquiry. This co-operation caused me to incur enormous legal costs.

Searches were conducted at the Brisbane City Council to see if there were applications for alterations to my house; inquiries at my local petrol station and the questioning of a number of my friends were all carried out with persecutory zeal.

I had also to suffer the embarrassment of being told by one of my brother judges that inquiry staff had asked him as to whether he, the judge, had seen me at week-ends removing documents from my chambers. No person who cherishes his freedom should have to undergo this humiliation. And if nothing else is learnt from this sorry tale but the lesson that an inquiry such as this should never again take place, then I have achieved a great deal.

I would predict that when the dust of these happenings settles down and sober reflection is made upon these events, the enormity of the injustice occasioned to me will be driven home to people. I predict that never again will a judge be subjected to such a scandalous inquiry. Not only was it an inquiry in its widest possible terms into me, but also my complaint concerning the conduct of the Fitzgerald inquiry was unable to be followed up by virtue of those iniquitous sections, sections 10(2) and 10(3). Those sections effectively sanctioned a cover-up of the activities of Fitzgerald and his staff.

One may commend the bringing in of malefactors to justice, but the price to be paid in this case was enormous. The price—the expense of human freedom and liberty—is too great a price to pay and nobody should have to pay that price.

And so we had the ludicrous situation where Mr Morris gave evidence of what he told me Fitzgerald said to him but he was unable to be asked what in fact Fitzgerald and/or Crooke said to him, because the law forbade him from doing so by sections 10(2) and 10(3). Let there be no mistake about it: they were put in advisedly by the best legal advice we have at hand. In the circumstances of my complaint about the Fitzgerald inquiry, one could not envisage a more iniquitous piece of legislation.

Mr Speaker, honourable members, I come from humble beginnings. No form of privilege attended my family background or early life. I was not born with a silver spoon in my mouth. The status of my father and the occupation followed by him testifies to that fact. He was a cane-cutter who came out from Sicily in 1922 just so that he could make a living and take advantage of the opportunity that this country offered to him. Much was made of the word "Sicilian" at the inquiry. There was a deliberate and scandalous attempt to have a shadow of evil cast over me.

I am proud to say I am a son of a Sicilian cane-cutter. My father believed, as I believe, that if one works hard then the opportunities will come along. Our family had to struggle on my father's meagre wage and yet my father was able to educate an engineer, a doctor and a lawyer. My father's contribution to this country was recognised in 1965 when the Menzies Government awarded to him the Gertrude Kumm Award for citizenship. He gave us a dream, a dream that if we aspire to a position, if we work, if we are industrious, then one day we will achieve. I aspired to the legal profession and did indeed achieve the highest office of that profession, which would have been of great pride to my father if he were alive today. I achieved it through hard work and diligence and absolute devotion to the task at hand. Whatever the task given to me, I carried it out without fear or favour. I ran dead for nobody. However, I have come to learn that the instinct for survival and standing firm on a matter of principle are mutually inconsistent concepts.

Yet while the dream that I had was indeed a dream, I could not have seen the obstacles and problems that would be caused to me, not through my ability but for other dark and sinister motives. In September 1983 I knew that I was the subject of appointment to the Supreme Court bench, and that appointment was stopped by reason of the most vigorous opposition. This caused me enormous disappointment. The knowledge that that opposition had come from within the very ranks of the profession in which I had worked and to which I had devoted many years of my time was wounding indeed. It gave a lie to the very dream that my father had instilled in me as a young lad. What was I to think at this time? I knew, as any other person knew, that legally I was as qualified as anyone for appointment to this bench. I had been involved in almost every special leave application before the High Court since 1980.

I had the very rare privilege of arguing a matter for the Crown before the Privy Council. So when all was said and done, there seemed to be no reason for anyone to object to my appointment.

It is true, however, that envy is a curse. It may be said that I may be oversensitive about these matters. However, one of the senior Fitzgerald inquiry staff, Mr Ralph Devlin, asked a police officer of Italian background if he knew me, and the police officer replied that he did. That barrister asked him if he knew how Vasta came to be appointed. He replied that he did not know. He was asked whether I knew a member of the Italian community. The answer Devlin got was that the police officer did not know. The police officer was then asked by Devlin, "Was there a push from the Italian community to have him appointed?"

Mr Speaker, I ask rhetorically: what possible relevance has that series of questions got to do with what the Fitzgerald inquiry was all about? Therefore, a belief by me and others that I do not belong because of my Mediterranean background is far from fanciful. What does one make of the term Italian Freudian slip of "Basto" as appeared in that scurrilous magazine *Matilda*? And where was the Bar Association when this was going on? Its silence was deafening. What was printed in that dreadful publication about me was an offence against the Criminal Code. There is no question about that.

To his great credit, the then Justice Minister, Mr Harper, wanted to move against the editor and others but was advised not to do so. However, there was no encouragement from the Bar Association that action be taken. And so I had to issue a writ myself and, might I say, at my own expense. This was a step which, for a judge, is most unusual. Again, in this regard, I was taking a stand on a matter of principle. The action I took caused Gordon and Gotch to cease distributing *Matilda*, and that scandalous publication folded. In my taking other court actions against *Matilda* and others, the media made me the target of further attack. I realise that. And so it came to pass.

Therefore, when the Lewis diaries were published I again became a convenient whipping boy. Was I imagining the fact that I was being singled out for special treatment? At the judges inquiry a computer analysis was undertaken. When one considers the contact that I had with Lewis in my capacity as Assistant Senior Crown Prosecutor and later as Chief Crown Prosecutor, one can see that these references in the diaries are not overly numerous. But the computer came up with results something like this: Judge Pratt was mentioned 182 times, I was mentioned 62 times, Sir Edward Williams was mentioned 34 times, Sir Walter Campbell 29, Sir Dormer Andrews 17, Judge Carter 19 and Judge Broad 13. Now there has been a lot of media publicity given to Pratt and to me, yet what of these others? I do not for one minute suggest that there is anything sinister in the contacts that these prominent figures have had, and of course there is nothing sinister in the contact that I had, and the commission has said that this is so. Yet why was this constant media attention upon my name? Of course the press were not just saying that I was mentioned in the diaries but indicated that in some fashion I was associated with Lewis in some improper way. Now that claim has been totally rejected by this commission.

And so, Mr Speaker and honourable members, I stand before you in respect of matters which are completely unrelated to the genesis of this inquiry. I took a stand on a matter of principle. That principle, which is the corner-stone of our system of democracy, concerns the independence of the judiciary. Because of my firm stance I predict that the Governor in Council will never again take action to remove a judge from the court calendar. In my case I have paid a very heavy price. The trauma and the humiliation I have experienced during the last seven months has been enormous. However, I am comforted by the thought that others in history have paid more dearly than I for making a stand on principle. Sir Thomas More at the hands of King Henry VIII and John Proctor during the Salem witch-hunt "trials" paid with their lives.

I would ask you, honourable members, to consider the matters I have put to you carefully and that your ultimate decision be one with which you feel you can live for the rest of your lives. May I, at the risk of being repetitive, emphasise the fact that the conduct you have to examine does not concern behaviour connected with the discharge of judicial duties. Nothing adverse has been found with regard to that. Until the commissioners ruled otherwise in Mr Justice Murphy's case, such conduct was considered to be constituted only by a conviction for an infamous offence. Accepting, as I do, the correctness of the view that one does not have to go that far to prove non-judicial misbehaviour, it nevertheless has to be extremely serious conduct indeed. Honourable members, the short question you will have to ask yourselves is: has it been demonstrated that the conduct of this judge has been so morally wrong as demonstrates his unfitness for office as a judge? Each of you must answer this question according to your own individual conscience. Irrespective of your collective answer to the question, may I say: I know that I will go to my grave and to my God with a clear conscience knowing that I have done no such wrong.

Mr Speaker and honourable members, I thank you for your patience and for your attentiveness.

Mr SPEAKER: Thank you very much, Your Honour. You may now withdraw.

Mr AUSTIN: Mr Speaker, I suggest that the sitting be now suspended until 8 p.m.

Sitting suspended from 6.07 to 8 p.m.

**ADDRESS TO HIS EXCELLENCY THE GOVERNOR; REMOVAL OF MR
JUSTICE ANGELO VASTA FROM OFFICE**

Hon. M. J. AHERN (Landsborough—Premier and Treasurer and Minister for State Development and the Arts) (8 p.m.), by leave, without notice: I move—

“That an humble Address be presented to His Excellency the Governor praying that he will be pleased to remove His Honour Mr Justice Angelo Vasta from the office of Judge of the Supreme Court of Queensland, as follows:

‘Your Excellency,

We, the Members of the Legislature in Parliament assembled, humbly pray that Your Excellency will be pleased to remove from the office of Judge of the Supreme Court of Queensland the Honourable Mr Justice Angelo Vasta, whose behaviour in the opinion of a Parliamentary Judges Commission of Inquiry warrants his removal from that office for

- (a) Giving false evidence regarding the AAT incident at the defamation hearing;
- (b) Making and maintaining allegations that the then Chief Justice, the Attorney-General and Mr Fitzgerald QC had conspired to injure him;
- (c) Falsely stating to the accountant who was preparing the Income tax returns of Cosco that the cost of the company’s plant was \$14m and, knowing that the company had been deceiving the income tax authorities with regard to the cost of the plant, taking no steps to end the deception;
- (d) Arranging the following sham transactions to gain income tax advantages:
 - (i) the loan from Cosco to Salroand;
 - (ii) the consultancy fee;
 - (iii) the lease of the Gold Coast unit; and
 - (iv) the exchange of cheques relating to overseas travel expenses.
- (e) Making false claims for taxation deductions in respect of the lease of the library,

and with which opinion the Legislative Assembly concurs.’ ”

In addressing us, the judge has, as he is entitled to do, sought to cover again the facts that have been so carefully and exhaustively explored by the retired judges. In doing so, the judge has effectively told us that the retired judges were wrong, having had the advantage of hearing all the evidence, having seen all the witnesses and having watched those who gave evidence contrary to the judge be vigorously cross-examined, and that the Parliament—not trained or experienced as judges—should now reach an entirely different conclusion from that of the retired judges.

If an advocate were here to address us on the other side, he would refer in detail to all the evidence that runs counter to that to which the judge has today drawn our attention. Such an advocate would also tell us that appeal courts only very rarely interfere with the finding of fact made by a single judge who has first heard the case and listened to all the witnesses. Here that role has been performed by three of the most highly experienced judges in Australia, with a collective judicial experience well in excess of 50 years.

Mr SPEAKER: Order! There is far too much audible conversation in the Chamber.

Mr AHERN: This House should also appreciate that, in respect of the AAT incident, the judge does not say that it was not such as to constitute misbehaviour. He says simply, contrary to the most explicit findings of the retired judges, that it did not happen.

The declaration of Mr McCormack is at best for the judge equivocal. It goes to a peripheral matter only, and can be no substitute for the direct evidence of the journalists and others who gave evidence before the commission.

As to the claims of the judge that the commission has usurped the powers of the commissioner of income tax, I am bound to say that such a contention is utterly without foundation. It is wrong in both fact and law. The income tax commissioner may do exactly as he wishes in relation to the matter. Nothing that he does or chooses not to do will alter the facts found by the retired judges.

It often happens that courts and tribunals do sit in parallel and do decide facts that will fall to be considered by both of them. Of course, the reason why the commissioner of income tax may not have treated the relevant transactions as shams is that, as the retired judges demonstrate by their findings, the true facts were either concealed or obscured by Mr Justice Vasta and others.

That the judge should complain that he has been “found out” in his fiscal affairs and should resent that exposure itself raises a question as to his fitness, as do also his veiled references to the expenses of other judges when, as he well knows, such expenses of judges are carefully scrutinised by the Justice Department.

How can the public have confidence in a judge who has to decide whether people are telling the truth and being frank in their evidence, when he himself has told lies or much less than the truth in the highly important matter of his own income tax affairs and those of others in whom he has a financial interest? This is the discipline of any public office and is to be imposed on parliamentarians, Ministers, Premiers and judges.

The judge has spent some time in dealing with matters relating to his position as a potential witness before Mr Fitzgerald, QC. These are not matters with which he or we need to be concerned. We must, however, remember that it is not appropriate that this House be used as a vehicle for the criticism of Mr Fitzgerald, QC, and those who have assisted him in his and their very difficult task.

This House will, of course, appreciate that the commissioners gave the judge every opportunity to say whatever he relevantly could when he was before them. This he did. It is not to the point for him to state and restate here his evidence in relation to this matter. Neither the retired Chief Justice nor Mr Justice Kelly is here, of course, to tell his version of Judge Vasta’s conversations at the time that he ceased to carry out his role as a judge. But these matters are not, as I say, relevant to the duty that we are here to perform now.

Here today the judge has sought to rely on a proposition that I had believed him to have abandoned; that there was an arrangement, a common aim, of Sir Dormer Andrews, Mr Fitzgerald, QC, and the Attorney-General—in short, a conspiracy between them—to make him give corroborative evidence to obtain a conviction for perjury against Sir Terence Lewis. Even though when pressed the judge admitted that there was no such conspiracy, he claims that he was entitled at the time to believe that such a conspiracy existed. The absurdity of that as a proposition can be immediately demonstrated. No-one could possibly believe that it would or should be necessary to impose any pressure on a judge—a judge of the Supreme Court—to come along to give, if he was aware of it, evidence of the commission of a criminal offence by another. That is the moral duty of any citizen, I would hope, and any fit judge would know that he should bring to the attention of appropriate authorities any evidence that he had of criminal activity.

It is hollow and base for the judge to allege that Mr Fitzgerald, QC, has been a party to a cover-up. Let me simply pose this question to honourable members: do they think it right and proper that a judge should use this occasion as a forum for the criticism of others? I think not. It is his conduct and his standards that have to be

examined. That examination has been conducted and will, I make clear, be conducted without the slightest regard to the ethnic origins of the judge. He certainly receives and will receive neither fear nor favour on that account.

The question of Mr Justice Vasta's costs received only brief mention during His Honour's address to us. However, it was a matter that was given a great deal of careful attention by the Government. The considerations that moved the Government, and which must move any right-thinking House, are these—

- (1) The judge's conduct both invited and, indeed, provoked the inquiry.
- (2) The judge persisted in an allegation of conspiracy, for which there could be no foundation, long after the commissioners were appointed and the inquiry was established.
- (3) The evidence to be called against the judge was very fully and fairly opened by Mr Hanger, QC, at an early stage in the inquiry save, of course, for matters peculiarly within the knowledge of the judge.
- (4) Additional preparation was occasioned to those assisting the commission by reason of the very belated withdrawal of the conspiracy allegations.
- (5) Had the judge offered to resign at any stage up until shortly after the opening, that offer would probably have been accepted, with a consequential, considerable saving in money to the tax-payers.
- (6) The judge, throughout the inquiry, persisted in his attitude that he had done nothing so wrong as to warrant his removal from office, and either denied the allegations or pleaded ignorance or other excuse.
- (7) The cost to the Government has been very great and there have been no means at all by which the Government may recoup that cost.
- (8) It must be said that there is no reason at all why a judge who does not know how to behave properly, and who, in respect of other matters, understanding what correct behaviour is, wilfully behaved improperly, should have any of his costs reimbursed.
- (9) Harm, if not almost irreparable harm, has been inflicted upon the whole of the judicial system by the judge's conduct and the consequential necessity to hold an inquiry and remove him from office.
- (10) In ordinary, or orthodox, litigation costs normally follow the event. Although the matter is always within the discretion of the court, the unsuccessful party usually pays a substantial part of all costs of all parties.
- (11) The matters found by the commissioners to warrant the judge's removal are set out in the address and do have some, albeit very slight, connection with the office of Supreme Court judge.
- (12) A clear policy was adopted in relation to the inquiry conducted by Mr Fitzgerald, QC, that the costs of Cabinet Ministers, politicians, senior policemen and other Government officials and policemen would only be met whilst there were no serious, non-fanciful allegations made against them. Once allegations of substance were made, those persons had to provide their own representation. There would not be any discrimination in favour of the judge.
- (13) It may be thought that a judge should understand better than anyone else the need for careful conduct and should have an awareness of the impact of legal costs.
- (14) In relation to a number of matters, an aggressive, unrepentant attitude was adopted—for example, on the conduct of Mr Fitzgerald, QC, in relation to his inquiry generally, the baseless allegation in submissions that the Government was seeking a political advantage or trying to avoid a political disadvantage.

I have studied the findings of the commissioners. I have listened with great care and attention to everything that has been said by the judge. I am fully aware of the critical importance of the independence of the judiciary. I am conscious that in the

whole of the history of Queensland this Parliament has never found it necessary to seek finally of the Crown the removal of a judge for misbehaviour. But as I have said in this House on earlier occasions, the Government is irrevocably committed to the best possible standards of conduct in public life. Nothing could be more important than that the judiciary stand at the highest level of public esteem and confidence.

In their report the commissioners have reaffirmed with clarity and certainty that a judge in his life off the bench as well as on it must maintain the very highest standards of circumspection and probity.

It could give no mover of such a resolution any pleasure to do so. But the findings of the commissioners are explicit, unequivocal and ultimately inescapably damning. No more time, no more money and no more effort should be expended in discharging the duty that the judge's behaviour imposes on us.

I ask only one thing of honourable members: that they make this historic but regrettable occasion as brief and as mercifully painless as possible. To do otherwise will make more difficult the task of those judges who daily honestly and conscientiously discharge their duties on and off the bench.

Hon. P. J. CLAUSON (Redlands—Minister for Justice and Attorney-General and Minister for Corrective Services) (8.15 p.m.): In seconding the motion moved by the Premier, I wish briefly to inform honourable members that, when His Honour addressed the House, he was protected by the privileges of the Legislative Assembly. Under Article 9 of the Bill of Rights, 1689, proceedings in Parliament cannot be impeached or questioned in any court or place out of Parliament. According to learned authors who have written on this subject, both petitions and testimony given before Parliament may be regarded as proceedings in Parliament. Joseph Maingot, QC, Parliamentary Counsel for the Canadian House of Commons, in discussing Article 9, makes the following points in his authoritative work, *Parliamentary Privilege in Canada*—

“The article does not restrict immunity to members. Accordingly, witnesses who appear before Committees of the House and counsel who speak on behalf of petitioners in private legislation or on behalf of members are all accorded absolute privilege when taking part in a proceeding in Parliament.”

Similar conclusions are reached by Professor Enid Campbell in her treatise *Parliamentary Privilege in Australia*.

The Legislative Assembly, by inviting His Honour to address us, clothed his address in the protection of Parliament. His speech was a proceeding of Parliament both because it was activated by a motion of this House and was an address to it, and also because it is inextricably intertwined with the unique and critical constitutional debate which is now taking place.

Along with all other honourable members, I listened carefully and considered at some length what was said by His Honour. Regrettably, I have to inform the House that I was not moved, by anything that was said, to fail to act upon the clear advices tendered by the Parliamentary Judges Commission of Inquiry in its first report. Any person who has read that report would be in no doubt that this House has the unhappy but necessary duty of supporting this motion and ensuring that Mr Justice Vasta is removed as a judge of the Supreme Court.

Having read the report of the commission, I was left in no doubt whatsoever that His Honour has engaged in conduct of a type that is totally unbecoming of a judge. In order that the public retains its respect for the judiciary and for the system of justice, it is incumbent on us to support this motion. In saying this, I am cognisant of the unique and unhappy precedent that this sets. I urge all honourable members who follow me in this historic debate to limit their comments and conduct themselves in such a way as to ensure that this House will not later be criticised and that justice is not only done but is seen by the people of Queensland to be done.

Proceedings of this House must be conducted with solemnity, impartiality and respect for constitutional rights which always ought to attend the exercise of such an

important constitutional function by a legislative body. There is another reason why honourable members should be circumspect in what they say. Irrespective of the outcome of today's proceedings, there is a possibility that further action may flow from the events exposed by the commission. I do not think it is either necessary or wise to outline at any length what these actions may be, but I do point out to the House that, from the evidence adduced, certain options are available to both the State and the Commonwealth Governments to consider. I am not in a position at this stage to give any indication what action the State may take, and I certainly say nothing about what action the Commonwealth Government may take except to point out that each member of this House has a very heavy burden placed upon him not to make frivolous, inaccurate or sensational comments which may prejudice His Honour at a later time.

I now turn to the specific findings of the commission. I do not intend to waste the time of the House in raking over those matters that the commission found did not warrant the judge's removal from office but will limit my comments to the specific findings of the commission which, in its view, warrant the judge's removal from office. As the House would appreciate, we are considering a report that has been tendered by three of the most experienced and respected retired judges in Australia who between them have a wealth of knowledge of criminal law and whose opinions and recommendations should be treated with utmost respect.

The commission was established by an Act of this Parliament and has been carrying out its responsibilities professionally and competently for a considerable time. It heard lengthy evidence from many persons, including His Honour personally. Through his legal representatives, His Honour had the opportunity of hearing and cross-examining witnesses and also of putting forward his side of the story. When we are debating this motion, there is a very heavy onus placed on each member of Parliament in highlighting why the recommendations of this commission should not be accepted in their totality. I, for one, have the utmost confidence in the members of the commission and have no hesitation whatsoever in supporting their findings.

The first matter that the commission found warranted His Honour's removal was the giving of false evidence regarding the AAT incident. In summary, the facts surrounding the incident are as follows. In the September 1985 issue of the satirical magazine *Matilda*, an article was published claiming that the judge was involved in an incident whereby he was criticising the Commonwealth Government for establishing new courts and tribunals. In response the person referred to the AAT and the judge is reported as having said, "I thought TAA sold that." In short, the magazine claimed that His Honour confused the acronym AAT with the passenger coach business Australian Accommodation and Tours rather than the Administrative Appeals Tribunal.

His Honour commenced defamation proceedings against those responsible for the magazine and gave evidence before Master Lee, QC, at the Supreme Court on 10 September 1986 on the assessment of damages. During those proceedings, His Honour claimed under oath that such an incident never took place; that he had never mentioned anything of that nature to anyone; and that it was a fabrication. However, the commission heard the evidence of two journalists who swore that such an incident occurred. The question before members of the tribunal was whether they believed the evidence given by His Honour and his wife, or that given by the two journalists. The commission found that the two journalists had not concocted the story and given false evidence, and had not been mistaken as to the identity of the judge. It was satisfied that the AAT incident in fact took place and that the denial of its occurrence by His Honour in the defamation proceedings was false. The commission said—

"There being no room for mistake, it means that that denial is false, and deliberately so.

...

The Commission does not accept as true the evidence given by Mr Justice Vasta to this Inquiry in relation to the AAT matter. However the matter under inquiry by the Commission was the evidence given by Mr Justice Vasta in the

defamation proceedings. That evidence was not correct and this must have been known to the Judge when he gave it.”

In fairness, it is necessary also to quote the following qualifying statement of the commission—

“However that situation must be considered in the light of (a) his propensity to give impulsive answers which upon further exploration turn out to be quite wrong, (b) the lack of preparation for the hearing of the defamation proceedings and the haste with which they were conducted and (c) the opportunity to give vent to his feelings of offence and injury caused to him by the ‘Matilda’ article. The evidence given by Mr Justice Vasta in the defamation proceedings in relation to the AAT matters calls for consideration along with other matters when considering an assessment of his behaviour for the purpose of s.4 of the Act.”

The second matter which the commission found warranted the judge’s removal was the making and maintaining of allegations that the then Chief Justice, myself as Attorney-General and Mr Fitzgerald, QC, had conspired to injure him. As honourable members would be aware, between 27 October 1988 and 14 February 1989 His Honour made and maintained allegations that there was a conspiracy by the above-named persons to injure him by the taking of steps to bring about his standing-down as a judge on 24 October 1988 and by attempting to force him to give evidence at the Fitzgerald inquiry. Honourable members would also be aware that those allegations were categorically abandoned by His Honour on 14 February 1989. The commission made the following comments—

“The Commission condemns the publication of the allegations as behaviour of a judge that was wrong, misguided, lacking in judgment and without foundation.”

The commission made a number of comments pointing out the background to the making of the statements and to the emotional pressure that His Honour was under at the time. Nevertheless, the commission did not approve, condone or give its sanction to the allegations of a conspiracy. The commission pointed out that such statements were wrong and should never have been made, and it further condemned the judge’s behaviour as being totally inappropriate to the position of a judge. As one of the persons named in this so-called conspiracy, I can assure honourable members that no such conspiracy existed and that His Honour had absolutely no basis in fact for making these outrageous statements.

The next ground that the commission found warranting the judge’s removal was his falsely stating to the accountant who was preparing the income tax returns of Cosco Holdings Pty Ltd that the cost of the company’s plant was \$14m and, knowing that the company had been deceiving the income tax authorities with regard to the cost of the plant, took no steps to end the deception. The commission outlined a series of complicated events regarding the formation of Cosco Holdings Pty Ltd, and it would not be appropriate to take up the time of the House in attempting to explain them at any length.

The essence of the matter is that the commission found that by 22 October 1985 the company’s plant had been shown in its tax returns as having an original cost of \$14m, whereas in fact the cost did not exceed \$3.4m, and that His Honour took no action whatsoever to stop this deception or bring these matters to the attention of the income tax authorities. Further, the commission found that on 22 October 1985 His Honour informed a Mr Maloney, an accountant charged with the duty of preparing income tax returns for the company, that the original cost of the plant was \$14m, not believing that statement to be true. I wish to say no more about this matter because it would not be helpful for the reasons I have previously outlined.

The fourth ground the commission found warranting the judge’s removal was the arranging of certain sham transactions to gain income tax advantages. Once again, I say nothing further on these points and suggest that honourable members be careful in what they say regarding these matters.

The final basis the commission found warranting the judge’s removal was the making of false claims for taxation deductions in respect of the lease of the library. I draw the

attention of honourable members to pages 128 to 130 of the report for the relevant facts surrounding this ground, and in particular to paragraphs 8.2.6, 8.2.11 and 8.2.12 for the commission's specific comments.

I turn now to the comments made today by His Honour. With regard to the AAT matter, it has been submitted by His Honour that the alleged incident in the taxi cab did not take place. In support of this assertion he has asked this House to consider why he would proceed with defamation proceedings in which it was possible that proof of the incident could readily be led by the publication in its defence of the suit. Further, he has brought to our attention the evidence of all of the witnesses in respect of this incident. Honourable members would be well aware that each of the matters raised by His Honour had either been raised before and considered by the commission, or could have been. There is no new evidence on the subject at all which would cast doubt on evidence given before the commission.

Let us look at the circumstances of the case for a few moments. The defamation proceedings were considered in detail by the commission. The comments made in *Matilda* were published in September 1985, November 1985 and finally in March 1986. Proceedings were instituted on 17 March 1986, a short time after the publication in March of the third offending issue. It is not without significance that these proceedings were instituted some six months after the alleged conversation took place. His Honour and his wife gave evidence before the commission that this event did not take place, but the following series of coincidences occurred in 1985 in Melbourne: in August of that year, His Honour and his wife were staying in Melbourne, having attended a legal convention; Mr Campbell and Mr Goff, two journalists, were also in Melbourne attending the same conference; Mr Justice Vasta and his wife left the Southern Cross Hotel to attend a dinner at South Yarra; Mr Campbell and Mr Goff also left the Southern Cross Hotel to attend a dinner at South Yarra, but at a different venue; His Honour and Mrs Vasta departed by taxi; Mr Campbell and Mr Goff departed by taxi; according to the reporters and Mrs Vasta, it was raining on that night; and all agreed that there was a queue for taxis. So far the accounts hang together. However, it is at this point that they begin to differ. The reporters gave evidence on oath that the four parties shared a taxi to reduce delays. His Honour and Mrs Vasta deny that this took place.

What motive would the reporters have to lie, to give fabricated evidence? But, more importantly, what motive did His Honour have to lie? The question was specifically addressed by the commission at paragraphs 3.4.22 to 3.4.24. I quote—

“The Commission has carefully considered these arguments but accepts the evidence of Mr Goff and Mr Campbell and concludes that they are not mistaken.

The Commission has dealt with this matter at length for obvious reasons. If the Commission is satisfied that the incident took place, then the denial of its occurrence by Mr Justice Vasta must be rejected. There being no room for mistake, it means that that denial is false, and deliberately so.

There is of course, a motive, perhaps it could be said a strong motive, to explain why Mr Justice Vasta should give a false account to this Commission. He had committed himself to an absolute position on this matter back in the defamation proceedings in September 1986. The answers to the questions put to him there could have evoked an impulse response that, if circumstances had been different, might have been able to be qualified. He qualified, in this Commission, the answers that he had there given about the two other topics, the acquaintance with Sir Terence Lewis and Sir Edward Lyons, and answers regarding the evidence of similar facts in the Carroll matter. In giving evidence to this Commission on other occasions absolute answers given by Mr Justice Vasta to questions put to him had later to be qualified, or were attempted to be qualified, when they were shown to be plainly wrong. There was no way to qualify the absolute answer given about the conversation in the defamation proceedings. He had a very strong reason to adhere to it.”

His Honour referred to the danger of relying on identification evidence, and claimed that the journalists were incorrect in suggesting that he and his wife shared a taxi with

them. The use of identification evidence is of long standing and is relied upon constantly by the courts. His Honour would know full well the worth and the validity of identification evidence because, as a Crown prosecutor, he no doubt relied upon it to seek the conviction of many accused persons.

It is true that the courts have expressed grave doubts about the utility of relying too heavily on identification evidence. Reference can be made to the notorious Becks case, which led to the establishment of the English Court of Criminal Appeal in 1907, as but one example of this. But, on the evidence adduced, not one, but two persons identified His Honour and their evidence was accepted by the commission. The question of misidentification was dealt with at length by the commission. In fact, it was the commission, and this must be emphasised, which indicated to His Honour's counsel, Mr Shand, QC, that he had not directed questions to one of the journalists, Mr Goff, that Mr Goff may have been mistaken as to the occupants of the taxi.

I reiterate that the question of misidentification was raised by the commission itself and, as a result of the commission's actions, Mr Goff was recalled and cross-examined on this very point. After hearing the evidence given during the cross-examination, the commission accepted the evidence given by the journalists, and nothing suggested by His Honour today derogates from the commission's findings on this point.

In fact, I was disappointed that His Honour chose to use much of his time in addressing the House in veiled and direct attacks on the integrity of Mr Fitzgerald and his staff. Nothing His Honour said detracts from the findings of the judges commission but does illustrate the fact that Mr Justice Vasta had no sound grounds for his claim that a conspiracy existed. Indeed, His Honour misused his time to engage in a vendetta against the commission, which is carrying out a most difficult task, a task which has not been assisted by His Honour either today or in the past.

As the Premier pointed out, our duty is to judge His Honour's conduct and standards, not those of others. The other points raised by Mr Justice Vasta have been dealt with by the Premier and I do not wish to take the time of the House in going over them. However, I can say that His Honour has always been dealt with on the basis of his actions, not his racial origin or irrelevant matters of this type. Claims that he has been disadvantaged by the fact that he is of Italian descent or of humble origins are nonsense. Many members of this House have come from humble origins and, likewise, more than a few members have other than Anglo-Celtic backgrounds. Those members, like citizens who share their background or ethnic origin, do not use that fact as an excuse for justifying totally indefensible conduct.

But let me turn once again, and let me emphasise it once again, to the Parliamentary Judges Commission of Inquiry, which heard almost 45 days of evidence regarding this matter. It had the benefit of seeing the judge and other witnesses give their evidence and be cross-examined at length. It was able to form opinions as to the credit of witnesses and consider the evidence for a considerable period of time and made its findings as a result. We, on the other hand, have heard an address of the judge of some two and a-half hours that raised nothing new that would affect the findings of the commission. The judge has been given his opportunity to address us and he has done so, but he has not produced anything of substance that detracts from the clear and compelling findings of the commission.

There has been a considerable amount of comment lately about the Government's decision to appoint Mr Justice Vasta as a judge of the Supreme Court in the first place. It is necessary to put on public record the specific finding of the commission with respect to Mr Justice Vasta's behaviour as a judge, as distinct from his activities as a citizen. The commission found as follows—

“In the judge's favour, there is not the slightest reason to believe that he has been guilty of misconduct in carrying out, or in connection with, the duties of his office as a judge.”

The findings of the commission which I have outlined relate solely to His Honour's extra-judicial activities. No-one has suggested, and no evidence has been produced, to show that His Honour, in exercising his judicial duties, did not act otherwise than in an appropriate manner. It is His Honour's extra-judicial activities that have caused this unhappy situation to arise and it is absolutely critical and important, both for the reputation of His Honour and the Supreme Court, that it be placed on public record that no responsible person has claimed that, in carrying out his duties as a judge, he acted improperly.

Whilst I am both disappointed and disturbed by the extra-judicial activities of Mr Justice Vasta, I am satisfied that as a judge he fulfilled in a competent and professional way the duties that his office demanded of him. It has long been accepted that a judge's extra-judicial activities are of relevance in determining his fitness to remain on the bench. In a 1986 address, Mr Justice Demack, a judge of the Supreme Court, said—

“A judge's private life should be as impeccable as his public life. The reason for this lies in the very broad range of human experience and conduct with which he has to deal and upon which he has to pronounce judgment. If he is required publicly to condemn what he privately practises, it is inevitable that in a short time his bias will come through.”

I endorse these comments, which need to be carefully considered by honourable members when assessing whether His Honour's extra-judicial activities as found by the commission were appropriate for a judge of the Supreme Court. Judges hold an important and privileged position in our society. Much power and authority is vested in them and much trust is reposed in their office. I need only quote the following comments of His Honour Mr Justice Thomas in his book *Judicial Ethics in Australia* to highlight what we all understand—

“We do form a particular group in the community. We comprise a select part of an honourable profession. We are entrusted, day after day, with the exercise of considerable power. Its exercise has dramatic effects upon the lives and fortunes of those who come before us. Citizens cannot be sure that they or their fortunes will not some day depend upon our judgment. They will not wish such power to be reposed in anyone whose honesty, ability or personal standards are questionable. It is thus necessary for the continuity of the system of law as we know it, that there be standards of conduct, both in and out of court, which are designed to maintain confidence in those expectations.”

There is no more important institution in our society than the courts of the land. People must have faith in the judiciary if they are to have faith in the rule of law. They must have faith in the honesty and integrity of the judges, because in those gentlemen, as was pointed out, they repose their faith and confidence. If that faith and confidence is in any way shaken or shattered, there are dire consequences for the maintenance of respect for the law, and the legitimacy of the very system of Government is tainted.

We have a solemn and regrettable duty to perform today, but it is a duty we must not shirk from and it is a duty which the people of Queensland demand of us. Accordingly, I place on record my support for this resolution and my hope that, however painful it is, by supporting this resolution this House will restore the respect of the public for the system of justice in this State and for the many judges who have given so much of their time and professional life in serving the Crown and the people.

Mr GOSS (Logan—Leader of the Opposition) (8.40 p.m.): Today, we are witnessing a tragedy both in personal terms and for the institution of the Supreme Court and the judiciary in general. Given the nature of this occasion, both the historic and the momentous nature of what we do, it is most important that we not rush this debate and the decision.

When I was first admitted as a solicitor in 1973, I came to the profession with some cynicism but, nevertheless, with some fairly idealistic views in relation to the practice of the profession and, in particular, the leaders of the profession who are

characterised by our Supreme Court judges. We should remember that for everybody in this community, even for the average member of the community, there is—or there has been, until recent years—a very high regard for the institution of the Supreme Court and for our judges. However, it is clear that that has been shaken and diminished in recent years by the sort of proceedings that we have seen before inquiries over the last year or two, but also by the way in which the institution of the judiciary has been tarnished, tainted and corrupted by the Government of the day in this State, particularly in relation to the politicisation of appointments to the bench. The most dramatic and best-remembered starting point in that regard was the political assassination of Mr Justice Douglas by the Cabinet of the day, a decision which was joined in by the current Premier.

It is important to remember this process that has occurred in relation to the judiciary, because tonight is another milestone. This debate is another milestone, like the Douglas decision, where his career as Chief Justice was blocked and denied for cheap and cynical political reasons. The current administration may want to say that that is a past Government, but we know that the Premier joined in that knifing of Mr Justice Douglas. Just as that was a serious and significant milestone in undermining and corrupting the image of our judiciary in the minds of the people, so tonight is a momentous and historic occasion when it comes to the judiciary and Justice Vasta personally, and the respect that we would hope one day to restore in the public perception when it comes to our Supreme Court.

As I said previously, it is important that we not rush, limit, taint or in any way diminish these proceedings. As the Premier and the Attorney-General have said, we seek, and we are entitled to seek, the highest of standards from our judges, in particular our Supreme Court judges. It is true and fair to say that different standards apply to people who seek and who are appointed to that high office. We must remember that. However, in the same way that we demand high standards and different standards of judges, so should we apply high standards in the course of this debate and in this institution when we come to judge them and to make a decision in relation to an issue such as this.

At various stages I have been very critical of the Government's handling of this particular judge and this particular issue. I wish to quote comments made by the Premier in October last year when this was a matter of great public controversy. On a number of media outlets, the Premier made comments that were quite improper, quite demeaning of the institution and which exposed the cynical political motives of the Premier in the way in which this debate and this issue have been handled. I quote from Channel 7 news of 26 October 1986. The Premier is reported as saying—

“We make no apology for this process. It's hurting people—and lots of people have been named.”

The commentator went on to say that the Opposition Leader claimed the Premier had bungled the whole affair. I am quoted as saying—

“Mr Ahern and Mr Clauson have handled this in a most improper as well as an incompetent manner.”

The commentator went on to say—

“Judge Vasta's 5 p.m. deadline has not been met, and it's understood there is intense annoyance in the Government at the public campaign being waged by the judge, and the Premier is determined that he won't get special treatment.”

Finally, in the news item, the Premier is quoted as saying—

“Some people are going to get hurt in the process. So what? It's worth it.”

These are the words of a Premier who talks about new standards, about high standards. What does he say about a Supreme Court judge? Irrespective of what view one takes of Mr Justice Vasta personally, irrespective of what view one takes of the findings against

him, he is a Supreme Court judge, he was then a Supreme Court judge, and today we judge him as such. This Premier said—

“Some people are going to get hurt in the process. So what? It’s worth it.”

That is a very unworthy statement on the part of the Premier but, as I have already said, it exposes the real agenda of a Premier with serious political problems. I can understand that the Premier was embarrassed and annoyed by the campaign that the judge waged, particularly in relation to the allegation of a conspiracy. However, the response was unworthy and improper. As far as the Opposition is concerned, those political motives have continued throughout the handling of this issue.

Honourable members will recall that at the very beginning the Opposition called for and supported the move for an independent commission of inquiry, a parliamentary commission of inquiry, consisting of three judges, to inquire into the matter, which is the proper procedure according to most commentators in the legal profession, yet this Government refused that. Honourable members will also recall the bravado from the Premier who said, “We are not going to be dictated to by a bunch of cowboy Labor lawyers.” Of course, as honourable members subsequently saw, the cowboy Labor lawyers prevailed and, as usual, the Indians on the Government side lost when it came to a reconsideration of what was the proper way in which to go.

The next stage, of course, was the rough treatment of the judge and the institution to which I have referred. The next stage of the improper approach honourable members saw just last week when they saw the unreasonable and arbitrary limitations imposed by this Government on the judge’s appearance in this Chamber, both in relation to time and in relation to subject-matter. The Opposition argued—and was supported by the Liberal Party—that there should be no time-limit. Of course, in the face of embarrassment, in the face of criticism, the Opposition subsequently witnessed the back-down in which the Government said, “Of course, Parliament could extend it.” Of course, Parliament should not have imposed that limitation in the first place. Why? Because this is an important occasion.

All honourable members say that they believe in the principle that this man—indeed, anybody in this situation—should be given a fair hearing. As was said at the time, it would not matter whether one was charged with murder or shop-lifting; one would not be limited in any court in Queensland or the land, for that matter, when it comes to time or the subject-matter that one could put forward in relation to one’s culpability or the penalty. Yet this Government sought to do that, not because of the proper considerations relating to the institution but because of political considerations. Once again that is in evidence tonight with the rush to determine this particular issue.

I would say that the Opposition came to this Parliament today with the overwhelming view that the recommendation for the removal of the judge should be supported but, frankly, I should tell the House that after hearing the judge there is an increased number of members of the Labor Party who have misgivings, who have doubts, who have either changed their minds or who want more time to consider the matter. They want an opportunity to read some of the transcript. They want an opportunity to read the judge’s speech. People took some rough notes. Nobody that I know of has got a copy——

Mr Innes: That is a reasonable view.

Mr GOSS: That is a reasonable view.

Nobody that I know of, apart from representatives of the media, has got a copy of the judge’s speech. Frankly, I would like to read it. I should say, in all honesty, that I do not think that after some reflection I will change my mind. However, to be comfortable with the situation and to give the man the reality of a fair hearing as opposed to simply the appearance of a fair hearing, I should check some of the points that he has raised. I should read some of the transcript because, like most honourable members, I have not read the transcript. I have read the report, but the judge has quoted from apparently significant sections of the transcript, and I think it warrants being checked. I know that,

on the Opposition side, the member for Rockhampton has taken the opportunity to check certain aspects of the transcript. However, I am not aware of any other member who has read the transcript, or certainly those passages surrounding the pages that were referred to by the judge.

As all honourable members are aware, there are five main grounds or five main findings in the report that has been presented to the Parliament and on which the recommendation is based. I want to make some brief reference to those because they have been referred to by the mover and seconder of the motion. Firstly, in relation to the allegation of a conspiracy, let me say that I join with the Premier and the Attorney-General in their complaint about that. I think—and I thought at the time—that the allegation was unacceptable and outrageous, and I think it is quite unusual and unacceptable for the judge to withdraw it before the commission of inquiry yet resurrect it and maintain it in this Chamber today.

I want to place on record generally my full confidence in Mr Fitzgerald, the commissioner. I want to place on record in particular my confidence in Mr Fitzgerald in relation to this particular allegation. I have no doubts, no reservations, in relation to Mr Fitzgerald whatsoever, and I do not accept the allegations that have been made by Mr Justice Vasta in that regard, particularly as they relate to Mr Fitzgerald.

I think it is most important that this House upholds confidence in Mr Fitzgerald. By doing so, this Parliament upholds public confidence in Mr Fitzgerald and the job that he is doing. That is going to be very important to the future of this State. It is going to be absolutely vital if we are to pull this State out of the mire of corruption and cronyism and decadence into which it has descended. During the debate on that report, honourable members can perhaps debate who is responsible. Members of the Opposition do not have any doubt and I do not think the public of this State has any doubt, but perhaps that is for another day.

In relation to the taxation matters, the findings of false claims, the findings of sham transactions—there is a strong view amongst members of the Opposition that they would like to check those sections of the transcript, that they would like to consider in more detail and seek some advice in relation to the proposition advanced by the judge that a sham is not a sham until it is so found by the Deputy Commissioner of Taxation. There is a strong view—and it is one that I can understand, although I do not share it—which warrants further consideration, that is, if it is a taxation matter, if it is a false claim, if it is a sham transaction, then it is not one for the commission; it is one that should be left to the Deputy Commissioner of Taxation for an assessment and a prosecution, if that is appropriate.

I want to refer briefly to a couple of sections of the report. Firstly, I refer to the last two paragraphs on page 161. For me, these are persuasive and damning in respect of the judge. The conclusion on the evidence about the unit states—

“The Commission is satisfied that there was no genuine lease of Mr Justice Vasta’s premises at Surfers Paradise, and that a claim that Cosco rented the same was brought into being by the Judge with the assistance of Mr Coco for the purpose of enabling the Judge to finance the purchase of the unit.

To undertake this exercise is not behaviour such as this society would regard as consistent with the holding of a judicial office. Accordingly it falls to be considered along with other matters in the assessment of the behaviour of Mr Justice Vasta for the purposes of s.4 of the Act.”

That, for me, is enough on that particular matter. But there is a feeling, and I put that forward for the consideration of the House in relation to what I will be arguing further on, that that warrants further consideration. It requires some consideration of the legal position and some further consideration of the transcript. When I say “the transcript”, I do not mean just those sections which the judge quoted and which obviously he would quote for the purpose of serving his own case, but those passages of the transcript around it from other witnesses who deal with the same points so that we can make a comparison and a judgment.

As I said at the outset, this is an important debate because we are dealing not only with Judge Vasta but also with the judiciary and the Supreme Court as an institution. Members of the Opposition condemn absolutely this Government, particularly this National Party. There is no distinction for the public and no distinction for us in terms of this present Government and the past Government. That is a false distinction; it is a coward's distinction. I do not believe that the public accept it any more than members of the Opposition do. What we are facing here is an appointment that has come about for wrong reasons, for improper reasons, out of a motive to demonstrate to the legal profession, to the public and, I think, to the Liberal Party, that it was the National Party that controlled appointments to the bench from that date on, when it first embarked on this particular procedure.

At the time, much of the criticism of the appointment of Mr Justice Vasta was, in my view, justified. I do not resile from that one bit. I think it is relevant to this debate because we have to look at the whole way in which our judiciary has been tainted and corrupted by this Government.

In relation to that system, I have referred already to the way in which this Premier joined with his predecessor, who he seeks to defame and demean throughout the State, in that very political decision in respect of Mr Justice Douglas. I believe that he will and should stand condemned for ever in this State for joining in what was done to the judiciary in this State. On that appointment I accept and join with the criticisms that were made at the time by the Bar Association. I do not accept that this vendetta or the criticism at the time are based on considerations of race or the judge's ethnic background; I think they were based on real considerations. I stress that I do not accept the judge's argument in relation to that ethnic consideration.

In conclusion, I point out that the Opposition has a grave concern. A number of members were given cause to doubt some of the findings and the appropriateness of making a decision tonight before they had a chance, with the opportunity of calm reflection, to read the judge's comments and to read sections of the transcript. They would seek that opportunity. The Opposition would argue that a further opportunity should be given to do that. Legal points have been raised. Questions of fact have to be considered. We have to remember that even if four out of the five adverse findings made by the commissioners are accepted, they said that the five go together. We must remember that repeatedly in their report, having made an adverse finding against the judge, the judges say, "This is not of itself sufficient to warrant his removal." We must bear that in mind when we look at the five together. I do not believe that members can simply on a rush basis condemn him on two, three or four of the findings; it seems that we have to be satisfied in relation to the five—the totality. In that regard the report is quite unsatisfactory in a number of respects.

Let me quote one typical passage that I think reflects the way in which the report is unsatisfactory. On page 87 the commission of inquiry, at 4.6.11, outlined the argument—

"And so the sorry story has to be assessed in the light of what the Commission believes are all the relevant surrounding circumstances."

The commissioners were referring to the conspiracy allegation. They continued—

"The Commission condemns the behaviour of Mr Justice Vasta as being totally inappropriate to the position of a judge."

I emphasise that statement. One would think that that is black and white and that it is a straight-out condemnation. What do the commissioners say further on in the same paragraph? They say—

"... the Commission has reached the conclusion that Mr Justice Vasta's behaviour in making the conspiracy allegations was not of itself behaviour that warranted his removal as a Judge of the Supreme Court."

In the same paragraph the commissioners condemn the judge in black and white terms, yet they say that it is not enough by itself to remove him. The report is unsatisfactory because of the way in which that is repeated on a number of occasions.

The move that I have foreshadowed is not one that defeats the motion, it is not one that defeats the Government; it is simply a positive step. It is not a rejection of the Government's recommendation for which I have considerable sympathy, but it is a positive affirmation of a principle that one gives somebody a fair hearing. A person is not given a fair hearing by having him march in here for a couple of hours to rattle off his defence and then hanging him; he is given the reality of a fair hearing and that principle of a fair hearing is affirmed whether he is a shop-lifter, a murderer or a Supreme Court judge. It is affirmed by listening to him present his defence, a speech or a statement, as was given by the judge, and by giving it adequate consideration and allowing adequate time for reflection.

The very strong view that I believe members of the Opposition share with members of the Liberal Party—although they will speak for themselves—and, I understand, many members of the National Party, is that there should be more time for reflection. I say to those people: in all conscience this move is not a rejection of the Government's motion, nor is it a defeat of the Government. It is an affirmation of the principle that all honourable members claim to stand for—the principle that was embodied in the decision that they took to receive the report and, last week, to adjourn for a debate so that the judge could address this Parliament. How can any member in conscience abide by last week's decision to receive the report and give the judge a hearing and then make a decision tonight without an adequate opportunity to consider what the judge said and to go away and research those issues—whether they be the legal points or the transcript—or simply to sit back and take a day or two to read the judge's speech calmly and carefully and compare it with that very voluminous report?

The inquiry lasted 43 days and the recommendations comprise a couple of hundred pages, but nobody has read the 2 000 pages of transcript that are down in the basement. Tonight the judge gave a lengthy speech which I believe warrants favourable and further consideration. I do not think that it will budge me, but to be comfortable I want to look at it further.

Accordingly I move—

“That the debate be now adjourned for seven days.”

Mr McELLIGOTT (Thuringowa) (9.02 p.m.): I second the motion moved by Mr Goss. I concur entirely with his comments. I do not believe that there would be any honourable member in this Parliament who was not impressed by the importance of this occasion.

Having heard Mr Justice Vasta make his submission to this House, honourable members would be unfair to the judge and to the system under which the judiciary operates in this State if they were not prepared to undertake the process of clearly understanding the issues that have been highlighted in the report and in the presentation made by Mr Justice Vasta to this House.

I am sure that I speak for all honourable members when I say that the issues that have been raised are complicated. After a hearing lasting 43 days, three learned gentlemen have submitted findings to the Parliament. In his turn today, Mr Justice Vasta has made submissions to the House that, in many cases, have raised doubts in the minds of honourable members, certainly contradicted some of the findings of the inquiry and caused honourable members to consider just where this Parliament should go in regard to this important matter.

Looking very briefly at the five points that have been raised by the inquiry—in regard to the false evidence regarding the AAT incident, there is a complete contradiction between the findings of the inquiry and the submissions today from Mr Justice Vasta. The Leader of the Opposition has already made the point that the only way in which we as responsible members of Parliament can resolve the doubts that must exist in our minds is to consider the transcript of the evidence before the inquiry and decide for ourselves rather than be guided by others as to the facts of the matter.

The second point concerning the conspiracy, which has been raised, rejected and raised yet again today, is a very, very complex issue which we as responsible members of this House must consider in depth before we are prepared to consider it as a justification for dismissing Mr Justice Vasta from his important office.

This afternoon Mr Justice Vasta made the point in regard to the valuation of the company's plant of some \$14m and his lack of knowledge of income tax legislation in that regard. I would have to say that clearly most honourable members would not know the true position in regard to that matter. They need more information and need to talk to people who can advise them about those things.

Probably the most important of the five points that have been raised—and certainly the one that causes me most concern—is the allegation of sham transactions. I thought that Mr Justice Vasta raised serious doubts—at least in my mind—when he suggested that it was not within the competence of the inquiry to determine whether those transactions were, in fact, sham transactions to gain income tax advantages. I certainly have some agreement with that point of view. It is important that honourable members seek some sort of expert guidance in regard to that matter. If those allegations are proven, Mr Justice Vasta has a case to answer, but honourable members need more information and should consult with people who can talk about those things.

During the judge's presentation it was noticeable that he only glossed over the four items that were mentioned in the report, namely, the loan from Cosco to Salroand, the consultancy fee, the lease of the Gold Coast unit and the exchange of cheques relating to overseas travel expenses. Those matters have hardly been touched upon. Clearly they are outlined in more detail in the report, which I presume many honourable members have not read from cover to cover. Honourable members must go beyond that. They must look at the actual transcript of the evidence to ascertain what the other witnesses had to say about those items. As well, they must consult expert advice.

In regard to the alleged false claims of taxation deductions in respect of the lease of the library—conflicting evidence exists between three learned gentlemen sitting in an inquiry and a Supreme Court judge appearing at the bar of the House. As members of this House we must ensure that we understand all of the issues involved. We must understand and decide for ourselves the points of conflict that must arise in the evidence that has been presented.

I support strongly the motion of the Leader of the Opposition that the debate be now adjourned for a period of seven days. It is a matter of such importance that I do not believe that any member of this House would believe that it needs to be rushed. It must be acknowledged that the Opposition made the point very clearly that it is our responsibility as a democratically elected House of Representatives of the people to ensure that, in this important issue, the judge have every opportunity to present his case. The Opposition moved against the limitation on the period allocated to the judge to present his submission to the House. The Opposition was proved correct in that, by the expiration of the 75 minutes allocated in the motion, clearly the judge only had touched upon the very important issues on which he wanted to address the House. Fortunately, common sense prevailed and an extension of time was granted so that he was afforded that opportunity.

We in the Opposition appeal for a similar display of common sense and understanding to be given to the judge on this occasion. We should have the opportunity to seek that additional advice; we should have the opportunity to examine the transcripts, particularly in relation to those matters where the evidence differs, or appears to differ, in very important aspects from the report of the inquiry and the comments that have been made to the House today by the judge. We need that information before we make what for all of us, I think, will probably be the most important decision that we make in our lives.

Mr INNES (Sherwood—Leader of the Liberal Party) (9.09 p.m.): Mr Deputy Speaker——

Mr DEPUTY SPEAKER (Mr Row): Order! Is the honourable member for Sherwood speaking in support of the motion?

Mr INNES: At this stage, I am speaking on the issue of adjournment only.

Mr Braddy: "Amendment", you mean.

Mr INNES: I am speaking only on the motion for the adjournment of the debate.

After discussions during the dinner recess, the Liberal Party had formed precisely the same view as that indicated by the Leader of the Opposition. I think it is true to say that everybody would have listened intently to what His Honour said this afternoon. One might say that one was moved—although, in my case, in common with the Leader of the Opposition and others, not persuaded. Nevertheless, as one might have expected from somebody so experienced in making submissions, we heard a carefully crafted and detailed submission that raised a number of points.

His Honour himself said that it was similar to a posse. I do not believe that the commissioners—the three retired judges—could in any way be compared to a posse. Nevertheless, in view of those sorts of allegations, we must be very careful to do nothing to indicate that we are engaged in any kangaroo court ourselves.

Members of my party have taken the decision that this matter should be subject to a conscience vote; it is up to each of them individually to arrive at his own conclusion on the merits of the address. I would think it is true to say that the majority of members of this House have not read the commission's report. I have no doubt that most members have read the recommendations, but, frankly, most will not have read the full report, and I think that nobody at all in this House has read the transcript. Members did not have the time to spend 43 days at the hearing or to read 43 days of transcript. There is another problem for many people who are not versed in legal-type language, legal-type exercises of proof and the concepts of standards of behaviour and standards of proof in coming to grips with findings and in putting findings into context with total hearings.

Many people who listened to the judge's submission this afternoon, in a sense, experienced the urgency of an impassioned plea on behalf of a person who faces the music, which put new thrust and new impact into the whole of the evidence and the findings in the report with which they have been furnished. Members of my party wanted the questions that were raised by His Honour addressed. They wanted to satisfy themselves that other parts of the evidence that he did not highlight are understood.

His Honour raised an issue of new evidence. Some members of this House will not have seen the statement which was tabled by the judge and which he alleged contained new evidence. That is very important in relation to the matter of the AAT allegations. His Honour made submissions based upon the commission's report. He has made claims about motivations and motives which are neither in the report nor in fact in the transcript of the proceedings of the inquiry. He clearly broadened the brush. We have heard his submissions based upon the report itself and his attempt, shall I say, to rewrite the recommendations and the findings. All those make a complex which an untrained, albeit intelligent, informed layman's mind cannot handle during a dinner recess of a couple of hours.

It would be unreasonable to proceed kangaroo-court style immediately to deliver the coup de grace on the basis of some preconceived view. Certainly, members of my party want time to consider those submissions, to peruse the *Hansard* record of the two-hour address, to look again at the recommendations themselves, to discuss with me the implications of the claim of new evidence and to be satisfy themselves that, after giving full recognition to all the arguments and all the evidence, they can support or disagree with this historic finding—historic motion—that they are being called upon to support.

The Government made a mistake on the question of time. That is clearly implicit in the action it has taken today. It has had this terrible tendency to say, "No, we won't let him resign. He must face the music. We will show the judiciary." Those phrases that

the judge highlighted were phrases that he could highlight because of things that have been said by people in charge of the agenda of this House.

Let us get our house in order. Let us put ourselves in a situation in which people cannot come to this House and make those allegations. As I said last week, if attention is not paid to the formalities, to the underlying sense of constitutional and legal principles on which we are supposed to act, the State will never get back onto the straight and narrow. We have to act with decorum and with that consistency of principle and purpose which puts us in a position of, shall I say, right or virtue when we come to make a judgment about people such as Mr Justice Vasta. Seven days is absolutely reasonable. The Liberal Party totally supports the motion for adjournment that is before the House.

Hon. M. J. AHERN (Landsborough—Premier and Treasurer and Minister for State Development and the Arts) (9.15 p.m.): I wish to reply specifically to the adjournment motion that has been moved by the Leader of the Opposition and seconded by the member for Thuringowa. I want to say at the outset that in respect of this matter, I am sympathetic to the family of Judge Vasta who are in the gallery tonight and have to listen to this debate. It must be a very difficult exercise for them and I feel greatly concerned, as I am sure all honourable members do. It is one of the toughest jobs I have ever had to do, and I do not like it; but it is there.

The plain facts are that this Parliament created a commission as a fact-finding body to give the Parliament expert advice on the behaviour of judges, plural. The commission has conducted a wide-ranging investigation and has found as a fact five areas on which the removal of Judge Vasta is justified. If the Parliament defers consideration of the issue, it is seeking to put itself in place of a commission that is a fact-finding body and is failing to accept the advice of the commission, that is, that the behaviour of Judge Vasta warrants his removal. The House is not an appropriate body to conduct a fact-finding exercise. It should accept the advice of three eminent, retired judges on the standards of behaviour of a judge. It should do that without delay.

The plain facts are that the Labor Party was divided 14-13 on the matter at its caucus meeting. Members of the Labor Party called a division which resulted in a majority of one. Who is weak and indecisive now? After all the oratory, who cannot make up their minds now on this issue? The members of the Liberal Party can never make up their minds. Talk about weak indecision! The judges' report by three of the most distinguished men in the country is before the Parliament. The commission made a detailed finding, but now members of the Opposition parties want to rehear the whole matter. What a nonsense!

Opposition members interjected.

Mr DEPUTY SPEAKER (Mr Row): Order! Multiple interjections of the nature presently being experienced in the Chamber will not be tolerated by the Chair. The Chamber will come to order.

Mr Goss: This is more like Sylvester Stallone, not Rambo.

Mr AHERN: The honourable Leader of the Opposition jokes about the matter, but I do not. Obviously he has no authority in his caucus. Members of the Liberal Party cannot make up their minds on this issue, and they never can. They are in coalition with the Labor Party these days. When the Labor Party cannot make up its mind, the Liberal Party cannot. They are the plain facts.

When a similar matter came before the House previously, it was dealt with by the Labor Party in one session because the principal work had been done by an expert tribunal. What an insult to this tribunal of eminent people for members of the Opposition to say that they are not prepared to deal with this matter! There is no doubt in my mind that the members of this Parliament owe it to the people who were commissioned by the Parliament to recognise their expertise.

Mr Hamill interjected.

Mr DEPUTY SPEAKER: Order! I ask for loud interjecting to cease. I warn the member for Ipswich under Standing Order 123A.

Mr AHERN: This Parliament devolved to the commission a serious duty which the commission undertook for 43 days. An enormous amount of effort was made but now, according to members of the Opposition, the Parliament ought to re-hear the whole matter. What is obvious is that the leaders of both Opposition parties have had a great deal of difficulty in their own party rooms. They are trying to buy time to address the issue. There is no way in the world that this issue does not have to be dealt with, with courage. It is unpleasant and I do not like to have to do it, but it is there. Right now is the time to do it. The amendment is not acceptable.

Question—That the debate be now adjourned for seven days—put; and the House divided—

AYES, 38		NOES, 43	
Ardill	Palaszcuk	Ahern	Lingard
Beanland	Santoro	Alison	Littleproud
Beard	Schuntner	Austin	McCauley
Braddy	Scott	Berghofer	McKechnie
Burns	Sherlock	Booth	McPhie
Casey	Smith	Burreket	Menzel
Comben	Smyth	Chapman	Muntz
D'Arcy	Underwood	Clauson	Neal
Davis	Vaughan	Cooper	Nelson
De Lacy	Warburton	Elliott	Newton
Eaton	Warner	Fraser	Perrett
Gibbs, R. J.	Wells	Gamin	Randell
Goss	White	Gately	Sherrin
Gygar		Gibbs, I. J.	Simpson
Hamill		Gilmore	Slack
Hayward		Glasson	Stoneman
Innes		Gunn	Tenni
Knox		Henderson	Veivers
Lee		Hinton	
Lickiss		Hobbs	
McElligott	<i>Tellers:</i>	Hynd	<i>Tellers:</i>
Mackenroth	Campbell	Katter	FitzGerald
McLean	Prest	Lester	Stephan
Yewdale		Borbridge	

PAIR:

Resolved in the negative.

Mr INNES (Sherwood—Leader of the Liberal Party) (9.30 p.m.): This House is obliged to proceed now through to the final vote on this motion tonight. The reality is that Mr Justice Vasta—as one might expect—put a certain amount of emotionalism into his submission to the House today.

It is necessary to spend a few moments putting the matter into some perspective. The suggestion has been made today, in the past and in the recommendations of the commission of inquiry that Mr Justice Vasta was a victim of prejudice. That is not in accordance with my experience or the experience of the majority of people who have practised in the legal profession in this State. The reality is that when people request legal counsel, be it a barrister or solicitor, they want someone who can do the job. They ask for the best criminal, commercial or local government lawyer to represent them in court. People seek performance in the courts from those in the legal profession and lawyers are judged by their peers on their performance.

His Honour referred to the fact that he comes from humble beginnings; the son of an immigrant worker. I was an immigrant to this State and was also in humble circumstances. I did not attend school in Queensland, nor did I have any family or any connections in this State. I came to Queensland from the Northern Territory, paid my own way through university and started to practise at the bar. It was entirely on my own merits and strengths that I prospered or failed. This situation applies to the

overwhelming majority of people in the legal profession. Someone may begin as the son or daughter of a lawyer who is part of an established practice, but that person will not survive unless he or she has some competence and ability.

The suggestion has been made that there is some prejudice against people with a Mediterranean background. Today I attended a consular function with the Greek Consul, Mr Alex Freeleagus, who is the son of a humble immigrant to Australia from the Mediterranean. He is one of the most respected solicitors in Brisbane and a senior partner of one of the biggest law firms in this town. He received the Order of Australia and is a wing commander in the air force reserve. He has reached the top of every facet of life, is a leader and proudly bears his Greek origin as part of his armoury.

There is no prejudice. We have seen High Court judges, 40 or 50 years ago, of Jewish background. Two have become Governor-Generals of Australia. We have seen people from a diversity of backgrounds. I can think of the practice of the profession in north Queensland—the Martinezes and the Martinuzzis. The senior partner of Macdonnells is Sir Thomas Covacevich. I also think of George Dean, people of Lebanese background, Greek background and Italian background. There is no prejudice. It is performance that counts. I can understand the sensitivity, perhaps, of His Honour with regard to his stormy passage into the judiciary—not into the profession, into the judiciary. The Supreme Court is the pinnacle of judicial attainment in this State. By their background, some people are suited to the District Court. A higher level of performance is expected by the profession, as well as by other people, for the Supreme Court bench.

When His Honour was made a judge it was a little unusual. There had been Crown prosecutors before him put on the Supreme Court bench, but I think the previous Crown prosecutor appointed to the Supreme Court bench was His Honour Joe Sheehy—I am not sure whether he became Sir Joe Sheehy—who had been appointed to the Supreme Court bench in central Queensland when there was no District Court and when he had the right to private practice. That was a vastly different situation and was at a time when the Supreme Court exercised dominantly criminal jurisdiction. That was not the case when His Honour was appointed to the Supreme Court bench in this State. It was in the early 1980s and it was at a time when overwhelmingly the judges of the Supreme Court spent their time in civil law.

I recall meeting His Honour a little after I first started to practise, which was at a time when His Honour was between Melbourne and going into the Crown Law Office. Certainly he did not practise extensively in civil law; as I understand it, he practised as a very young barrister in Melbourne for some three years and for a few months here before going into the Crown Law Office. He was still a young man when he was appointed to the Supreme Court bench.

When there were people who were leaders of the private bar at that time, of vastly more years practice, of far greater civil practice and practising civil law at the highest level—the dominant concern by that time of the superior court—and people recognised as the intellectual leaders, the brightest people at the bar, and who were by-passed, there was some understanding why there was some objection raised. To my recollection his was the only appointment to which there was objection by the Queensland Bar Association.

Perhaps that was an unfortunate start and led His Honour to get into some frame of mind that somehow it was because of prejudice against him. I say, "Rubbish! Nonsense!" It was the feeling of the profession relating to the importance of the Supreme Court and its overwhelming preoccupation with, and dominance of, civil work in its responsibilities and the fact that there were people of far more eminence, older and more experienced, who were available for appointment.

It is at that point that I make some reflection. I say that some of the problems—problems which have become very serious in their development with regard to the judiciary in this State—started in 1981. They started with the proposal to appoint a new Chief Justice and the controversy which surrounded the lobbying that took place before the appointment of Sir Walter Campbell, as he now is, to the position of Chief Justice. I have a sheaf of clippings from newspapers which are a sad record of what happened to the reputation of the bench through a critical period of time. They start in September 1981 and go through to mid-1982. For the first time it was reported in the press that

there was lobbying for that legal post and that political and legal circles objected to what appeared to be a political push advancing the cause of a person who did not have seniority. The profession was offended by what happened and led it to question, firstly, the independence of the judiciary and, secondly, the quality of the judiciary. The profession objected to names being pushed around the race-tracks for the position of Chief Justice of this State. The shame came when one party in this State, led at that time by its Premier, started to look at the appointment of Supreme Court judges as if it was just another appointment to a hospital board at Woop Woop. That is what it came down to: another trophy of political power.

Mr Booth interjected.

Mr INNES: It has not stopped, has it? We should examine the Queensland Industry Development Corporation. Despite the brave new world and the brave new regime, we have the removal, the pressuring-out of people of high experience, competence and quality in favour of people of no relevant experience and no quality.

The reality is that there is a mind slot that all positions are baubles of political power. The moment that it is attached to the Supreme Court, we start to see the court turned into the centre of political controversy and its reputation starting to be detrimentally affected. We start to see people psychologically lining themselves up with that network from which favours appeared to flow in this State; people who start to mix more with the power-brokers of politics than with the peer group of their profession, which reinforces the professionalism, that sense of expertise and that sense of commitment to a profession which is so much needed, particularly on the bench.

In Mr Justice Thomas' book about judicial ethics which was published last year, he said—

“There are two topics that are closely related to judicial ethics which have been deliberately omitted. These are the selection of judges and the question of judicial salaries and conditions.”

Leaving aside the latter, which he says obviously have to be enough to allow independence, he said—

“It is obvious that the selection of the best candidates virtually prevents serious problems from arising. Confidence in the honesty of the Government in making judicial selections is a necessary pre-requisite not only to the maintenance of ethical standards but also to the maintenance of public respect for the judiciary.”

How true those words are. Some of our problems start with that controversy. Even between 1981 and 1983 there was controversy—not related to Mr Justice Vasta—relating to the shenanigans around the Chief Justiceship and the senior puisne judge's position. That matter even drew two retired Supreme Court judges, Mr Justice Stable and Mr Justice Hoare, to condemn the intrusion, the appearance of political pushing, political favouritism and political statements regarding the proposed appointment of the Chief Justice and the senior puisne judge. They deplored the dragging of the status of the Supreme Court into the mire and opposed the proposal to kick out the convention of seniority being the standard by which the appointments would come.

At that time, in a letter to the *Courier-Mail*, Mr Justice Stable, who was retired, said—

“... what was the ‘move to appoint’ a relatively junior judge as Chief Justice over the heads of five of his senior judicial brothers.

‘Who started it, and who or what impels a trustee of a political party to support it?’ ... These are intriguing questions which, no doubt, will be ignored by those to whom they were addressed.’”

It got worse from there. It ended with the two most senior judges, the retiring Chief Justice, Sir Charles Wanstall, and the retiring senior puisne judge, Mr Justice Lucas, in their valedictory condemning the intrusion of politics and expressing regret over the reduction of the bench to the question of politics. It led to statements being made by

the Premier at that time that he was going to take a great interest and maintain a great interest in who was appointed. The previous tradition had applied for many years and had led to uncontroversial appointments of judges who not only presented no problems but also discharged their duties with great expertise, great fairness and without any problems of allegations of impropriety. At the time, Sir Robert Sparkes said that it was a fuss about nothing and that the National Party would not allow the Liberal Party, through its Attorney-General, to have any veto on appointments. But the reality was that the previous Attorneys-General had consulted the profession and the bench—not the race-tracks, not the touts and the party sycophants as part of an exercise of party power as to who should get the appointments.

We have people such as Sir Edward Lyons, whose contribution to Queensland must go unsurpassed. No more evil or malevolent influence has been found in public life in this State in living memory. His name is constantly associated with impropriety, with undue influence and with improper purposes.

Mr White: A former trustee of the National Party.

Mr INNES: He was the one who started the pushing around the race-tracks. Other people should not allow themselves to get associated, to get inveigled, to get seduced into the network of party intrigue. However, it has happened. The judiciary is still trying to recover from that level of involvement.

With regard to the judiciary, the rules are largely unwritten. Mr Justice Thomas' book refers to the fact that the rules about the judiciary are not binding, are not black letter rules, are not the criminal law; they are the exercise of standards of care—of prudence—not to allow oneself to ever get into a situation in which one's position is seen to be compromised and it can be suggested that one is unduly involved in politics, business or behaviour of a type which could bring the bench into disrepute.

I will focus on one of the issues that are mentioned in the recommendations of the commission of inquiry which must be repeated. It is the question of the quality of behaviour. His Honour tried to suggest that it was merely infamous behaviour which would provide a focus point for dismissal. That clearly is not true. I refer to Mr Justice Thomas' very recent work, which drew together all the authorities and is the first book on the matter in Australia.

At page 11, he stated—

“No one doubts that a judge may be removed for incompetence or misconduct in the course of judicial work (referred to here as ‘official misconduct’); but a judge's duties go beyond this into his private life and dealings. In this area, to say that a judge may demonstrate unfitness to remain on the Bench only by being shown to have committed a criminal offence is sheer nonsense and demonstrates a failure to understand the very basis of ethics. This elementary fact is implicit in the unanimous opinions of the Commissioners of Inquiry that the term ‘misbehaviour’ in s.72 of the Constitution is not confined to ‘misbehaviour in office’ and is not confined, either, to conduct of a criminal nature.”

In the footnotes to that passage reference is made to cases, for instance, “*Ex parte Attorney-General (Cth); Re a Barrister and Solicitor.*” It says—

“See also the many cases, reported and unreported, in which barristers or solicitors have been struck off for conduct that did not amount to an offence known to the law.”

Barristers and solicitors can be struck off the roll of barristers and solicitors for something that does not amount to an offence against the law. How much more so can judges themselves suffer penalties for something which does not amount to infamous conduct or a breach of the criminal law?

Reference is made to another case. The footnotes go on to state—

“The *Fortas* issue . . . where no one found a law that Fortas had violated, but it was generally accepted that his connections were such as to undermine public confidence in him, and that his resignation was necessary.”

There are other relevant cases in the United States, as well as cases in the British Commonwealth. In one case a New York judge was removed from office on the basis of conduct for which he had been previously tried and acquitted but which still amounted to conduct for which he could be removed from office.

That is the sort of quality of behaviour that we are talking about. A passage in the same book deals broadly with business and financial activity. This is difficult. In Australia we have not put together a code, as they have in parts of the United States. For instance, the United States has a *Code of Judicial Conduct*, which states—

“Financial Activities.

- (1) A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position, or involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves.
- (2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, manager, advisor, or employee of any business.”

These are rules that are designed to keep judges away from even the allegation of bias, or being involved with parties or potential litigants. Mr Justice Thomas commences his section headed “Business and financial activity” with the following statement—

“One important feature of English judicial ethics is that, except for royalties from books,”—

that was something that His Honour mentioned—

“dividends from shares, rent from property he owns, and reasonable honoraria and expenses for lectures, a judge may not receive any remuneration other than his judicial salary. This is not left to the discretion of the judge.”

One is not saying that everything is immutable, but those are the sorts of rules gathered together. In referring to the example of royalties, His Honour did not do justice to the full statement of the situation which appears in the book by Mr Justice Thomas which he himself quoted. In somewhat the same way, it cannot be said that His Honour did any justice to the findings with regard to his allegation of conspiracy.

I do not mind saying in this House that I find some of the findings by the judges are sympathetic, to say the least, towards His Honour. There are some statements contained in the report that are explained away as being because the judge was emotionally pent up, because he was convinced, albeit wrongly, that there was a conspiracy. There was somewhat sympathetic treatment in many of the judges’ findings.

When His Honour made the allegation of conspiracy against the Attorney-General, the Chief Justice and Commissioner Fitzgerald, I said openly, inside and outside this Chamber, that that in itself was such an horrendous allegation, which involved every aspect of the administration of justice in this State, from the special commission of inquiry to the chief law officer to the bench itself, that if it was without foundation, that in itself, that alone, amounted to judicial misconduct. I cannot think of anything that is more designed to bring into disrepute the whole institution of the law than one of its number saying that the principal law officer of the State, the bench, the Attorney-General—who has a special independent function—and a special commission of inquiry are prepared to conspire, to act illegally, to damage the reputation of a Supreme Court judge. That is only one of the things about which there are findings.

This afternoon His Honour really revived the allegation of conspiracy. As I recall it, he did not tell honourable members that in the course of the 43-day hearing, through his counsel, he accepted that the allegation was baseless. Rather, one would have thought from listening to him today that there was still the full-blown allegation of conspiracy, at least against Commissioner Fitzgerald, and generally a vindication of his allegation.

There was no recanting, no repentance about it. I invite honourable members who are concerned about this matter to read the whole section with regard to the findings in relation to conspiracy. It is not as though the judges did not take into account the full circumstances which His Honour alleged led to his state of mind; they did. It is summarised in the report. The judges state as follows—

“The making of the allegations, when looked at with the benefit of hindsight, seems fanciful. But they must be looked at and assessed in the context in which they were made by the man who made them. The facts as he saw them and the conclusions he reached about them have already been recounted . . .”

And “the man” referred to happened to be a judge. The judges continued—

“Wiser counsels might, even then, have advised him to desist, although the damage had been done. But the Judge sought none. He does not seem to have had any confidants among his brethren and legal advice, if he sought any, was not what was needed. He seems only to have aired his grievances to newspapers and television reporters.”

Is that not part of the problem—somebody with a sort of paranoia alleging that because he is of humble background or Mediterranean background the whole system is against him? It is absolutely baseless. It is fanciful. However, it leads to other problems. It leads to somebody who does not consult with the people who are available——

Mr Underwood: Wasn't he a prosecutor against another judge, though?

Mr INNES: I have forgotten, if that is so.

Mr Underwood interjected.

Mr INNES: I am saying that those problems are fanciful. In fact, in the end, he admitted that the allegations were fanciful.

Rather than talking to brother judges or looking to the newspapers, what is the judge doing? He is pushing his associate, who is also his son—a very special relationship—out as an intermediary all the time. On the one hand, he tells us that he has selected counsel of some competence to look after his affairs; on the other hand, he says that he realised that he could not totally trust him because he had been Mr Fitzgerald's associate. Which way do we flip or flop? Do we trust him or do we not? Why select him if he is not trusted? Is he using him as an intermediary? Would it not have been better for Mr Justice Vasta to have sought to speak to Mr Crooke or Mr Fitzgerald without prejudice? I am sure that they would have done that. It seems that they were inviting him to say, “Please co-operate.” If he had evidence which proved perjury, surely it was his obligation to assist with providing it, not that Mr Fitzgerald's inquiry was about the bringing of any charges at all. If he had evidence that disproved it, surely it was the equal obligation of the innocent to provide the evidence.

Honourable members hear a lot about the independence of the judiciary. But are we talking about the immunity of the judiciary? Everybody else had to front up before the Fitzgerald inquiry—former Premiers, Ministers of the Crown—anybody and everybody. If the judge had something that tended to prove or disprove the commission of an offence, either way he should have assisted the proceedings. It seems to me that much of what he said is caught up with this paranoia, this problem, “I'm being trapped into giving evidence.” Trapped into giving evidence? I would have thought that it is a responsibility of somebody in a judicial position to assist with the finding of truth or the finding of guilt, or both. So there is a major problem. There might have been an embarrassment about having to call Sir Terence Lewis in his own defamation proceedings, but so be it. The oath that is taken without fear or favour means that one must take one's responsibilities wherever they fall, and if they fall in terms of assisting an inquiry of a momentous type, so be it. That is what should have happened.

There is some danger for members of this House in not appreciating—I do not say this in any patronising sense—the full ramifications of the exercise that has been undertaken. A very well crafted and very solemn speech was made by His Honour. It

deserves consideration with the report and the evidence. New evidence was introduced. Tonight we are going to proceed to vote on the motion before we consider that. I do not find the new evidence particularly persuasive. It is a handwritten document, not in affidavit form, not sworn as an affidavit would customarily be sworn, which leaves a number of holes in it. I find the informality of approach unusual, particularly as it was apparently sworn six or seven days ago. I am not quite sure whether "S/Det" means that a police officer was the witness. It creates more questions than it answers. There is an admission by the person who deposes the statement that records of nightly stays are not kept after three years. Honourable members do not know whether the room would have been booked through the names of the newspapers to which the two gentlemen belonged, an office girl or anyone else. It really does not provide new evidence of the type that would move an appeal court to review a decision. One would expect something far more pointed, pertinent and trenchant about this. In the absence of something really pointed, one is left with this difficult problem of the AAT allegations.

Honourable members are really carrying out the role of an appeal court. I am not saying that any legal analogy is perfect at all, because these are totally novel proceedings. In a sense we are more analogous to an appeal court. His Honour would know that that always takes into account that it gives a particular respect to the people who listen to the witnesses. Unless there is something absolutely perverse, totally wrong-headed, one does not overturn something that can be disproved about the veracity about somebody from another source. Appeal courts do not overturn findings of fact by a magistrate, a District Court, a Supreme Court, a judge or a jury. They do not overturn a finding that, one person against another, one person told the truth and the other one did not. We cannot make that judgment here. The judges saw the demeanour of the two journalists in the witness-box and compared that evidence with the evidence from His Honour. I cannot remember whether His Honour's wife gave evidence. The judges saw the performance. They saw how the witnesses responded to cross-examination. We must give respect to the far better position those very experienced judges, who have sat through numerous trials as well as appeals, had to assess the credibility and demeanour of the people who gave evidence in the witness-box, including His Honour.

Time expired.

Mr WELLS: I rise to a point of order. Mr Speaker, I refer you to Standing Order 158 of the Standing Rules and Orders relating to pecuniary interests of members and ask you to rule that a Minister or former Minister who is alleged to have abused his position of trust by a financial impropriety should be precluded from voting on a motion to remove any other person from public office on the grounds of financial impropriety.

Mr SPEAKER: I will give the matter some consideration and report to the House at a later time. I call the member for Murrumbidgee.

Mr WELLS (Murrumbidgee) (9.59 p.m.): Thank you, Mr Speaker. I now rise to speak on the motion. "When Parliament acts as a court, it should behave like a court." Those were the words of the Leader of the Liberal Party published in this morning's newspaper and elsewhere. Members of the Opposition agree with those words of the Leader of the Liberal Party. We not only accept their logic; we take them to their logical conclusion. Each speaker in this debate is in fact performing the same role as a judge delivering a judgment in open court. Each speaker should be giving a reasoned judgment, a statement of his or her reasons for the decision that he or she has reached. The role that each member is playing today is quite different from the role each member plays when he is voting on a Bill before the House. When Queensland's MPs vote on legislation in Parliament, each of them does so with the authority of thousands of Queenslanders who sent him there. Only the votes of the people or the law of Queensland can properly relieve them of that duty and privilege.

Today Parliament is not sitting in the legislative mode; it will be sitting in its rarely used judicial mode. Parliament has been recalled to make a judgment on Mr Justice Vasta's fitness to continue to hold public office. Today, the members voting on that

issue will be not only representatives of the people but also judges of the judge. Therefore, for a day Parliament will be once more—to use a very old phrase—the High Court of Parliament. The standards that apply to judges in our courts therefore should apply to members of Parliament who are judging the judge. I repeat with approval the remark made by the Leader of the Liberal Party that, if Parliament is acting as a court, it should behave like a court.

If during the course of hearing a murder trial a judge was himself accused of a crime of violence, there is no doubt that that judge would disqualify himself from hearing the case and not hear further cases until the matters alleged against him had been dealt with. If a judge was hearing a robbery case and, in the course of proceedings or in some other way, was accused of theft, again there is no doubt that he would stand down from the bench until such time as the matters alleged against him had been discharged. Likewise, if a judge was hearing a fraud case and, during the course of the fraud case, was alleged to have fiddled the books and misused public money, he would disqualify himself from the case until such time as the accusations had been cleared. That is why Ministers and former Ministers who were alleged under oath by Don Lane to have misused ministerial expenses and who remain members of the Queensland Parliament should disqualify themselves from sitting in judgment on Mr Justice Vasta.

The judge is alleged to have fiddled the books and misused public money. The Ministers and former Ministers likewise are alleged to have fiddled the books and misused public money. This is not to say that any of the nine Ministers or former Ministers are in fact guilty of what Don Lane has alleged under oath. A judge so placed would disqualify himself from hearing a case before him even if he knew that he was innocent and even if the allegations made under oath were not widely believed. Therefore, so should the Ministers and former Ministers.

Today's session of Parliament is almost unique in that Parliament is sitting effectively as the court of Parliament. In modern times it is very rare for a Parliament to sit as a judgmental body. However, now it is happening; so the ethics of the judiciary must apply to those who would be judges of the judge. Therefore, because specific allegations against them have never been independently adjudicated, the Ministers and former Ministers who are alleged to have misused their ministerial cash advances must stand aside while Parliament sits in its judgmental role.

The power of that logic is evident if honourable members simply imagine the roles reversed. I ask honourable members to imagine that a judge was about to hear a charge against a member of Parliament in which that member of Parliament was alleged to have misused public money. I ask them to imagine further that just before the case came to court the judge was alleged in Parliament or under oath in another court to have rorted the tax system and to have committed perjury. There is not the slightest doubt whatsoever that that judge would disqualify himself from hearing the case before him. In so disqualifying himself he would not be admitting his guilt; nor would anybody who said that he should so disqualify himself be alleging his guilt. That person would be insisting merely on proper standards of judicial behaviour. Of course, not every alleged indiscretion would lead a judge to disqualify himself from hearing a case. Vague innuendos about a judge's private life would not lead—and have not in the past led—judges to disqualify themselves from sitting in judgment. It would need to be something that went directly to the judge's fitness to hold public office.

Mr WHITE: I rise to a point of order. I find the comments of the honourable member for Murrumba not only offensive but also dishonest. They are unproven and unsubstantiated and I ask that they be withdrawn.

Mr SPEAKER: Order! The remarks must personally affect the honourable member.

Mr WHITE: I find the remarks personally offensive, as do other members who have been mentioned. They are unproven, and are outrageous, unmitigated lies from a man who is an admitted——

Mr SPEAKER: Order! The honourable member cannot carry on an argument on the issue. If he wishes some remarks to be withdrawn, he should request that that be done and then resume his seat.

Mr WHITE: I find the remarks of the honourable member for Murrumba personally offensive and I ask that they be withdrawn.

Mr SPEAKER: Order! The honourable member for Redcliffe finds the honourable member's remarks personally offensive and asks that they be withdrawn.

Mr WELLS: I withdraw any remarks that I have made about the honourable member for Redcliffe.

The offices of Minister and judge are quintessentially public offices. They are positions of trust in which those who hold that trust are constantly making decisions that affect people's lives. An allegation that someone has misused his office as a Minister is in a significant way on a par with an allegation that a person has misused his trust as a judge. Private citizens and even ordinary members of Parliament do not have power to make decisions to alter a person's life or status; Ministers and judges do.

Because Ministers and former Ministers are alleged to have misused a high office of trust in exactly the same way as the judge is alleged to have misused his high office of trust, those members should not sit in judgment on the judge. Whether the allegation is true or not, the Ministers should take it seriously. I do not say that Don Lane's allegation is true. However, I did not believe that the allegations that were made a few years ago against Mick Young were true, yet I supported the principle that he should stand down from his Ministry while those allegations were investigated by the Attorney-General. I was sitting in a caucus room when that decision was made and I supported that decision. Likewise, I did not believe the allegations against the former New South Wales Premier Neville Wran, but supported his courageous decision to stand down while he was investigated by a royal commission.

Those honourable members acted with perfect propriety. They took seriously the principle of a member's responsibility. I am calling on our Ministers to take it equally seriously. Taking it seriously means tabling records that show the allegation to be false or else refraining from sitting in judgment while the matter is cleared up. After all, Mr Justice Vasta did not sit in judgment after he was alleged in Parliament to have abused his office. Why now, after they have been alleged in the Fitzgerald inquiry to have abused their offices, should the Ministers feel free to sit in judgment on Mr Justice Vasta?

The report of the Parliamentary Judges Commission of Inquiry is a very detailed and thorough document. However, it contains a glaring omission. On page 4 of the commission's report are listed the heads of inquiry. The fifth of these, which is in subparagraph (e), reads—

“Whether Vasta J has or had contact with political figures which are inappropriate for a judge.”

This issue is not subsequently addressed in the report. The closest the report comes to canvassing the matter is a quote from the transcript recorded at page 20, which reads—

“Is it a fact that you are a friend of Sir Joh, Sir Edward Lyons and Sir Terence Lewis?— They are acquaintances in the sense that I meet them on social occasions . . . but they are not friends in the sense as suggested in the article.”

After this the report goes on to consider only the relationship between Sir Terence Lewis and Mr Justice Vasta. Indeed, on page 15 of the report Their Honours divide their consideration into what they refer to as six overlapping topics, none of which encompasses the judge's relationship with political figures. This is a most unfortunate omission. As my colleague the member for Bundaberg will later explain, that relationship is crucial for an understanding of the whole scene. The omission is also unfortunate because an investigation of the judge's relationship with political figures might have cast light on a dark corner of Queensland's judicial environment.

We would have learned a great deal more about the cosy relationship between certain highly placed National Party power-brokers and certain members of the judiciary. When I describe the omission of a finding on this particular head of inquiry as unfortunate,

I do not thereby mean to indicate any want of bona fides on the part of the learned judges whose report we are considering. Reasons for the omission have been made very clear to me, and I will relate them to the House.

The task of the learned judges and of counsel assisting the inquiry was, to use the language of the Parliamentary (Judges) Commission of Inquiry Act 1988, to advise whether any behaviour of the judge, either of itself or in conjunction with any other behaviour, warrants his removal from office. Like anyone else, lawyers have a selection system. Naturally they choose to concentrate on those matters on which they have a large amount of documentary evidence. As that documentary evidence disclosed a number of grounds on which they believed they were competent to advise the Legislative Assembly that the removal of the judge was warranted, they did not prolong the inquiry by making the investigations into other aspects for which the documentation was less readily available.

Nevertheless, an opportunity to cast light on the dark corner in which resides the nexus between the National Party Cabinet and the judiciary has been lost. We do know a little bit about it. On 4 February 1986 the Roseville restaurant was the scene of a delightful tete-a-tete between a number of distinguished figures. They included Sir Joh Bjelke-Petersen, former Premier of Queensland; Sir Terence Lewis, the former Police Commissioner; Sir Edward Lyons; a former National Party power-broker; and Mr Justice Vasta. Also present was the only member of that group who still holds the same position as he held—intact—at the time of that dinner. I refer to the Deputy Premier, Mr William Angus Gunn. This little gathering was only one of many social events at which people of such calibre mixed socially.

Mr Justice Thomas of the Queensland Supreme Court, who was the author of the authoritative book *Judicial Ethics in Australia*, has very clear views on such gatherings. On page 52 he writes—

“As a counsel of prudence, judges should immediately on appointment take steps strictly to limit any political connections they may have. This is not just an abstract dissociation . . . if a judge is friendly with people who are active in politics he should minimise future contacts with them.”

Mr Justice Thomas' reason for this view is the fundamental principle of the independence of the judiciary. A judge who conducts his social life in the shadow of those who wield partisan political power is placing his independence, and therefore the independence of the bench, at risk.

It would be all too easy at a little gathering of judges and senior politicians for the conversation to stray into the area of penalties or perhaps particular Government instrumentalities that were currently involved in litigation, or perhaps particular classes of offences that had recently made it into the current affairs bulletins. From there it would be a small step indeed for the politicians at the gathering to indicate an attitude to cases or categories of cases before the courts, and most people would not be surprised if, in the context of such a conversation, some politicians were tempted to purport to advise or coach or actually instruct judges regarding cases or classes of cases before the courts. In other words, these sorts of social gatherings provide a standing opportunity for politicians to attempt to pervert the course of justice by influencing judges.

The commission's report has not made any findings in relation to the ongoing cosy relationship between certain National Party power-brokers and certain members of the judiciary. The only finding that has any bearing on the question is one which goes to the credit of the judge but is silent about the politicians with whom he was associated. On page 163 of the report, Their Honours state—

“In the Judge's favour, there is not the slightest reason to believe that he has been guilty of misconduct in carrying out, or in connection with, the duties of his office as a judge.”

However, this provides no help to those who were wondering whether His Honour exercised his judicial impartiality in the absence of, or in spite of, temptations from his

political makers to the contrary. By examining such matters Their Honours would have cast light on a number of important questions. These include: what was the relationship between the National Party power-brokers and certain members of the judiciary? Was there in fact, out of the light of the television cameras and away from the open forums of the Parliament, a branch of the VIP underworld that stretched from those who wielded political power to encompass those who represented the independence of the judiciary? What secret briefings, if any, were National Party power-brokers giving to judges, and what secret briefings, if any, were judges giving to National Party power-brokers?

Although these issues remain unexamined, the commission has left untouched one of the most important questions that it was entitled to consider. This is all the more important because the result of the judges' not making a finding on this particular head of the inquiry is that the commission's investigations were, as it were, largely quarantined to the judge himself, a fact of which His Honour complained this afternoon when he was brought before the bar of the House. His Honour made the point that sections of the very Act precluded him from calling as witnesses certain people who were very germane to the case that he wished to argue.

I now make the point that confining the examination to the judge himself means that Queensland's political history is the poorer for not casting any light on this shadowy area. The conduct of those who chose to make him a judge, despite representations made by the Bar Association of Queensland and despite public pressure, remains unexamined. The judge is convicted by the commission while the establishment that promoted him sits back and breathes a collective sigh of relief. The judge becomes a fall guy to that establishment which promoted him while the establishment itself remains largely intact.

What was it that the judge was convicted of? The commissioners refer to five matters that they say, in conjunction with one another, warrant the judge's removal from office. The first is giving false evidence regarding the AAT incident at the defamation hearing. The first factor to notice is that the AAT incident by itself—I stress “by itself”—was not important. The judge was found to give false witness on that matter, and it is the alleged false witness that is important. The AAT incident was all about a conversation the judge had with certain journalists where the judge allegedly took the initials AAT to be referring to a bus company when it should have been clear from the context that they referred to the Administrative Appeals Tribunal. The judge denied that he made this gaffe; the journalists asserted that he had. If the judge was attempting to save face by denying this little oversight, it would have been the most expensive face-saving exercise he ever embarked upon. Certainly most perjurers tend to perjure themselves over more important matters.

The second matter that the commission recommends to the Parliament as a ground that, jointly with others, justifies the judge's removal concerns his allegation of a conspiracy between the Chief Justice, the Attorney-General and Commissioner Fitzgerald. It is worth while looking at the actual findings of the commission relating to this well-known allegation. On page 87, the commission stated—

“Bearing all these things in mind and taken alone . . . the Commission has reached the conclusion that Mr Justice Vasta's behaviour in making the conspiracy allegations was not of itself behaviour that warranted his removal as a Judge of the Supreme Court.

The Commission does not exclude consideration of this whole matter in conjunction with other behaviour.”

I emphasise the words “was not” in that section. This is a weak finding in the sense that the commission was not prepared, viewing the matter in isolation, to see it by itself as sufficient grounds for removal. I respectfully agree with the commissioners on this point. Whereas a judge who could not tell the truth in court would be an anomaly, in this State a judge who makes allegations of conspiracy is merely someone who is overreacting to the political climate of the times in terms of the very rhetoric of the people who put him on the bench.

The remaining three grounds suggested by the commissioners as warranting dismissal of the judge all relate to financial matters. The third ground was the making of false statements to the accountant for Cosco, the fourth was arranging allegedly sham transactions to gain tax advantages and the fifth was making false claims for taxation deductions. If the second ground is left out, namely the conspiracy allegations—and the grounds for leaving that out of consideration for the time being are that the commission put it forward very weakly and insisted that by itself it was not grounds for his removal but could be taken into account when other grounds were also considered—what are honourable members left with? The first, third, fourth and fifth grounds that the commission has offered remain. All those can be distilled into the proposition that the judge can be removed from his office because he told untruths in court and he fiddled his books.

Honourable members opposite will be pleased to learn that it was the German philosopher Emmanuel Kant who said that the hallmark of a valid ethical proposition is that it can be universalised. What happens if the proposition that all holders of public office who tell lies and fiddle the books should be dismissed from office is universalised? The Opposition has no problems with universalising that proposition and has no problems in saying that anybody who holds public office, tells lies in solemn circumstances and fiddles the books should no longer be regarded as a fit person to hold the public office he occupies; but do honourable members opposite who have been compelled by a three-line whip to vote for the resolution before the House have any problem universalising this proposition? Perhaps the same type of investigation of financial affairs that applied to Mr Justice Vasta should be undertaken in respect of the Ministers of the Ahern Government. Government members who are now prepared to vote for a resolution to remove the judge on the basis of the fact that he allegedly lied and fiddled his books are people who are not prepared to open their own books. The fact is that if the proposition that lies at the basis of the removal of Mr Justice Vasta is to be universalised, the whole National Party establishment that appointed the judge in the first place will be brought down. What is good for the judge should be good enough for any other holder of public office.

Though I do not suggest that anything would be found amiss, perhaps by parity of reasoning other members of the judiciary should be invited to have their private financial concerns investigated with the same degree of rigour. How many National Party stooges are there in statutory corporations, high public offices and quangos who would not survive the type of tests that Judge Vasta has undergone? The conclusion drawn by the Opposition from this is that Mr Justice Vasta is in fact the fall guy for the whole rotten establishment that put him in his position. Perhaps the judge was right when he said that if he had not been of southern European extraction, the establishment which nurtured him and gave him his status might have been more reluctant subsequently to treat him as a convenient sacrificial lamb.

The Opposition objects strongly to having to make a decision at such short notice on matters that His Honour Mr Justice Vasta has placed before the House. The Opposition would like to examine in more detail a number of the references that His Honour made in the context of the transcripts. I have read the report of the Parliamentary Judges Commission of Inquiry closely and many times. Having read that, even so I would like to look at the transcripts in the light of what the judge has said. On reading the transcripts, the opinion I hold of the report will probably not change, but justice ought to be seen to be done. It will not be seen to be done if this matter is rushed through.

On the spot, I could make a few points about legal arguments put forward by His Honour. For example, he said that the sham transaction is not a sham transaction until it has been so determined by the Commissioner of Taxation. He says that the competent court for determining this issue is the taxation court. He says that, in making a determination on this matter, the judges commission of inquiry—which was not a court—is in fact committing an excess of its jurisdiction, and therefore, under administrative law, is making an invalid determination which would be overturned by any superior court.

That may or may not be right in law. I suspect that it is beside the point in the sense that the judges were making a finding of fact; at that point they were not purporting to be making a finding of law. They were purporting to be making a finding of fact which related to the ethical standards required of a judge in order to continue to hold public office. They were not purporting to go by the letter of any statute-book; rather they were purporting to say that certain ethical standards were intrinsic to the tenure of a judge and that they had made findings of fact which were inconsistent with the continued tenure of that position by reference to the ethical standards. The judge disputes their findings of fact.

Honourable members in this Parliament, at the short notice given to them by the Government, have to make a decision on that question of fact. We have to decide whether we are to believe what the judge said on that question of fact, or what the judges tribunal has said on that question of fact. I believe the judges commission of inquiry; however, I regret having to make that decision on the spot. I also regret that I cannot obtain a second opinion on my view of the judge's legal view of the question of the competence or otherwise of anybody other than the taxation commissioner to make a determination on his case. I am unable to do that because the Government has not given me time. I have to trust my own legal judgment which coincides with the determination of the commission of inquiry and I must go with that. However, the Government is forcing me to make a decision quickly which I would much rather make at leisure. I expect that it might still be the same decision were I given more leisure to make it, but justice ought not to be rushed.

With respect to the consultancies, the judge says that there were consultancies and, if there were, then the legal consequence of that is that he was not engaging in sham transactions. Let us assume that there were such consultancies and in that event the judge says that section 12 of the Supreme Court Act begins to become relevant. He denies that the relevance of section 12 of the Supreme Court Act extends to voiding his decisions. He says that is so because, if his decisions were voided by section 12, then so would the decisions of every other judge, because every other judge has been in receipt of emoluments in the same sense as he has been in receipt of emoluments.

Mr Justice Thomas' book differs from that point of view. His book says that moneys received in the course of furthering a judge's work as a judge, or in the course of furthering knowledge of the law—for example, writing or editing textbooks—do not detract from his judicial independence, whereas the judge says that something involving an emolument of a different kind which would be related to the financial interest of the person would detract from his judicial independence. Again, I believe Mr Justice Thomas, but I would have liked more time to examine the judge's point of law and his understanding of the ethical position in respect of this matter.

There are a number of other legal points which the judge made; however, time does not permit me to examine even those in the kind of detail that I would like, because of the short notice that honourable members have been given. It is said that justice delayed is justice denied, but justice rushed is justice ruined. The judge may or may not be receiving his just deserts from the motion before the House tonight. I take a punt and say that with the commission he probably is, but there is absolutely no doubt that justice to the judge has not been seen to be done.

Mr SPEAKER: Order! Before calling on the next member—the honourable member for Murrumba raised a point of order under Standing Order 158 with regard to this issue. I refer honourable members to page 411 of the twentieth edition of Erskine May, which states—

“No Member who has a direct pecuniary interest in a question is allowed to vote upon it; but, in order to operate as a disqualification, this interest must be immediate and personal, and not merely of a general or remote character.”

I therefore rule that the member's objection is overruled because I cannot see how any member would have a direct, immediate and personal interest that could be regarded as a pecuniary interest in this issue.

Mr MENZEL (Mulgrave) (10.29 p.m.): Tonight this Parliament and its members must decide the fate of Mr Justice Vasta. A number of speakers from both sides of the House, and also the judge, have said that history will be made today.

It is an historic occasion, but it is also a sad occasion, because, after reading the report, I am not totally convinced of the findings of the commission, no matter how eminent its members are. Today the judge raised new points which I believe must be looked into. One in particular regarded the evidence of whether or not Mr Campbell stayed at the Southern Cross Hotel and the statutory declaration that records that he did not.

I must say that I would be very, very wary of accepting the evidence of the two reporters who at the time worked for the *Matilda* magazine, which I understand was a smutty type of magazine. I might be being a little bit rough, but I cannot see how the judges could accept the evidence of the two reporters. From a reading of the evidence, in my view there seems to be conflict between their evidence and the evidence of the judge and his wife in regard to that matter. I think it is rather trivial, anyway.

Other judges and other people were named in the Lewis diaries. At this stage I will not say how I feel about the distribution of those diaries to the media. A little bit was released every day. One could not help feeling that some people wanted to sensationalise the whole thing. I believe that Mr Justice Vasta, rightly or wrongly, was charged, convicted and hung by the media long before the commission of inquiry was set up. To me he appeared to be a marked man. I believe in a fair go for everyone. I believe that in this place members of Parliament should be able to stand and say what they feel.

Mr Campbell interjected.

Mr MENZEL: I did not hear that interjection, but the honourable member will have an opportunity to make his speech later on.

From my reading of the report, the judge's greatest crime appears to have been that he did not pick his friends wisely. It is seen to be a crime to have associated with certain people. That is ridiculous. Until all the controversy arose, I did not know what Mr Justice Vasta looked like. If somebody had put me in a witness-box and asked me if I had been at a function with Mr Justice Vasta, I would have had to say, "Yes." I do not know whether he attended the opening of Parliament on the number of occasions that I have, but I assume that he did.

Mr Comben: Did you say, "I don't know."?

Mr MENZEL: Well, I did not know what he looked like, so I cannot be sure whether or not he was there, although I assume that he was. Therefore, I guess that I was at a function where Mr Justice Vasta and other judges were present. I do not live in Brisbane and I am not really familiar with the judges, particularly when they are in their robes.

Mr CLAUSON: I rise to a point of order. The honourable member who is currently speaking stated earlier in his speech that the journalists who are mentioned in the judges commission's report in fact worked for *Matilda* magazine. That is not so. I refer the House to page 25, paragraph 3.4.2, where it quite clearly states that the——

Mr SPEAKER: Order! This is not a point of order. It is a point of disagreement with what the member has said. I call the member for Mulgrave.

Mr MENZEL: Thank you, Mr Speaker.

Mr Casey: I bet you know what Sir Robert Sparkes looks like.

Mr MENZEL: I know what Ed Casey looks like.

Mr Beard: It is pretty awful, isn't it?

Mr MENZEL: He is not all that bad. He will have his opportunity to speak, too.

The judges on the commission did not have any choice on the matter I am about to address. Page 11 of the report gives their conclusions on how they judged the evidence put to them. Murderers and rapists—criminals of the worst type in the community—have to have charges against them proved beyond reasonable doubt; that is, the charge must be proved conclusively so that there is no doubt whatsoever. I am not a lawyer and I cannot express the legal terminology, but everyone knows what I mean.

Mr Casey: You were a fan of Perry Mason, though, weren't you?

Mr MENZEL: No, I was too busy working. I did not have time to look at his movies. I have never been a man of leisure, but I have heard of him.

The standard of proof of the inquiry into Mr Justice Vasta was on the balance of probability. That is a fairly flimsy way to try somebody and decide his future. I do not believe that Mr Justice Vasta can ever work again as a judge. Regardless of whether or not this House votes to sack him, his career, his future and his credibility have certainly been damaged. By the same token, people should be given a reasonable trial. He has said that he will never again be able to practise as a barrister. In its findings the commission said that it could find nothing wrong with the judge's actions as a judge. If Mr Justice Vasta is dismissed by this House, I understand that later on the Government will introduce legislation to validate past decisions of His Honour.

Even if some other minor grounds are found against him—and I repeat that it is on the balance of probability—surely this Parliament can find a way to ensure that he can lead a reasonable life after tonight, earn a living in a respectable manner and be able to hold his head reasonably high. I do not believe in cutting someone's throat and leaving him to die; I think it is totally wrong. There must be some way to minimise the pain that Mr Justice Vasta and his family are going through.

Mr Prest: What are you going to do? Recommend the electric chair?

Mr MENZEL: I will take that interjection. The electric chair would probably cause a lot less pain.

Today, Mr Justice Vasta mentioned royalties paid to judges on books and other matters. What is more, the Leader of the Liberal Party referred to Mr Justice Thomas' book on judicial ethics. Many of the matters raised are open to interpretation. I point out that other judges and people were named in the Lewis diaries. Why have they not been investigated?

We talk about accountability. The judge stated that officers in the Justice Department told him that his phone bill of \$400 or \$500 was nothing compared to those claimed by some other judges. When we talk about accountability, we must be consistent. If we are not careful, we will have to investigate everyone. It is grossly unfair to conduct a witch-hunt in relation to one person. It seemed to me that the commission of inquiry was set up to go looking for something, which is a strange attitude to take.

Many rumours exist about phone taps being made on members of Parliament and others. I wonder how far that type of thing is going. I am concerned about civil liberties. At times, I hope that we are not bordering on McCarthyism and that people's civil liberties are not impinged.

Evidence was adduced from the Lewis diaries that Mr Justice Vasta and his wife were friendly with Sir Terence Lewis, and vice versa, and reference was made to evidence given in a defamation case. In my view, that is a trivial matter. If it is not some sort of a witch-hunt, I do not know what is.

If honourable members are looking for crime and corruption, why are not the police investigating advertisements for escort agencies in the 1989 Telecom Yellow Pages? I seek leave to table a page from that directory.

Mr SPEAKER: Order! Does the member wish to table and incorporate that document?

Mr MENZEL: It would be too difficult to incorporate it. I seek leave to table it.
Leave granted.

Whereupon the honourable member laid the document on the table.

Mr MENZEL: Mr Justice Vasta has been put on trial by the media. People in the media suggest that they are always right and above reproach. However, I have with me a copy of the *Sun* which is advertising brothels.

A few weeks ago, when Parliament was sitting, I travelled in a taxi from the airport. When the taxi-driver ascertained that I was a politician, he said—

“What a farce! My taxi company orders all the drivers to read the *Sun* newspaper every afternoon so that potential clients can be driven instantly to a brothel.”

I draw that matter to the attention of the Parliament. It is not a laughing matter; it is serious. When we talk of accountability, we must carry it right through. There are greater problems in the community than whether the evidence of a judge and his wife is accepted in preference to that of a couple of newspaper reporters.

Mr Casey: Are you not really saying that your own Government is not fair dinkum?

Mr MENZEL: I am not saying that. I am expressing my views as a member of Parliament. I am not pointing the finger at anyone. As a member of Parliament representing my electors in Mulgrave, it is my duty to draw the attention of members of this House to anomalies that exist. If that right is taken away from me as a member of Parliament, it will be a sad day for Queensland.

I have grave reservations about this report. It is a long report. I just wonder how many honourable members have read it right through. It is very easy to make a quick decision or very hard, as the case may be, but once the decision is made it is a decision that affects somebody, and it is a final decision. I ask that this Parliament and the Government consider allowing Mr Justice Vasta to resign so that he is not debarred from practising as a barrister.

Mr BEARD (Mount Isa—Deputy Leader of the Liberal Party) (10.46 p.m.): I want to speak in this debate tonight because I think it is terribly important to get some non-legal input into it, as indeed honourable members have just had from Mr Menzel and, I have no doubt, will get more of later on. I say that with the greatest of respect to our legal friends in the House. I know that honourable members will hear more from some lawyers later on tonight. Sometimes in a debate such as this I think one can be blinded by legalistics and lose sight of common sense, natural justice and what all Australians call a fair go. I hope that honourable members never lose sight of what I call a fair go.

At some stage of our lives we all have to play a quasi-judicial role. As parents we settle arguments between kids. Many honourable members have been teachers in the past. Evidence has to be heard and decisions have to be made based on different input. Some of us have semi-formal roles in society. For many years I had the job as chairman of a Rugby League judiciary, which I did not particularly enjoy. It is one of those jobs that someone has to do.

The referee would swear on a stack of Bibles in regard to what he saw and then the player would come in and swear black and blue that he would never hit a man in a million years. Evidence has to be heard and decisions have to be made. What I am getting at is that what one has to ensure is that everyone is given a fair hearing—a completely fair hearing—and one must hear every word that the person concerned wants to say. That is why last week, along with many members on this side of the House, I was so dismayed that the Government did not see fit to extend that 75-minute time-limit that it imposed to an unlimited time. It would have cost the Government nothing. It was a trivial matter really. I still do not know why the Government made an issue of it and forced a division when today, as honourable members could see, it was quite happy to give Mr Justice Vasta all the time that he wanted.

The old adage that justice must be seen to be done as well as being done often makes itself clear to a layman far more readily than it makes itself clear to a legal man. Everyone must get a fair go, a fair hearing. Then when one is finished, the sentence that one imposes—whether it is grounding one's kids for a week, or not letting them watch TV or go out, whether it is giving a footballer a two-week suspension or whatever—must be seen to be appropriate. The punishment must fit the crime. If one finds a footballer guilty of punching someone, one does not rub him out for five years. I think that this gets to the nub of the difficulties that many members of this House are having tonight, because what honourable members are facing is passing sentence on a man when the punishment so obviously does not fit the crime. I will develop that argument a bit further later on.

On the surface, honourable members have five recommendations from three eminent retired judges after spending 43 days taking evidence from all sorts of people and giving the matter their full consideration, at a tremendous cost to the State. They are recommending that this House make a decision to expel a man from the judiciary. As honourable members heard Mr Justice Vasta say this afternoon in this House, that will cost him his whole career, his livelihood, his public image and his stance in the community. He will suffer disgrace, humiliation, embarrassment to his family and the loss of approximately \$750,000 as a penalty.

Although not all honourable members have read the report, some honourable members have. At any rate, all honourable members have certainly followed the case. I give the members of this Parliament credit for knowing what they are talking about. They know what they are listening to. However, when honourable members read the report and see what Mr Justice Vasta has been found guilty of and then see what sort of punishment he is facing, many of them naturally recoil from it and wonder, "Heavens above, is this what we have got to do? Isn't there a half-way house? Can't we give him six months off or a six-month suspension? Can't we fine him \$100,000?"

I have heard what honourable members have had to say tonight in this Chamber. I feel that members of this Parliament are looking for something in between and that they would be more ready to go along with that. It reminds me of what I have always believed to be the strongest argument against capital punishment, that is, that if capital punishment is mandatory for certain crimes, it will be found that juries will be reluctant to convict because they will know that when they do convict, the judge will hang someone, or shoot him, or gas him, or put him in an electric chair, or something else. Juries have to be 101 per cent certain that a defendant is absolutely guilty of what he has been charged with, because he will be killed. Juries are reluctant to convict when death sentences are mandatory.

The punishment that this judge, this man, is facing as a result of our deliberations is quite awesome. Looking at it from the other side, however, I said a while ago that, superficially, the offences of which he has been found guilty may seem trivial or, if not trivial, at least not worthy of the punishment that he is facing. I submit that that is probably not true because we expect so much more from a judge than we expect from other citizens, and rightly so.

Over the last two years in this State honourable members have seen and heard evidence of leading citizens, eminent people in positions of great power and authority in this State, slotting into a pattern where behaviour which is patently unacceptable to the community at large has become the norm. I refer to such things as tax deals, units at the Gold Coast, leases and bits of paper changing hands, bundles of money appearing mysteriously from nowhere and being left to people, talk of conspiracy, special favours and behind-the-back deals.

Honourable members have seen that the individual things—the AAT incident and so forth—may in themselves not seem worthy of the punishment that the Parliament is considering, yet the person concerned is a person in a position of absolute trust, a position of the highest stature in the community, from whom we expect the greatest. If we see the Queen or the Governor-General in public, we do not expect to see that

person picking their nose or scratching their behind. A much higher standard of behaviour and decorum is expected of them. We expect the utmost decorum and cleanliness from our judges. We do not like to hear that they are engaging in deals that the ordinary man in the street may consider to be shady, things that he has not got access to such as units at the Gold Coast, tax deals and special favours.

It is the most frustrating thing in today's world, in which we have so many other problems to deal with, to see other people suffering because they are unemployed, they do not have the deposit on a house, they cannot keep up their payments on a house or they have other problems, and to believe that there are people who have enjoyed the favours of the top positions. In saying that, I grant that Mr Justice Vasta was not born with those favours, he achieved them by hard work; and jolly good luck to him. But once he reached that position, to find that that position was being abused because he was receiving favours, perhaps the punishment he is facing, if we do find him guilty tonight and decide to punish him, may seem more appropriate than it was when I spoke about it the first time. Why are we having such difficulty with this? Before the judge appeared this afternoon, why did the leaders of the three parties in this House indicate that they would go along with the judges' recommendations? Why did most honourable members to whom I have spoken in the last few weeks feel, before they heard the judge this afternoon, that they would not have much difficulty in supporting the recommendations made by the three judges? Who is going to go against the three learned retired judges? Evidence was heard over 43 days. After listening to a man for two hours, who would dare go against those recommendations?

During the war, bomber pilots who flew over a city and unloaded bombs on a city did not see the casualties they caused. Artillerymen, firing at an enemy out of sight 10 or 20 kilometres away, let their shells fall and create the utmost devastation and carnage. They do not see the casualties. An infantryman who has to look a man in the face, fire a bullet at him and kill him or put a bayonet in his belly is a completely different kettle of fish. This afternoon we have looked the judge in the eye. In the State of Queensland there are large numbers of villains, and I call them villains. They have been named and uncovered by the Fitzgerald inquiry. We will find out more about that in another couple of weeks. If we could sit here and train an artillery gun on the lot of them and wipe that blot off the face of Queensland and cleanse Queensland, we would all do it. There would not be one member in this House who would not pull the trigger, drop the bomb or fire the shell. But we have to listen to them and look them in the eye.

It is as though the judge thought, "What I did was to be expected; everyone else was doing it. What did honourable members expect me to do?" We know that the judge has a family. He told us about his struggle to get where he is. We know that his family is sitting in the gallery listening to this as his whole future is decided. Some people recoil from doing what they know they have to do because they have looked him in the eye and they are unwilling to pull that trigger. If they could only stand back and get someone else to fire an artillery shell, there would be no problem; they would wipe out everyone who has ever done a secret shady deal, been the beneficiary of cronyism, received a taxation benefit or done something else.

The people of Queensland are expecting something from honourable members today. I know that the people in my electorate are expecting something. Every time I go home, I hear, "When are you going to gaol some of these villains who have been named at the Fitzgerald inquiry? When are you going to do something about it?" People are tremendously fearful that these villains will get away with what they have done. I can talk all I like about letting the due process go on, about waiting for the report, assuring them that this House is determined to see that justice is done; but the people of Queensland have been very much hurt by this. They found out what many of them long suspected, that there has been villainy afoot, and they want the villains punished.

I am not unusual; it has happened to every member in this Chamber. I have seen a young lad from my electorate go off to gaol because he had too many drinks one night and killed some kid. That boy is not a villain; he was stupid. He has done something

that will haunt him for the rest of his life, and another boy is dead because of it. He is now in Stuart Creek prison. As honourable members could imagine, his parents are absolutely hysterical about that. God knows what will happen to him when he comes out of prison. I am not saying that he should not be there; that is the law of the land. However, when one sees lads taken off for a moment's stupidity or thoughtlessness, even if they have done it before and they have been stupid two or three times, but not with malice aforethought, how can we draw back from doing what we have to do when a whole pattern of villainy has been set up? I use the word "villainy" fairly carefully; maybe it is a bit too strong. We have a whole pattern of going along with what had happened in this State. It was all too easy to do. We cannot draw back from that and lock up kids because they have been stupid, had a few drinks and killed someone. Even though the effect of one on the surface—a dead boy—may seem far worse than the effect of what has happened, as is outlined in this blue report to which we are referring, the long-term effects—the rot, the malaise that exists in our State and our nation because people in positions of power and authority do slot into patterns of corruption, deals and cronyism—are far more harmful to our country than the individual who does something stupid, even if it results in the loss of life.

The people of Queensland are expecting us to do something. I do not expect us to react like the leaders of China have done in the last week, where the leader of China was quoted as saying, "What's a million people here and there? Even if they kill a million, who cares? What's a million here or there?" We do not want to spill blood for the sake of spilling blood. Unfortunately, the situation we are faced with after considered deliberation for 43 days by three learned judges of the highest estimation in the community is that this man be removed from the judiciary. This afternoon I heard him. I sat near him and I looked him in the eye. My heart bled for him. I felt so sorry for his family. What he has gone through is appalling, but we cannot let that stop us doing what we have to do. What we have to do tonight is accept the recommendations of the judges and vote for Mr Justice Vasta's removal from the judiciary.

Mr BRADDY (Rockhampton) (10.59 p.m.): We come here on a very solemn occasion to make decisions which relate to Mr Justice Angelo Vasta of the Supreme Court. In that context it is a great pity that we cannot do so in an atmosphere in which the Government behaves with propriety by giving all the due deference to the circumstances that should be given. Earlier this evening I was particularly appalled to listen to what the Premier had to say when replying to the Opposition's motion for the adjournment of the debate for one week.

The judges who were appointed to this commission made it very clear that the responsibility for the decision in relation to Mr Justice Vasta lies with this House. It was not necessary for the commission of inquiry to do so, because honourable members should have known that anyway—that only a Parliament can remove a superior court judge.

I refer honourable members to some comments that were made in the commission's report, particularly at page 11 in paragraph 1.5.12, which states—

"The Commission is of course, aware that the final decision whether an address should be presented for the removal of Mr Justice Vasta rests with the Legislative Assembly, but the Commission is charged with the responsibility of considering whether his behaviour would warrant removal."

In the following paragraph the report states—

"In making a decision to address the Crown for the removal of a judge, the members of the Legislature must bear in mind that the independence of the judiciary is a fundamental principle of government in this State and in Australia generally."

The report states further—

"The only ground for the exercise of the power is that the Legislature has formed a collective opinion that the judge is not fit to remain in office."

At page 164 of the report the Commission states—

“The decision whether an address for removal of the Judge should be presented in these circumstances lies within the discretion of the Legislative Assembly.”

In one sense that is trite. But what happened tonight in this House? The Premier stated that if any honourable members dared to disagree with what the three judges had said—although it was the duty of honourable members to do so if they did so disagree—that would be an insult to this Parliament. What arrant nonsense! How disgraceful it is that this State has a Premier who so little understands the role of Parliament that he believes that he has to behave as a toady to a commission of inquiry which was appointed really only to report to this Parliament! The Premier believes that all honourable members should be bound by the report of the commission. I took note of the Premier’s words—“What an insult to this tribunal not to accept their decision.”

It is an insult to this Parliament that our Premier so little understands the role of this Parliament that he makes such a stupid statement. I reject and disagree strongly with what he said. In fact, in that sense I am ashamed that I will eventually be voting with him. The Premier does not understand his own leadership role or the role of Parliament. Honourable members are not here as automatons to accept the report in toto; they are invited to read the report, take it as a submission and make a decision as to whether or not they will proceed with the application to remove Mr Justice Vasta from office. I reject the stupidity of the Premier of Queensland which too often manifests itself in this House and has done so again this evening.

This is not the first occasion on which the Government has betrayed democratic principles and propriety in the handling of this matter. Not only has the Premier disgraced himself today; the Attorney-General similarly has disgraced himself. I refer to the appointment of the commission of inquiry. On 15 November 1988 in this House the Parliamentary (Judges) Commission of Inquiry Bill was presented. Mr Deputy Speaker, you will recall that that Bill passed through all stages without interruption. No time was allotted in which to consider the legislation in detail. At that time I asked for an undertaking from the Attorney-General, which I received. I refer honourable members to page 2570 of *Hansard* at which I said—

“Before the commission of inquiry is formed the proper course is that the Attorney-General consult with the Opposition and the Liberal Party regarding the persons who will form the commission. Parliament is handing over its prerogative to judge the judges to three persons and the Government has recognised this by inserting the proposal that Parliament will appoint the three commissioners and the chairman by resolution. In the context of all that has occurred in Queensland, if Parliament is to carry this out, Parliament—and by ‘Parliament’ I mean all honourable members in this House—must have full confidence in the three persons appointed to the commission of inquiry.”

On that very same page I said—

“All honourable members in this Parliament must play a part in the appointment of these commissioners. Therefore, I ask the Attorney-General to give an undertaking that he will consult with the Opposition and the Liberal Party about the appointment of the three commissioners and that nobody will be appointed to stand in the place of Parliament who does not have the support of the Government, the Opposition and the third party in this House. All honourable members must have confidence in the people who are appointed.”

At the bottom of that page I said—

“It must be remembered that this is not an executive action before the House, it is a parliamentary action. The commission will be appointed by the Parliament and resolved by the Parliament. That, in itself, is most unusual. The Parliament will have to say who the commissioners are. If the Parliament is to say who they are, we cannot have the Attorney-General walking into this place on one day soon and moving a motion containing three names that we at that time are hearing for

the first time. That is not on; it should not happen. I really look to the Government to behave in the proper way. Then the Opposition obviously will co-operate—and we in the Opposition will co-operate. We will not be in the business of trying to score political points on the names of the commissioners, but the Government must also play its part; it must recognise the importance of this action and that it is parliamentary action, not an action of the Executive.”

In response to my speech and other honourable members’ speeches, the Attorney-General made certain remarks, which are reported at page 2573 of *Hansard* of that same date. The Attorney-General, who is the honourable member for Redlands, said—

“The member for Rockhampton touched upon an important question. I agree with him. In relation to fairness in dealing with the two judges concerned, and also in the general public interest, I assure the honourable member that the final selection of personnel who will be considered for this tribunal will be discussed by the Opposition spokesman, the spokesman for the Liberal Party and me. I assure the honourable member that I have approached no serving judges, nor have I approached any serving judges or retired judges in this State. In the interests of fairness, that is the only appropriate course of action to adopt. I concur entirely with the honourable member on that point. I thank him for his constructive comments in relation to that.”

That was an unequivocal undertaking to the Parliament to consult with the Justice spokesmen in the Opposition and the Liberal Party before the commissioners were appointed. What in fact happened? The Attorney-General, who solemnly gave that undertaking, broke his word to this Parliament.

On 22 November 1988, in the absence of the Attorney-General, the Leader of the House, Mr Austin, did the very thing that I asked not be done. He announced the names of the three commissioners. When I rose in this place on that day I criticised the Government. My remarks are reported at page 2965 of *Hansard* of 22 November 1988. I stated—

“As I was the person to whom the Attorney-General addressed his remarks and gave the undertaking, I wish to add these comments. The matter of judging judges is peculiarly a matter for the Parliament and not a matter for the Executive. The requirement, of course, is that the Parliament appoint these judges by resolution and that they in turn report to the Parliament, which will consider the report. In those circumstances I pointed out that this was a peculiar and just opportunity for the Parliament of Queensland to exercise its parliamentary powers, that the Opposition did not wish to surrender those powers, and that therefore this report would not go to the Executive with the Executive deciding whether or not the report should be handed to Parliament. The Attorney-General accepted that, agreed with my submission and said he would behave accordingly.

Today the Government has come to this House with no apology or statement to say that it was an oversight, that is, that the Attorney-General has left the country and it should have been done but has not been done. The Government can never apologise, even when it makes a mistake. That undertaking was sought by me because it was a unique opportunity in Queensland for all members of Parliament to work together in the investigation and judging of a Supreme Court judge and a District Court judge. Nothing could be more serious than that, and the Opposition behaved appropriately and seriously.

The Attorney-General has not honoured the undertaking that he gave to the Opposition. The Government has broken its word.”

What did we get in reply? An apology from the Government? Any form of apology? Any excuse? What we got was the typical arrogance of this Government. The reply from the Leader of the House, Mr Austin, is reported at page 2966 of *Hansard* of 22 November 1988. He stated—

“This is the place, not behind closed doors, where the honourable member for Murrumba or any other member of the Opposition has the right to say anything

about the judges who will be appointed. If they want to say anything, they must have enough courage to stand in this place and say it publicly. The members of the Opposition have the opportunity now to say what they want to say and not do as the honourable member has done, that is, take part in secret consultation behind closed doors and say, 'I will reserve my judgment as to whether they are suitable or not to another time.' The Opposition has its chance now. The matter is before the Parliament and is one that the Parliament should vote on."

The Government tainted this particular inquiry at the outset. The Attorney-General, who is a lawyer, would know well from practice between lawyers, the importance of honouring undertakings. When one lawyer says to another lawyer, "I give you my undertaking", and he breaks it, that is one of the most serious ethical faults that can be committed by a lawyer. The undertaking he gave in this place goes beyond an undertaking he gave lawyer to lawyer over the phone or face to face. He gave a solemn undertaking to this Parliament and he broke it. He has never apologised. He has never given an explanation. All we had was this head-kicking from the Leader of the House telling us that we were the Opposition and they were the Government and we could like it or we could lump it. We did not like it and we are not going to lump it, because we do not want in this place an Attorney-General who gives undertakings to this Parliament and then breaks them. The Attorney-General stands condemned in history, in the pages of *Hansard*, for the breaking of that undertaking which he so solemnly gave. It is a disgrace.

At the outset of this inquiry the Government tainted itself, and yet it comes in here and wishes us to believe that it behaves with all the propriety in the world. I do not accept that this Government does behave with all the propriety in the world. It rarely behaves with the propriety with which it should. The Attorney-General betrayed his Government and betrayed this Parliament by his poor action on that occasion.

I turn now to the report. In these circumstances it is a particularly solemn occasion on which to have to make a decision, but we are forced to make a decision here tonight, again by the action of this Government. Some Opposition members requested more time and specifically wanted to read the transcript of the evidence that was given to the commission of inquiry. That was a reasonable request, because the members of this place had not in fact read the transcript. As honourable members know, I do not live in Brisbane and therefore I did not have an opportunity to see the transcript. Today when I attended to read some of it I was told by the Clerk that I was the first member of this Parliament to seek to read any of it. We are all busy people. Maybe it was best to wait. But today Mr Justice Vasta made submissions in which he referred to pages of the transcript that he believed we should read. I believe we should read those pages before making a final decision. But this Government, with its behaviour that falls short of the propriety that is expected, demanded—used its numbers to ensure—that the decision proceed immediately.

In relation to that decision, it is important that we look at the standard that is supposed to apply. I believe that some of the speakers on all sides of the House have not fully understood the standard that is supposed to apply. This is not a criminal trial. The Parliament, in a sense, is sitting as a court. Although the Leader of the House has always rejected that notion when it has been stated here before, it is in fact true.

Mr Austin: Did Mr Justice Vasta take an oath? Did Justice Vasta take an oath?

Mr BRADDY: It is not the only time——

Mr Austin: No answer. No, he didn't.

Mr BRADDY: It is not the only time——

Mr Austin: Did Justice Vasta take an oath?

Mr BRADDY: It is not the only time that Parliaments sit as a tribunal—as a court. Those honourable members who are reasonably well read in relation to Parliaments and courts would know that there is in Britain a Parliament known as the House of Lords

which, as well as being a Parliament, is the superior court of the United Kingdom. People who appear before the House of Lords when it acts as a court do not make submissions under oath. No oaths are taken, but it is still a court. Similarly, this Parliament sits today as a court or a tribunal, in a sense; not in the sense that an oath was taken but in the sense that, as a tribunal, as a jury, as a judge—whatever analogies with a court are preferred—this Parliament has to make a decision.

Mr Austin: You are just a new boy. You don't understand Standing Orders.

Mr BRADDY: However, Mr Austin does not understand or accept that.

As I said earlier, the taking of oaths is irrelevant. The House of Lords sits as a court. People who appear before it in primary jurisdiction do not take an oath. Submissions are made to the House of Lords. Not all courts have witnesses appearing before them. Some courts sit in judgment by having submissions put to them.

Mr Austin: Go back to reading books.

Mr BRADDY: Of course, Mr Austin is totally unaware of that and is incapable of understanding it because he will not listen. Not all courts have to have witnesses. Some courts simply hear submissions. In effect, that is what this Parliament did today. The Parliament, as a tribunal, received submissions.

Mr Austin: Do they take them under oath? Yes, they do. You are wrong again.

Mr BRADDY: Mr Deputy Speaker, I do not wish to take interjections.

Mr DEPUTY SPEAKER (Mr Booth): Order! Persistent interjections will not be allowed.

Mr BRADDY: If Mr Austin is prepared to listen instead of opening his mouth and making a lot of noise, he may learn something. In the House of Lords and other tribunals no oaths are taken and no witnesses are called, but submissions are made and decisions and judgments are handed down.

Mrs Nelson: Those submissions are made under oath.

Mr BRADDY: Those submissions are not made under oath.

Mrs Nelson: They are.

Mr BRADDY: The member for Aspley does not know what she is talking about. When counsel makes submissions to the House of Lords, an oath is not taken. Counsel refers to evidence given under oath elsewhere, and that is what happened in this instance. Evidence was given in the commission of inquiry under oath and the finality of those proceedings came when submissions were put to us in person by Mr Justice Vasta or, as they could have been, by his counsel. One of these days, Government members may understand that.

It must be understood this Parliament does not have to find that the evidence against Mr Justice Vasta was proved beyond all reasonable doubt. That matter is referred to in the commission's report on page 13—

“The Commissioners considered that the civil standard of proof on the balance of probabilities was the proper standard to apply.

. . .

The Commissioners were of the opinion that, in conformity with the High Court's approach to the degree of proof, due regard to the seriousness of the issues must be had in applying the civil standard to the evidence adduced.”

Clearly honourable members must understand that Parliament's decision must be made on the balance of probabilities and that Parliament is not trying somebody by reference to a criminal standard. Other members of Parliament and I are required to apply our minds to the report and the evidence and to make a decision on the balance

of probabilities, even though it would be a very strong balance of probabilities. It was in those circumstances that I considered evidence relating to the defamation and conspiracy proceedings.

On the balance of probabilities, bearing in mind that three judges who formed the commission of inquiry found against Mr Justice Vasta on the defamation matter, I concurred with their decision because they had the opportunity of hearing him and of hearing the witnesses. On the balance of probabilities, they accepted the evidence of the journalists as being accurate. The submissions made by Mr Justice Vasta today do not completely disturb that finding, because he indicated that after a period all records are not kept in relation to people who stay at the hotel if they had not stayed for more than one evening. The three commissioners found against Mr Justice Vasta on the balance of probabilities. Having read the report, I cannot bring myself to disagree with them. I have to agree with them in relation to that particular matter. This is a very serious matter because when a judge, even on the balance of probabilities, is found to have sworn false evidence, that amounts to a serious charge against him.

Similarly I was disturbed by the judge's behaviour in relation to the conspiracy allegations. He made conspiracy allegations against the Attorney-General, Mr Fitzgerald and the Chief Justice and publicised them widely. When challenged at the hearing, he withdrew the allegation. I refer to page 52 of the report at paragraph 4.1.2 where the following statement appears—

“The allegation was first made by Mr Justice Vasta on 27 October 1988 and conduct by His Honour asserting its existence continued up to 20 December 1988. The Heads of Inquiry were delivered to the legal advisors of Mr Justice Vasta on 23 January 1989. On the first day of the hearings, 13 February 1989, counsel assisting the Commission outlined the evidence which it was proposed to put before the Commission relating to this topic and tendered a number of documents. Just before the Commission adjourned, Mr Shand was asked whether the allegations of conspiracy were being persisted with; he sought leave further to consider the matter overnight. The following morning Mr Shand informed the Commission that the allegations of conspiracy were no longer made and would not be revived. He added that in due course Mr Justice Vasta would give evidence describing the circumstances which led him sincerely to believe that there had been a conspiracy. Mr Shand went on to make it clear that the allegations that there was a conspiracy are untrue.”

When he was before the commission, through his counsel Mr Justice Vasta actually reached the stage where he said that the allegations of conspiracy made by him were untrue. That must be considered in that context. What happened today? Honourable members are in difficulty because the House has not had an opportunity to adjourn, but I took notes of the judge's submission in relation to the conspiracy. I read one proof of the submissions put by him and, from reading the whole context of his submissions, it was clear that, from having said on the second occasion through his counsel that the allegations of conspiracy were untrue, today he has gone back and said that they were true. Today he devoted a large portion of his time before Parliament trying to convince honourable members—as I interpreted it and without the opportunity of really reading his submission—that the conspiracy was a fact, particularly in relation to Mr Fitzgerald, QC.

Mr FitzGerald: He apologised up there and he withdrew those charges.

Mr BRADDY: Exactly.

For him to go back to that allegation means that he has once again put himself in the position of a judge who is alleging before the community that these three people had in fact conspired against him. That is the way I interpreted his address today. That portion of his address did him a great disservice and is one of the two main reasons why in the end I decided, on the balance of probabilities, that because of his behaviour I should vote to remove him from office. In many ways I regret having to do so. I thought that Mr Justice Vasta spoke very eloquently today, and with great dignity, grace

and courage. I could not help but admire him as he stood before this Parliament for the courageous way in which he presented his case. Nevertheless, today he went back once again to this conspiracy allegation which, through his counsel, he solemnly stated to the commissioners that he no longer regarded to be true. Today he has said nothing to indicate that new evidence has come out since the inquiry which would entitle him to change his mind and make a different submission. For that reason I believe that he has undercut the strength of his own case in other areas from his own mouth.

In a sense honourable members are like a jury; all of us are entitled to arrive at decisions for different reasons, the same as 12 jurors in a court room. Honourable members do not have to arrive at the same result for the same reason. Each of us is entitled to pick and choose from the evidence and submissions those matters which are compelling to us. I find that his behaviour in relation to the conspiracy allegation—which is very serious conduct—and his behaviour here today in relation to that allegation, combined with the findings in relation to the defamation proceedings—which I accept—was conduct that proved, in my opinion, that he should be removed from office because of the standard that must be set.

In the circumstances I will support the motion. I pay tribute to Mr Justice Vasta for the standard and conduct of his defence before the Parliament today, but unfortunately I cannot ultimately agree with the totality of his submission and believe that he should be removed from office for the reasons I have stated.

Mrs NELSON (Aspley) (11.28 p.m.): I join in this debate tonight because it is important for the electors of Aspley to have my position clearly stated on the public record. This is an issue of not only great sadness, but also great significance to the way in which the administration of justice is viewed by the people of Queensland.

Before stating my own personal views—and I stress that they are my own personal views—I wish to take issue with the statements made by a number of previous Opposition speakers. Tonight Opposition members want to have a quid each way. One speaker stated that honourable members are both judge and jury, but how that can be true defies the imagination. That same speaker told honourable members that the Parliament is receiving evidence. Another Opposition speaker stated that honourable members are not really receiving evidence but that Parliament is a sort of tribunal or a court. The Leader of the House raised the issue of whether Parliament called witnesses on oath, and the other matters that separate Parliament entirely from the court room atmosphere, and stated that oaths are not taken in the House of Lords. The honourable member would know—and I pointed this out to him, and I am sure he would apologise for misunderstanding me—that in fact any submission placed before the House of Lords for that purpose is done on the basis of oaths taken by witnesses in that submission and evidence is taken on the basis of either civil or criminal defence for establishment of proof. The honourable member for Windsor, Mr Comben, can shake his head all he likes, but if he cares to look he will discover that in fact the House of Lords' role in that capacity is quite different.

I wish to spell out what I believe the situation to be so far as my representation of the people of Aspley is concerned. I do not believe that honourable members are voting in this Assembly this evening as either a jury, tribunal, inquiry panel or any body other than a forum of the elected representatives of the broad mass of the population of Queensland. We have the responsibility to establish either the innocence of the judge or the need to show cause for him to be dismissed. I notice the Leader of the Opposition is leaving the Chamber. He runs away whenever anyone disagrees with him. He wonders why he will never be Premier of Queensland. One cannot run away from a difference of opinion.

We sit, as I see it—and I stress “as I see it”—in this House tonight to take note of the report of the commission of inquiry, which spent three months taking evidence and assembling facts, which were presented to us in the form of the opinion of the inquiry. We are doing no more and no less than debating that report and the resolution that has already been passed in this Parliament that Mr Justice Vasta be asked to come

here to show cause why he should not be dismissed from his position as a judge. We are not sitting as a court. We did not ask him to swear an oath, nor did we ask him to appear as a witness. We paid him the courtesy of offering him an opportunity to speak on his own behalf, after already having the opportunity to cross-examine extensively in the inquiry.

I believe that was an appropriate thing to do and I believe it was appropriate for him to have adequate time to address the House; but I believe it is simply having a quid each way for both the Labor Party and the Liberal Party in this House tonight to try to get sympathy from both sides. I will give them a fairly strong message: there is no such thing as having support from both sides on any issue. It may be tough; it may be unpleasant; it may be hurtful; but, in the final analysis, to be fair dinkum one has to make a decision and be open and honest enough to get up and express it.

We have the antics from the Liberal Party where three of them are for it, three of them are against it and five of them are outside trying to make up their minds, which is par for the course. But what is surprising is that 14 members of the Labor Party are for it and 13 are against it. That is really the problem of the Leader of the Opposition, who has spent all night thrashing around trying to get a solution to what is a difficult problem for him, because he privately and publicly states that he totally supports the removal of the judge.

The right of members to vote was addressed by one Opposition speaker, the member for Murrumba, who used the Neville Wran example. What he did not bother to tell the House was that Neville Wran was charged with contempt. This was not a case of an allegation made wildly or recklessly in an environment where someone was attempting to protect his own future; it was a charge of contempt and he had an obligation as Premier to stand aside while that matter was heard in the courts—not in the Parliament.

Mr Comben: He stood aside a fortnight before he was charged.

Mrs NELSON: He stood aside under great duress, as the honourable member well knows. He was aware he was to be charged. He was paid the courtesy of being told he was to be charged and he stood aside, under duress. And it was not two weeks before he was charged.

Mr Comben: That is different from what you have said.

Mrs NELSON: There is no difference. He was to be charged with contempt. He went on public record and said that he was to be charged.

Mr Hamill: How are you going to vote tonight?

Mrs NELSON: I will get around to that.

It is dishonourable and misleading of the honourable member for Murrumba to stand in this House and use the Wran case as an example of why other members of this House should not vote in the debate. Because the issues are quite different, they should be able to vote in the debate.

I wish to address the five matters that were given to us in terms of the report which, since I have received it, I have spent considerable time looking at because I think this is a matter of Australian and Queensland history.

Mr Hamill interjected.

Mrs NELSON: The interesting thing is that the Labor Party is again wondering why it is out of office. It is the most chauvinistic and discriminatory party. The honourable member for Ipswich would not on pain of death dare make an ignorant statement like that to a male member of Parliament. In fact, the honourable member is living proof of why the Labor Party will never govern this State; he says one thing and does another and the people of Queensland know that. They know the track record of him and his colleagues.

I spent a considerable amount of time and concern reading the report, to which I wish to refer briefly. The matter that concerned me is one that has been raised by a number of people, that is, what we are actually dealing with and this confusion deliberately being created in the minds of people about whether this is or is not a court. That needs to be put to rest once and for all. The inquiry went to a great deal of trouble to decide how proof was to be established. It used High Court decisions and decided whether to use the civil or criminal standard of proof. It used the civil standard of proof, as extended through the High Court decision that is outlined on pages 12 and 13 of the report. I suggest that members of the Labor Party and Liberal Party in this House have a close look at the section that deals with proof, because it was critical to my decision to vote for the removal of Mr Justice Vasta.

It is made very clear at the outset in the heads of inquiry and the way in which the inquiry was conducted that the three members of the commission decided right at the outset that they would provide every opportunity for a reasonable standard of proof to be applied before any report was presented to this place. As the members of the inquiry established those high standards and guide-lines, I believe it would be an insult to both their judicial experience and their personal integrity for us to go against their recommendations. I took on board their comment in favour of the judge that, in terms of his judicial activities, there was no misconduct. On the basis of those five recommendations, they suggested that this Parliament should ask the Governor to remove him from office.

I would like now to refer to His Honour's speech this afternoon at the bar of the Parliament. I raise these issues in my order of priority, not necessarily as they were presented this afternoon. Although Mr Justice Vasta spoke to us with great dignity and he, like all of us, was aware of the solemnity of the occasion, I took exception to being told what my job was. I am aware of the role of a member of Parliament in this instance. I do not believe that any member of the House needed to be reminded of that. Perhaps it is symbolic of the fact that many Australians, including very highly placed people, lack an understanding of the fact that this place, representing the mass of the population, can appoint people to and dismiss people from the administration of the justice system. No honourable member would take that matter lightly.

I will now deal with the five issues that I wish to raise. The first one relates to the evidence of identification in the AAT matter. I perused the material that was laid on the table. The statutory declaration that was made raised, at best, a possibility, not a probability, that that person may not have stayed at the hotel. He may have stayed there for one or two nights. However, I am concerned at the assumption that he had to stay there at all to leave from that hotel. I am sure that many people have been in a situation in which they have met someone at a hotel and gone out to dinner from the foyer of that hotel.

Mr Mackenroth: I think the judge said that Campbell said in his evidence to the inquiry that he did stay at the hotel, and that was the point that he was making.

Mrs NELSON: That was the point he was making, yes. However, the statutory declaration only raised the possibility, not the probability, that he may not have. I believe that the section that dealt with the fact that computer records are not kept on people who do not stay for more than three days was a clear statement from the person in Melbourne that he was not going to give a clear undertaking that that person did not stay in the hotel.

Mr Mackenroth: He could have changed hotels day after day as he went from the conference.

Mrs NELSON: I have no interest in that. I am stating my personal views and I am saying why I intend to vote the way I do. I did not accept that explanation.

On the second issue, I did not accept the judge's explanation in connection with the meetings with the Cosco accountants. That is another ground on which I will be voting for his removal from office.

The issue of the alleged sham transactions for the purposes of tax evasion was probably the biggest difficulty for the judge in that, if he alleged that they were not sham transactions, it established that he was earning money outside of his judicial salary. Therefore he was between a rock and a hard place. I perused the report and I accept the commissioners' findings that there was a serious attempt over a period of time to evade taxation and that there was an attempt to hide it.

I turn now to the conspiracy allegations. If no other ground existed for the removal of the judge, that probably is the most significant one. Whether or not the judge spoke under stress is beside the point. A few years ago, I had some fierce arguments with people about the Neville Wran case. At the time, he claimed that he spoke out under stress in the defence of a life-time friend. However, Neville Wran had a background in law, he was the Premier of New South Wales, and he was an experienced man in business and politics. He, of all people, should have known that a Premier should not make a statement such as that. It was wrong in principle. For the same reason, no matter what amount of stress—I understand there was great stress; the Fitzgerald inquiry created stress for many people—because of the principle involved, no judge should be seen to make such allegations and remain on the bench. If the judge genuinely felt that, he should have tendered his resignation before making the statement and then sought to prove his claim.

On the matter of the lease of the library, the three-months' overstatement of claim is a more minor matter, but it fits in with the overall picture.

I am not trained in the law, nor do I pretend to be, as some members in this House do. I make no claim to that at all. I am simply an ordinary citizen elected to this place by the people in the electorate of Aspley. I have to make the decision. I cannot walk away. I suppose that I could do as other members have done and try to have a quid each way. They said how much they respect the man, but they are still going to cut his throat. That is about as much hypocrisy as I have heard from any other member of the House tonight. I do not see how one can follow the other.

On behalf of the electors of Aspley, I have a responsibility to follow the recommendations of the commission of inquiry. The recommendations were for us to debate the issue here and to decide to ask for the removal of the judge. I will not be doing that happily, but I will not be doing it reluctantly, either. It is the appropriate course of action and it has to be done. I prefer not to say anything about later activities; however, having read the report, a strong body of fact clearly arrives at the conclusion that the three retired judges reached. If all members of the Parliament genuinely believe that justice and the administration of justice have to be seen totally to be set apart—if it is sainthood, or almost sainthood, as we were told—perhaps that is as it should be. The people must be able to trust the system under which they live. This debate is all about the trust that the people must be able to have in the system.

If any other honourable member or I commit an offence, or are alleged to have committed an offence, we have to know that we will be dealt with fairly in a system. As cruel as it may be, it is nowhere near as cruel as this place. All members of Parliament know that. People can work hard to be effective and be gone tomorrow. That is as cruel as one can get.

Mr De Lacy: You are not mentioning any names, are you?

Mr Mackenroth: You know that.

Mrs NELSON: I do know from personal experience, and a few other honourable members, including Gil Alison, also know. Maybe it makes us humbler citizens and better members of Parliament the next time around. Who knows? That is for others to judge. But at the end of this year we are going to have 1974 revisited, so a few other people are going to find out.

I will return to the issue that I ought to be addressing. I apologise for digressing from the subject, Mr Deputy Speaker. The fact is that the bottom line is trust. By way

of phone calls, letters and personal contact, the people of my electorate have made it very, very clear to me where they stand on this issue. They expect me to vote in this place for the removal of Mr Justice Vasta, and I will do so accordingly.

Mr CAMPBELL (Bundaberg) (11.46 p.m.): Mr Justice Vasta is a victim of what I believe is a politicised judiciary, that is, a politicised Queensland judiciary, but as a victim he was also a player. He was prepared to be a player and, therefore, I suppose he is now accepting in this Chamber tonight the consequences of being part of the system.

This inquiry was not only an inquiry into one person but also an inquiry into the judiciary in Queensland.

I feel that many aspects of the report are inadequate and inappropriate because they protect the system and make a victim of Mr Justice Vasta. That concerns me because for so many years now Queensland has had an inappropriate method of appointment of judges and a method of appointment of judges that has not been for the betterment of society as a whole. Tonight honourable members not only have to examine exactly what has happened to Mr Justice Vasta but also have to examine the judicial system over the last 10 years, which is not the appropriate judicial system for Queensland.

I believe that this National Party Government has erred seriously in using this Parliament to make Mr Justice Vasta a victim. It has erred because it has used Parliament and demeaned Parliament in such a way that it has become an unnecessary extra to the Executive Government. As the member for Rockhampton pointed out, the Attorney-General gave an undertaking to this Parliament in regard to who would be members of the inquiry, and that undertaking was not honoured. Not only was it not honoured to a fellow solicitor, but also it was not honoured to this Parliament.

The terms of reference of the inquiry were not appropriate for the investigation of a judge. That is what is wrong with the whole system. The terms of reference were wrong and Parliament has been demeaned. The Opposition in this Parliament does not have a part in making decisions.

Mr Lee interjected.

Mr CAMPBELL: Like the honourable member for Yeronga and the back-benchers of the National Party, members of the Opposition are never given a right to be heard and to make what they regard as a contribution to Parliament. Because of that, this was a very poor inquiry. It did not attack the real problem, that is the system. It is important that honourable members consider that——

Mr Clauson: Are you saying that those three judges were incompetent to do the job?

Mr CAMPBELL: I am saying that the method——

Mr Clauson: Are you saying that the methods that they have employed are not satisfactory to do the job?

Mr CAMPBELL: I am saying that the method of appointment of judges is political and to the detriment of the public of Queensland.

Mr Clauson: Why? Are you saying you have no confidence in them?

Mr CAMPBELL: I will tell the Minister why. I will examine what happened in 1981 and what the Attorney-General had to say in regard to the appointment of Mr Justice Vasta. I believe that it was inappropriate because Mr Harper did not even appoint——

Mr Clauson: You are saying that you have no confidence in them.

Mr CAMPBELL: I am saying that I have no confidence in the system of appointing judges under the National Party. That is what I am saying.

Mr Clauson: What are you saying about the judges?

Mr CAMPBELL: I have said——

Honourable members interjected.

Mr DEPUTY SPEAKER (Mr Booth): Order! The House will come to order. I point out to the Minister that continual cross-fire will not be tolerated.

Mr CAMPBELL: Thank you, Mr Deputy Speaker.

I believe that the important element to the whole debate is how the judges have been appointed and, therefore, how the system can affect the way in which future judges are to be appointed.

One of the heads of inquiry was not even inquired into. 1.1.13(e) states—

“Whether Vasta J has or had contact with political figures which are inappropriate for a judge.”

That was not raised, and that was one of the major elements that could have been raised in the whole inquiry. When one considers the method of appointment, one can see that there was influence from outside the Parliament and by players named and unnamed.

When one looks at the appointment of Mr Justice Vasta, one can also see that at that time the Attorney-General, Mr Harper, was appointed on 19 August. Within days—I am not sure whether it was before his appointment or not—pressure was applied by the Premier to the Attorney-General for the appointment of Mr Vasta to the Supreme Court. From what was said by Mr Harper, it can be seen that between 19 August and 24 August he had the Chief Crown Prosecutor, Mr Vasta, attend at his office. It would seem that within five days of Mr Harper's appointment the wheels were already turning for the appointment of the judge. I believe that pressure was applied and that a person was appointed to Cabinet simply because he gave an undertaking to appoint a judge. The political aspects must be examined in a consideration of the findings of the inquiry.

An examination of the transcript shows that when the appointment of Mr Justice Vasta was raised—whether there was any impropriety on the part of the Premier and whether it was the Premier's appointment or not—the commissioners said that it was outside the terms of reference of the inquiry. I believe that that is a very important point. How a judge is appointed can reflect on the way he will act later on. That is not the first time that it has happened.

I turn now to the appointment of judges in 1981. In the *Sydney Morning Herald* on 3 February 1982, an article entitled “Doormat Liberals” stated—

“It is hard to take Dr Edwards seriously when he warns of the collapse of the Queensland coalition if the National Party continues to use its numbers ‘unethically and irresponsibly.’ He and his Liberal colleagues in State Cabinet have, in effect, become Mr Bjelke-Petersen's doormat.”

A second reason was given. The article continued—

“The other was the appointment of a new Chief Justice and a new senior puisne judge; here the prerogative of the Attorney-General, a Liberal, was brushed aside. The Liberals were so angered by the second appointment that they took the extraordinary step of advising the State Governor of their disagreement.”

Within a coalition the Attorney-General was being overturned in the appointment of a judge. The National Party was even imposing its will on a coalition as to who should or should not be a judge. The article continued—

“In the second, to succeed Sir Charles Wanstall as Chief Justice of Queensland, his”—

and here is the other player—Sir Edward Lyons—

“and the Premier's nominee, Justice Dormer George Andrews, seventh in seniority on the Supreme Court, was opposed by the Liberal Party and a large part of the legal profession . . .”

At that time the appointment of judges was not even accepted by the legal profession and not even proposed and accepted by the Attorney-General. This was how the judges were being appointed. The article stated—

“It was about mid-1981, according to those recollections of those in a position to know, that Sir Edward Lyons began raising the question among influential circles at the racetracks and elsewhere as to whether or not Justice Andrews might be a possible successor to Sir Charles Wanstall as Chief Justice of the Supreme Court of Queensland.”

Mr Lee: I didn't hear that. When I was down there, I didn't hear that.

Mr CAMPBELL: The position is that that is what was happening. I am sorry if the honourable member is interested only in racehorses. That is his problem.

A party-political person was lobbying for the appointment of a certain person as a judge, not on merit, not on what the legal profession may regard as most appropriate but on the basis of something that was party political.

It prompted the retired senior puisne judge, who at that time was Norton Stable, to write a letter to the *Courier-Mail*. The article stated—

“‘Who started (the lobbying),’ he wrote, ‘and who, or what, impels a trustee of a political party to support it?’ He said he well knew all those who were his judicial brothers: ‘I would find it more than hard to believe that any of these my friends could be so dead to judicial propriety as to curry favour in our political quarter.’

That, he wrote, would be an act so venal as to involve sacrifice of a principle for the sordid motive of personal advancement and for the customary knighthood.”

That is what was occurring and reported back in 1981. It went on to such an extent, as it says in the article—

“Former Justice Marcus Hoare said he completely agreed with Stable. He said he found it astounding that it was even suggested that Justice Douglas was not the appropriate appointee.

Lobbying intensified. A Liberal MP”—

honourable members know who that Liberal MP was—

“put it about that Justice Douglas had once cast a postal vote for a Labor candidate at a State election.”

This is the way the Government—

Mr Lee: Did he change parties at all, that fellow?

Mr CAMPBELL: I believe that it would have been Mr Lane, a former Liberal who joined the National Party so that he could smell ministerial leather. Those circumstances were arising. I raise that matter now because the same situation arose with the appointment of Mr Justice Vasta. It occurred because the Attorney-General was directed by the Premier to appoint him. That is what happened. Within four days of being appointed, the Attorney-General said to Mr Vasta, “Will you accept the nomination?” The Attorney-General was appointed on 19 August and Mr Justice Vasta was interviewed on 21 August. They are the political ramifications of what occurred.

The *Sydney Morning Herald* article stated—

“Doumany recommended Justice Douglas. The Premier said he was surprised and disappointed that Justice Andrews was not on the list.

After ‘discussions’ lasting an hour and a half, ‘consensus’ was obtained on the next name on Doumany’s list, Sir Walter Campbell.

. . .

Cabinet rested for two hours before taking up the matter of the Senior Puisne Judge. Doumany nominated Justice Douglas. The Premier responded by producing

a minute of his own. It stated that Cabinet recommended that the Executive Council appoint Justice Andrews.

There was further argument. The Premier could not understand this. In a remark that was accurate in the sense that the Liberal ministers had blocked his and Sir Edward Lyons's nominee, he said: 'You've got your way with the Chief Justice; why don't you give me my way with the second position?' "

Seven Liberal Ministers wrote on the Premier's minute, "This appointment does not have my support."

The National Party went into Government in its own right. Even as a minority Government it was prepared to appoint immediately to the judiciary the people whom it wanted. Mr Justice Vasta's appointment was not highly recommended or accepted by the bar. It was claimed that he should not be appointed as a Supreme Court judge.

At that time—within a couple of days or even before Mr Vasta was appointed—the Minister for Justice was asked, "What do you recall of the circumstances in which that conversation occurred?" He replied—

"The Premier, as Leader of the Government, indicated to me that he believed that Mr Angelo Vasta was a person who should be appointed to the Supreme Court of Queensland and asked me to consider that."

Mr Harper was questioned about from whom he sought information about the appointment of Mr Justice Vasta. He would not name the people to whom he spoke, but said that some were in favour of the appointment and some were against it. It is interesting to note that after the appointment was made it was decided that, because of the impending State election and because there was a minority Government, the appointment should not be made.

It is interesting to note also that Mr Harper gave conflicting evidence about the information that was provided in conversations with Mr Lewis. As to a telephone call between Sir Terence Lewis and the judge, page 49 of the report states—

"... but Sparkes has been told of these two matters—namely, one concerns a claim with regard to a voucher, and the other one is the purchase from another barrister of a motor vehicle."

Sparkes was influential in appointing judges. He was not a member of Parliament but was a key influence within the National Party.

As to the voucher and the purchase of the motor vehicle—Harper said that he had no knowledge of them and said that there were no other factors, to his knowledge, that were taken into account in the appointment of Mr Vasta. The Attorney-General was not given information by the power-brokers of the National Party in the appointment of a judge.

Page 611 of the judges inquiry transcript states—

"Were any specific allegations of wrongdoing raised to you at this time about Mr Vasta?— I certainly don't recall any such a suggestion at all. My relationship with Mr Pincus has always been cordial, and I believe if any such suggestion had been made I would have a clear recollection of it, and I certainly don't."

Mr Harper was asked whether he could recall any other conversations with Mr Vasta. He said—

"I don't recall any particular conversation, but I am quite sure—simply because it would be the normal and natural thing to do—that I would have done so, but I have no recollection of it actually."

Mr Harper stated further—

"Certainly not with my knowledge. I have no recollection at all of ever asking any inquiry to be carried out on my behalf. Naturally, as I have said, before I made the initial recommendation I had discussions with a number of people, I met Mr

Vasta, and I formed the opinion that he was a person well suited to such a recommendation."

Inquiries were supposedly undertaken by Sir Terence Lewis and discussed between the judge, Sir Terence Lewis and Mr Sparkes. However, Mr Harper, the Attorney-General, was not privy to those discussions. It is interesting to note the conflict in Mr Harper's evidence as to the judge's appointment.

As to some of the people who were against Mr Vasta's appointment—page 50 of the commission's report states—

"The appointment was not announced on the Monday. Mr Justice Vasta was again summoned to the Attorney-General:

'I think it was on the Thursday of that week and said, "I am sorry, Angelo, but your appointment can't go through." And I said, "Where is the opposition coming from?" And he turned his head towards the Law Courts and he said, "Some of the judges over there." And he said, "And the silvertails at the Bar." ' "

Mr Innes: Mr Harper seems to get himself involved in quite a few of these deals.

Mr CAMPBELL: Yes. This is a very serious situation regarding appointments. Previously I have spoken about other judicial appointments.

The Premier is now supposedly going to cleanse the old system with this inquiry and make Mr Justice Vasta a victim. That is the wrong-doing that is being committed here tonight. A player in the whole system is becoming a victim. It was stated earlier, "If someone has to be hurt, someone has to be hurt." That is a very callous way of looking at the matter. When the Attorney-General said he was not moved by Mr Justice Vasta's submission, I was very concerned, because I was moved. I believe that any really concerned and caring person would have been affected by what Mr Justice Vasta said. I believe that would happen when any submission is made by a person who is being judged and about whose actions a decision has to be made.

The problem in this case is: did the judge actually reply to all the points made by the commissioners? On the balance of probabilities—and I will not use that expression—there were aspects that he answered and others that he did not answer. The most important matter relates not so much to the minor points that have been raised but to the judicial system. My first concern is the suitability of persons to serve as judges. I have raised that matter in relation to the appointment of judges. My second concern is with the method of appointment of judges in Queensland. I believe that has been most unsuitable, as has been shown. The third matter is the dismissal of a judge from his position.

I believe that this Parliament has been used for political purposes by the Premier—by the Executive Government—to adopt a very inappropriate method of dismissal. That has occurred because the commission was given inappropriate and improper terms of reference. It was an inquiry in which Mr Justice Vasta was judged before it started. It was inappropriate for it to be conducted in that manner. I am very concerned that he has been made a victim.

Mrs Nelson: Read out the terms of reference.

Mr Mackenroth: I will. I am going to. I will read them out.

Mr CAMPBELL: The member for Chatsworth will do that.

As I said, because of the system—and he was prepared to be a part of that system and to go along with it—Mr Justice Vasta was judged before the inquiry started. As a person who has to make a decision on this matter, I have been very concerned.

I have read some of the decisions that were given by Mr Justice Vasta. When a person has to make a decision he has to ask himself, "What about my conscience?" Mr Justice Vasta presided over a case in which a subsequent appeal was upheld. I refer to

the case of the Queen against Raymond John Carroll. He was charged with killing a baby. On appeal, the Chief Justice said—

“I would hold that the summing-up was in error as to the approach which a jury must generally make to its consideration of circumstantial evidence in coming to a decision as to whether guilt has been established beyond reasonable doubt on the evidence overall; that the learned trial Judge erred in failing to direct in line with what is set out in *Chamberlain v. Regina* 58 A.L.J.R. 133 to the effect that where facts are in the jury’s judgment essential to its decision . . . such facts must be established beyond reasonable doubt. I am satisfied also that the ‘similar fact’ evidence tendered should not have been admitted. In recent years the High Court has re-stated the basis on which evidence of this type may be allowed into evidence and I can see little use in my repeating at length statements made there.”

The appeal was allowed, the verdict recorded was set aside, the conviction was quashed and a verdict of not guilty was entered.

It is very difficult for judges to have to make a decision to put a person in gaol. We have to make a decision, not to put a person in gaol but to affect his livelihood for the rest of his life. It is a very onerous task. I am sorry, but I have to agree with the commissioners and ask that the judge be dismissed.

Mr MACKENROTH (Chatsworth) (12.13 a.m.): I commence my remarks by indicating that I know Mr Justice Angelo Vasta personally. I have known him since 1974. After reading the commission’s report, because of the way in which people have investigated one whom I regard as a friend and the way in which they have twisted things, I wonder how to express that knowledge.

My children still go to the same school and are in the same classes as children of Angelo. My elder daughter was in the same class as one of Angelo’s children. Over a period of 13 years, at different times, my two daughters and his children have attended the same school. As I said, I do know him.

At the outset I indicate, in case anyone wants to find it out, that one of the companies referred to in the report, Coco, Coco and Vasta, is the landlord for my electorate office, which is rented by the Works Department. That office was chosen because it had originally been agreed by the person whom I defeated in the 1977 election, David Byrne, the Liberal member for Belmont, that he would take the office. It was the best office available—in fact, the only office available—in my electorate, and that is why I took it.

With a knowledge of Angelo, I have read the commission’s report very closely and considered it very carefully. I find myself in the position of believing that this Parliament should not be sacking the judge. I think that a kangaroo-court attitude has been adopted to the judge. The inquiry was set up not to find out whether or not the judge had done something wrong, but in fact to find a reason to get rid of him. The member for Aspley referred to the terms of reference or heads of inquiry. The heads of inquiry set out in section 1.1.13 on page 4 state—

“Pursuant to the directions, and on 23 January 1989 information as to the specific matters which, so far as counsel assisting were then aware, would be the subject of inquiry concerning the Honourable Mr Justice Vasta, called Heads of Inquiry, was furnished to his solicitors. The Heads of Inquiry were:”.

The heads of inquiry are set out as paragraphs (a) to (i) and refer to what was furnished to Mr Justice Vasta on 23 January. By letter from the Parliamentary Judges Commission of Inquiry, on 23 January 1989 Mr Justice Vasta was informed of not nine heads of inquiry but in fact 11. Two of the heads of inquiry that Mr Justice Vasta was informed of in this letter dated 23 January 1989 have been deleted from this report.

Mr Burns: Why?

Mr MACKENROTH: One would need to ask why. One of the heads of inquiry refers to conduct surrounding the purchase of a Mercedes Benz vehicle from the Cottage

Car Company in 1986. That is dealt with in the report and one would assume that that has gone into section (i) which deals with the financial affairs of Vasta J. However, the most important head of inquiry that has been deleted and not dealt with at the commission of inquiry was section (i) in this document which states—

“Whether Vasta J. used members of the Queensland Police Force for private purposes to make investigations concerning a fellow Judge since the instigation of this Inquiry.”

The reason that that section was included was that counsel assisting the judges commission got wind of the fact that someone had commenced investigations through the Police Department into some cases. When they found out what the cases were, they wrote to the judge and said, “Oh no, we want to withdraw that because we don’t believe that you’re involved in it.”

As the member for Bundaberg rightly stated, section (e) in the heads of inquiry is set out on page 4 and states—

“Whether Vasta J has or had contact with political figures which are inappropriate for a judge.”

That has not been addressed and, although it was a head of inquiry, it was not part of the inquiry.

I have in my possession a police report that Ian Hanger knew had come from the Police Department. The document relates to a charge of assault which was committed in 1976. I will not read the whole document, but it is available. It sets out the circumstances that led up to the assault and states—

“These male persons were seen to go up Walmsley Street, which runs beside 709 Main Street. This car yard is conducted by the defendant and a Peter ANDREWS. The defendant was summonsed to the car yard and later with Peter Andrews and two other males one of whom the defendant refuses to name, went to 709 Main Street, allegedly to locate the persons responsible for the offences committed at the car yard. This defendant was armed with an air rifle and one of the other persons with a pick handle.”

From information that has been given to me, I believe that the other person who had the pick handle was Peter Andrews, who is none other than the son of the former Chief Justice of Queensland. No charges were laid against Peter Andrews in relation to the assault committed in this incident. The situation was that one person was standing in the street with a weapon and another person was also standing nearby with a weapon; yet the police charged one person and not the other. The question that needs to be asked is: why were no charges laid at that time against Peter Andrews?

Mr Lee: When was that?

Mr MACKENROTH: 1976. At that stage, Andrews’ father was a judge of the District Court.

Another case has been related to me but, unfortunately, I have not been able to get police documentation of it. I will refer to it briefly because I have been able to locate the police officer who carried out the original investigation. I have been able to confirm with him what I have been told. The incident relates to a person who was knocked down and killed in Milton Road.

The person who drove the car involved was none other than Peter Andrews, who absconded from the scene. Not long after, two detectives arrived at the scene and told this police officer, who was only a young policeman in those days, that it was not necessary for him to remain and that he should get on with other duties. He left, but later checked and found out that the detectives found Peter Andrews and interviewed him. No charges were laid against Peter Andrews in relation to this particular incident. I raise this matter because I believe that if it had been revealed in the judges commission of inquiry, Queensland would have had another judges inquiry. Why were charges not laid against Peter Andrews?

The point is that as soon as counsel assisting discovered that somebody else would be involved, they pulled out that head of inquiry. All this Government wants to do is get one judge. I am now talking about Peter Andrews and his driving offences. I have a computer record of drivers' licences. I have confirmed the allegation with the original policeman and this particular document outlines that there was a Peter Dormer Andrews——

Mr AUSTIN: I rise to a point of order. I draw your attention, Mr Deputy Speaker, to Standing Order 333, which states—

“In all cases not specially provided for by these Standing Rules and Orders, or by Sessional or other Orders, resort shall be had to the Rules, Forms, and Usages of the Commons House of the Imperial Parliament of Great Britain and Ireland for the time being, which shall be followed and observed so far as the same can apply to the proceedings of the House.”

I refer also to page 430 of the twentieth edition of Erskine May and to the section headed “Reflections on Sovereign, etc.”, which states—

“Unless the discussion is based upon a substantive motion, drawn in proper terms, reflections must not be cast in debate upon the conduct of the Sovereign, the heir to the throne, or other members of the royal family, the Lord Chancellor, the Governor-General of an independent territory, the Speaker, the Chairman of Ways and Means, Members of either House of Parliament, or judges of the superior courts of the United Kingdom, including persons holding the position of a judge, such as a judge of a Court of Bankruptcy or a county court, or a recorder.”

Mr DEPUTY SPEAKER (Mr Burreket): Order! The point of order is not accepted. The judge referred to is a former judge and the point of order is not relevant.

Mr MACKENROTH: I was referring to a computer print-out stating that a Peter Dormer Andrews required retesting for a driver's licence which he had lost on points. This person was born on 20 December 1944. Another person called Peter Gormer Andrews born on 20 December 1944 obtained a licence. Also born on 20 December 1944 was a Peter Rormer Andrews. The records show Peter Dormer, Peter Gormer and Peter Rormer, who were all born on 20 December 1944 and who have all lost their drivers' licences. Not to be outdone, a person living at the same address as the former judge, a Peter David Andrews, who was born on 20 November 1945, also lost his licence.

One would assume that if these particular matters had been brought before the judges inquiry and if that particular head of inquiry had remained, the former Chief Justice would have been brought before the inquiry to answer questions as to why his son has lived such a privileged life in society; one that is unavailable to the average elector. He was involved in an assault and not charged; he ran someone down and was not charged; and he has held four separate drivers' licences and not been charged. I ask why that particular head of inquiry, which was given to the judge on 23 January, was deleted. The only answer is that they did not want the matters relating to these cases to come before the inquiry.

Mr Underwood: Would you call that grounds for conspiracy?

Mr MACKENROTH: I believe that these matters are grounds for an inquiry into the former Chief Justice.

Today the judge made a speech outlining his case and honourable members listened. Unfortunately most people had made up their minds before he addressed the Parliament. If one listened to the Premier's speech to the Parliament, one could believe that he had already made up his mind, but simply changed his speech slightly in order to address some of the matters raised by the judge. Immediately upon the release of this report the Premier stated that the judge would go. Today he said words to the effect of, “It did not really matter what the judge said, the recommendations of this inquiry are what we should go on.” If the recommendations are to be relied on, why did the Parliament go through the farce of having the judge here for two hours and 20 minutes to address the

House today? In the motion passed by the House the judge was to be given the opportunity to address honourable members and put his case. The majority of speakers who argued against him based their arguments not on the evidence given in the inquiry, but on the recommendations of the inquiry.

The inquiry referred us to five different reasons to sack the judge. Those are being argued here tonight. The first relates to the AAT incident. The commission said that it had carefully considered the arguments but accepted the evidence of Mr Goff and Mr Campbell and concluded that they were not mistaken. When I read that part of the report I gained the impression that the judges had come to that opinion because those two people had said it was true and the judge and his wife had said it was untrue but, because the judge and his wife remembered the incident more clearly, obviously they had got together and agreed on what they would say and that, therefore, one should believe the journalists. As Mr Justice Vasta stated here today, Campbell said that he had stayed at the same hotel. The documents were produced, but I realise that they do not deal with people who stayed overnight. However, I believe it creates enough doubt for people to start to question whether or not Goff or Campbell had any reason to lie.

The commission of inquiry went into the reasons why Mr Justice Vasta needed to lie, that is, that he had stated this previously in response to his arguments in relation to the *Matilda* defamation case. But honourable members should not forget that that defamation case was based on something that Goff and Campbell had told the journalist who had written the *Matilda* article. So I believe they had a reason to lie before this commission of inquiry. That thought is not in any way conveyed in the report of the commission of inquiry. It does not state that Goff and Campbell had stated this back in 1986 so therefore they needed to continue with that lie. The judges simply said, "If they have said it, they have no reason to say it; so we must believe them." We need to look very closely at whether they did have reasons and the House really should have agreed to the motion for adjournment that was moved earlier in the debate so that inquiries could have been made into the statutory declaration.

The next matter deals with the conspiracy. It has been argued here that the judge withdrew that, but the commission still went into the conspiracy charges. That was one of the parts of the resolution passed by the House last week which asked the judge to come here to address us. That was one of the things that he was asked to address the House on. Naturally when he came here today he raised those matters relating to the conspiracy allegations. We asked him to do that. We cannot now turn around and say, "The judge raised the conspiracy here again", when in fact the resolution passed by the House asked him to do that.

The most important things that one should look at are some of the findings on the conspiracy charges. Section 4.5.4 on page 83 states—

"The Commission does not approve, condone or give its sanction to the allegations of conspiracy. They were wrong and should never have been made. But bearing in mind all the circumstances that led up to the formation of the conclusions in the mind of the Judge, the Commission has formed an opinion that the behaviour is not such as of itself warrants his removal from the office of a Judge of the Supreme Court."

On page 87 appears the following—

"... Mr Justice Vasta's behaviour in making the conspiracy allegations was not of itself behaviour what warrants his removal as a Judge of the Supreme Court."

The Commission does not exclude consideration of this whole matter in conjunction with other behaviour."

That is an outstanding finding. What they are saying is that they can understand why he believed that, but they do not believe that the conspiracy allegation that he had made, in itself, warranted his removal from the Supreme Court bench. But when they considered their other findings they put them together to see whether they all weighed up. I think that one should decide individually on these things. They should not go into

the taxation matters—I will come to them next—and say, “Well, he has been found guilty on these taxation matters, so therefore he must also be guilty on this other matter which we ourselves have said does not warrant his removal.” However, in the findings that are set out at the end of the report, the judges find that he should be removed partly because of the conspiracy allegations. So there is conflict between what is in the body of the report and what is in the final part of it.

I turn now to the tax shams, which are the three matters that are referred to in parts A (2) (c), (d), and (e) of the Premier’s motion. Last night a lady rang me after watching the 7.30 Report and said to me, “I hope you are going to sack Vasta tomorrow.” I said, “Why?” She said, “Because he ripped off the Taxation Department for \$14m.” That was the way she had interpreted the information that was given out by the media. Page 105 of the report refers to the valuation of the machinery and whether it should have been \$3.4m or \$14m. The report says that it was changed to \$3.4m for the 1987 return pursuant to some arrangement with the Taxation Department.

The report goes on to say—

“In the returns for 1983, 1984, 1985 and 1986...depreciation allowance was claimed in respect of the mill and plant based on an original cost of \$14m. In addition in the 1983 return an investment allowance based on an expenditure of \$14m was claimed. When these allowances were taken into account the company suffered tax losses which could be carried forward from year to year and in all of the years from 1983 to 1988 on that basis it made substantial tax losses. However, if the returns were adjusted to take \$3.4m rather than \$14m as the cost of the plant, the company would still have suffered a tax loss in every year up to 1987...”

According to the findings of the inquiry, right up to 1987, irrespective of what the plant was valued at, not one cent of tax-payers’ money was lost. The report further states—

“... although a profit would have been shown for the first time in 1988 or possibly 1987...”

They are years for which the amended statements had already been lodged. With all of the hullabaloo that we have had about the valuation of the plant, nobody has made the point that not one cent of tax-payers’ money was lost. However, we have all been led to believe that millions of dollars have been skimmed off the top to Cosco Holdings and Mr Justice Vasta through that sham of claiming \$14m. Today, the judge explained his reasons for that.

At section 7.7.3. on page 126 of the report, in relation to submissions made by counsel for Mr Justice Vasta, when talking about things that had not been done for the purpose of defrauding the Taxation Department, the commission said—

“It is not for this Commission to express any concluded view on the question whether any of the payments attracted income tax.”

The commissioners are saying that it is not their job to conclude whether any of the payments attracted income tax. However, they find him guilty of a tax sham. In their report, they state that it is not their job to say whether there should have been any tax paid on any of those financial transactions to which I have alluded in sections (c), (d) and (e). They say that they are not competent to express opinions on it. Nevertheless they find him guilty and also say, “We are not able to express a view as to whether income tax should have been paid.”

The financial dealings involved in (c), (d) and (e) are wrong if the judge engaged in them—or was aware of them—to gain taxation advantages by breaking Commonwealth taxation laws. The commissioners say in the report that those dealings do not come within their jurisdiction, yet they find him guilty of them.

The proper course of action was that the matter should have been dealt with by the taxation authorities before the report came before the Parliament for debate on whether or not the judge should be sacked. If the judge is found guilty in a court of tax evasion or tax fraud, this Parliament should find him guilty and sack him. We should

not find a person guilty of something that these three judges state that they are not competent to decide upon, yet find him guilty of.

It is totally immoral that someone such as Alan Bond pays company tax of only one cent in the dollar. I find it totally immoral that a person such as John Elliott can shift profits off shore and pay less tax. However, the taxation laws of this country allow that to happen. They allow those companies to pay less tax than they morally should pay. Legally, they have smart taxation lawyers who minimise taxation. The matters referred to in (c), (d) and (e) relate to tax minimisation schemes; they are not carried out by people who do not know what they are doing. Those schemes should be tested in law to establish whether they are tax evasion and not tax minimisation. Under our laws, tax minimisation does not attract a penalty.

As I said at the outset, I know Angelo Vasta and I feel very sorry for him and his family. I have a great deal of concern about the way in which the Government has treated the whole matter, particularly when I believe that a kangaroo court was set up to find him guilty. The heads of inquiry were changed so that another person who was at that time a judge of the Queensland court would not be brought before the commission of inquiry. The Government did not want to involve that other person.

Time expired.

Mr COMBEN (Windsor) (12.45 a.m.): Mr Justice Vasta appeared before the bar of this Parliament yesterday with great dignity and eloquence. The son of a Sicilian cane-cutter spoke persuasively at a time of humiliation and shame. Like other honourable members, I was impressed by His Honour's address and the record as presented by His Honour—one which we were not privileged to see in the press. As my leader said earlier in the debate, some members of the Opposition feel less secure about the decisions that we make today than they did when they came to this Parliament yesterday.

Yesterday honourable members were shown quite clearly the problems of relying on short media reports of inquiries and court actions. Some of the defences that the judge put forward yesterday had never seen the light of day in Queensland's media. There is no way in which one can obtain from a two-minute television segment or a 300-word newspaper story a true perception of a day's evidence in court.

Mr Justice Vasta showed the need for natural justice and his ability to be heard in his own defence. I again state the view of the Opposition that an adjournment after his address would have been appropriate so that honourable members could examine more closely the matters raised by His Honour and also examine them in the context of the evidence that is downstairs. As has been said on many occasions, my colleague Mr Braddy is the only member of this Parliament who has examined that evidence.

Our task this morning, on this momentous and historic occasion, is a heavy one. As the judge stated, this is the first time in Australia that a Parliament has considered the removal of a judge by an address of the Parliament. As a result of that, and as a result of the enormity of the impact that our decision will have on Mr Justice Vasta, honourable members must move carefully and properly.

I accept without reservation the following statement contained in the work of Mr Justice Thomas titled *Judicial Ethics in Australia* —

“It was suggested by some that in the area of private life and dealings a judge may demonstrate unfitness to remain on the Bench only by being shown to have committed a criminal offence. Such a view demonstrates a failure to recognise the existence of ethical duties that reach beyond misconduct in the course of judicial work. A judge's duties go beyond his work in and around the courts and reach into his private life and dealings. The suggestion that that duty is no higher than that of abstaining from committing offences is a heresy and needs to be laid to rest.”

All honourable members know very well that the cost of a judgeship, of going onto the bench at any level in any Western democracy, is that the judge has to withdraw from many aspects of society and act with total impartiality. That is the cost of being

accorded the dignity and respect that many at the bar would aspire to, but the cost is that the person can no longer continue to be seen to be tainted in any manner.

If we are to judge judges by such standards and if we are to judge them on matters that are outside their judicial duties, then we must have a great certainty. If there is an allegation of impropriety, then we must know that that impropriety exists. If it is connected with allegations of a judge being unfit for judicial office by reason of his or her actions in judicial office, less certainty is probably required. However, in this matter, the commission states at the end of its report—

“In the Judge’s favour, there is not the slightest reason to believe that he has been guilty of misconduct in carrying out, or in connection with, the duties of his office as a Judge.”

So honourable members are examining matters outside his office as a judge, and they must judge them carefully.

I will deal with each of the matters raised by His Honour yesterday afternoon in the order in which he raised them. Firstly, there was the AAT incident, in relation to which it was alleged that the judge perjured himself. Yesterday afternoon His Honour boldly and professionally presented new evidence about two journalists, Mr Campbell and Mr Goff, and their accommodation in Melbourne. He also raised the difficulty of identity by reference to the Day by Day column of the *Courier-Mail* of 27 May 1989, the total inaccuracy of the comment in that column and the inability of an experienced news journalist—who had seen His Honour on many occasions—to identify someone.

I cannot accept that there is a weight of evidence to prove the point that Mr Justice Vasta perjured himself, and I am not prepared to accept the view of the commission that this is a matter that warrants His Honour’s removal. As the commission itself states, there is a need for careful weighing of that evidence and a need to be certain on the balance of probabilities, not beyond reasonable doubt. Yet in this case, in which, as His Honour said, the penalty is \$750,000, a ruined life, loss of respect and dignity, and where for hundreds of years hence history will judge what has been done in this place and what His Honour has done, it is a harsh penalty to be imposing when two conflicting sides give totally contrary evidence. There is no reason to believe the other side in preference to His Honour. As the commission has rejected His Honour, I have to say that I can see no reason to reject His Honour and I cannot accept the commission’s first heading for removing His Honour.

Secondly, I accept His Honour’s account of the claimed false statements concerning the costs of Cosco’s plant. Even one of the learned commissioners stated that he was unaware of a fine legal point concerning depreciation claims for plant and its value. This again is not what we were told in the media. It is also clear that Mr Justice Vasta was well removed from the minutiae of preparation of taxation returns for Cosco, but honourable members still need to know that he was responsible for the returns before they can say that he was so close to the management that he should be removed because of the problems connected with the company’s plant and the taxation deductions claimed. I am not persuaded by anything in the report that that was so. Again, in his address yesterday afternoon, His Honour indicated matters which lead me to say that I am not prepared to accept this as a matter that warrants the removal of a judge.

Thirdly, there is the matter of making false claims for taxation deductions in respect of the lease of the judge’s library. Mr Justice Vasta admitted that a wrong claim was made based on the payment of five rental payments for the library instead of the three that were actually made. The report states that no evidence was led to say why this was done. There is a difference of \$1,500 between the two—an advantage of some \$750 to the judge if he is taxed at 50c in the dollar. This advantage was made from an admitted mistake.

There are two questions to be examined in relation to this. Firstly, is this behaviour unbecoming of a judge? Secondly, is the penalty of removal appropriate to a mistake for which someone has received a benefit of \$750? Again we go back to the terms of

penalty. There is a loss of \$750,000 in legal costs, the loss of a life and everything that someone has worked for. Mistakes are not behaviour unbecoming of justices. There is no question of dishonesty. The subject of dishonesty is not raised by the commissioners. The commissioners do not attempt to say that he wantonly or knowingly did it. They just accepted that a mistake was made. I wonder whether any honourable members would be prepared to say that over a life-time, in their 50 or 60 years of submitting tax returns, they will never make a mistake? Is this going to be a matter on which someone in the taxation office, up in that VIP section that examines all of our returns, will be looking further to find——

Mr Hayward: You can bet they have started looking.

Mr COMBEN: They have certainly started looking.

Mr Lee: You would do well not to make a mistake.

Mr COMBEN: I think that we all try not to make a mistake, but it is an admitted mistake. It is not mala fide one.

If we accept that, we are now crucifying someone—that is the only term that can be used—for a \$750 benefit. In terms of it being a mistake, I cannot accept that it is a matter unbecoming of a judge. Also, the penalty for this mistake is far too harsh.

Mr R. J. Gibbs: Would you like the same scrutiny of National Party members' taxation returns?

Mr COMBEN: I think that the honourable member makes a good point. We would like to see the same scrutiny of all National Party members in this House. I say from the heart that——

Mr Newton: Don't make reference——

Mr COMBEN: The honourable member should let me finish. It is not a case of looking only at National Party members, it is the case that each one of us receives a salary of about \$55,000 and electoral allowances of something that nowadays is up to about \$30,000 in total. I wonder if we can always look at our tax returns and say, "Yes, I know that is precisely right." Are we prepared to be removed for a simple mistake? It may be a lot of money to some people, but in terms of a judge's salary and in terms of a judge's benefits and assets, it is not a large amount. Perhaps if someone did forget to make the first couple of payments and then some time later was preparing his taxation return, he may well say to himself, "How much am I paying for my library? That's right, \$750. I have had it for five months—five times \$750." That is what the judge is being crucified for. I cannot accept it as a ground for removal.

Fourthly, the matters pertaining to the making and maintaining of allegations that the Chief Justice, the Attorney-General and Mr Fitzgerald, QC, had conspired to injure His Honour. I have difficulty in understanding why this is a matter unbecoming of a judge. He was a man at that time beleaguered, a man believing he was being pursued. He was, I think we would all agree, at times a man who had some persecution complexes. I use that as a lay term, not as a medical term. He is obviously a man who was concerned about his roots and about his humble background. He believed that certain people were out to get him. This particular recommendation of the commission that he made and maintained the allegations does not even state that the judge made the allegations recklessly or knowingly falsely. It is a serious matter. But in the context as His Honour saw it, he believed that forces were at work to bring him to heel, to make him give evidence with SP bookies, pimps, prostitutes and corrupt politicians, to conspire against him, as he saw it. In that context at the time he genuinely, apparently, but erroneously believed that the conspiracy existed. We do not know at what level. Maybe there was a conspiracy in terms of, "We should be talking to him and trying to get him into the witness-box." I am not prepared to say that there was not a conspiracy at some level. I think that many people have acted very well at the Fitzgerald inquiry. But to say that this is a matter which warrants his removal is beyond my comprehension. I would say

on that fourth point that again I cannot see it as a matter for the removal of a judge of the Supreme Court.

This then leaves the matters of the so-called sham transactions. It is here and in the matters not raised by His Honour in his address that he has not convinced me. Let us look at the loan and the lease for the Gold Coast unit. It is a matter that is covered from page 150 of the commission's report. The acquisition of the unit was made on or about 24 April 1984. His Honour bought a unit in a building known as the Penthouse at Surfers Paradise. The report states—

“Completion took place on 16 May 1984. About two months were occupied with making repairs and renovations. The whole of the purchase money—\$140,000—was borrowed from the Westpac Bank. The sum borrowed was actually \$150,000, the balance apparently being used for repairs.

The unit was acquired as a holiday unit for the Vasta family. In order to enable the unit to be purchased it was necessary to adopt a process known as ‘negative gearing’.

That process is known to law and is accepted. The report continued—

“This process enabled holiday homes to be acquired by a taxpayer offsetting against his income losses incurred in financing the purchase and in operating expenses. This required the holiday establishment to become an income producing asset, eg, by leasing it.”

The commissioners stated that it was claimed by counsel assisting the inquiry that there was no genuine lease of that unit to Cosco as claimed by Mr Justice Vasta and that it was merely part of a device to enable him to use a process of negative gearing to acquire his holiday establishment by means of large tax advantages.

When Mr Justice Vasta went to the bank, the bank manager noted in his file that the rental from Cosco was \$1,000. He also noted—

“Justice Vasta is very tax conscious and this purchase is mainly to gain concessions and also to build up an investment.”

Mr Justice Vasta was already saying, “Yes, I am conscious of the tax advantages and I want to have an investment as well.” These are not matters that warrant his removal, but we must consider the substance of the transactions.

During the next few years Cosco made a transfer of \$1,000 per month from its bank to the account of A. and R. Vasta, which it is claimed was intended to include the payment for rent. It is recorded in the private ledger card kept by Cosco headed “Private”. It shows 10 monthly transfers to A. and R. Vasta of \$1,000 from October 1985 to June 1986 and one in July 1985. The only other record in Cosco's books is found in the ledger which, commencing some time after July 1985, records up to June 1988 the regular transfer of \$1,000 as interest on bank overdraft. It is not known when those entries commenced. It does not seem to accord very well with Mr Vasta's assertion that Cosco Holdings does record the payment of rent to Mr Justice Vasta in its accounts. Those records are not there.

Mr Johns, who was the general manager of Cosco from 1984 onwards, could recall the regular payments of \$1,000 per month to the joint account of Mr Justice Vasta and his wife but did not know what it was for or how it was recorded.

Mr King, who was Cosco's accountant from September 1986 till 1989, was responsible for recording the \$1,000 payments as interest on overdraft in the ledger after he joined the company. He made inquiries about the payments, but no-one could tell him what they were for. Those payments could perhaps be interpreted as some sort of rent for the unit which Cosco was supposed to be leasing from Mr Justice Vasta, but there is no proof. If they are deductible expenses, one would expect them to be in the ledger entries, but they are not there. The sum of \$1,000 per month was being transferred, but two managers did not know what was going on.

I turn now to Mr Maloney from Coopers and Lybrand, who became Cosco's auditors.

Mr Hayward interjected.

Mr COMBEN: Mr Maloney was the accountant from Coopers and Lybrand who was concerned with Cosco's affairs. On 20 March 1987, Mr Maloney was present at a meeting with a taxation auditor, Mr O'Connor, when the matter of the \$1,000 per month to Mr Justice Vasta was raised. Mr Maloney's note of the meeting records, "Private payments to A. Vasta re loan or wages \$1,000 per month October 1985, total \$11,000." He had no prior knowledge of the matter. The taxation returns for Cosco for the years ended 30 June 1984, 1985, 1986, 1987 and 1988 do not show any item as rent paid in respect of the unit nor do they claim any sum as a tax deduction for rent.

As my colleague from Caboolture said to me, I accept that those are matters for the directors of the company and not for Mr Justice Vasta. By themselves, I would accept that. If I could accept them by themselves, my decision on my voting tonight perhaps would be different. However, when one examines the inadequacies of the accounting procedures—when no-one within Cosco can explain what those payments were for—and then examines the way in which it is said that the agreement for Cosco to lease Mr Justice Vasta's holiday unit was made, it throws further light on whether or not there was any genuine lease of the premises by Cosco.

Mr Justice Vasta gave evidence about this matter on pages 2110 and 2111 of the transcript. Counsel assisting said—

"And rent?"

Mr Justice Vasta replied—

"Yes, rent from the unit. I was going to put it in the hands of an agent to let it, with rented furniture or, alternatively, to put it in the letting pool at the Penthouses."

Counsel assisting asked—

"And, with that in mind, did you make inquiries, or did you have inquiries made, about the rent it was likely to bring?"

Mr Justice Vasta replied—

"Yes. First of all, I asked the agent from whom I purchased it—Surfers Paradise Real Estate—to give me details of what he could do about having somebody rent the premises from time to time, and he gave me the details of that in a letter, and how he would be able to arrange matters like repairs, and so on. Then I took that into account, and then I discussed the matter with Santo and Santo said, 'Well, I can use the premises for overseas visitors and local VIPs. If you can make some improvements on it, I will take the lease from you on it.' That was fairly soon after the purchase that Santo and I discussed that."

At pages 764 and 765 of the transcript of Mr Coco's evidence this appears—

"Returning to the unit of His Honour Mr Justice Vasta, did you negotiate with the Judge about rent from Cosco Holdings payable to the Judge for the unit?—Yes, we did—I did.

When did you negotiate?—When he bought it.

Right at the point when he bought it?—No, it was shortly afterwards.

What, within a couple of weeks?—I am not sure of the date, sir.

But can we assume roughly——?—No, I am not too sure of the date but it was after he had gone and he was going to let the unit. I thought, rather than letting someone else have it, I would take it for the family and myself."

Again there is that conflict. There is no lease agreement. The judge was saying that he would take the unit for his family, but no-one in Cosco Holdings can tell us why the

money was transferred. There may be a lease. It may be that no-one understood the \$1,000. It might be that the lease is not evidenced by writing.

Let me look at the unit to see if it is used by Cosco. The evidence continued—

“It is not surprising that Mr Thompson has not seen any strangers in Mr Justice Vasta’s unit. There has been no-one connected with Cosco there for 18 months prior to February 1989, according to Mr Coco. He gave the name of a man who he says then used it, but could not give the names or the dates of any users before that, and could not recall on how many occasions since 1984 it had been used. Mr King, Cosco’s accountant, was never informed of any uses of the unit by VIPs visiting Cosco.”

Mr Justice Vasta gave this evidence about use by Cosco of the unit. Counsel assisting asked—

“After the arrangement had been made what was your knowledge or awareness of the use made by Cosco of the unit from time to time?”

Mr Justice Vasta said—

“Well, Santo obtained a number of duplicate keys for the unit and he had them on his keyring and the keyring of the members of the family and he was, of course, able to go there whenever he saw fit and I know that from time to time he picked people up at the airport, take them to the unit, sometimes for an hour or two, show them the view from the unit and go on to Currumbin Sanctuary and various places like that, perhaps come back to the unit and use it as he saw fit.”

The report also states—

“There was evidence that Mr Justice Vasta or his family do not seek any permission to use the Judge’s unit. The unit has been used by Mr Justice Vasta’s in-laws. He claims that the unit has been used to accommodate Cosco’s guests, but was unable to be more specific.”

At page 964 of the transcript counsel assisting asked—

“Do you recall what was said in relation to the item ‘rental from Cosco’?”

In reply Mr Viner said—

“My recollection is that the judge indicated to me that the unit was primarily for family use. However, Cosco would make repayments to him and, as I understood it, the unit would be used from time to time for VIP entertaining of business associates of Cosco.”

The commission’s assessment was—

“In these circumstances the Commission must reach a conclusion whether there was a genuine arrangement whereby Cosco would lease the holiday unit purchased by Mr Justice Vasta and whether it did so. The Commission is satisfied that there was no such genuine arrangement and no such lease. It is satisfied that the arrangement and so called lease was nothing more than a device to obtain the benefit of the process known as negative gearing while at the same time acquiring an asset and having a holiday establishment.”

The benefits gained by Mr Justice Vasta were substantial. They amounted to \$116,000 in taxation benefits over a period of five years. In 1985-86, because of the unit, the refund from taxation was \$22,791, and in 1986-87 it was about \$32,478. I believe that Mr Justice Vasta has been defrauding the collection of revenue, and that, despite the Alan Bonds of this world, is not yet a virtue. This appears to me to be deliberate. It is not a minor matter. It is substantial and it relates to His Honour’s honesty. It is precisely this type of conduct that Mr Justice Thomas says cannot be indulged in by justices of the Supreme Court. In these days of increased penalties for tax fraud, it is possibly a criminal offence attracting massive penalties.

What then of Mr Justice Vasta’s defence? His defence was that the commission has decided matters which are correctly within the purview of the Australian Taxation Office

and it is a usurpation by the commission of another's responsibility. Today Mr Justice Vasta said that these matters should be decided by the Taxation Office, that they can then be decided by the courts and that then we can make our decision. This is patent rubbish. Everyone knows that a non-disclosure of income is an offence. There is no need to wait for official determination by the taxation commissioner or by the courts as to what is tax evasion or avoidance. Why should we have to wait now for the determination of the Taxation Office on this matter? The opinion of three former learned justices of Supreme Courts—one is a former Chief Justice of the High Court of Australia—has been provided. Their decisions may not always be technically correct on matters of taxation, but in the broad purview I believe that the evidence is clearly there that Mr Justice Vasta's lease to Cosco Holdings was a sham. It was done for financial gain. He defrauded the Taxation Office. In this matter he is guilty of conduct unbecoming for a judge. On this matter I have no hesitation in supporting the commission. I have no hesitation in supporting this motion. There is no need to consider whether this is a matter to be considered in league with other matters. It is so substantial, so major, that we have to be able to say of this matter alone that it is one which warrants the judge's removal from his office.

The other sham transactions were not covered by His Honour in any detail. I refer to the loan from Cosco to Salroand, the consultancy fee and the exchange of cheques relating to overseas travel expenses. These are matters that I think the judge has problems with as well. In common with the learned judges on the bench, I think that the matter of the lease is so substantial that I do not have to worry my own mind, my own conscience, about those matters because my conscience is clear.

The end result is that I must support this motion for the judge's removal. A heavy weight is on all of us in this matter. It is a matter which will be determined by us but considered by many people in the future. There is merit in the plea which was made by Mr Justice Thomas in his book on judicial ethics that some sort of codified system is needed by which we as legislators, as members of a Parliament, the only people who can remove judges, will in the future know just what is conduct unbecoming a judge.

Queensland and other Western jurisdictions need a form of codification similar to that which exists in many of the States of the United States of America. Declarations could be made in the same way as they are made by judges in England about the way in which judges can behave. Then we will have a better idea of what matters unbecoming are.

At this late hour of the night I certainly support the motion that will be passed by the House. It is a tragic day for Mr Justice Vasta; it is a tragic day for Queensland. But let us hope that from here on in our Supreme Court can hold its head up high; that the processes of removal have been used and that the court is cleansed. From this time onwards let us support our Supreme Court.

Time expired.

Mr HAMILL (Ipswich) (1.15 a.m.): I wish to endorse the comments made by my colleague the member for Windsor who, in common with other speakers, has recognised the importance of this lengthy debate. In debating this address that is before the Parliament at present, all honourable members share a very heavy responsibility. The address was the last stage in what has been a very lengthy process. To gain an appreciation of the gravity of the matter that is before the Parliament, one has only to consider the processes that have been pursued.

In relation to this matter, a special enactment of the Parliament was passed and a special inquiry was established. Yesterday afternoon—which now seems a long time ago—honourable members witnessed a historic address given by His Honour Mr Justice Vasta at the bar of the Parliament. May I say that it was indeed a very eloquent and courageous address.

The motion presently before the Parliament is an address to the Governor requesting the removal of His Honour Mr Justice Vasta from the Supreme Court bench. It has

taken some time to reach this point in the debate and some considerable time to reach this stage in the process. For the life of me I cannot understand why the week's adjournment put forward by the Leader of the Opposition could not have been agreed to so that honourable members could fully consider the propositions that were put before the House by Mr Justice Vasta yesterday afternoon. It seems to me that the request made by the Leader of the Opposition was not unreasonable, particularly as honourable members are dealing with the reputation and livelihood of a member of the Supreme Court bench. It is also not unreasonable when it is realised that that gentleman came before the House and cited references to transcript and detailed evidence that no honourable member had had the opportunity to fully examine. The indecent haste with which the Government has sought to move this address before the Parliament reflects very badly on the whole handling of this exercise by the Ahern National Party Government.

Mr Sherrin: What a load of rubbish!

Mr HAMILL: It is not a load of rubbish and I am disappointed to hear the member for Mansfield so easily dismiss the two-hour address heard by him and other members yesterday afternoon.

Mr Sherrin: I did not dismiss the address. I dismissed what you are coming out with. It is a load of drivel.

Mr HAMILL: The Minister has dismissed the whole exercise in which the Parliament has been engaged for many hours. I had wondered aloud whether the exercise that Mr Justice Vasta went through yesterday afternoon was really a case of His Honour putting up his defence to his jurors or whether it was really an exercise by His Honour addressing his executioners from the scaffold. The attitude evinced by the Minister leads me only to conclude that the latter is an accurate description of the exercise envisaged by the Ahern Government for this sitting of the Parliament of Queensland.

The matters that are before the Parliament are very grave, as I have already suggested. The judges' commission that was established by this Parliament has adverted to them very clearly. Paragraph 1.5.13 on page 11 of the report was cited by Mr Justice Vasta. Even at this late hour, I think it is worth while to be reminded of those words—

“In making a decision to address the Crown for the removal of a judge, the members of the Legislature must bear in mind that the independence of the judiciary is a fundamental principle of government in this State and in Australia generally. The power given to the Legislature should never be exercised in order to remove a judge because of political, religious or racial antagonism or because he is unpopular, or because the media generally, or some pressure group, have launched attacks upon him.”

I stress the last words of that passage, which state—

“The only ground for the exercise of the power is that the Legislature has formed a collective opinion that the judge is not fit to remain in office.”

In carrying out our responsibilities in line with the admonition of those learned gentlemen who constituted the judges' commission, honourable members are guided by their suggestions or recommendations as to the standard of proof that needs to be exercised. The standard of proof in relation to this very grave matter is not the standard that applies in the criminal jurisdiction. Proof beyond all reasonable doubt is not a standard that is applicable to areas of inquiry other than criminal proceedings. The judges commission reminds members of this Parliament that the commission of inquiry was not a criminal proceeding and that no formal criminal charges had been laid against His Honour Mr Justice Vasta. The commission of inquiry had to examine allegations of misconduct that could be considered by this Parliament to be acts or omissions tantamount to grounds for the removal of the judge from the Supreme Court bench. It was outside the brief of the inquiry to look into the criminality or lack of criminality of any matter that was before it for consideration.

The standard of proof to be applied is a civil standard of determining matters on the balance of probabilities. The judges' commission reminds honourable members that the degree of satisfaction called for by the civil standard of proof may vary in accordance with the gravity of the matters to be proved. I can think of matters no more grave that could be considered by this Parliament than the removal of a judge from a Supreme Court bench.

I have been troubled by the findings made by the Parliamentary Judges Commission of Inquiry.

Mr Ardill: Me, too.

Mr HAMILL: I am pleased that I am not the only member of the Parliament who finds himself or herself in that position.

The aspect which troubles me most is that, in spite of all these various matters that had to be investigated, in none of these areas were the learned gentlemen who formed that commission satisfied that any one particular area under their examination was such as to warrant the removal of His Honour Mr Justice Vasta from the bench. No single area was sufficient for them to bring down a recommendation for his removal. However, the judges in the commission concluded that some sort of accumulation of matters before the inquiry was such as to warrant the removal of the judge. I do not necessarily agree with all the findings of the commission, but it worries me that collectively the commission was unable to find any single area where they could point the finger at Mr Justice Vasta and say, "Judge, in this area your conduct is such as to warrant your removal from the bench."

This is where I part company very strongly with the attitude exhibited by the Premier in this debate when he spoke earlier yesterday evening. He seemed to feel that the report of the commission of inquiry had to be slavishly followed; that it was somehow an impertinence for any member of the Parliament to question the report and its findings, because any questioning of the report and its findings was somehow a reflection on the three learned gentlemen who made up the commission of inquiry.

Mr Ardill: The judges didn't say that themselves.

Mr HAMILL: Of course they did not, and this is another case of the Premier trying to get off the hook and shed the responsibility onto a commission of inquiry.

I do not regard this report of a parliamentary commission of inquiry as something akin to divine inspiration handed down on stone tablets which must be venerated. It is the opinion of three retired judges who were doing a job that we, as members of Parliament, asked them to do on our behalf. We did not feel that the forum of the Parliament was best able to investigate the matters which the Parliament deemed appropriate to be investigated. Collectively honourable members did not feel that they had the resources here in Parliament to cross-examine witnesses, etc. As a result we sought the establishment of a body—and, indeed, Mr Justice Vasta himself sought the establishment of a body—to execute that task. The judges on that commission were doing a job for Parliament; they undertook the questioning, sifted the evidence and heard the legal argument.

On page 163 of the report the judges of the commission laid down the bottom line, and it is worth while reminding honourable members of exactly what is in that report. The judges stated—

"The Commission advises the Legislative Assembly that in the opinion of the members of the Commission the behaviour of Mr Justice Vasta in relation to the matters mentioned in the following paragraph, viewed in conjunction with one another, warrants his removal from office as a Judge of the Supreme Court."

On page 164 of the report the judges stated—

"The decision whether an address for removal of the Judge should be presented in these circumstances lies within the discretion of the Legislative Assembly."

That is the bottom line. In paragraph 12.5 of the report the judges put the position very correctly. The decision whether an address for removal is presented is up to us as members of the Legislative Assembly; the judges commission does not require the address to be moved tonight.

Therefore, it was wrong and cowardly for the Premier to hide behind the judges commission and say that, because the commission says he has to be removed, that is the reason why the Legislative Assembly is doing so. The discretion lay here in this Parliament and with the Premier. He has chosen to take this action, and he must stand by his action and not hide behind the judges commission.

Mr Ardill: Perhaps page 164 wasn't in the National Party members' copies.

Mr HAMILL: If it was in the copy, then the Premier did not bother reading that important paragraph.

Yesterday afternoon in his address to the Parliament Mr Justice Vasta seemed to suggest that perhaps political expediency was dictating the course of events in relation to his personal interest in this matter. It is ironic that we have reached this unhappy stage because the Premier who has moved the motion to remove Mr Justice Vasta was very much a part of the Cabinet that recommended the judge's appointment to the bench back in 1983. In some respects I believe that the findings of the judges commission in relation to misconduct, and some of the less charitable things that were said about Mr Justice Vasta in the report, should be treated not so much as a reflection on the judge, but more as a reflection upon those who appointed him to the Supreme Court bench.

I repeat: the members of the Legislative Assembly do not have to accept the advice of the commission of inquiry. However, in the absence of evidence to the contrary, the considered findings of the commission of inquiry must have certain persuasive authority for honourable members in this Parliament. There were a range of adverse findings contained in the report: words or claims that Mr Justice Vasta may have delivered false evidence in some cases; another point where the judge was described as an unreliable witness; and another point where it was stated that he had handled matters pertaining to his dealings with Cosco with unacceptable laxity.

They certainly built up an aura which is not all that flattering to Mr Justice Vasta. But yesterday afternoon we had the opportunity to hear argument from His Honour on the matters which have been brought into question. We heard a detailed rebuttal of certain of those allegations that had been made against him. As I said earlier, the Government's actions in not permitting a full and proper consideration of the points made by His Honour and of all the issues which he raised in his address have reduced this exercise perhaps not to a total sham but they have certainly devalued this evening's debate.

The commission found that the cumulative effect of its findings gave rise to its advice to the Parliament that His Honour should be removed from the Supreme Court bench. I might point out, though, that at page 163 of the report, in paragraph 12.4, the commission judges stated—

“In the Judge's favour, there is not the slightest reason to believe that he has been guilty of misconduct in carrying out, or in connection with, the duties of his office as a Judge.”

Obviously if those judges on the commission concluded from the evidence which they heard that His Honour ought to be removed, they looked at matters outside of the strict conduct of His Honour's role as a judge of the Supreme Court. That leads me to the matters which have been cited by other speakers in this debate already, matters which have been fully canvassed by Mr Justice Thomas in his book *Judicial Ethics in Australia*. I wish to quote from page 11 of this very informative and very interesting volume. He states—

“It is fundamental however that the system depends upon judges retaining a high level of respect from the public at large, and that judges must abstain not only

from conduct which is inherently improper, but also from conduct which may seem to be improper. No one doubts that a judge may be removed for incompetence or misconduct in the course of judicial work (referred to here as 'official misconduct'); but a judge's duties go beyond this into his private life and dealings. In this area, to say that a judge may demonstrate unfitness to remain on the Bench only by being shown to have committed a criminal offence is sheer nonsense and demonstrates a failure to understand the very basis of ethics."

On page 12 Mr Justice Thomas continues by saying—

"A judge's duties go beyond his work in and around the courts and reach into his private life and dealings. The suggestion that that duty is no higher than that of abstaining from committing offences is a heresy and needs to be laid to rest."

I endorse those remarks and I do so in this context, because I am afraid I have to disagree with a number of the assertions made yesterday afternoon by His Honour, that is, that the commission of inquiry may have actually gone too far in examining matters which it really had no authority to examine. Here of course are at large those financial matters which occupy a considerable amount of verbiage in the commission's report.

The other area which came into considerable prominence in His Honour's address yesterday afternoon was his financial activities. I hope not to misrepresent his case. It certainly would have been easier for all of us if we had a copy of His Honour's address before us so that we could not do him an injustice, perhaps unintentionally, by misquoting him in some way. However, it seemed to me that His Honour was endeavouring to equate his receipt of funds from Cosco Holdings—the consultancy fee—with circumstances where judges who have authored books receive a royalty. At the time that His Honour made that point I made a note that I certainly did not accept that argument. I see the two as quite distinct and quite different. I was very interested to read that part of Mr Justice Thomas' book that discusses non-official misconduct, that is, misconduct outside of a judge's discharge of his judicial duties. Mr Justice Thomas cited two authorities as to what sort of standard is required of judges in our judicial tradition. I quote from page 45 of the work, which quotes another authority, that of Shetreet. That authority states—

"One important feature of English judicial ethics is that, except for royalties from books, dividends from shares, rent from property he owns, and reasonable honoraria and expenses for lectures, a judge may not receive any remuneration other than his judicial salary. This is not left to the discretion of the judge."

A further authority was drawn from *Judicial Conflicts of Interest in Britain*. It reads—

"It is clearly understood that no one holding full-time judicial office at any level may hold directorships or partnerships in any commercial undertaking whether public or private. He must be, and be seen to be, aloof from any contact with any other gainful occupation."

I am not suggesting that the consultancy fee received from Cosco represented an occupation, but I am certainly unsettled by the proposition that a judge of the Supreme Court, or indeed anyone who exercises judicial authority, can be in a position where he has the potential to be compromised. I do believe that the financial arrangements, and certain aspects of the financial arrangements, as outlined in the report of the commission of inquiry certainly leave open the conclusion that His Honour's financial activities were such as to bring him into conflict with the recognised prohibition associated with the assumption of the duties and responsibilities of high judicial office.

As for the other heads of inquiry—whether Mr Justice Vasta gave false evidence with respect to the AAT incident—quite frankly, I do not know. The commission said that he did, and yesterday afternoon His Honour gave an impassioned denial and offered us other information. If we were accorded the time that we sought, I might be able to satisfy my doubts on that matter and would be able to determine my attitude upon the balance of probabilities.

I turn now to the conspiracy allegations. At the time, I thought that it was quite extraordinary for a judge to be alleging that the Chief Justice, the Attorney-General and a former judge who was heading the inquiry were somehow in collusion to nail Mr Justice Vasta in some way. The matter had been canvassed publicly. It had been withdrawn from consideration. Yesterday afternoon, in this place, it was canvassed in great detail. Again, I do not know.

The question of whether financial dealings conducted by His Honour were such as to minimise his taxation or, as some may have suggested, to avoid taxation is one for consideration by the Australian Taxation Office. It certainly leaves me unsettled, particularly as the high judicial office that His Honour holds must be one in which the public have confidence. However, I reject His Honour's contention that the relationship that he has with Cosco does not compromise his position on the bench. I also reject the contention contained in the report of the Parliamentary Judges Commission of Inquiry that that financial relationship does not in any way compromise the arrangements that are set out in the Supreme Court Act which state in section 12, which deals with judges not holding any other office—

“No judge of the said court shall be capable of accepting taking or performing the duties of any other office of profit or emolument within the colony of Queensland except as next hereinafter provided . . .”

It goes on in some little detail. It then continues—

“Provided that a Judge of the said Court shall not receive or be entitled to any remuneration or emolument (apart from reasonable travelling expenses) in respect of his performing, after the passing of ‘*The Supreme Court Acts Amendment Act of 1960*,’ the duties of any other office granted to or cast upon such Judge as aforesaid . . .”

I am not satisfied that the judges on the commission quite got it right in relation to those financial involvements.

I will return to the issue at hand. We have the responsibility of making the decision. We do not have to find that His Honour perpetrated a heinous crime. However, we have a responsibility to maintain public confidence in the authority and the dignity of the judiciary. I suggest that we have something more than that—we have a responsibility to try to restore public confidence in the Queensland judiciary. The judiciary, like so many of our other institutions in this State, has come under a considerable hammering as the sleaze and the corruption which has bedevilled our society has been made public in an open inquiry before Mr Fitzgerald. In their report to the Parliament, the judges held that under no particular head was Mr Justice Vasta's conduct such as to warrant his removal but, rather, it was some sort of cumulative effect that caused them to bring about their determination that he should be removed. In relation to the financial dealings alone, there must be in the minds of all reasonable people on the balance of probabilities a concern that can only lead to the conclusion that in the public interest, in the interests of the Supreme Court and in the interests of confidence in those institutions, Mr Justice Vasta ought to be removed and this address ought to be supported.

Mr ARDILL (Salisbury) (1.46 a.m.): More than 100 years ago, a famous lawyer said—

“The law is the true embodiment of everything that is excellent. It has no kind of fault or flaw . . .”

By no stretch of the imagination was that referring to the Queensland legal system, and certainly not since 1983. In point of fact, under this National Party Government, the Queensland legal system has many faults and flaws.

I also draw attention to page 164 of the report, as did the member for Ipswich. It gives the lie to the suggestion by members of the National Party that we have a simple

duty to rubber-stamp the report that was brought to this Parliament from the judicial inquiry that was set up. At page 164, the report states—

“The decision whether an address for removal of the Judge should be presented in these circumstances lies within the discretion of the Legislative Assembly.”

It is clearly our duty to decide whether or not the report of the judges or any amendment thereto goes to the Governor. We cannot ignore that duty and responsibility. We cannot shove it under the desk or blame somebody else, as the Premier has attempted to do and as at least one back-bench member of the National Party has attempted to do. It is clearly our duty to decide. We cannot carry out that duty in all conscience in the circumstances that we have here today.

In my opinion, in these circumstances, this Parliament is not capable of making a true decision. The problem lies in the fact that His Honour was invited to appear before the bar of this Parliament to give his address in reply to the charges that were made by the three commissioners, but the clear intent of the Premier and the members of the National Party is that those words should immediately be totally ignored, not investigated, not considered in the cold light of logic; that they should remain the province of heated debate in this Chamber. That is not the way in which justice should be carried out in Queensland or anywhere under British law.

I have no enthusiasm whatever for the task that is before us this morning and not just because the judge's statement has been ignored, not just because of the unsatisfied need to investigate his new evidence and not just because of the undue haste that is being applied to what should be a very clear-thinking consideration of the matters before us; but principally because this judge has been found by the three members of the tribunal to have been guilty of no malpractice as a judge whatsoever. That was the finding. That finding is clearly in line with all of the evidence that we have been able to discover and certainly all of the evidence that has been laid before us in the voluminous report, which at least some honourable members have gone through with great care.

Any judge who has been involved in malpractice should be dealt with very severely by this Parliament, and I would have no hesitation whatever in supporting a motion for the removal of a judge in those circumstances. There is considerable disquiet in the community that judicial malpractice has occurred in this State. There is no doubt in the minds of members of the public, and I have no doubt, that malpractice at the quasi-judicial level has occurred in recent years. Certainly the magistracy of this State has given far too much weight to the evidence presented by police in the courts. I have clear evidence that police evidence has been believed when it ought not to have been believed. Other evidence has been ignored and the police case is the only one that has been considered by magistrates.

I am not saying that that has not occurred in superior courts as well. I do not have any personal knowledge of it. However, I do have personal knowledge of the fact that many people who have been guilty of very serious crimes, who have been guilty of actions causing death, have escaped justice because of the state of the judicial system in Queensland and in particular the actions of the police in this State. Matters that ought to have been investigated have not been properly investigated. Honourable members have heard of cases in which police evidence has been fabricated and people who clearly had no part in the activities in relation to which they were charged have been prosecuted to the full extent by a police force that has been severely politicised. Unfortunately, that runs through the whole fabric of life in this State.

The judge is, of course, charged with malpractice not as a judge but as a citizen. It has been said this morning and on other occasions that this clearly renders him unfit to be a judge of the Supreme Court. The judges commission found that, on the balance of probabilities, the two journalists gave the correct evidence and the judge and his wife were in error in the evidence that they gave in relation to the AAT taxi conversation. I do not accept that. On the balance of probabilities, on the basis of what the judge said in this Parliament yesterday afternoon, it is rather clear to me that the judges erred or did not have sufficient evidence before them, and that is one of the issues that I feel

honourable members should have been considering in a week's time after the full transcript of the evidence could have been perused and further information that the judge provided could have been properly considered.

I do believe, and I do accept, that the judge gave false evidence in the defamation case that was referred to. The report states that, in evidence, he said that he was not a personal friend of the Police Commissioner when, quite clearly, that is not the case. So, in my opinion, that is one very clear thing against the judge. He gave incorrect evidence when he said that he was not a personal friend of the Commissioner of Police—for what reason, I do not know. The other clear thing that I believe is against the judge, and to which the member for Ipswich alluded, is something that the three judges did not see fit to hold against him. I refer to his involvement with the outside company.

In my opinion, no judge should be involved in outside commercial activities to the extent that clearly it has been admitted Mr Justice Vasta was involved. I do not believe that is correct behaviour for a judge of the Supreme Court. That is the second matter that could reasonably be held against him in a consideration of whether or not he is fit to be a judge. Also, his involvement in taxation dealings with that company are, at the very least, questionable. Again, if further time was available to seek the evidence and to look at it clearly away from the hurly-burly of debate in this Chamber, there is something that could be pursued and considered in greater detail.

One of the other points I make is that if the judge's behaviour amounts to malpractice, and if his behaviour merely amounts to behaviour unbecoming of a judge of the Supreme Court for which he should not be dismissed, that behaviour should be seen in the context of Queensland life over the last 20 years, and more particularly over the last six years. Had it not been for the cesspit of corruption into which this Government has allowed the State to descend, no judge would have behaved in the way that Mr Justice Vasta has behaved. No Minister of the Crown would have behaved in a way similar to that demonstrated recently by a member of Cabinet. If he had not come into a situation in which that was the norm, no Minister of the Crown would have considered it his absolute right to use departmental funds for his own purpose. No judge would have been involved in the sort of behaviour for which we are now criticising Mr Justice Vasta. No police force would be willing to behave in the way that many members of the police force have behaved for many years.

I am referring not only to the policemen who are now the subject of major charges following the Fitzgerald inquiry but also to the policemen who had the idea that once they got a member of the public into their hands they could deal with him in any way they saw fit. The Gold Coast area provides one case in point. Many times young people on the Gold Coast have been assaulted when they have been taken in on very minor matters. I am personally aware of that. If the members in that area are doing their job, they should be personally aware of that. Queensland is an excellent example of a State that is under the control of a junta such as those we have repeatedly criticised, for example, those in South America and the Government of China. They have no regard for the rights of citizens but every regard for the cronies, the people of influence and the people who are in the pay and in the good books of the party in power.

What we are talking about here this morning and what we have been talking about for some considerable time is a State that has descended into the cesspit. People who have a small amount of power or a small amount of privilege consider that they have a right to rip off the public and to adopt all sorts of malpractices. They do that because of the political system in this State. Because of a gerrymander, 23 seats cannot be changed. That great feeling of power and of safety——

Mr Campbell: Of arrogance.

Mr ARDILL: And, as the honourable member says, of arrogance, is there to protect those who would act against the public interest in all sorts of malpractices.

Not only should the judge be called into question, but also the 13 members who occasionally occupy the Government benches and who were members of the Government

that appointed Mr Justice Vasta, and who are still members of the Cabinet that presided over the corruption and all of the foulness which we see in the State today and which has now been uncovered by the Fitzgerald inquiry, should be called into question.

Mr Gately: Prove it.

Mr ARDILL: The honourable member says, "Prove it."

The inquiry has already produced the evidence of where the State has gone and what has happened to it. The attitudes that we are discussing here this morning are a direct result of that. Thirteen of the members of that Cabinet, including the Premier, are members of the present Cabinet. They should not be in the witness-box, they should be charged along with any judge who is charged with malpractice in this State. Those members of Cabinet have allowed and encouraged the type of attitude for which we are now criticising a judge in a small way. They have encouraged not only the activity in which this judge has been involved but also murder and every crime in the calendar between the malpractices of the judge and murder. For many years no citizen has been safe in this State because of the political atmosphere in this House and this State.

Mr Gately: What murders are you talking about?

Mr ARDILL: For a start, 24 murders in this State that should have been investigated have not been properly investigated. In fact, there are more than 24 murders. There are also so-called accidental deaths.

Mr Gately: Name them.

Mr ARDILL: The late comer from New South Wales probably does not even know the ones to which I am referring.

Mr Gately: You said the Ministers were responsible for the murders. Tell us which murders the Ministers were responsible for.

Mr ARDILL: The honourable member has no knowledge of just how much I do know about the judicial system in this State.

Mr Stephan: Tell us.

Mr ARDILL: I do not have to. I should not have to; put it that way.

Government members do not know what has been going on in this State. They have no knowledge of the problems that I have experienced or the problems that are faced by the ordinary person in the community. Government members not only have no knowledge of the problems; they also do not want to learn about them. As long as the issues are swept under the carpet and Government members maintain their privileged positions, they are quite happy. They have made no attempt to ascertain the problems in the community.

I have had personal experience of some of the problems of the judicial system in this State. The Minister for Family Services has his safe little home in safe surroundings—a safe little cocoon protected by the National Party. He has never experienced problems with the system. It is all very well for him in his arrogance to be quite happy with the system. I am not happy with the system.

Mr Gately interjected.

Mr ARDILL: That buffoon—the clown on my left—was not here——

Mr GATELY: I rise to a point of order. I find the honourable member's words offensive and I ask him to withdraw them.

Mr DEPUTY SPEAKER (Mr Alison): Order! The honourable member for Curumbin has indicated that he finds the comments offensive and asks that they be withdrawn.

Mr ARDILL: The honourable member for Currumbin knows that the words are well deserved, but at your direction, Mr Deputy Speaker, I will withdraw them.

I, in common with many other people in this State——

Mr Gately: You're common all right.

Mr ARDILL: I am. I am a member of the common public of this State.

In common with many other people in this State, I have had to suffer the problems that have been caused by the arrogance of National Party members, who do not have to suffer the slings and arrows of the common public.

Mr GATELY: I rise to a point of order. I find the honourable member's words offensive and ask that they be withdrawn.

Mr DEPUTY SPEAKER: Order! There is no point of order.

Mr ARDILL: Government members have never suffered the problems of the ordinary public. The honourable member for Currumbin is well aware of the problems experienced by the police in his electorate, but he chooses to ignore them. Occasionally he makes a political speech about the police, the Seagulls club and so forth, but chooses to ignore the problems and hopes that they will go away. They will not go away until there is a change of Government and a change of attitude in this State to get rid of the corruption that has caused the problems, one of which this House has considered today. Government members are totally responsible for those problems.

Mr UNDERWOOD (Ipswich West) (2.05 a.m.): During my 12 years as a member of this House it has been my familiar experience that, when the Government has been in trouble or it has needed some political capital, it has got a particular issue out of the way or up and running for it. This is a case of getting an issue up and running for the Government.

In the past many pieces of legislation have been contentious. I refer to the Iwasaki resort legislation, the essential services legislation, various pieces of industrial legislation and the community services legislation. In hindsight we realise that, when such legislation has been implemented, it has been found to be defective in many ways. The Labor Party has pointed out various defects in contentious legislation. On numerous occasions such legislation has been filled with injustice. Sometimes within a matter of a very short period indeed, legislation has had to be brought back to this House for amendment. I am concerned about the justice or injustice of the motion that honourable members are debating.

Mr Sherrin interjected.

Mr UNDERWOOD: The Minister has been taunting Opposition members all night. I am honest enough to say that I was one of the 13 members about whom the Premier spoke. I do not back away from that. I am concerned about ensuring that this Parliament is seen to be dispensing justice and that justice is done.

Probably more than do the majority of back-bench members in this House, I have some reason to vote against Mr Justice Vasta. I refer to events that have occurred in and around my electorate. In this Parliament I raised various matters about the Reid's fire case, for and against the street kids who were eventually convicted in a criminal court but whose convictions were later overthrown by an appeal court.

I also refer to the case of Neil Bryant, which was presided over by the judge. Even though two people were given an indemnity from prosecution, that man was found not guilty of serious drug offences. In both of the cases to which I have referred, I believe there are reasonable grounds on which to believe National Party connections were involved in the outcome.

Another matter is the legality or otherwise of activities of Cosco Holdings' factory in the Moreton Shire in relation to State laws.

I put my credibility on the line, particularly in relation to the Reid's arson case, and I should vote outright against the judge. However, as a member of Parliament, one who prizes the fact that Parliament, having taken away the monarch's absolute powers, still reserves the right to exercise those powers and bring people before the bar of Parliament, I state that it must be ensured that that right is not given away completely to other sectors of our establishment, such as the courts and the police, that it is protected so that it can be used again and that we do not make it a laughing-stock by creating a kangaroo court.

Although the Opposition's motion was defeated by the weight of Government numbers, and even though a number of Government members said they did not agree with it, they would have liked to have voted to adjourn the matter for seven days so that consideration could be given to it. That did not happen, of course; we know what was put to the House yesterday by the member for Port Curtis about the bullying and the blackmail by the National Party's leader, Mr Sparkes. We know that people will not step out of line in the National Party. From the tenor of the debate on this side of the Chamber, people realise that Opposition members are prepared to speak out and freely express their views about this matter that is presently before us.

Based on the information that has been provided by the judge and the commission of inquiry, I believe there is serious doubt as to whether the judge should be removed from the Supreme Court. I am not going to say one thing and then vote another way. I cannot support the motion without further proper consideration and information. That is why I am so vehement about the necessity to have the matter adjourned for seven days so that consideration can be given to it in order to check out things such as the validity or otherwise of the statutory declaration and the questions raised about taxation and so on. Those things should be checked out properly so that a fair and just hearing can be given to the whole matter, and then Parliament can make the decision which is its responsibility.

I thought that our system of justice said something along the lines that a person is not guilty until his innocence is disproved beyond reasonable doubt.

Mr Gately: You got that mixed up a bit.

Mr UNDERWOOD: I might have the phraseology around the wrong way, but honourable members know what I mean. It is now 10 past 2 and I am very tired. In common with many members of Parliament, I have had a very busy week. This is part of the injustice of this whole kangaroo court.

The very thing that I am concerned about is the opposite of what is happening here. There is a need for fair trials. One of the complaints about the judge is whether or not his court has provided fair trials for various people. When the judge was addressing the Parliament I made some notes of the matters that I would have liked to have had more information about. I would like to check out the validity of the statutory declaration, or whatever terminology was applied to that document that the judge presented, because some debate has occurred about its status. When I made this particular note I knew nothing about the information that was subsequently provided by the member for Chatsworth. I would like to have called before the bar of Parliament the former Chief Justice so that he can be queried, because the matters relating to conspiracy, which are contained in part (b) of the motion, have not been sufficiently researched.

Another matter about which I would like more information relates to the tax laws. That matter has been addressed eloquently by people with various points of view. It is sufficient to say that there is no common ground between the various speakers on that matter.

I would like to see Cabinet minutes, as well as Executive Council minutes, that are relative to this matter, particularly in the light of the information given by the member for Chatsworth. After listening to what the judge had to say about his views on the Fitzgerald inquiry, I would like more information in regard to Mr Crooke. Of course, Mr Crooke is the brother of Mr Ken Crooke, who is prominent in the National Party.

As has been expressed by just about every speaker, we are dealing with a very serious matter. Things cannot be glossed over and regarded as irrelevant without having them checked out. The one thing that sticks in my mind about the judges' report is that they said there is no evidence—and I emphasise that—to show that the judge has committed misdemeanours or that he has not carried out his duty in relation to various cases. The judge has presided over approximately 150 cases, a number of which were appealed against. It was said that the judge ran his court in a fair and proper way.

I make the point that if the judges inquiry had found that the judge had not carried out his duties properly, it would have opened a real can of worms. The whole system would have been tipped upside-down. Our society would have been absolutely shell shocked. If honourable members think society is shell shocked now, they can just imagine what would have happened if such a finding had been made by the judges inquiry.

After being through the Bjelke-Petersen era and seeing how politics in this State have operated for so damned long, one tends to look behind the door to see what is really there. One starts to wonder about things, in particular those relating to the judges themselves. The Premier has said that it would be an insult if this House were to find anything other than what the three judges with long experience have recommended. If newspaper reports can be taken as correct, High Court cases can be decided four-three and lost. Although three judges can be in favour of a case, a plaintiff still may not win, which only goes to show that a number of judges can examine a case and still come up with the wrong decision.

Mr R. J. Gibbs: They are usually appointed with some sort of political favouritism.

Mr UNDERWOOD: The honourable member raises another aspect about the appointment of judges. Mr Justice Vasta was appointed by the National Party and that fact has certain implications. I challenge any member of this Parliament to mention one judicial appointment made by a Government without consideration being given to the political or philosophical views of the appointee. For example, a Labor Government would not appoint Sir Garfield Barwick and a National Party Government would not appoint a person such as Lionel Murphy. Similarly, Joh Bjelke-Petersen would not promote the late Mr Justice Douglas, which is a matter that has already been canvassed.

During yesterday evening and this morning, I have listened intently to every speaker in the debate. I have made notes about their comments. I had decided that, when I voted on this issue in the Parliament, I would vote in favour of the motion. After hearing the judge and others both in the party room and in the Parliament, such serious doubts have been raised in my mind that I expressed a particular view earlier in my speech.

The Leader of the Opposition made the point that the report of the Parliamentary Judges Commission of Inquiry mentions that it is necessary to be satisfied in relation to five matters that are the subject-matter of the motion that is before the Parliament, and not merely two or three matters. The commission has stated that one ground is not in itself sufficient to warrant removal of the judge. The Leader of the Liberal Party said that the new evidence raised more questions than it provided answers. The shadow Attorney-General referred to Mr Justice Thomas' comments on political influence in the context of the Roseville meeting. Lionel Murphy was almost hung, drawn and quartered for meeting Morgan Ryan who apparently had an unsavoury reputation, but a jury found the judge not guilty. If the Murphy case is used as a precedent, the fact that a meeting took place at Roseville does not amount to the judge being guilty.

The member for Murrumbidgee also said that Mr Justice Vasta was a "fall guy for the whole rotten establishment". He expressed the view that perhaps there was some validity in the judge's comment about his southern European heritage. It has been said that the allegation made by the judge of conspiracy and his withdrawal of it means that the judge is inconsistent and therefore culpable in his actions. In considering that matter, I tried to put myself in the judge's shoes. I am aware that Mr Justice Vasta was the Crown prosecutor in the Justice Underhill case.

Mr R. J. Gibbs: Mr Justice "Underpants".

Mr UNDERWOOD: That is right. The late Labor member Kevin Hooper gave him that name.

People have told me that the distinct possibility exists that some hatred was generated—and I use the word "generated" deliberately—among some judges against Mr Vasta, who later became a judge. I also think that because he was a wog, that did not help his case at all. I use "wog" deliberately because honourable members should face facts. I think that, when decisions are being made on a knife edge, those factors are brought into consideration. The member for Chatsworth provided information relating to Chief Justice Andrews and his family. I believe that there is some justification for the judge changing his public point of view in relation to his conspiracy allegations. I do not think that the conspiracy allegation is sufficient to warrant "hanging" him at all.

The member for Murrumba expressed his views in relation to the determination of the Commissioner for Taxation and said that he would like to have been able to obtain additional information on that matter. In making a plea for more time for the debate, the honourable member for Murrumba said, "Justice rushed is justice ruined." The honourable member felt that the judge might or might not be guilty, and that he would take the punt that he probably is.

Those matters have stuck in my mind. In relation to this matter, at the end of this year when the election is held, I wish to be able to face the electorate with a clear conscience. This is the most important task I have ever undertaken during my 12 years as a member of this Parliament. It is significant in my view that I will actually have a say in the determination of this matter and will have to stand up and be counted instead of dealing with general legislation that could go either way. I will have to make a personal decision on this matter and be called to account for my decision at the election and when I am judged at the end of my days. I want to be able to leave this Parliament with a clear conscience in relation to this matter. So much doubt has been expressed by members of all parties that this motion should not be proceeded with at this stage.

I now wish to refer to notes I made during the speech given by the member for Mulgrave, Mr Menzel. I congratulate the honourable member on his courage. Although he is known for rising in the Parliament and saying his piece, many times I have totally disagreed with him and sometimes I have believed him to be very unjust—but that is politics. The point I make is that the honourable member said he was not convinced totally about the findings of the report. He said he was wary of accepting the evidence of two reporters, and every honourable member would know that he has had a run-in with one or two reporters in the past. He also said that Vasta had been charged, convicted and hung by the media.

On the basis of press items I have noted and the comments that have been made to me by media people today, I believe that the statement made by the honourable member has some validity. The honourable member said that Vasta was a marked man and that his crime was not picking his friends properly. Anyone who hangs around the National Party would not be very good at picking friends! Of course, I am only joking when I say that.

The member for Mulgrave said that it would be grossly unfair to undertake a witch-hunt and expressed the hope that the Government of this State was not bordering on McCarthyism. He also expressed the view that Vasta had been tried by the media.

At this stage of my speech, I wish to give particular attention to the conduct of the media both in relation to this matter and to the Fitzgerald inquiry. I have noted the views expressed by senior journalists in articles and broadcasts that are critical of the total lack of investigative journalism. Apparently large newspaper companies and other media corporations find it too expensive to employ investigative journalists. It is too easy to write the front pages based on leaks from Cabinet from people such as Don Lane, and that is why he was given such a good run by newspapers such as the *Courier-Mail* right up until the death of his parliamentary career. The day before yesterday

Quentin Dempster stated on ABC radio that he hoped Parliament would be televised to ensure the proper broadcasting of information to the public and some accountability. The problem is that after members of Parliament make a speech they have to scurry up to the press gallery and try to get a run. They have generated that system and the media and media bosses have helped it along.

There is a serious problem of the media being defective and, in relation to the whole Fitzgerald inquiry, no-one is more culpable than the media. The media have allowed the rot to continue in Queensland. Year after year members of the Labor Party have raised the matter in this House. Some years ago Bill Hewitt—who was in the gallery today—went into bat for a group of kids who witnessed someone being bashed up outside the Valley police station. That matter was swept under the carpet and the media never followed it through. Another matter concerned a university kid who was bashed. All of those matters signalled the beginning.

Lewis was appointed as Police Commissioner and the media never followed up his appointment with any investigative journalism. Suddenly Lewis became news, as did Mr Justice Douglas. When I first entered Parliament I heard about how the Government, Joh and company, had the dope on Mr Justice Douglas because he voted for the Labor Party. Where was the *Courier-Mail* at that time with the Jefferson quote in its editorial? Where were all the other media outlets who take their lead from the *Courier-Mail*? They were not to be seen because everything was too cosy for them. The media never wanted a Labor Party Government and they never will; they want the coalition back. They never wanted the National Party and now they have the opportunity to get rid of the National Party Government and put the Government back in the hands of the coalition. As a result the media will never expose all these matters because it will bring the whole, rotten establishment down.

The Lewis diaries show that Queensland is run by a little club of people; not by a few Don Lanes or Terry Lewises. A little clique of people from business, politics and finance are running the State. Included in that are the people who run the media and make the decisions on what is or is not printed in the press. Everyone knows that there are various ways of ensuring that. Earlier this year I was told by reliable sources in this place that some time ago a senior political journalist in Queensland wrote an expose on Don Lane but it was squashed by someone at the top of Queensland Newspapers. I can only assume why this was done. The journalists must not blame someone else at the top; the people at the top must not blame the journalists at the bottom; and people must not blame the polties or anyone else. The media have to take their share of the blame for the corruption in Queensland, the bad state of affairs referred to by many speakers from both sides of the House in this debate tonight, and the fact that Queensland's institutions and peaceful, free way of life have been destroyed by the corruption that has been allowed to creep into this State. It is easy for us to hang someone such as Angelo Vasta, walk away like Pontius Pilate, wash our hands and believe that we have fixed up the whole show.

It is easy for someone to say, "Underwood is not running at the next election; he doesn't need another run out of the newspapers or he does not need support for endorsement from his party and he can say all these things." I am not afraid and have a reputation for saying my piece. As the honourable member for Mount Isa mentioned, one of the problems of having the judge at the bar of the House today was that honourable members had to face him eyeball to eyeball. The honourable member made the military analogy about how it is easier to shoot long-range rockets than to stand and shoot someone face to face. Over a period of 12 years I have had a reputation of facing up to hostile crowds or people within my own party, and putting views contrary to the beliefs held by some of my constituents who from time to time become very irate about things. I am not here to take the easy way out.

I thought the honourable member for Mount Isa was on the right track at the start of his speech, but as he went on he said that the people of Queensland are expecting the Legislative Assembly to do something and that we need to pull the trigger. Public

opinion is also against polities getting pay rises, better conditions and overseas trips. After this motion is agreed to—and obviously it will be agreed to because the Government has the numbers—will honourable members vote for their salaries to be reduced to the basic wage? I am waiting for the honourable member for Mount Isa to move that sort of a motion. I bet he does not.

Mr Beard: You are right; I won't.

Mr UNDERWOOD: Because of the honourable member's perception of public opinion, he believes that we should pull the trigger on Vasta. I say that argument is incorrect and we must ensure that he is guilty or that there is enough doubt to show that he may be innocent. We should not pull the trigger because of some quasi-lynch-mob mentality that has been generated in the community. People want the State cleaned up, but they want it done justly and fairly, and honourable members have an obligation to take the lead.

Mr Beard: That is not entirely true. I was a bit more complex than that, Mr Underwood, I think you would agree.

Mr UNDERWOOD: I had only 30 minutes and I have only seven left.

Mr Beard: It was a pretty good precis.

Mr UNDERWOOD: It was a pretty good precis, yes. At times I have spoken for more than 90 minutes.

The honourable member for Aspley referred to the statutory declaration concerning Campbell's accommodation and indicated that she was "not interested" in its validity. That matter concerns me because one of the most serious matters is item No. 8 in the report concerning the false evidence. If a judge is found guilty of giving false evidence, he should be immediately drummed off the bench. I wholeheartedly disagree with the comments made by the honourable member for Aspley. She was of the view that the conspiracy was the most important item. I have addressed that.

The member for Bundaberg said that the judge was a victim of a politicised judiciary. I am shortening what the honourable member said, which was that the judiciary protected the system and made a victim of Vasta. My further comment on that is that, if that is the case, we must consider our position. I believe that the judiciary is politicised to a degree in this State and that Vasta is a victim of what has happened. As has already been said, he is the fall guy. We must ensure that we do not become the agents of the National Party.

Mr Lee: Do you feel like a Minister summing up, do you?

Mr UNDERWOOD: I thought somebody such as the member for Yeronga would say that. I have learnt a little bit about some of the comments that some people make around here.

Mrs Gamin: It is not interesting at half-past two in the morning.

Mr UNDERWOOD: It is not my fault that we are here at this hour. I wanted the debate to be adjourned for seven days and I voted for that. By way of interjection during the division, the member for South Coast challenged me about that. She voted against the adjournment, so she just has to listen to me or go to sleep while I am speaking.

One serious part of the report deals with the judge's financial matters. What springs to my mind is the professionalism and the ability of the various accountants from Coopers and Lybrand and the company accountant, the way they behaved and whether the job was done properly. That matter has not been properly investigated, certainly not to the point that we can hang the judge on points A (2) (c), (d) and (e). I will not go over all the other points that have been made on that matter.

In relation to A (2) (a), the member for Ipswich said he did not know if the judge had given false evidence. The few points that I have raised from the speeches of other

members show clearly that members should reconsider the positions they have stated in the debate or the positions that they have not stated here in the House. I would like to see many more Government members speak to this debate, but I do not believe they will. I believe they will remain seated and simply vote along party lines, that is, vote in the way they have been instructed. One of the reasons they have not expressed their views during this recall of Parliament is that this is the first part of the National Party's re-election campaign. If the Government came unstuck with Mr Justice Vasta, that would be a serious problem for the National Party. The whole matter has been mishandled. The Parliament is being railroaded by the National Party so that it can get its campaign up and running and off the side track on which it has been to date.

I think we should take on board the opinions of lawyers, whether they be expressed in here or outside, but we should weigh them up in our own judgment. When people come to my electorate office and ask me for advice on legal matters, the first thing I point out to them is that I am not a lawyer and that I do not recommend lawyers. However, I give them my view. Any member of Parliament who has dealings with the constituency of an electorate like mine knows how inconsistent lawyers are, how many "slackers" there are around the place and how many of them do not possess the professionalism that they purport to have.

One of the problems of dealing with the legal profession is that they surround themselves with wigs, robes, names and legalese to protect themselves from their human failings. That commences at the solicitor level and goes right up to the top. One only has to attend a sittings of the Magistrates Court to see the lack of professionalism of duty solicitors, to realise that our lawyers are not everything that they are sometimes made out to be and that we should always take with a grain of salt some of the opinions they express. In fact, we should adopt a commonsense, bush-lawyer approach to what they tell us and weigh it up. As members of Parliament we are sent here by our constituency not to listen to the lawyers and follow their advice, but to take their advice, chew it over and then make a decision.

They are my views on this subject. I do not believe that the motion before the House is backed by the evidence at this stage. I expressed that view by way of interjection earlier in the debate, particularly in relation to the motion to adjourn the debate for seven days. We should sit down after the heat, the tiredness and the exhaustion of the last 12 hours and make a proper decision.

Time expired.

Mr BURNS (Lytton—Deputy Leader of the Opposition) (2.35 a.m.): Today this Parliament heard an impressive reply of almost two and a-half hours by Mr Justice Vasta to a unique report that identifies him as a liar, a perjurer, a tax cheat and an unreliable witness, but which at the same time finds him to be a good and honest judge. That says something about the judicial system in this State.

We, as members, are asked by the Premier to determine the judge's judicial fitness on the combined basis of five grounds of his behaviour, none of which reflect in any way on his performance or, it seems, integrity on the bench. Like many other members, I share a degree of personal sympathy for Mr Justice Vasta and understand the tensions he must have felt surrounding him in the months leading up to this special sitting.

The parliamentary defence by Mr Justice Vasta was detailed and dignified. It included certain documents tabled by him and references to specific points in the transcript of the 43-day investigation into him by the three retired judges. That, in itself, is the reason why we should have taken some days to study those documents. As a group, we in this place make decisions in relation to the whole body of people, but we never make decisions in relation to individuals. When one is faced with the idea of terminating a man's career, of finishing his life's dream of being a judge and part of the judicial system and of hurting his family, that is very, very difficult. As someone has already said, when he comes in and defends himself with great dignity, one feels some sympathy for him.

Mr Lee: You always do that when you rush these Bills through.

Mr BURNS: We always do these sorts of things at night. It is in the dark of the night that the National Party does things. The late-night sessions and the all-night sessions are the nights for Iwasaki, Sanctuary Cove, the essential services legislation and all those sorts of things. That is when the media cannot report it very well and it is the way that cockroaches operate—in the dark. Again, we are doing it in the dark.

We are talking about a crooked Government made up of some crooked Cabinet Ministers who have admitted they are crooks, crooked judges, crooked Police Commissioners, crooked police officers and a crooked electoral system. We are saying, this Government is saying and mighty Mike is saying that his new vision of excellence will ensure that all those people who were part of that rotten mess for all those years—the Liberals were part of it as well; they were right up to their necks in it—are caught. However, the scapegoats will be Vasta, Lewis, a couple of coppers and a couple of SP book-makers. The Cabinet Ministers will not be touched, and most of the people involved in politics and the cronies involved in the crooked business deals and crooked tendering will escape. That is what this sitting is all about. It is not just about Vasta; it is about a whole rotten system that has been corrupted by gerrymanders and powerful politicians such as the former Premier, who was able to use this Parliament for his own interest.

Under such rare, historic circumstances, with so much to be evaluated that must follow us into the future, I regret that the Government—in particular the Premier—appears almost vengeful in its haste to bring a Judge Mein finality to this Parliament's determinations. An extra seven days would have given members the opportunity to make a more reasoned decision on the matter.

I make no bones about it; I believe that Mr Justice Vasta should not be on the bench. He should not have been appointed in the first place. He was appointed as a crony, just the same as Judge Pratt was appointed, because Joh Bjelke-Petersen thought that he would do as he was told and because Lewis asked for him to be put there.

One of the reasons why the resolution was put to the Parliament in this way was so that Mr Justice Vasta could not deviate from the five points that were in the decision of the commissioners. Sir Harry "lying" Gibbs is the man who found no prostitution and no bagmen in the National Hotel royal commission. He found no fault with Tony Murphy or Lewis in that matter. On behalf of the Government, he has brought down a recommendation that ensured that Mr Justice Vasta's court actions could not be debated in Parliament.

Mr R. J. Gibbs: We will have it on record that he is no relation of mine.

Mr BURNS: I will place it on record that Sir Harry "lying" Gibbs is not a relation of Bob Gibbs.

The question before us, as I see it, is not so much the individual merit of the five grounds of behaviour named by the commission but their accumulated impact on a community already shaken in its respect for the judiciary. By centring the commission's inquiry on section 4 of its legislation concerning Vasta's behaviour, the Government conveniently freed it from reporting in depth on his eligibility, his suitability and the disturbing political circumstances of his judicial elevation.

The Ahern National Party Government wants us now, as the elected Parliament, to dismiss a Supreme Court judge who was appointed not once but twice by different National Party Cabinets. He was also invited by the then Liberal Justice Minister, Sam Doumany, to be a District Court judge; so he was promoted by both sections of the coalition.

This Parliament becomes the final instrument to reverse a shabby exercise in National Party cronyism that will eventually cost the unfortunate tax-payers of Queensland around \$2m that I believe could have been far better spent elsewhere. It is nowhere near good enough to simply blame that terrible old Joh; nowhere near good enough to

blame "top level" Ted; nowhere near good enough to yet again point the finger at Terry Lewis.

Mr Justice Vasta is the collective responsibility of the Mike Aherns, the Bill Gunns, the Harpers and a number of other Ministers still filling portfolios in the present Cabinet. Those Ministers cannot easily distance themselves from him through a hanging mentality that the Premier and the Attorney-General bring now to this debate to rush an emotional guilty verdict out of the Parliament.

I, for one, am sick and tired of hearing the present Premier crowing about his mythical package in accountability as if some dramatic resurrection occurred in Queensland after the forced departure of Sir Joh in December 1987. The people of Queensland are not the fools that the National Party takes them for. The Merthyr by-election showed that they understand very clearly that the rotten, stinking mess uncovered in Queensland over the past two years is the collective contribution—indeed the collective guilt—of Ministers we see still running the show in the Ahern Cabinet.

By the time the Fitzgerald report is received and implemented and the Vasta and Pratt affairs are cleaned up, the unlucky tax-payers of Queensland will have forked out \$20m or more to overcome decades of dirty Government, tolerated crime and spreading corruption that reached deeply into Cabinet itself. We are paying this heavy penalty now to get rid of a great political stench created by the National Party alone since August 1983 and the National Party, in coalition with the Liberals, before that date.

As I said before, Mr Justice Vasta was appointed not once but twice by different National Party Cabinets; appointed not once but twice on the recommendation of the present Minister for Primary Industries, the then Attorney-General. The Minister admitted this before the judges commission on 23 February this year, when he said that, while Vasta was suggested by Sir Joh, it—the recommendation to Cabinet—was his prerogative.

Here we have a National Party Minister who has helped cost the innocent tax-payers of this State around \$2m through an appointment that was opposed from the outset by the Queensland Bar Association and which his present Government wants to cancel without delay, yet somehow the Minister is still in Cabinet botching up yet another portfolio. So much for the new look National Party, Quality Queensland and the biggest laugh of them all—the vision of excellence! The situation in regard to the Minister for Primary Industries, the Premier, the Deputy Premier and a number of other Ministers still in Cabinet is even worse.

Mr Justice Vasta was first appointed secretly on 23 September 1983, but just as secretly, five days later, on 28 September 1983, that appointment was rescinded because of doubts about the legality of the then caretaker Government to make such decisions. His second appointment was made in February 1984.

In the *Courier-Mail* on 30 September 1983—two days after Vasta's first appointment was rescinded—the present Minister for Primary Industries was quoted as saying the following in relation to Supreme Court speculation—

"For professional and personal reasons the favoured person decided to decline to accept the position."

That was, I suggest, a direct and deliberate untruth by the then Attorney-General of this State.

The favoured person—Vasta—did not decline for professional, personal or any other reasons. He had, in fact, been appointed and was, as we have learned since, most unhappy that his position had been rescinded because of temporary legal doubts.

For five years, until the truth finally emerged in the judges commission, this former Attorney-General lived that lie, which I can only assume was designed to deceive the public, the Parliament, the judiciary and the media. For five years he lived that lie and every National Party Minister in Cabinet at the time—and that includes accountable Mike, his Deputy Premier, Bill, and the Minister for Land Management, Mr Glasson—lived it with him. If Mr Justice Vasta is to be removed from the Supreme Court for his

personal behaviour, surely the National Party, at ministerial level, also deserves the strongest possible censure for its deliberate deception and connivance in such disgraceful Cabinet impropriety?

I believe that if Cabinet secrecy could be waived for the Parliamentary Judges Commission of Inquiry, it should be waived again now as Parliament itself debates its own commission's findings. Honourable members should have access to the same material as their commission had. I call on the Attorney-General or the Premier to table today in this Parliament all of the submissions, the recommendations, the character references, if any, details of discussion and other material associated with the Cabinet hearings concerning the Vasta appointments in 1983 and 1984. Why should that not be done? If honourable members are asked to sack Mr Justice Vasta, why cannot they have the information surrounding his appointment? If Sir Harry Gibbs and the other judges could have the secret Cabinet documents for their inquiry, why cannot honourable members have them in this Chamber when they are making the most important decision of the lot in relation to Mr Justice Vasta? Why cannot honourable members have those Cabinet documents in this Chamber? I will tell honourable members why: because it would let the cat out of the bag.

Let us have this information before Parliament, where it should be, so that honourable members can see where our new champions of accountability really stood when they were making decisions dictated by cronyism that are now costing Queenslanders \$2m or, if one adds the cost of the Fitzgerald inquiry, more than \$20m. When honourable members embark on such an uncharted constitutional course as they do in this Chamber today, is this Parliament to have less access to Government documents than the Parliamentary Judges Commission of Inquiry that it appointed on its behalf had? I think that any worthwhile QC would say not.

I wanted to say something about validating legislation. According to media reports last week, in its present sitting Parliament will be required to pass accompanying legislation to validate all, or part, of Mr Justice Vasta's time as a Supreme Court judge. The media says that this legislation will be introduced, even though it is obviously unnecessary under the five grounds of behaviour before the Parliament to warrant his judicial removal. I ask: why?

Is there doubt that, despite the somewhat inconclusive findings of the three retired judges, Mr Justice Vasta might have been ineligible or disqualified for all or part of his term under section 12 of the Supreme Court Act, which relates to "office of profit or emolument"? The Premier and the Attorney-General should come clean now. Is this Parliament being pressured to incriminate itself into removing a National Party appointment that was either ineligible, unsuitable or avoided from its start in 1984 or later since receipt of a consultancy fee from the family company Cosco in 1986?

The Attorney-General must bring forward in this debate a Government legal opinion outlining the modern interpretation of section 12 as it applies to our present Supreme Court judges, not just to Angelo Vasta. It could be that under the tight interpretation applied by a former Premier, Sir Thomas McIllwraith, in the only other example of validating law concerning Judge Mein in 1888, Supreme Court justices today besides Mr Justice Vasta may be questionable. Honourable members will find it worth while to read that debate and to read what Premier McIllwraith said. I reserve my comments in that regard until the anticipated validating legislation is before the Parliament. However, I express the personal view that honourable members should know its contents now as they deal with Mr Justice Vasta rather than afterwards.

If there is a question mark about Mr Justice Vasta under section 12 of the Supreme Court Act, in addition to grounds warranting his removal under section 4 of the Parliamentary Judges Commission of Inquiry legislation, this Parliament has a much more complicated National Party mess to untangle than some members opposite would like people to believe. Will the validating legislation—as it did in 1888—also validate not just his verdicts from the bench but the payment of salary through all, or part, of his judicial term? Honourable members want to know the answers to these questions

before they lock themselves, as elected members of Parliament, into a horrible and extravagant mistake that was conceived exclusively and irresponsibly by the National Party.

This debate cannot conclude without addressing itself to the continuing damage to the public image of the judiciary by the National/Liberal Parties prior to August 1983 and the National Party on its own since that time. First, in 1982, there was that spiteful, untidy politicising of the Supreme Court by the savaging of the late Mr Justice Douglas, the then logical successor for the vacant position of Chief Justice. Here honourable members saw a legal figure of impeccable record and character slaughtered by the political gangsters of the Liberal and National Parties because he had quite constitutionally lodged a postal vote for the Labor candidate, Dennis Pie, in Merthyr in 1972. Cabinet—including Mr Ahern and Mr Gunn—stabbed this man of honour and legal propriety in the back and shoulders on the evidence of voting information gained for them through the illegal infiltration of the ballot-box. I ask the Premier—who was part of this deplorable act—where else could a man of the law be victimised so viciously at Cabinet level on the now confessed grounds of a criminal infringement of the laws that he had spent his lifetime observing?

I remind honourable members of the comment of the then Premier, Sir Joh, after having humiliated Mr Justice Douglas but being forced to still settle for the present Governor as a compromise instead of his choice, Sir Dormer Andrews. Sir Joh, backed by Ahern and Gunn, screamed, “You’ve got your judge, now I want mine.” Sir Joh wanted his personal judge, and his personal mark is on a lot of the things that are happening in this place today.

Not satisfied with that messy political intrusion into the independence of the Supreme Court, Sir Joh, Premier Ahern, Deputy Gunn and “Nifty” Neville Harper were at it again only a year later. This time it was Angelo Vasta, the Chief Crown Prosecutor, a newly acquired National Party favourite. The results of that additional chapter in politicising the Supreme Court are before honourable members today. I repeat that it is costing the tax-payers of Queensland approximately \$2m to correct that error.

Next came the intrigues in Cabinet to elevate Judge Pratt from the District Court to the Supreme Court because Sir Joh believed that he was a National Party supporter. As a result, I am told, the Supreme Court bench itself finally rebelled against the National Party interference and decided privately in caucus to resist this unwanted and undeserved judicial transfer.

As was confirmed at the Parliamentary Judges Commission of Inquiry, at one stage Judge Pratt was even nominated seriously to head the investigation now known as the Fitzgerald inquiry. All of the crooks and SP book-makers would have got a knighthood.

Tonight it is simple and convenient for the Ahern Government to single out Mr Justice Vasta as its scapegoat. But at least equal blame must rest with the intrusive National Party, which alone initiated the Pratt and Vasta affairs and, together with the Liberals, engineered the political shafting of Mr Justice Douglas. It is gross hypocrisy for the Premier and others to pretend here today that they are somehow putting the record straight when the actual record they are claiming to straighten is one they voted collectively to twist and tarnish in the first instance.

The Vasta case raises also the extravagant cost of justice in Queensland and the conflicting and discriminating standards of legal aid that apply to it. When Mr Justice Vasta sees his costs, he will know what ordinary workers have had to face in the courts of Queensland for years. There is no justice unless a person is a millionaire and unless he can hire the most expensive lawyers in the land. Most ordinary people cannot defend themselves in court because they just cannot afford it.

In regard to Mr Justice Vasta, Cabinet acted swiftly to reject any claim for costs, reportedly as high as \$750,000, even though the parliamentary commission recommended payment of all, or part, of them. That should be contrasted with “Millionaire Mike”,

who is receiving legal aid to pay for his actions against me and others in the Labor Party—failed actions, I might add.

The Ahern Cabinet ruled out a contribution to Vasta's costs before he could address the Parliament in his defence and members were able to debate either the commission's report or the judge's personal submission. To me it appears an untidy and premature presumption of guilt by the Cabinet that, as I will show soon, practises an entirely opposite approach to legal assistance in regard to its own Ministers. I point out that tonight most of the debate in this Parliament has been from Opposition members because they have felt strongly on the issue and have been prepared to speak up. The biggest problem with Government members is that, before Vasta was brought here, they had made up their minds that he was guilty. They were going to hang him and, as far as they were concerned, they had no interest in hearing him today. It was all a farce.

For Mr Justice Vasta this is a personal experience of the financial agony that must have confronted many of the defendants who appeared before him during his five years on the Supreme Court. The average Queenslander, who should have the same access to justice as the privileged minority, finds himself or herself faced with an inflexible means test on both income and assets. Unlike Mr Justice Vasta, possibly a millionaire who at least had his case for costs considered and actually recommended by the retired judges, the average Queenslander is disqualified from legal aid if he or she has more than a paltry \$500 in the bank and a net income of above \$116 a week. If he or she receives a dollar more than that, he or she has to pay towards his or her legal aid.

I believe that both Government and community attitudes towards legal aid must be reassessed. If we can pay it for "Millionaire Mike", it is time we paid it for the ordinary worker. We cannot expect rank-and-file Queenslanders to show respect or confidence towards a judicial system that prices them outside the legal representation they need and deserve but at the same time allows different, far more generous assistance for National Party Ministers, judges and wealthy businessmen.

The Premier implies in this debate that, because Mr Justice Vasta was investigated by an inquiry that he himself sought, he has no further rights before this Parliament. If that is his attitude, why did the Government bother to invite him before this Star Chamber to present his defence? The Premier appears to be in an indecent haste to sack a Supreme Court judge whom he twice helped to appoint.

Whether or not Mr Justice Vasta is dismissed, several facts cannot be denied. This judge, now disowned by the Ahern National Party, is the appointment of a National Party Government of which the present Premier was a senior Minister. The damage suffered by the Queensland judicial system because of political interference is focused directly on the National Party over a period during which the present Premier was in a very senior Cabinet position to exert influence.

As we watched the clumsy performance of the Premier tonight trying to bully his way past appointments he himself supported, it is not difficult to understand how his own party is so disillusioned with his performance. After a lengthy inquiry Mr Justice Vasta faces five grounds to warrant his dismissal. It is unlikely that the public of Queensland would feel comfortable about his return to the bench with such combined accusations levelled against him. But at the same time the inflexible, almost gloating, approach in this debate of a National Party that appointed him has ensured that the performance of this Parliament will be argued divisively within legal circles and outside the Parliament long after tonight's vote is counted. Once again, the present Premier, with his restless colleagues as witnesses, has shown himself inadequate when serious issues demand consistency and quality in leadership.

Hon. M. J. AHERN (Landsborough—Premier and Treasurer and Minister for State Development and the Arts) (2.58 a.m.), in reply: We have heard tonight from many members on this important issue. Some members have sought to address the issue seriously; others, however, have sought to use this occasion to attempt to score political points. This has detracted from the serious and onerous duty before the House. As I

said, to move the motion for an address to remove a judge of the Supreme Court of Queensland fills me with no pleasure, but duty is more important for all those who fill high political office.

Our democratic system is based upon the concept of protection of the independence of the judiciary. That independence is protected by giving Supreme Court judges a tenure which can only be severed following an address from this House. In determining whether to make an address, this House must ensure that it does not act out of malice or political bias. It must act only upon substantial and justifiable evidence. We have had the benefit of the views of three of the most eminent retired judges in Australia both on the facts concerning the behaviour of Mr Justice Vasta and the appropriate standards to be expected of a judge of the Supreme Court. Their findings and opinions are such that this House has no option. In order to ensure that the highest standards of behaviour are maintained by the judiciary both now and in the future, this House must undertake its duty no matter how unpleasant it may be. Our duty to this House and to the judiciary of Queensland demands no other decision. I commend this address to the House.

Motion agreed to.

THE HONOURABLE ANGELO VASTA (VALIDATION OF OFFICE) BILL

All Stages; Allocation of Time-limit Order

Hon. P. J. CLAUSON (Redlands—Minister for Justice and Attorney-General and Minister for Corrective Services) (3 a.m.), by leave, without notice: I move—

“That so much of the Standing Orders be suspended as would otherwise prevent the immediate presentation to the House of a Bill to overcome doubt concerning the office of the Honourable Angelo Vasta, a judge of the Supreme Court of Queensland; to enable the said Bill to be presented and passed through all its stages as if it were a public Bill; and the passing of such Bill through all its stages by 4 a.m. on this day’s sitting.”

Mr WELLS (Murrumba) (3.01 a.m.): The Opposition supports this Bill. When the matter was raised before the judges commission of inquiry, I called upon the Attorney-General to do something. He has left it till rather late—rather late at night and rather late in the day.

Legal proceedings have already been undertaken to bring the matter——

Mr AUSTIN: I rise to a point of order. I am having some difficulty as to what question the member is speaking. Could I have that clarified?

Mr WELLS: I am speaking to the motion before the House.

Legal proceedings have already been commenced. The Government could have ended up with a whole lot of cases before the Supreme Court of people seeking a declaration that section 12 of the Supreme Court Act——

Mr Austin: You are speaking to the legislation, not on the motion before the House.

Mr WELLS: I do not need the advice of the Leader of the House on this subject.

The Government could have been embarrassed by having a multiplicity of cases before the Supreme Court seeking a declaration on this case. This Bill should have been introduced a long time ago. Nevertheless, the Opposition supports the motion to allow the Bill to be brought in.

Motion agreed to.

First Reading

Bill presented and, on motion of Mr Clauson, read a first time.

Second Reading

Hon. P. J. CLAUSON (Redlands—Minister for Justice and Attorney-General and Minister for Corrective Services) (3.06 a.m.): I move—

“That the Bill be now read a second time.”

This Bill is intended to remove any doubts that by accepting a consultancy fee, Mr Justice Vasta breached section 12 of the Supreme Court Act of 1867 and thereby ceased to be a judge with the very serious consequences which would flow therefrom.

Section 12 provides, so far as is relevant, that a Supreme Court judge shall not accept, take or perform the duties of any other office of profit or emolument within Queensland. If a judge does accept, take or so perform, then by such act he is deemed to have avoided his office as a judge and his office and commission is thereby fully superseded and his salary ceases.

The scope of this provision has never been judicially determined. For that reason, since its enactment, on no fewer than five occasions this Parliament has seen fit to pass statutes to remove doubts that judges may have breached, or would in the future be in breach of, section 12.

The first of those statutes was the Judges' Validity Act of 1889 which was intended to remove doubts that Mr Justice Mein had breached section 12 by having accepted and taken the office of lieutenant colonel in the land defence force of Queensland and the office of local director in Brisbane of the National Mutual Life Association of Australasia Limited.

During parliamentary debate on the Bill, conflicting views were expressed as to the ambit of section 12. The wide view was clearly enunciated by the then Premier, Sir Thomas McIlwraith, who said—

“I myself hold that ‘Office’ there means offices of any kind whatever—that the intention of the Act was to dis sever a judge of the Supreme Court from any business connected with the Government or the general population in any shape or form.

In fact that is the object of the clause, so that I think holding office of any kind, either in general business or under the Government, is equally a disqualification under the 12th clause.”

Later during the debate Sir Thomas made the following comments—

“The duties of a judge are the same towards the Government as they are towards any other members of the community.

In his position as a judge he has to judge between private individuals and the Government, and that should disqualify him from holding office under the Government or under any outside company or any member of the community.

If he may hold office under any member of the community he may just as well carry on business himself.

The wording of the clause appears to me to be plain, and it means that a judge should not hold office either under the Government or outside it, so that when he sits in the Supreme Court as between different suitors he would be perfectly impartial through his having no business connection with either of them.”

The converse or narrow position was just as cogently enunciated by Sir Samuel Griffith, who was soon to be Chief Justice of the Supreme Court and then the first Chief Justice of the High Court. He said—

“So far as the office of a local director of a company is concerned, I do not hesitate to say that I have not the slightest doubt whatever on the subject.

It is not an office of profit and would not be held to be so by any lawyer.

I do not entertain the slightest doubt about it.

The terms ‘office or place of profit or emolument’, are well known terms frequently used in treatises, and it has never occurred to anybody who has dealt

with or written upon the subject to say that the purely private position of a director of a company or the executor of a will is an 'office' or 'place' within the meaning of the Act.

The office of executor is an office, but no one would dream, if a judge became executor of his wife who died and left a will in his favour, that he would have accepted an office of profit within the meaning of the Act.

The thing is absurd."

This very uncertainty as to which way this section may be interpreted has resulted in successive Governments adopting a very cautious approach. For if a judge was in breach of section 12, then every case he presided over from the time of this breach could be impeached. The calamitous consequences that this would have for the administration of justice are plain and must never be allowed to arise.

So far as Mr Justice Vasta is concerned—it appears from the first report of the Parliamentary Judges Commission of Inquiry that, at the end of each of the financial years ending 30 June 1987 and 1988, Cosco Holdings Pty Ltd, a company in which he had a 12 per cent interest, paid him the sum of \$5,000. Allegedly, this sum was paid to compensate the judge for his time and effort and running expenses in connection with the company. The commission found that he performed no substantial services warranting a fee and that, in fact, there was not even a written agreement by which Cosco Holdings agreed to pay a fee.

The commission found that in fact the payment of a consultancy fee was a tax-avoidance mechanism. It is necessary to quote in full the commission's findings in this regard—

"By claiming to be a consultant, and by being paid a sum to cloak that claim with an air of verisimilitude, Mr Justice Vasta was able to make a very substantial additional claim for a deduction from his taxable income attributed to use of his motor vehicle for business use—as an expenditure incurred in earning income.

He was able to claim 63% of the total expenses incurred in connection with the use of his vehicle in 1986-1987, and of this use he attributed 60% to his 'consultancy' use or more accurately Mr Edwards did.

So for an income of \$5,000 in that tax year he was able to increase his claim for a deduction by \$14,260 (it might be \$13,956, see trans p 1328).

In the tax year 1987-1988 precise figures are not available, the log books having been destroyed last November.

Using the same formula this time attributing 80% of expenses to business use, the tax deduction obtained in return for a 'consultancy fee' of \$5,000 was \$17,305.

The actual figure may be more, but it does not matter.

These figures relate solely to so called consultancy use."

As the commission was of the view that this was a sham agreement to improperly obtain a tax advantage, the judge did not hold an office of profit or receive an emolument within section 12. However, it indicated that, if the Legislature thought that the matter was doubtful, it would be wise to pass a validating Act. Although I agree with the commission's finding, it is better that this matter be put to rest now rather than by costly, unsettling and ultimately pointless litigation.

Already one person, a prisoner at Her Majesty's Prison, Annerley, has instituted legal proceedings on the basis that the judge breached section 12. Obviously I do not intend to make any comment on the merits of this application, but it does illustrate the need for the Legislature to take decisive action now so as to clarify the law.

This is a very short Bill. It has only two clauses. The effect that it has is plain. It will prevent any litigation that the judge breached section 12 since his appointment and specifically deems that he has validly exercised the powers of a judge since his appointment as a judge.

Of all the validating Bills passed since 1888 this is the only one necessitated by improper conduct by a judge. It is an unfortunate precedent, but it is necessary that this tax-avoidance scheme not activate distressing and unsettling litigation which will not advance the interests of justice.

I commend the Bill to the House.

Mr WELLS (Murrumba) (3.11 a.m.): I will not detain the House at length. The Honourable the Attorney drew attention to the fact that legal proceedings have already begun, being initiated by one prisoner, Donald Green, seeking to have a declaration before the Supreme Court that the decisions of Mr Justice Vasta were void by virtue of the operation of section 12 of the Supreme Court Act of 1867.

We are in an extraordinary situation in which the policies of this Government, the legislative proposals of this Government, are being dictated by prisoners at Boggo Road gaol. This shows an extraordinary degree of laxity on behalf of the Honourable the Attorney. He should have acted on this matter some considerable time ago. He should not have waited until somebody who was detained at Her Majesty's pleasure took legal action which forced him to this legislative initiative.

It is unfortunate that the Parliament is sitting at this hour of the night responding to the Attorney-General's rather belated response to the activities of a prisoner at Her Majesty's pleasure. Nevertheless, what the Attorney-General is doing now is what is the only option available to him. It is the only option available to prevent a rash of attempts to seek declarations before the Supreme Court, and therefore we in the Opposition support the Bill. We regret the fact that it is being introduced in the dead of night when honest men and women are at home and in bed. We regret the fact that the Parliament is being detained with this business at this hour of the night. We regret it only a little less than we regretted the behaviour of the Government with respect to the motion that was just passed, in which the Government purported to be doing justice, purported to be sitting as the High Court of Parliament in the dead of night. Now it is purporting to sit as a legislative body in the dead of night. That is one step less odious than the activities of the Government to date.

In these circumstances, the Opposition supports the Bill.

Mr INNES (Sherwood—Leader of the Liberal Party) (3.13 a.m.): The Liberal Party understands the reasons for bringing this legislation forward. It is consequential, really, (a) on the steps that the House has just taken and (b) on the fact that proceedings have been brought to attempt to avoid one of the decisions that were made by His Honour. As we in the Liberal Party see it, it is declaratory in essence. There is some argument as to whether the facts support the action that has been brought or other actions that might be brought. Therefore, we have no problem in supporting the legislation. The merits of any decision which His Honour has made can be tested by the normal processes of appeal.

I would like to deal briefly with something else. This legislation arises out of the situation in which His Honour Mr Justice Angelo Vasta has been placed. I understand that tonight the Premier made some remarks which are offensive and farcical. He said that my actions and those of the Liberal Party and, indeed, those of the Leader of the Opposition and of the Labor Party, with regard to seeking a seven-day adjournment had somehow been dictated by an inability to make up one's mind. First of all, I wish to say that members of the Liberal Party do not spend \$1,000 a month from the public purse on political steroids that are pumped into them by some type of image-organiser and we do not spend millions of dollars a year on publicity. We are, however, prepared to fight issues and discuss legislation of this nature involving people such as Mr Justice Vasta, at 10 o'clock in the morning—not at 2.30 in the afternoon which is carefully designed to give a one-way appearance to the media and a view of only one side of the House on whatever is being discussed. It is a remarkable coincidence that a debate on Mr Justice Vasta and the debate on the Fitzgerald inquiry will both take place on

Wednesday afternoon when question-time will take honourable members through till 4 o'clock in the afternoon, giving the Government a one-way ticket. If members of the Government do not have the guts to face people on the floor of the Parliament at 10 o'clock in the morning they should not accuse other people of having jelly knees.

Government members interjected.

Mr INNES: Members of the Government accuse some people of having jelly knees, but they have a jelly spine and that is their problem. The Government talks about accountability, but practises accountant ability. Members of the Liberal Party do not have to consult accountants to find out whether doors should be opened or closed, and accountants do not have to decide this or that for them. The Government's display of anger is ill-judged. It does not fit in with the calisthenics or the mechanics of the movement. When the Government turns to dealing with matters of justice, it should act with some sense of justice and some sense of consistent fairness.

I had a very clear view of where I was likely to stand as a result of dealing with the recommendations of the retired judges. I certainly know that members of this House did not read the report in the same detail with which I read it, and did not have the legal training I have had or the legal training of other people to assist them. Some honourable members were concerned about checking His Honour's remarks and putting them against the report to satisfy themselves totally that what they were inclined to do was correct. There is nothing wrong in seeking some days or hours to consider a carefully constructed two-hour submission. There is nothing weak about it; it simply indicates a little bit of wisdom and fairness. It does not mean that people will change their minds. It might merely mean that the judgments and decisions can be confirmed.

Mr Elliott interjected.

Mr INNES: What is this bleating from the member for Cunningham? He is usually remarkable for his lack of wisdom.

The reality is that honourable members should have been given time to consider Mr Justice Vasta's address. The real reason for the Government's anger is that it was caught out on the limitation of time and had to loop-the-loop and back-flip. The Premier was not sure that he could keep some members corralled for another week. All evening the number-crunchers have circulated in the Chamber controlling the nervous ones—or are they really the ones who wish to exercise their own judgment and do the right thing by voting against the motion? The Government was caught out, but the image-making and the pump-up are the reasons for the anger. I left my powder compact at home; I do not carry one! If honourable members are in the business of talking publicly about important matters, let us demonstrate a little bit of truth and honesty. Let us make strong stands——

Mr Newton: Come on!

Mr INNES: We have another contribution from one of the finest minds to strike the House. The honourable member should know that people in glass houses should not throw stones.

Let us be strong on principles and determined about matters of fairness. In this case, the Liberal Party is happy to support legislation that appears to straighten out the consequence of an appointment that the National Party Government made and that has gone so sadly wrong—an appointment that members of this Parliament have had to preside over tonight. What the Lord gives, He takes away. What the National Party gave to the Supreme Court of Queensland, it took away. This legislation is part of the process of sorting out the mess and the consequences of the appointment that should not have been made.

Motion agreed to.

Committee

Hon. P. J. Clauson (Redlands—Minister for Justice and Attorney-General and Minister for Corrective Services) in charge of the Bill.

Clause 1—

Mr WELLS (3.20 a.m.): There is something faintly obscene about clause 1, which states—

“This act may be cited as *The Honourable Angelo Vasta (Validation of Office) Act 1989.*”

There is something faintly obscene about this clause being moved immediately after a determination has been made to cashier the judge. It would have been much more appropriate if this Bill had been introduced some weeks ago when the matter first arose.

Clause 1, as read, agreed to.

Clause 2 and preamble, as read, agreed to.

Bill reported, without amendment.

Third Reading

Bill, on motion of Mr Clauson, read a third time.

ADDRESS TO HIS EXCELLENCY THE GOVERNOR; REMOVAL OF MR JUSTICE ANGELO VASTA FROM OFFICE**Presentation**

Mr DEPUTY SPEAKER (Mr Row): Honourable members, I advise the House that Mr Speaker proposes to present the address to His Excellency the Governor at 9 a.m. on Thursday, 8 June. The mover and seconder, and such other members as care to be present, may accompany him. Departure will be from Parliament House at 8.45 a.m. sharp.

The House adjourned at 3.25 a.m. (Thursday).