

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE



No. 83 of 1988

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

[ASSENTED TO 17TH NOVEMBER, 1988]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title.** This Act may be cited as the *Parliamentary (Judges) Commission of Inquiry Act 1988*.

**2. Interpretation.** In this Act, unless the contrary intention appears—

“Commission” means the Parliamentary Judges Commission of Inquiry appointed in accordance with section 3;

“Judge” means a Judge of—

the Supreme Court of a State or territory of the Commonwealth;

the High Court of Australia;

or the Federal Court of Australia;

“member” means a member of the Commission;

“presiding member” means the member of the Commission holding an appointment under section 3 (4) or 6 (2).

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

(2) The Commission shall consist of 3 members appointed by resolution of the Legislative Assembly.

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

(4) The resolution of the Legislative Assembly appointing the members shall also appoint one of the members to be the presiding member.

**4. Functions.** (1) The Commission shall inquire and advise the Legislative Assembly whether—

(a) in the opinion of the members of the Commission any behaviour of the Honourable Mr. Justice Angelo Vasta since his appointment as a Judge of the Supreme Court constitutes such behaviour as, either of itself or in conjunction with any other behaviour, warrants his removal from office as a Judge of the Supreme Court;

(b) in the opinion of the members of the Commission any behaviour of His Honour Judge Eric Charles Ernest Pratt one of Her Majesty's Counsel since his appointment as a Judge of the District Courts constitutes such behaviour as, either of itself or in conjunction with any other behaviour, warrants his removal from office as a Judge of the District Courts.

(2) In considering any relevant matter the Commission may have regard to the records of evidence and outcome of any previous official

inquiry, may 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 the Legislative Assembly from obtaining access to the records of evidence given at, or findings made as a result of, such an inquiry.

(3) The conduct of the inquiry and the right of the Commission to inquire into any matter shall not be justiciable in any court.

**5. Report to Parliament.** (1) The Commission shall report to the Speaker of the Legislative Assembly—

- (a) its findings of fact;
- (b) its conclusions whether any behaviour referred to in section 4 (1) (a) of the Honourable Mr. Justice Angelo Vasta constitutes such behaviour as warrants his removal from office as a Judge of the Supreme Court;  
and
- (c) its conclusions whether any behaviour referred to in section 4 (1) (b) of His Honour Judge Eric Charles Ernest Pratt constitutes such behaviour as warrants his removal from office as a Judge of the District Courts.

(2) The Commission may make separate reports as to its findings of fact and conclusions that relate to the individuals referred to in subsection (1) (b) and in subsection (1) (c).

(3) The Commission shall report—

- (a) in respect of its findings and conclusions relating to the Honourable Mr. Justice Angelo Vasta, on or before 23 March 1989;  
and
- (b) in respect of its findings and conclusions relating to His Honour Judge Eric Charles Ernest Pratt, on or before 27 May 1989,

unless those respective dates are extended by resolution of the Legislative Assembly.

(4) 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.

(5) The Speaker of the Legislative Assembly shall, as soon as practicable after receiving a report of the Commission and the record of evidence, cause a copy of the report and the record to be laid before the Legislative Assembly.

**6. Death or incapacity of member.** (1) If a member dies, becomes physically or mentally incapable of performing the functions of a member or, by notice in writing to the Speaker of the Legislative Assembly, resigns his appointment the remaining members shall thereafter constitute

the Commission, and this Act shall have effect as if section 3 (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 Speaker of the Legislative Assembly, resigns his appointment, one of the remaining members shall be appointed to be the presiding member by resolution of the Legislative Assembly or, if the Legislative Assembly is not sitting, the Governor in Council.

**7. Decision on questions.** (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 on that question.

**8. Commission a Commission of Inquiry.** (1) For the purpose of conducting its inquiry, the Commission in addition to having the rights and powers conferred by this Act shall be deemed to be a Commission of Inquiry within the meaning of the *Commissions of Inquiry Act 1950-1988* and the provisions of that Act, other than sections 4, 4A, 27, 28, 29 and 30 shall, subject to this Act, apply accordingly.

(2) For the purpose of applying the provisions of the *Commissions of Inquiry Act 1950-1988*—

(a) each member of the Commission shall be deemed to be a commissioner and the presiding member shall be deemed to be chairman within the meaning of that Act;

(b) section 5 (2A) of that Act shall be construed as if an Order in Council therein referred to had been made referring to any writing that may be made under section 5 (1) of that Act by the presiding member as such chairman.

**9. Claim of Crown privilege not available.** It is not open for any person who has custody of—

(a) any documents relating to discussions by Ministers of the Crown and decisions thereon;

or

(b) any documents relating to recommendations made to the Governor in Council and any decision by the Governor in Council thereon,

with respect to any relevant matter, to claim any privilege on behalf of the Crown from production to the Commission of those documents and those documents shall not be protected from production.

**10. Access to relevant material held by certain bodies.** (1) Notwithstanding the provisions of any other Act, a prescribed person

or body, at the request of the presiding member, may provide assistance to and make available to the Commission documents, material or information relevant to the matter into which the Commission is inquiring.

(2) The Commission shall not exercise its powers under this Act or any other Act in relation to a prescribed person or body.

(3) For the purposes of this section a prescribed person or body means any of the following:—

(a) the Commission, within the meaning of the *Commissions of Inquiry Act 1950-1988*, consisting of—

(i) an Order in Council of 26 May 1987 published in the Gazette of that date;

(ii) an Order in Council of 24 June 1987 published in the Gazette of that date;

(iii) an Order in Council of 25 August 1988 published in the Gazette of that date;

and

(iv) any further instrument that is issued in relation thereto, and constituted by Gerald Edward Fitzgerald, one of Her Majesty's Counsel;

(b) the Chairman of, the deputy to and any person assisting, the Commission referred to in paragraph (a);

and

(c) the Special Prosecutor appointed under the *Special Prosecutor Act 1988*.

**11. Statement made by witness not admissible in evidence.** 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 firstmentioned document or thing, is not (except in proceedings for an offence against this Act or the *Commissions of Inquiry Act 1950-1988*) admissible in evidence in any civil or criminal proceedings in any court of the Commonwealth, of a State or of a territory of the Commonwealth.

**12. Evidence of Commission committed to custody of Speaker.** At the time of making its report or, if more than one report is made, its last report to the Speaker of the Legislative Assembly, the Commission shall commit any documents then in its possession to the custody of the Speaker who shall deal with those documents according to law.

**13. Remuneration and allowances.** (1) Subject to subsection (3), a member shall be paid such remuneration as is determined by resolution of the Legislative Assembly but, if no resolution 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) 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.

(4) A member ceases to hold office as a member upon a copy of the report or, if separate reports are made, of both reports of the Commission being made to the Speaker.

**14. Staff and officers of the Commission.** (1) With the prior approval of the Attorney-General, the Commission may appoint or engage any barrister, solicitor or other person to assist the Commission either generally or in relation to a particular matter or matters.

(2) The staff of the Commission shall be persons employed by the Commission or made available to the Commission by the Speaker of the Legislative Assembly.

(3) The Speaker of the Legislative Assembly may arrange with the Parliamentary Service Commission or with the Office of Public Service Personnel Management for the services of officers or employees of the Parliamentary Service or of the Public Service of Queensland to be made available to the Commission.

**15. Appropriation.** 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.

**16. Regulations.** The Governor in Council 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.

**17. Termination of Act.** This Act shall expire on 31 December 1989.