

Legislative Assembly,

Wednesday, 13th August, 1902.

Paper presented—Question : Land Purchases, Victoria District—Question : Chief Mechanical Engineer, Inquiry—Wines, Beer, and Spirit Sale Amendment Bill, first reading—Spear-Parker Libel Case : Motion, how to Inquire; Amendments (two), divisions—Adjournment.

The SPEAKER took the Chair at 4:30 o'clock, p.m.

PRAYERS.

PAPER PRESENTED.

By the PREMIER: Annual report of Lands Titles Department.

Order: To lie on the table.

QUESTION—LAND PURCHASES,
VICTORIA DISTRICT.

MR. P. STONE asked the Premier: 1, Whether any land has ever been purchased in the Victoria district under the Lands Purchase Act. 2, If not, whether the Government has considered the advisability of purchasing land in the Victoria district under the said Act, for the purposes of close settlement.

THE PREMIER replied: 1, No. 2, Yes; inquiries are at present being made with respect to the purchase of land in this district.

QUESTION—CHIEF MECHANICAL
ENGINEER. INQUIRY.

MR. YELVERTON asked the Minister for Railways: Whether, in view of references recently made to the cost of running the Department of the Chief Mechanical Engineer, it is intended to cause any inquiry to be made into the working of that department and its management.

THE MINISTER FOR RAILWAYS replied: The attention of the Minister has been directed to the matter, which will receive full consideration.

WINES, BEER, AND SPIRIT SALE
AMENDMENT BILL.

Introduced by MR. JACOBY, and read a first time.

SPEAR-PARKER LIBEL CASE.

MOTION, HOW TO INQUIRE.

AMENDMENTS (TWO).

MR. J. L. NANSON (Murchison) moved:—

That, in the opinion of this House, to appoint a Royal Commission to inquire into the charges made by the *Spectator* newspaper against Mr. Justice Parker, while recourse can be had to established legal tribunals, is inexpedient and objectionable, and is open to the construction that the Supreme Court does not command the confidence of its own Judges.

He said: I wish to state, in the first place, that I am not bringing forward this motion from anything like a party standpoint. I bring it forward merely as a private member; and in the action I am taking I have not consulted those members who form the direct Opposition, nor indeed have I consulted any member of this House as to the course I should adopt. I have taken that course, not because I do not think this a matter with which the Opposition would not be fully justified in dealing. On the contrary, if there be one duty more than another which the Opposition owe to Parliament and to the country, it is to deal with all questions in which we think the Government of the day are abusing the very large powers placed in their hands. But my object in endeavouring altogether to remove this question from the pale of party politics was that we might obtain in respect to it a vote of the House absolutely divorced from party considerations. The Premier told us only a few days ago in this House that he does not believe in party Government; and I am at one with him in considering that questions of this kind, affecting the administration of justice in this country and affecting the status of the Supreme Court Bench, should, as far as possible, be removed outside the pale of party politics. And I wish also that members sitting on the Government benches and the Government cross-benches—without thinking that I am in any way reproaching them, or that they are lacking in loyalty to their leader or to the Government they support—should feel that they are able, without incurring that reproach of disloyalty, to vote on this matter precisely as their opinions and their consciences may dictate. It is only a week or two since we had in this House a division on the amendment which I had the honour to move to the Address—

in-reply. That amendment took the form of a no-confidence motion. It would be unseemly and unnecessary if, at this early stage in the session, either I or any other member of the Opposition were immediately to attempt, on another issue, to bring against the Government anything savouring of a no-confidence motion; and I wish also, with all the emphasis at my command, to assure the Premier that this motion has in it nothing whatever of a no-confidence description; that in bringing it forward I am not aiming at the Government of the day, but am actuated by the conviction that it is my duty to prevent a step being taken which will not increase the reputation of the Supreme Court Bench of this State, which will not merely fail to increase the reputation of that Bench, but which, if taken, will do very much to decrease it. At the beginning of this session I had hoped it might not be necessary for me to move the House in this matter by means of a motion. At the very beginning of the session—I think on the first day we met—I gave notice to the Premier of a series of questions; and I had hoped that the replies to those questions would have disposed of the matter at issue; would have been of so satisfactory a nature as to obviate any need whatever for my bringing forward this motion. I was, however, disappointed to find that the replies of the Premier—I suppose the longest replies that have ever been given to a question in this House—instead of being of a satisfactory nature, seemed to be intended rather to fence with this question; rather as a piece of special pleading than as a simple affirmative or a simple negative. However, no matter what I may think of the replies given by the Premier on that occasion, they have at least this merit, that they enable me to see, in some measure, what has been running and what I suppose is still running in the mind of the hon. gentleman. On hearing those replies, I was struck firstly by the thought that there was a high degree of inconsistency and a considerable amount of contradiction in the column or so of statement which my hon. friend read to the House. The second question I asked was whether the Government had any intention of reinstituting proceedings against Mr. Spear in regard to those

charges in respect of which Mr. Spear had pleaded justification. The reply of the Premier to that question was that the only matter which concerned Mr. Parker was the article read in Parliament; and the Premier went on to state that as to what journals of the class of the *Spectator* might, of their own initiative, charge against Mr. Justice Parker, he imagined Mr. Justice Parker should feel no concern whatever. Then the Premier laid down a principle which struck me at the time, and still strikes me when taking all the circumstances into account, as being of a somewhat self-contradictory nature. He told us that the preservation of the honour and integrity of the Bench is a plain duty of the Government. With that pronouncement I suppose all of us in the House agree. The Premier went on to observe that this duty would be violated if notice were taken of such charges made by such journals. Now it is only a week or two since, on the floor of this House, I was taken to task by the Minister for Railways (Hon. C. H. Rason) for having stated, while addressing a public meeting at Kalgoorlie, that there were four members of the old Administration—the Administration immediately preceding that over which Mr. James presides—being also members of the present Government, who stood more in the dock over this matter of the Spear-Parker case than did Mr. Spear himself. When I made that statement, I did not of course intend it to be taken with absolute literalness. I begin to recognise that there is, at times, danger in using metaphor. I did not suppose that the member for Guildford or the other members included in the category I have mentioned, stood in the dock of the Supreme Court on this question. When I made use of that metaphor, it must surely have been plain to so keen an intelligence as that of the member for Guildford (Hon. C. H. Rason) that I nowise intended to commit myself to the astounding statement that the four hon. gentlemen had been placed in the dock of the Supreme Court. Instead of themselves having been placed there, they placed in the dock another gentleman, Mr. Spear. I should be the last even to suggest that the four Ministers have done anything meriting criminal prosecution. What I did intend to con-

vey, however, was that they were in the dock, not of the Supreme Court, but in the dock of a tribunal even higher and more powerful than the Supreme Court, the tribunal of public opinion; and I do not hesitate to say that those members are still in that position, that they have still to justify their action in regard to the prosecution of Mr. Spear for the articles which he published in his newspaper, and more particularly for their action relative to that article in respect of which Mr. Spear and the *Spectator* newspaper took the fullest responsibility and offered to justify their conduct. However, when at Kalgoorlie I made the remark about those hon. gentlemen being in the dock more than Mr. Spear was, I must confess I did not anticipate that the Premier, their leader and their colleague, was about to appear in this case as prosecutor of the four hon. gentlemen to whom I have referred, four members of the Premier's own Government. And yet if there is any meaning in the English language, if there is any meaning in the replies which the Premier gave to my questions, it is impossible to escape the conclusion that he charges those hon. gentlemen, that he charges four of his colleagues in the present Government, with a more serious offence than I had ever dreamt of alleging against them. For what does the Premier state in reply to my second question? He tells us that the preservation of the honour and integrity of the Bench is the plain duty of the Government, and that this duty would be violated if the Government took notice of an article published in a paper like the *Spectator*. Well, these four hon. gentlemen did take notice of that article. We have it in the reply of the Premier to my first question, that "the Cabinet subsequently decided that a prosecution should be instituted against Mr. Spear in respect of the article, called the No. 2 article, appearing in his paper, but which was not the article read in Parliament." Therefore, according to the answer given by the Premier to my second question—according to the Premier's own answer, be it observed—the members of the Cabinet which immediately preceded that over which the hon. gentleman now presides violated their plain duty. This is according to my hon. friend himself—I

am quoting the Premier's own words—they violated their plain duty of preserving the honour and integrity of the Bench when they commenced proceedings against Mr. Spear in respect of the "third Judge" article. I now ask hon. members whether it was a strong condemnation to say that those four hon. gentlemen stood more in the dock—that is in the dock of the tribunal of public opinion—than did Mr. Spear, when they decided to take proceedings against that gentleman. Why, we have the Premier himself declaring that his colleagues, by taking these proceedings, failed in their duty to protect the honour and integrity of the Bench. I am anxious to learn how the Premier excuses his colleagues, or how his colleagues excuse themselves, for the course they took. My own contention is that the action of the Government in this matter has been a blunder from beginning to end. My contention has never been that the Government should, in the first place, have taken proceedings; but I have contended that, having decided to enter on this course, having decided to appeal to the law courts, they should not, when the matter had gone a certain distance and when certain steps had been taken, have withdrawn from those proceedings. I have always contended that in view of the esteem in which Mr. Justice Parker is held in this community—and I think those who know him best are those who esteem him most—in view of the general esteem in which that gentleman is held, it would have been open to him absolutely to ignore the attacks of the *Spectator* newspaper. If hon. members will cast back their memory to the time when those attacks were first made, they will, I think, one and all agree with me in saying that the article published in the *Spectator* fell absolutely still-born from the Press. It was not until something like a month after it had been first published that any attention, any public notice on a large scale was attracted to it. The article began to assume importance only when Mr. George—unfortunately and unhappily, as I conceive—called attention in this House to some two-penny-halfpenny charge of alleged blackmail. I have always believed and contended that it is a monstrous assumption to maintain that every public man in this community is compelled, by virtue of

his public position, to take notice of every defamatory attack which may be made on him in the Press of this State. In a free country it is essential that you shall have a newspaper Press which shall not be curbed and restricted to the extent the Press is curbed and restricted where the Government is of a despotic description. And wherever you have that liberty of the Press, there must also be with it, unfortunately — for human nature is always fallible and open to error — a certain amount of license; but when we remember that in a country like this hardly a week passes without charges of a serious description being made against public men, when we remember how public men are invariably targets of attack and sometimes of abuse of a very vile description, I think every member will agree with me that it would be a monstrous contention that on every occasion on which they were attacked by any defamatory matter, they were to go into the Supreme Court in order to vindicate their character. If that contention were to hold good, it would mean that our public men would find a very large, if not the larger, part of their time occupied in defending their character, instead of attending to those public duties which belong to the offices they may happen to hold. The true test as to whether a public man should proceed in a court of law to vindicate his character is in the first place the estimation in which he is personally held in the community, and in the second place the estimation in which the newspaper making the attack is held. If you put Mr. Justice Parker on the one side and the *Spectator* newspaper on the other, I suppose there is no one, certainly no one in this House and probably very few people in this country, who would say it was the duty of Mr. Justice Parker to take notice of those attacks. There are few men in Western Australia who have a more honourable public career than that learned Judge. My own first recollections of this State go back to the time when, before the declaration of Responsible Government, Mr. Parker, probably from the very seat I occupy, every year brought forward a motion in favour of the introduction of Responsible Government into this country. He was sent home before the introduction of Responsible Government on a mission

of the very highest importance; to help us to secure those rights which we now enjoy. It was the idea of very many people that when the new constitution was granted Mr. Parker would be the first Premier of this State; and although it did not fall to his lot to occupy that position, yet for some time he was leader of the Opposition in the first Parliament under Responsible Government, and later he occupied a position in Sir John Forrest's own Ministry. I need not refer in this House to the high position he holds or that he held in the law courts before being elevated to the Bench of this State. The mere fact that he has been honoured by his Sovereign, by being made King's counsel, is in itself sufficient to show the estimation in which he is held as a lawyer; and I have always contended with regard to the public career of Mr. Parker that the fact that all his life has been spent in a small community where the actions of men are particularly open to inspection and to criticism, was in itself quite sufficient to allow him to disregard absolutely and wholly an attack like that made upon him in the *Spectator* newspaper. I desire to say nothing against the reputation of that newspaper, but, on the contrary, I think that, compared with some journals in this State, it has not as a general rule gone beyond the bounds allowed to newspapers of that description, or, if in some instances it has transgressed those bounds, it has done so knowing full well the penalty to which it laid itself open.

THE PREMIER: What is the penalty?

MR. NANSON: We will come to the penalty later on. The Premier, who is himself a distinguished member of the learned profession, knows probably even better than I do the exact limits of that penalty; the smallest penalty that can be awarded, or the highest.

THE PREMIER: How can you recover it? That is where it is.

MR. NANSON: The Premier has told us that he would not be protecting the honour and the integrity of the Bench if he were to take notice of articles like the one published in the *Spectator*, that is article No. 2. I find from the reply the Premier gave to my questions that Mr. Justice Parker himself, in dealing with this subject, does not advance a reason of that sort. He gives us some other reasons,

and the House has a whole quantity of reasons from which to choose. It may take either the Premier's reason why the prosecution was abandoned, or it may take some two or three reasons given by Mr. Justice Parker. Perhaps the foremost of those reasons given by Mr. Parker is that of a virtual promise to Mr. R. S. Haynes, to which Mr. Parker refers in his letter of the 31st March to the Crown Law Department. I would farther point out, before going into the question of that promise as it affects Mr. Justice Parker, that it does not in any way bind the Government; and that even Mr. Justice Parker, knowing the Government had instituted proceedings in regard to that libel, was not justified in his public and responsible position as Judge in withdrawing from the case, simply because he had been asked to do so by the mother of the defendant of the action.

THE PREMIER: Not when the defence was "privilege"?

MR. NANSON: I am not referring to the first charge against Mr. Justice Parker on which the defence of privilege was raised. I am referring to the other charges against him in reference to the article for which the *Spectator* newspaper, and the *Spectator* newspaper only, was responsible, for which it pleaded justification, and upon which it was content either to stand or fall. The charges made in that article were precisely to the same effect as those in the article which was read in this House and in regard to which Mr. Spear pleaded privilege.

THE PREMIER: Why did he plead privilege?

MR. NANSON: We will come to that in a minute or two. Mrs. Spear's letter to Mr. Justice Parker, or rather to Mr. R. S. Haynes, appears first to have been brought under the notice of the learned Judge on the 11th December. Mr. Haynes, I think it was, explained in a letter to the newspapers that he made a personal appeal to Mr. Parker, and "he promised me [that is, Mr. Justice Parker promised] that he would write to abandon farther proceedings, and next day, December 12, he accordingly wrote." We find that Mr. Parker did write the following day. He wrote to Mr. Burnside, saying, not that he had promised to abandon all farther proceedings and could not go on, but merely that he would be

content if the Crown abandoned all farther proceedings. He did not say, as he probably would have said if he had given an absolute, definite, and irrevocable promise, "I have pledged myself to take no farther proceedings," but he simply said in effect: "This is a matter of virtual indifference to me. I will leave it in your hands, but so far as I am concerned I am content if you will abandon farther proceedings." No mention was then made by Mr. Parker in his letter to Mr. Burnside of any promise to abandon proceedings, but I repeat he merely stated that so far as he was concerned he would be content if these proceedings were abandoned. We find that on the 17th December Mr. Parker wrote to the Crown Solicitor's office announcing his intention to apply for a commission to inquire into the charges in the article read in Parliament.

THE PREMIER: The letter was sent to the Premier, Mr. Morgans.

MR. NANSON: The hon. gentleman informs me that the letter was sent to the Premier. I wish the House to clearly understand that the charges read in Parliament, those in the *Sunday Times* article, are absolutely on all-fours with the charges made by the *Spectator* on its own responsibility and account. I challenge a contradiction of that statement. I do not wish to read lengthy extracts, but if the statement is contradicted or challenged in any way, I shall be prepared to place before the House the suppressed article and the article that appeared in the newspaper on its own responsibility, and leave the House to decide whether the charges in both articles are not the same.

THE PREMIER: Why did they not plead justification first?

MR. NANSON: We will come to that in a minute or two. The hon. gentleman is impatient. We find that after the receipt of this letter announcing Mr. Parker's intention to apply for a Royal Commission, the Cabinet decided to prosecute Mr. Spear, who had already been twice prosecuted on the first article, that is the "privilege" article. They decided to again place him in the criminal dock of the Supreme Court, and to prosecute him upon his own article, for which he accepted full responsibility; that article upon which the Premier told

us, in reply to my question, they never should have prosecuted him. They knew Mr. Parker applied for and wanted a commission, and they said, I suppose, "Whatever we may say about that commission, we consider that article in the *Spectator*, that article for which the *Spectator* alone was responsible, of such importance, of such gravity, that we intend to try the person who made those charges. We intend to place him on his trial for criminal libel." I contend that here a blunder of the most grave description was made, if the then Government did not believe that those articles were of a serious character. It is not myself, it is not any members who may agree with me in the stand I am taking, who have invested this subject with importance. It is those four members in the present Cabinet, and those associated with them, who, by taking the action they did at that stage, led the country to believe that these articles should be sifted through and through, and who, after having brought the public up to that point to demand an inquiry in the Supreme Court, suddenly, when the inquiry has reached a certain stage, turn tail and say "No; we will not go any farther with it. We will not carry it through the Supreme Court and appeal to a Supreme Court Judge and jury, but we will withdraw it from the highest legal court in this State and have a Royal Commission to deal with this matter." Some time towards the close of last year, Mr. Parker went to England on a visit, and on his return he learned of this farther development, and that the Government were proceeding in respect to article No. 2. He wrote to Mr. Wood, I think it was, in the Crown Law Department, under date 31st March, stating that he was not inclined to proceed farther with this third prosecution. On the 25th March the Crown had been served with a notice to produce a large number of documents concerned in this case. Some of those documents would give members an idea of the line of defence which was going to be taken if that case went into court. I may perhaps quote from the notice to produce documents; at least some of those documents which were applied for. One document was a notice and it says, "Take notice that I require you to produce for my inspection the following

documents," and one of those documents was the agreement with Stephen Henry Parker and F. W. Moorhead; another was a letter dated August 29th—the press copy of a letter—from Stephen Henry Parker to F. W. Moorhead; another was a letter dated August 31st, 1898, from F. W. Moorhead to S. H. Parker; another was a letter dated September 1st, 1898—a press copy of a letter—from S. H. Parker to F. W. Moorhead. But I need not weary the House by reading the list; still there is a long list of letters, correspondence between Mr. S. H. Parker and Mr. Moorhead, not then a Judge of the Supreme Court. And coming farther down we find a request made for the production of a cheque paid by S. H. Parker to Mr. Moorhead in settlement of action No. 9 of 1898, in which Mr. Parker was plaintiff.

THE PREMIER: Are you justifying the article?

MR. NANSON: I am not justifying the article.

THE PREMIER: You are reading from Spear's proof.

MR. NANSON: I am not reading from a proof of evidence, but from a notice to produce certain documents.

THE PREMIER: Yes; a copy of Spear's proof.

MR. NANSON: I do not wish it to be thought I am justifying the article. I am trying to illustrate to members the line of defence it was intended to take if Mr. Spear had been put on his trial in respect of the "third Judge" article, that he intended to plead justification that the allegations he had made were true in substance and in fact. I have here, if it will not shock the Premier very much, the actual statement of defence.

THE PREMIER: I have seen it.

MR. NANSON: But I do not wish to weary members by reading the statement out with all its legal technicality. It is not necessary, but the document is open for inspection by any member, more particularly legal members of the House, who will be able to state if it does not amount to a plea of absolute justification. What I want to drive home is that we have no mention made of any request to withdraw from this prosecution in the Supreme Court until the defendant had to a very large extent shown his hand and shown

the information of which he was possessed, had shown the line of defence he intended to adopt; and then when he had shown that line of defence, all of a sudden the Government are asked to abandon this prosecution. Surely that may be a coincidence, and I believe it is a coincidence; I believe it is an unfortunate coincidence. It makes it more important when we have to deal with a Judge of the Supreme Court that a case should not be withdrawn from the Supreme Court, the jury, or Judge, when it had reached the stage that the defendant had declared his intention of justifying his position, and the other side was served with documents that he is prepared to justify the charges made. Mr. Justice Parker gave various reasons why he wished to abandon the third prosecution in which the absolute truth or absolute untruth of the charges made against Mr. Justice Parker were to be settled. Whether the defendant was right or wrong in those two charges in pleading privilege, no doubt in the third trial the defendant had shown that he intended to plead privilege, and that the article was published in the public interest. He recognised all through in the third trial he would have to justify what he had said, or else pay the penalty with regard to the consequences of an action of this sort. He saw what a serious thing it is to lay charges of this description against an occupant of the Supreme Court Bench; and all will agree that had that action gone on, and had the defendant been proved guilty, he would have merited the severest punishment the Court could have awarded for such an offence. The reasons which Mr. Justice Parker gave for wishing to abandon the prosecution on the trial are three; first, a verbal promise to Mr. R. S. Haynes. Now that verbal promise which apparently was given, if given at all, if it really amounted to a promise, was given on December the 11th, and we have no mention of it until March the 31st. Then Mr. Justice Parker, considering apparently that that in itself was not sufficient reason for abandoning the prosecution, in which not only he himself was interested, but, owing to his position, the whole community were interested, gave some other reasons why he wished it abandoned, and the second reason is that

the article in the *Spectator* was mild compared with the article read in the Assembly by Mr. George. That is Mr. Justice Parker's opinion.

THE PREMIER: And Mr. Burt's opinion.

MR. NANSON: I was going to add, when the Premier took the words out of my mouth, that it was the opinion of Mr. Burt, and that certainly seems an extraordinary thing if we recall to our minds that a gentleman like Mr. Burt should have expressed the opinion that an article of that kind was mild. I am aware he qualified that. I assume he declared that it was mild compared with the article that was to have appeared in or which was suppressed by the *Sunday Times*. But its very mildness was its strength, for that article which was read in the House, so far as my recollection serves me, was couched in such exaggerated, foul, and grossly abusive terms that it really abolished itself through its very violence and its very abuse. But the *Spectator's* own article being couched in more reasonable language, although containing the same charges, should have given more weight to the article. We have the opinion of Mr. Justice Parker on the mildness of the article verified by that of Mr. Burt; and we have another opinion which is entitled to more weight perhaps than both of those opinions put together, because the opinion is expressed by a Judge sitting on the Supreme Court Bench. Let us see what was the opinion Mr. Justice Hensman expressed as to the article. Mr. Justice Hensman, in summing up on the second abortive trial, said:—

Again it is said that the Crown should have proceeded not only to indict for the article headed "Procrustes Parker," but also for the article headed "The Third Judge."

That is the article for which the *Spectator* and the *Spectator* alone was responsible, and for which it took the sole responsibility. Proceeding, the learned Judge said:—

There is no doubt that the Attorney General's fiat in this case referred to both articles. It gave Mr. Justice Parker sanction to proceed for this article and for the article "The Third Judge," and—I will not say that the "Third Judge" article is a libel, because that, if it were proceeded upon, would be a matter for the jury—I will say, however, there is no doubt to my mind that a jury

would be well justified in saying it was defamatory of a man in the position of a Judge to call him a "shark," and say that he "pouched" several thousands of pounds, and that he was present when a person drunk and incapable signed away his property, and farther that if it had been in the East he would have been struck off the rolls. I will not suggest whether it is direct or inferential, but it does suggest crimes which, if true, would render the doer absolutely incompetent to act on the judicial bench.

Therefore from the beginning of both proceedings the Government decided to prosecute, not only in respect of the article read in this House, but in regard to the article the *Spectator* published before. The *Spectator* in its own article called Mr. Justice Parker a "shark."

THE PREMIER: You do not think that is extreme language?

MR. NANSON: Mr. Justice Parker said it was mild in comparison.

THE PREMIER: You said it was mild.

MR. NANSON: I agree it is mild in comparison with the article that appeared in the *Sunday Times*, or that should have appeared in the *Sunday Times*; and if the Premier will put out of his mind the article that was read in this House, and will take the article which appeared in the *Spectator* solely and wholly by itself, he will agree with me in the opinion that the *Spectator's* article, if taken by itself, was defamatory to a degree. That also was the opinion of Mr. Justice Hensman on the legal question, and his opinion is more important than mine, although I hesitate to say that it is more important than that of my hon. friend opposite.

THE PREMIER: He does not say that he disagrees with Mr. Justice Parker or Mr. Burt.

MR. NANSON: He gives his opinion on the article. It was open for the Government in the first place to have said, "Mr. Justice Parker's reputation stands so high in this country that he can afford to disregard charges of the description made by such an uninfluential paper." I very much doubt if members in the House, except the four members of the Government whom I have referred to, would have adopted an opposite view. I doubt if any other member in the House would have said Mr. Justice Parker was justified in doing so; but the Government just took the

article up and invested it with an importance which it never ought to have had, but having invested that article with importance, and having gone a certain distance, instead of going on and seeing it through to the bitter end they withdrew it from a jury of the Supreme Court; and that is the gravamen of the charge which I bring against the Government, the method of doing things in this country when the defendant in a libel action has pleaded justification, when he is willing to go into the Court and say, "I stand or fall by my actions, and if I cannot prove them I am willing to pay the penalty," then at that stage is the case withdrawn from the Supreme Court, and the Government are asked to appoint a Royal Commission. That is what may cause scandal. If scandal has been caused in this matter, it lies not at the door of Mr. Justice Parker, not necessarily at the door of the *Spectator* newspaper, nor at the door of myself because I am moving in this matter, but with the Government who have invested the article with an importance it would not otherwise have gained. The Premier tells us, as I have already pointed out, that it is a duty which the Government owe to the community to preserve the integrity of the Bench. Would it not have been better to have let the matter go to its usual conclusion and to have been determined by the verdict of a jury? The Premier has given us to understand that he will not go on with this prosecution, that he will withdraw it from the Supreme Court, and that he intends to appoint a commission to investigate the charges.

THE PREMIER: It had been withdrawn before I went into office.

MR. NANSON: There were other means which the Premier might have taken, if there were little difficulties in the way of bringing another prosecution. He might have brought a civil case if he had liked, so that the matter could have been settled in the Supreme Court and nowhere else. However, the Premier thinks otherwise, and he intends to appoint a Royal Commission to investigate, as he has told us in answer to my question, not the charges that appeared in the *Spectator* newspaper, but the charges contained in the article read in Parliament. The member for Kanowna (Mr. Hastie) has just helped

me where perhaps I needed a little help. I was on the verge of pointing out that it was an ingenious explanation for the Premier to say he was not proceeding on the charges made in the *Spectator*, but on those contained in the article read in this House. But how does the Premier explain the difference, when the charges in the two cases are identical, when the charges in the *Spectator* article are absolutely the same as the charges read in this House? When the Premier gives a reply of that sort to my question, surely it smacks more of a legal quibble than of a statesmanlike answer, the sort of answer we should expect from a gentleman occupying the position of head of the Government. If it was the duty of the Government, in March last, to prosecute Mr. Spear for that "Third Judge" article, that is the *Spectator's* own article, I wish to know why it is less the duty of the Government to prosecute Mr. Spear now. Surely it is even more their duty, seeing that Mr. Spear has challenged them to prosecute him, and has said "I am prepared to stand or fall by that article; I am prepared to justify what I said, or if I cannot justify what I said, to take the penalty." Now, since the Government said they intended to abandon this prosecution—that is some months ago, when mention was made of a Royal Commission, although that commission has not yet been appointed—Mr. Spear, in the most public way possible, in the Press of this country, and not in his own newspaper, but in a newspaper possessing more means of publicity than are perhaps possessed by his paper, openly challenged the Government to put him in the dock and try him on his own article.

THE PREMIER: What do we care about Mr. Spear?

MR. NANSON: Well, the hon. member may not care; but I venture to think the people of this country care.

THE PREMIER: I do not think so.

MR. NANSON: And it is approaching somewhat of the dimensions of a scandal when any person can say openly that they dare not put him in the criminal dock, and dare not try him, when such serious charges are made as saying that a Judge is a "shark," that he has "pouched" several thousands of pounds, and that, if he were in the East instead of the West, he would not be allowed to

sit on the Bench. However, there can be no doubt about the attitude of Mr. Spear when it was first decided that a Royal Commission should be appointed. He said:—

I am prepared to stand or fall by a criminal trial in this matter, and by my action right through have evidenced that intention. But to the latest phase of this case I advance every objection. I was, and am still, prepared to face a criminal tribunal and leave the matter in the hands of a jury of the people. What I say is, let Mr. Justice Parker contest this issue in a court of justice, and let that tribunal decide effectively and for ever as to whether I am a wanton and malicious libeller or whether he is suited to the high position he occupies.

One has to look at this matter not merely from the point of view of the prosecutor, but from that of the defendant also; and when it is remembered that the defendant declares he is anxious to vindicate his character, has declared all along that he was ready to stand or fall by his own article, surely it is taking a somewhat serious step to deny him the right to vindicate his character in the Supreme Court of the country. His article goes on, with the idea if possible of still farther emphasising his desire to have this matter brought before the Supreme Court, and says:—

I fear no judicial trial, and do not seek to shirk responsibility, but I do question the cruelly unfair means by which the prosecuting parties seek to arrive, by their own process, at a termination of the affair. [That is, by appointing a Royal Commission.] Is it not a grave reflection upon the intelligence of a country's jury list that a case listed for presentation to a panel should be quashed in this manner? Indeed, I would ask, have the Crown Law authorities the power to abandon a position which admits of only one culmination, and that trial by jury? As a matter of fact, the authorities have stood by and witnessed me exhaust my every fraction of finance and six months' time, and now, at the eleventh hour, have coolly stepped in and propose to deny me the vindication of my position. I ask you and every fair-minded man in the community, is such procedure consistent with justice or right?

Now Mr. Parker, in his letter giving the reasons why he thought the prosecution should be abandoned, gave one reason which I have so far omitted to mention, namely that he doubted whether a jury would find the libel would bear the meaning alleged in the information. Well, much has been said, and is continually

being said in the country, as to the efficacy of trial by jury. Many people say in private, though they are not as a rule prepared to say it on the floor of this House or on a public platform, that trial by jury is a failure. If one can gather anything from ordinary conversation, there is certainly a perceptible number of people in the community who believe that trial by jury is a failure; and I have heard it argued in conversation that there was good reason for Mr. Justice Parker's withdrawing this case, because there was a very grave amount of uncertainty whether a jury would give him a verdict. Well, I again on this subject also quote one who should, from his position, be the best judge of the capacities of juries in Western Australia, and that is Mr. Justice Hensman, who, with the exception of Chief Justice Stone, has occupied the Bench in this State longer than any other Judge, and has therefore had very excellent and very unusual opportunities of judging of the capacity and the fairness of juries. Mr. Justice Hensman said only recently, in the Supreme Court:—

He was glad to have that opportunity of expressing his view of the general conduct of jurymen in the State, for his attention had recently been drawn to letters and public remarks in the newspapers reflecting upon the conduct of juries in Western Australia, and asserting that it was difficult to obtain justice in the Supreme Court.

Here I say the Government, by endeavouring to withdraw this case from the Supreme Court, are themselves giving weight to the opinion that it is difficult in Western Australia to obtain justice in the Supreme Court. That, however, is not Mr. Justice Hensman's opinion, that there is this difficulty owing to juries. He proceeds:—

After lengthy experience in England and here—and he had had the opportunity of comparing the conduct of juries here with that elsewhere—he had no hesitation in saying that, as a rule, juries here conducted themselves as properly, and he believed were as anxious to give fair verdicts, as those in England or elsewhere.

I think Mr. Justice Parker's contention, that it was not likely that a jury would place a libellous or defamatory construction on those words, can hardly be justified. At any rate, we have an authority more impartial than Mr. Justice Parker, because the authority is not concerned in

any way in this case—and that is Mr. Justice Hensman—declaring in the first place, from his place in the Supreme Court, that the article undoubtedly bore the construction of being defamatory, and in the second place declaring that we have every reason to trust and every reason to believe in the fairness and the capacity of the juries of Western Australia.

THE PREMIER: Mr. Justice Parker controverts neither of those positions.

MR. NANSON: At any rate, it is difficult for a layman, and perhaps for a lawyer, to understand how a jurymen could misconstrue or misunderstand statements like those contained in this "Third Judge" article. To call a Judge, or to call even an ordinary lawyer, a "shark" is surely not to speak in complimentary but in defamatory terms of that Judge or that lawyer. To accuse him of "pouching" thousands of pounds is surely to speak in a defamatory manner, and in a manner that can bear only one construction. To say that he stood by and witnessed a legal document signed by a man who was drunk and incapable, and did nothing to prevent the signing, is surely also defamatory. And surely to say that things can be done in Western Australia which would not be for a moment permitted on the eastern side of this continent is not only defamatory to the person against whom those charges are made, but to the Government and to the whole people of this State.

THE PREMIER: Including Parliament?

MR. NANSON: Including Parliament.

THE PREMIER: Then, to be consistent, you had better direct the Speaker to sue for libel at once.

MR. NANSON: Undoubtedly it is defamatory to the whole community. The Premier suggests that the Speaker should sue for libel.

THE PREMIER: To be consistent.

MR. NANSON: If that is the Premier's legal opinion, no one will be more pleased than I if that course be taken. However, I am asking for something smaller; I am asking that the Judge, whose character has been assailed even more severely than the character of the country, should proceed with the case which the Government began for him. And surely a question of this kind is one with which a jury is eminently qualified to deal. It

is not a question involving abstruse legal arguments; it is not a question of what is privileged or what is not privileged; it is purely a question of fact. Were those things done that were alleged in that article or were they not done? If they were done, then we cannot, as Mr. Justice Hensman has said, escape from the conclusion that the man who did them is absolutely incapable of sitting on the Bench. If they were not done, equally we cannot escape from the conclusion that the man who makes untruthful charges of so vile a description is deserving of the severest punishment that it is in the power of a Judge to award for criminal libel. In regard to the two abortive prosecutions in which the plea of privilege was originally raised, it has never been satisfactorily explained—and I hope the Premier will be able to explain it—why when the Crown had a strong case, why when they could determine this actual question of fact, they elected to go on the article read in this House, in respect of which, as the Premier must know as a lawyer, the other side would be bound to raise the question of privilege.

THE PREMIER: They were not bound.

MR. NANSON: Naturally, whether it be in a legal battle or in a military campaign, either side in a conflict always likes to choose its own battle-ground; and the Premier himself, had he been in the position of adviser to the defendant in that action, would never have gone to the length of advising him to defend the article read in this House, and to leave his own article alone. The Premier would have said, as he would be bound to say as a lawyer, "Plead privilege in regard to that parliamentary article, and stand or fall by your own article."

THE PREMIER: But when I had fought and run away, I should not boast of my bravery.

MR. NANSON: The defendant has fought and not run away. He challenges the Government, in the extracts I have read, to put him in the dock and try him on his own article; and he says he is prepared to stand or fall by the result. Suppose, in those first two prosecutions on which the question of privilege was raised, a verdict had been returned for the Crown, suppose it had been decided that the newspaper was not privileged

in publishing the article, the case would have been no farther advanced than before. Mr. Justice Parker's character certainly would not have been affected one way or the other. The charges would have remained; the question whether those charges were true would not have been gone into; the case would have been decided purely on that technical and legal point whether the article was privileged. The first two trials, no matter what the verdict, must have been abortive, because they would have absolutely left out the question whether Mr. Justice Parker was or was not entitled to sit upon the Bench; and the Government, recognising this, filed another indictment, or whatever the hon. gentleman opposite may call it, on this "Third Judge" article, so that they might proceed against the defendant in respect of it. And yet this particular article, this vital article, is the very one from which the Government run away. Now, to come on a little farther, a day or two ago I moved in this House a motion asking the Government to prepare a return giving a list of the cases in which journalists had been criminally prosecuted for publishing portions of parliamentary debates. I do not know whether that return has yet been laid on the table. I wish it had been. I am inclined to think that, when it is laid on the table, it will be found to consist of a great deal more blank paper than writing. Unfortunately the Premier has left the Chamber, and therefore cannot contradict me if I am wrong; but, so far as my own inquiries go, they show that within the last century there is not to be found, I believe, in England and certainly not in this country, a single instance in which a journalist has been put on his trial, has been placed in the criminal dock, for reporting portions of parliamentary proceedings. I feel strongly on a question of this kind, not merely as a journalist, but as a member of this House. I consider it a gross breach of the privileges of this House that a journalist should have been prosecuted by the Government for publishing even a fragmentary report of parliamentary proceedings. A great amount of latitude should be observed in these matters. If the Government of the day have the power of prosecuting a journalist for

publishing what does not altogether please them, how do we know where that power will stop? Why, it has happened again and again that grave charges have been made in Australian Houses of Parliament, and that portions of those charges have been telegraphed throughout the length and breadth of the continent, and have appeared in the newspapers of every capital in Australia. An instance of the kind occurred only at the close of last session—a strikingly similar instance. There are many cases in which it would be impossible to give an absolutely full report of proceedings, and in which, almost unavoidably, only the more sensational portions are given. And yet we have this monstrous doctrine not only enunciated, but put into actual practice, that a journalist who, in the exercise of his business, gets a report of that description published, is liable to be placed in the dock and to bear all the expense of a criminal trial. I do not so much mind any legal penalty which may be attachable to conduct of that description, for I have quite sufficient confidence in the Supreme Court Bench of every Australian State to believe that if a journalist were found guilty of an offence of that kind, the penalty awarded to him would be of the most nominal character. But I do enter a protest, and the strongest protest possible, against any Government adopting tactics of this sort—ruining a journalist by fighting him through his pocket. In this *Spear-Parker* case the newspaper attacked is a small, an obscure, and an unimportant journal—a newspaper with very little money behind it, a newspaper which is struggling to gain a footing. Here, the proprietor of a newspaper of that description is put in the dock, and has thrown on his shoulders all the expense of two criminal trials; and the Government, failing to get a conviction, are not satisfied, but put him to all the expense of preparing for a third criminal trial—although an appeal has been made, I understand, by the defendant's mother in the meanwhile—put him to all that expense, and then, when the really vital issue is approached, when the Government come to the point to which they have been challenged to come all the time, the Government run away and say, "No; we are not going to try you on the facts. We will remove the

case from the jury, and remove it from the Supreme Court, and will appoint a Royal Commission to try it." A Royal Commission appointed by whom? Appointed by the very Government who prosecuted this journalist. Are we to assume that the Government of the day are justified in removing from the purview of the Supreme Court a case of that description? Are we to assume that Ministers who are themselves the prosecutors are fit to appoint a court to try those charges? I cannot appreciate the feelings of hon. members if they acquiesce in conduct of this description, if they are prepared to say that conduct of this description is justified. Looking back on the history of the Government, reviewing some of its past appointments, are we justified in assuming that this House should authorise the Government—because, unless my motion be carried, the action of the House will amount to such an authorisation—should authorise the Government to appoint a Royal Commission to deal with this matter? I cannot forget that only recently an appointment of the present Government has been subjected to a great deal of unfavourable criticism in this House. I, personally, am not prepared to assert that the same Government who appointed Mr. George to the position of Commissioner of Railways are fit to be intrusted with the appointment of a Royal Commission in this matter. It is borne in on me that in Western Australia it is distinctly better to be a member of Parliament than to be a journalist; for we find the member of Parliament who made these charges in this House, or who at any rate was a vehicle for promulgating the charges, who raked up these charges, and who first brought them into prominence—I venture to say we should have heard nothing about the *Spear-Parker* scandal if Mr. George had not brought the matter forward in the House—we find that member of Parliament elevated to the position of Commissioner of Railways, to a position commanding a higher salary than attaches to any position in the State except that of the Governor and that of the Chief Justice; we find, on the one hand, the man who read the articles, and who is in effect the root, fountain, and origin of the whole business, advanced to a high position, and,

on the other hand, we find the humble, unimportant journalist who merely published an article read in Parliament put in the dock of the criminal court and tried not only once, but twice, ruined in pocket, and sought to be ruined in reputation. Then, when we come to the crux of the whole matter, when we come to the very question which is to decide whether the journalist was or was not justified in making those charges, then we find the Government run away. The Administration which appointed Mr. George to the position of Commissioner of Railways, which appointed to so high a position the man who was the vehicle of making those charges, now asks the House to be allowed to appoint a Royal Commission to deal with this matter of Mr. Justice Parker. Surely, the record of the Administration in this case, its record all through this business, is not altogether of such a character as the House should demand, is not altogether of a character entitling hon. members to say that this case should be withdrawn from the Supreme Court and placed wholly and solely in the hands of a Royal Commission appointed by the Administration which right through the affair has acted as prosecutor! Some time ago in this House the member for Guildford took me to task, and in doing so misquoted me, as he has done on some other occasions—inadvertently, no doubt—for saying that an appointment of the present Government was the most disgraceful episode which had ever blackened the political history of Western Australia. This has reference to the appointment of Mr. George as Commissioner of Railways. [THE MINISTER FOR WORKS: Misreported!] Now, what I did, as a matter of fact, say was that the appointment was one of the most disgraceful pieces of political jobbery known in Australia; and that is what I am reported in the newspapers as having said. I have the newspaper report here. However, let us put my statement in its worst light—

THE MINISTER FOR WORKS: Oh, no; in its best light.

MR. NANSON: In its worst light, from the point of view of the hon. member, or shall I say in its most extreme light? That expression would be non-controversial. In making a statement of that kind I was not reflecting

on Mr. George, but I was reflecting on the Government, who now wish to appoint a Royal Commission to try the Spear-Parker case. I thought Mr. George's appointment was a most discreditable piece of political jobbery, and for this reason, that either the hon. gentleman who confirmed the appointment, that is the Premier, had in this House described Mr. George in terms which he did not mean, or that if he did mean them, he had appointed to the high position of Commissioner of Railways a man altogether unfitted to hold it.

THE PREMIER: Oh, pardon me. I never for one moment, either in this House or out of it, questioned the perfect honesty and integrity of Mr. George.

MR. NANSON: In this House, on the 15th October last, the present Premier described Mr. George as an hon. member associating with people in the gutters of Perth—

THE PREMIER: In connection with this very matter, yes.

MR. NANSON: As making a cowardly attack, as being a mean sneak, and as descending below the level of the gutter Press. The Premier described Mr. George as abusing the powers and privileges of Parliament in a scandalous manner.

THE PREMIER: Undoubtedly.

MR. NANSON: I do not agree with those observations of the Premier. No one rebukes them more than myself. —[MR. GORDON interjected.]—If the member for South Perth will cast back his memory a little, he will recollect that, almost from the very seat he now occupies, I in a certain measure contended that Mr. George's charges might be better made the subject of inquiry. I do not mean to say that the charges which the Premier has advanced against Mr. George are true in any particular—on the contrary, I reprobate those charges—but I do say that if the Premier believed what he then said, he can now hardly ask the House to assume that a person capable of doing such things as imputed by the hon. gentleman himself to Mr. George is worthy to be placed in a position of responsibility, whether over the Railway Department or over any other Government department.

MR. DIAMOND: I rise to a point of order. I can find nothing in this motion about Mr. George,

THE SPEAKER: The hon. member can say what he likes about Mr. George, although the appointment is not mentioned in the motion.

MR. NANSON: The main line of argument I am taking, I may inform the hon. member who has just risen to order, is that an Administration capable of making so grave a mistake in regard to the appointment of Mr. George, capable of appointing a man of whom the Premier entertained so low an opinion, might possibly make an equally serious mistake when it came to appoint a Royal Commission to deal with the Spear-Parker case; that therefore it is safer, less open to misconstruction, and more in accord with the ordinary rules of British justice, to leave the Spear-Parker case to the Supreme Court, and not to relegate it to a Royal Commission as proposed. There is another aspect of the question to which I wish to draw attention. Let us put out of our minds the position which Mr. Parker holds in this case as a Judge of the Supreme Court; let us suppose him to be simply a private individual, whose character is of absolutely no concern to the public, whose character is of concern only to himself and his immediate friends. Then suppose a man of this description, a mere private individual, is libelled or defamed by a newspaper, and that the individual so defamed decides that his character demands he should take proceedings against the newspaper, and that he does take action; then proceedings having been initiated, a statement of defence filed, notice given to produce certain documents, and the line of defence intended to be adopted having thus been made evident, let us suppose the prosecutor next turns round and says, "No; I have had enough of this; I am not going on; I do not wish to go into a court of justice." Suppose the plaintiff or prosecutor said, in such circumstances, "I have decided not to go on," what construction should we, as ordinary men of the world, as ordinary individuals, put on his conduct? Is it not in such circumstances always assumed that, once a paper has been threatened with a libel action, and once proceedings have actually been taken, if the plaintiff or prosecutor withdraw from those proceedings, he does so for the very best of reasons—that he is not prepared to fight

the case, that he is not prepared to face a Judge and jury on it? I defy any member of this House to deny to me that such is the construction ordinarily placed on conduct of that sort; and I contend that it is monstrously unfair, not only to the Supreme Court Bench of this country and to the country itself, but monstrously unfair also to Mr. Justice Parker as a private individual, that he should be placed in a position where it may be said of him that he is not prepared to go into the Supreme Court to vindicate his character. The Government should have pondered all these considerations before deciding to prosecute. Had they decided not to prosecute at all, had they refrained from giving prominence to the matter by instituting criminal proceedings, it would have been dead long before this; but, having decided to prosecute, they cannot possibly withdraw. The vote of the House, no matter what that vote may be, will not decide the question altogether: the voice of public opinion will finally decide the issue. It will always be brought up against this unfortunate Judge that the Government of the day would not allow him to go into court and vindicate his character.

THE PREMIER: You call the Judge "unfortunate": why do you not show him some sympathy?

MR. NANSON: I do show sympathy for the man placed in that position—I show sympathy not only for the man, but for the Supreme Court Bench and for the reputation of this country. Already in the English newspapers comments are beginning to be made upon this case by persons who can have absolutely no feeling in the matter, who are widely removed from any local feeling, and who simply look at it very much in the same way as they would look at a case which occurred in Timbuctoo, or rather in any part of the British dominions in which they had no interest. I think it was in one of the English newspapers which arrived by the last mail, *Truth*, Mr. Labouchere's paper, which makes a speciality of dealing with questions in which it is thought there may have been a miscarriage of justice—

THE PREMIER: Oh, no. Pillorying everybody respectable.

MR. NANSON: The weight of Mr. Labouchere's words is in the case on

which the statement rests. The newspaper says :—

The abandonment of the prosecution for criminal libel is a step which, if public opinion has any force in the colony, must render Mr. Justice Parker's position utterly untenable. He may be a much maligned man, but what confidence can the public possibly feel in a Judge who, after two abortive trials, finally abandons a prosecution which he undertook to vindicate his character, and which the defendant met by pleading that his allegations were true and justifiable?

The paper is wrong there, for the defendant never offered to prove that the article was justifiable. He said, "Try me on the same charges in my own article and I will prove them."

THE PREMIER: It is on false facts.

MR. NANSON: They are not false facts.

THE PREMIER: You yourself said they were.

MR. NANSON: I pointed out a slight inaccuracy, which does not make the case weaker for the defendant, but weaker for the Government and stronger for the defendant. The reference I am quoting ends up by saying—and I will read this for the special benefit of the Premier:—

The change in the Government now taking place may, perhaps, lead to some farther action; as it stands, the matter is assuredly a terrible blot on the judicial system of West Australia.

MR. DIAMOND: That is a quotation from one of the foulest sources in London.

MR. NANSON: The member for South Fremantle (Mr. Diamond) is entitled to his opinion, if he likes to call *Truth* and *Labouchere* one of the foulest sources of information in London. That is a matter of opinion, and he is entitled to hold his; but it shows one thing, at any rate, and that is that *Truth* has not a monopoly of strong language, but that even the member for South Fremantle can, on occasion, use strong language himself. [Interjection by Mr. DIAMOND.] No one can deny that this paper circulates not only throughout the length and breadth of England, but throughout the world; and this is the sort of thing that is being said, and probably will be said in greater degree if these matters are not settled in the proper, ordinary, and accustomed fashion. Then we have the other point, whether the Government are prepared to do to any ordinary suitor what they are doing in

regard to Mr. Justice Parker. Are the Government prepared to give to anyone that comes along who happens to be defamed in a newspaper, and who says he has not confidence in a jury, a Royal Commission to vindicate his character? Yet if there be one maxim more than another which has become stereotyped and fixed in our constitution, it is that every man is absolutely equal before the law; and if you give a Judge of the Supreme Court those privileges, can you deny equal privileges to every man of the community who is placed in a similar position, whose character is assailed, and who thinks he cannot get justice in the Supreme Court? Are you going to put the Supreme Court on one side in every instance, and substitute a new tribunal, trial by Royal Commission? or are you going to make an exception to Mr. Justice Parker, and declare that you are doing for him what you would not do for an ordinary suitor? I can only recollect one precedent for anything in the way the Government propose, and that is the case of the Parnell Commission, in which serious charges were brought by the *Times* newspaper against Mr. Parnell on the basis of letters which were subsequently proved to be forged. The Government then appointed a commission to deal with the matter, and that commission was composed of three Judges of the Supreme Court. It was, moreover, conducted in full publicity, as an ordinary trial, with all the rules of evidence. Both parties were represented by counsel, and to all intents and purposes that was a trial by the highest judiciary court in the land. I am perfectly prepared to admit that if the Government of this State mean by a Royal Commission a commission constituted on these lines, if they think it is desirable for the integrity of the Bench that a special court should be constituted composed of three Judges, that the proceedings should be held in public, and that counsel should be employed and all the ordinary rules of evidence observed, then I should be the last to object to a court of that description. I should wish to see that course followed; but if it means that the commission is to be appointed in the ordinary way, consisting of laymen, I unhesitatingly assert that the Government will have the greatest difficulty however honest their intention, in getting

a suitable commission, for the matter is not one for laymen to decide, and it is not a desirable position in which to place a layman, who any day may himself have to come before a court presided over by that Judge. You cannot make a departure of that kind from the recognised usage. You cannot tell what evils it is going to lead you into, evils which we may not now recognise; and at any rate this motion will have served a useful purpose if it enables the Premier to explain why he takes at times what seems to be an extraordinary, unjustifiable, and unheard-of course. It is with confidence that I submit this motion; because it affirms principles which have long ago passed out of the sea of stress and trouble, and entered into the haven of the common-place. It affirms that principle of absolute equality before the law of every one of us, from the highest to the lowest, the richest or the poorest, no matter what one's position. It also affirms the principle that we should not give to a Judge what we would deny under equal conditions to a private individual. If this House rejects the motion, if it does not kill, I venture to say it will maim the confidence of the country in the administration of justice in this State. If it rejects this motion it will proclaim at large that in Western Australia the tribunals over which the Judges preside are not to be trusted when one of those Judges himself is a suppliant. If the House rejects this motion it will besmirch with suspicion the hitherto unstained ermine of the Supreme Court of this State. I end as I began by appealing to members, in voting upon this question, to dismiss from their minds all thought of party. I ask them to forget alike the claims of Government or Opposition. I ask them to allow only one thing to weigh with them, that being the inexorable, eternal, and immutable claims of justice. If I may be permitted to say so, a heavy responsibility rests upon every member of the House. Let it not be said of this Assembly that we have done anything to weaken the power of the judiciary in this State, or to lessen the respect, the estimation and the authority in which it is held. In this matter we have to deal not with individuals, but with the character and reputation of our highest tribunal. That character and that reputation must be maintained at any and at

every cost. All other considerations must give way to that one supreme, unbending, and inexorable necessity. No matter at what sacrifice, we must be prepared to preserve the law courts of this State, in the interests of truth, of liberty, and of justice. In the interests not only of individuals but of the community at large, we must be prepared to preserve the courts against any occasion for even a breath or shadow of suspicion. I beg to move the motion standing in my name.

MR. W. J. BUTCHER (Gascoyne): I second the motion.

THE PREMIER (Hon. Walter James): With a great deal that the mover said in the early part of his speech and in the course of his concluding remarks, I am certain every member of the House entirely agrees. I hope he will not think I am rude if I say we cannot allow him to pose in this House or in this State as being the one just man who is anxious above all things to preserve the purity and administration of our justice and the integrity and honour of our Bench. We constantly hear great principles like those which have been referred to, used for the purpose of covering motions which really themselves strike at the very principles under cover of which they are brought forward. Many in this House in the course of their experience here and also in their personal lives, must have been constantly struck with the fact that very often the greatest wrongs are done in the name of justice, and great principles are quoted to cover individual acts of great injustice. I ask members to bear that in mind when they are dealing with this question. During the early part of my friend's remarks I made a note expressing my entire agreement with them, and at the same time I put a note to express my gratification at the fact that he had forgotten that hysteria which characterised his utterances on this question throughout the length and breadth of the State wherever he spoke. But I regret to say that the high tone he adopted at the outset of his remarks was departed from at a very early stage. I understood from him that the question he desired to place before the House was not one that tended, either directly or indirectly, to affirm the truth of the charges made, but a question which attacked the administration of this

question, the disposal of it by the responsible Ministers of the Crown. That is an attack which might be fairly made; but may I express my strong regret that for the second time this House has been made use of; once for hurling a charge indirectly against a Judge, and the second time for bringing forward statements from Mr. Spear's brief, emphasising charges made here nearly 12 months ago. I appeal to members, am I right or wrong when I say that the impression left on the minds of everyone after hearing the speech of the hon. member is that in his opinion the Government of this State have shielded Mr. Justice Parker from a charge he could not meet; that the Government have used extraordinary powers against Mr. Spear because he had made charges which some members believe and the country believe to be true because they have not been answered in the manner indicated by the mover? I submit that the hon. member has abused the privileges of the House, in that whilst we have the right to insist on both sides that the administration of justice committed to the hands of the Government should be carried out with the greatest care, there is above that question this important duty, that no man's character should be assailed in the House. If the Government had done wrong, then punish the Government; but above all things, maintain the honour and character of those men who are unable to speak in the House; and do not attack their characters as this Judge's was attacked twelve months ago, and again indirectly in the course of the hon. member's remarks to-night. During the earlier portion of the hon. member's remarks, he told members to refrain from that course and to deal with the matter in the broad manner that it ought to be dealt with. I rejoiced to hear that, and with a number of the criticisms I entirely agreed. I thought that if there was blame at all, the hon. member would cast it on the responsible Ministers at that time and on those of us who have accepted the position which we found when we took office. That would have been a high and constitutional manner in which to attack the question; but the hon. member failed indeed when he allowed his inexperience to overcome him, when he thought he was talking to the mob who are always

willing to give plaudits to exaggerated language. But the hon. member was speaking to Parliament, where we have a right to insist on the responsibility of the privileges of Parliament, and not directly or indirectly to say words which might create irreparable injury to a man who is not here to defend himself. This motion, I take it, is brought forward for one purpose and one purpose only. It is brought forward here for the purpose of attacking the Government, and the hon. member has a right to allege that we, in connection with this matter, have interfered unduly with the ordinary administration of justice. If he said that and proved it, that would be right and proper; but what has that to do with the merits of the case? What has that to do with reading from Mr. Spear's brief? What has that to do with reading letters that Mr. Spear has written to the Press, expressing his great desire to get at his enemies, when he ran away from them when he had proof and could meet them. Whatever has been done by the Government, we accept the entire responsibility. I realise, and I have said so by the answer which I gave, that the Government did do wrong, but to Mr. Justice Parker, when they directed the prosecution on the "Third Judge" article. My opinion has been strong, and no stronger than the opinion of the hon. member for Northampton in his opening remarks. We have no right to regard attacks made by this class of journal in this country. Members of this House have been attacked much stronger than Mr. Justice Parker has been attacked. Their private characters have been attacked and their professional dealings have been attacked; and if we are to understand that because this newspaper makes attacks, members are justified in moving the adjournment of the House to bring these attacks before us, and that a duty is cast upon a member of the House, because he is attacked, to take proceedings to vindicate his character. If we do that, we shall do the greatest dis-service to the liberty of the Press which it has ever had done to it. If we do that, we glorify this class of journal, and do not realise that there is always the broad distinction between the freedom of the Press and the unbridled license of the Sunday and week-end Press of the State. There is no reason why we

should not approach the consideration of the question without introducing heat into it, and I hope there will be an opportunity of dealing with the matter in that spirit. We know how all this matter arose—am I not right in saying that it was by reason of one of the grossest breaches of privileges which ever this House or any other House has witnessed? I should have thought, and it must be the opinion of every member, that we at all events in this House should do nothing to emphasise the wrong which that gross abuse created. When this charge was indirectly made the trouble appeared to be in the mind of the then member for the Murray and those who supported him, was the charge one of blackmailing, and it was thought desirable by some members that the charge should be inquired into: but do not forget there was no suggestion for a moment that the charges in the article were true. On the contrary, every member who spoke, even the member for the Murray, was most emphatic, not once but half-a-dozen times, by his clear expression of opinion that the charges contained in the article were not true, and the only thing that was needed was an inquiry into the charge of blackmailing.

MR. NANSON: Why did not the Government take action?

THE PREMIER: I cannot answer every question at once. For instance, the hon. member said this:—

The charge is that an attempt was made to levy blackmail, and that the attempt was submitted to by the victim or object of the attempt. I do not propose to enter into the question of the article. The Premier addressed himself solely to the charges—vile charges he called them—and I am entirely with him as to that.

Mark you, "vile charges!"—an admission made by the member who now says that this "Third Judge" article, repeating the same vile charges, is an article—

MR. NANSON: You should prosecute on.

THE PREMIER: On which this prosecution should be based. Not only does he say that there should be a prosecution, but that the mere fact of the prosecution not being carried on is sufficient justification for calling on the House to discuss and emphasise the very charges which the hon.

member describes as vile! If that is not so, then the hon. member must admit that the result of this discussion will be, not to clear up what may have been a constitutional difficulty in the mind of the hon. member—a question that might have been raised, and properly raised—but to emphasise and to extend the vile charges made by a member of this House in October last. The hon. member went on to say:—

The Premier addressed himself solely to the charges—vile charges he called them, and I am entirely with him as to that—but what I want to see inquired into is the question of fact, whether an attempt was made to blackmail one of His Majesty's Judges, and whether, instead of indignantly repelling the attack, the Judge in question met the blackmailer.

That was also what appeared to be in the minds of other members. In fact Mr. George himself, when speaking, said:—

I charge the *Sunday Times* with this blackmailing, and I charge them in the highest tribunal of this land, and that is here.

MR. TAYLOR: Charge them outside the House.

MR. GEORGE: That I shall do if I choose. I say farther that if this can be gone into by the Attorney-General, and if it be proved that this matter is untrue, he will have in his possession the people who are responsible for it. He can have all the information to inquire into the question, if he likes. I offered this evening, and I offer again, to place before the Attorney-General of this State this type-written copy, the original galley proof, and such proofs as I have, besides the name of the party who will go into the box and prove the statements I have made.

Evidently the hon. member for Murray stood here and had behind him witnesses to prove these charges of blackmail. What I want members to bear in mind is that the result of the first discussion was that those who brought it forward and supported the bringing of it forward, had apparently in mind one thought only: that there was a charge of blackmail made, and it ought to be inquired into. That was obvious to every member in the House at the time. But the mere fact of the hon. member getting up and charging blackmail was not sufficient. He ought to have shown a stronger *prima facie* case than that. We know what transpired. A letter was read from the learned Judge giving a most emphatic denial to the charge. As far as the House was concerned, the matter dropped.

The conspirators—because this was part of a conspiracy, it was not a matter resting with the member for the Murray—were not satisfied, and we find in the *Spectator* newspaper a copy of the article. I am right in saying that was the only paper in this State that the article appeared in, and unless due to a conspiracy it was a strange and striking coincidence. The only newspaper in the State in which the article appeared; and that article, too, appeared with none of the repudiation which accompanied the reading of it or which punctuated the remarks of the member for the Murray and every member who spoke, who all repudiated the charges and expressed their emphatic opinion that they were not true. Even the mover in the matter took particular care to repudiate all responsibility for the charges, and said distinctly that he did not believe them. That article appeared without a word of protest, caution, or qualification, and it appeared in that newspaper only. Is there the least doubt in the minds of any member in the House or in the mind of any person in the community, that the publication of that article in the *Spectator* was part of a conspiracy, and as intended the result of the matter being brought up in the House? Do hon. members think that any responsible newspaper would sink so low as to put in its columns a copy of an article like this, knowing how serious the charges were and what irreparable wrong was being done, without at the same time putting in the qualifications entered in the House by every member who spoke to it, so that the article should not go forward as a charge made by the man who read it, and as if put forward deliberately, and received by Parliament without a word of protest.

MR. MORAN: You say it was a conspiracy, and yet you put the man who brought it forward away.

THE PREMIER: It may look so to the hon. member. I think Mr. George was a catspaw. I know Mr. George too well to think that he was one of the conspirators. He is a man who has my greatest respect, and I have often said inside the House and outside of it that during his whole career in the House, that was the only action of his which I disapproved of—the

cowardly way in which the charges were made by him as a catspaw.

At 6:30 the SPEAKER left the Chair.

At 7:30 Chair resumed.

THE PREMIER (continuing): I was pointing out, before the adjournment, that the *gravamen* of the charge made when the matter was brought before Parliament—or perhaps I should not say the *gravamen*, but the matter weighing on the minds of those responsible for the introduction of this subject into Parliament, and those who were supporting the member for the Murray—was the alleged case of blackmailing. The House, however, seemed fully to realise that such a charge or any other charge, coming forward on a mere bald statement of any member, and not having behind it the support of some substantial reasons, was not a charge sufficiently serious to justify the House in taking action. And the House was farther impressed with the fact that by the Constitution, if we wished to remove a Judge, it must be done by laying a specific charge. If a member have against a Judge a charge that he thinks would warrant the interference of Parliament, his duty is to have the courage of his convictions and to say, "I make this charge"; then adduce his evidence or his *prima facie* evidence, and leave Parliament to deal with it. The House thought, and I suppose still thinks, that it never can be right, by innuendo and suggestion, to throw out indirectly a charge that a member is not prepared to make directly and to stand or fall by; and it was because of this attitude of the House that, when an emphatic denial was received from Mr. Justice Parker, then so far as the House was concerned the matter practically dropped. Then it was, as I have previously said, that in pursuance of what I believe to have been a prior arrangement, this article appeared in the *Spectator*, the only paper in which it appeared throughout the length and breadth of the State; and it appeared in the circumstances I have already indicated. Now so far as the House was concerned, the publication of that article made no difference. I am not aware that the article was referred to in the House, or that the least notice was taken of it; but it was the learned

Judge himself who took up this attitude. He said: "I have been accused in the House of submitting to blackmailing. Under the cloak"—I am not using the word offensively—"under the cloak of that charge, an article has been read in Parliament that one of the Sunday papers would not publish against me, and which contains charges that have now been brought before Parliament; and I wish to have those dealt with." That action was purely voluntary on his part; and when he insisted that the charges contained in that article, together with the charge of blackmailing, should be dealt with in the open courts of this State, it was in those circumstances that the proceedings were in the first instance brought. Now I may say I anticipated, and I believe every member anticipated, that when the matter went into the courts, those who had made the charges in that paper would at once have said, "We will justify every word we have used." No one anticipated that the article published in that paper would be protected by the plea of privilege. On the contrary, everyone of us believed that the trial arising on that first issue as to the libel contained in that article would have been as to whether the charges were or were not true. I know for a fact that the learned Judge (Mr. Parker) was prepared to meet the charges on that trial, and fully anticipated they would be dealt with; and no one was more disappointed than he when he found that those who made those charges sheltered themselves behind the plea of privilege, the effect of which, as the legal members of the House will bear me out, is that the defendant says "I admit the charges are not true, I admit they are *prima facie* libellous, but I justify myself under the privilege of Parliament." That in itself was a sufficient and an ample justification for Mr. Justice Parker. It is idle for the leader of the Opposition to say that after this plea of privilege has been disposed of, they are still able to plead the merits of the case.

MR. NANSON: Mr. Justice Hensman said they were.

THE PREMIER: Mr. Justice Hensman said nothing of the sort.

MR. NANSON: Excuse me; he did. I will show you the extract.

THE PREMIER: Thank you; I have read the extracts several times. Mr. Justice Hensman said nothing of the sort. It is idle to ask a person charging another with libel to prove his case, if the person libelling him plead guilty. Why, the plea of privilege is in itself a tacit acknowledgment of guilt on the charge of libel, but a justification of it on the ground of privilege. At criminal law, unless one has special leave of the court, one cannot plead inconsistent defences. If one plead privilege, that admits the libel; and there was no special leave obtained in this case, but it went before a jury entirely as a question of privilege or no privilege; and if that question of privilege had been found against the publisher of that paper, he would at once have been sentenced for the offence of libel. Therefore, at those two trials, it was not a question of whether or not those charges were true. The admission of their untruth was involved in the plea of privilege. It was entirely a question whether the plea of privilege could or could not be supported. For myself, I say this plea alone put Mr. Justice Parker in a position that amply vindicated his character. There was no need to go farther.

MR. NANSON: I will supply you with the extract from Mr. Justice Hensman's summing up.

THE PREMIER: Mr. Justice Hensman did not deal with this point; and I do not care if he has dealt with it. I am the Attorney General of this State, and know a little about law. The leader of the Opposition said that Mr. Justice Hensman stated that, if the defendant were found guilty on the plea of privilege, the other point still remained open to trial. I say Mr. Justice Hensman said nothing of the sort.

MR. NANSON: I will show you the extract.

THE PREMIER: Do so subsequently. He said nothing of the sort; and if he did, he was wrong. At criminal law, it is perfectly clear that if a defendant wish to plead justification with privilege, he must obtain special leave. The only plea in this case was a plea of privilege; and if on this plea of privilege the verdict of the jury had been against Mr. Spear, he would have been sentenced for the libel. Though it is not very relevant,

not supremely relevant to this point, the fact remains that privilege was pleaded; that those who inserted that article were not prepared to come forward and prove its truth. The leader of the Opposition says they now say, "We published that article and stand by every word of it." But they did not say that when they had a chance, when they were brought face to face with Mr. Justice Parker in a court of law. They pleaded privilege; and those men who pleaded privilege are the men for whom the leader of the Opposition pleads in this House as men who are vindicating the liberty of the Press—the men who, when they had a chance to fight, ran away, and who now, because a certain amount of political animus has grown around the matter, because they think there is a possibility of no fair trial, a possibility of their benefiting, now clamour to rush before that jury which, when they met, they turned their backs upon and pleaded privilege.

MR. MORAN: You are wrong.

MR. NANSON: You should read the reports of the case, to refresh your memory.

THE PREMIER: I know the facts of the case exactly—

MR. NANSON: But I can refresh your memory.

THE PREMIER: And I can look at them from both sides; not from the side of Mr. Spear alone. Even in connection with this plea of privilege, everything depends on the circumstance whether or not that article was a correct report of what took place in Parliament. I can appeal with the utmost confidence to every man in this House to support me when I say that the article was not a correct report of what took place in Parliament. Hon. members were all here and heard what took place. They know that the article was not read out word for word from beginning to end as it was published; they know that it was interspersed with many interjections, and with several observations by Mr. George himself, pointing out that he did not accept the responsibility of the charges made. None of these interjections and observations appeared. We here in this House who know the facts are well aware that the report published is not a correct report of what took place in Parliament. At the trial, evidence was given by a

journalist to the effect that he took the article down word for word as spoken by Mr. George; but that journalist also admitted that when he came into this House that night he had in his possession a clean print of the article. A clean print of the article! So that it appears the reporter who took down the report of what occurred came into this House anticipating the debate, and having in his possession a clean print of the article itself. However, the journalist assured the Court, and indeed swore, to the effect that he did not rely on that clean print, but that he took down the article in shorthand as it was read. Well, there is this to be borne in mind, that notwithstanding this emphatic evidence some at all events of the jury did not find in favour of Mr. Spear, even on the subsidiary point of privilege. Even on that point they did not entirely accept the evidence tendered on his behalf, because they would not find for him. One would think now that after those two abortive trials, Mr. Spear marched forth from the courts a triumphant victor, whereas on the subsidiary issue, dependent entirely on the oaths of his own witnesses, some at least of the jury refused to justify his plea! Observations have been made to-night on the jury system in this State, and reference has been made to the statements of Mr. Justice Hensman. I want to express my opinion that the jury system in this State is not satisfactory; and I am perfectly indifferent as to who speaks to the contrary. It is the practising barrister in this State who knows how juries can be worked—

[Several interjections.]

MR. TAYLOR: How the juries are packed.

THE PREMIER: And are worked. When you know that on the jury list of this State there are men who have been charged with offences in the Eastern States, and some of them convicted of offences, and when you find in the jury-boxes of our criminal courts men judging of offences, of which offences these jurymen themselves have in some instances been convicted, you will recognise that it is very nearly time our jury system was remodelled. Cases of the kind I describe have occurred, and complaints have been made to me as Attorney General on that score; and I desire to say that I entirely

concur with the member for West Perth (Mr. Moran) in his remark that the jury system needs remodelling.

MR. MORAN: Don't attack the system.

THE PREMIER: I am not attacking the system of trial by jury at all; but I want to express my opinion as to whether our jury system, as at present modelled, is entirely satisfactory. I wish to express my emphatic dissent from the observations of one learned Judge. We know that the two abortive trials on what was comparatively a side issue—

MR. NANSON: A side issue?

THE PREMIER: Privilege.

MR. NANSON: Was privilege a side issue?

THE PREMIER: I should think it was a side issue. Privilege was a cowardly defence to be raised by a man who comes forward and says, "I want to face these charges."

MR. MORAN: Don't attack an absent man. You just preached that doctrine, you know.

THE PREMIER: I am not attacking an absent man. I am dealing with the arguments used by the leader of the Opposition.

MR. CONNOR: You are on very thin ice.

THE PREMIER: Perhaps I am on thin ice; but I am going to stand firmly on it.

MR. YELVERTON: Whether the ice break or not?

THE PREMIER: I will run the risk of whether the ice break or not. After the two abortive trials on the subsidiary issue, no attempt to justify the statements published having been made, a *nolle prosequi* was entered. We know the reason why the *nolle prosequi* was entered: the reason was the intervention of Mr. Spear's mother. A letter was sent to Mr. Haynes, and shown by Mr. Haynes to Mr. Justice Parker. In consequence of that letter the *nolle prosequi* was entered.

MR. MORAN: Do you believe that matters of this kind should be settled by mothers, rather than by courts of justice?

THE PREMIER: The fact remains that even if that letter had not been written, after two trials had been held a *nolle prosequi* would almost naturally have followed. After all, the matter did not affect Mr. Justice Parker seriously,

because no attempt was made to justify the charges.

MR. MORAN: Why not drop the thing?

THE PREMIER: Quite right; but I want to point out that Mr. Spear knew well enough why the prosecution was dropped after the second trial. He knew that proceedings were dropped because of the intervention of his mother. He knew that abundantly well, because he was shown the letter and he expressed gratitude for it. But not one word was said about that letter in the Press. On the contrary, shortly afterwards when Mr. Spear appeared to think that there was some chance of making capital and advertising his paper, he rushed to the front and said, "These two abortive trials have been held in my case; I have been put to enormous and burdensome expense; and now I want to come forward and justify myself." I do not believe any person in this State, beyond Mr. Haynes and Mr. Justice Parker, and Mr. Spear himself, knew of that letter until it was read in this House on a recent afternoon. Surely the leader of the Opposition will not suggest that Mr. Justice Parker was wrong up to that stage?

MR. NANSON: Up to what stage?

THE PREMIER: Up to the stage when the two abortive trials on the plea of privilege had been held, and proceedings were discontinued.

MR. NANSON: Since the second article was included in the indictment, the Government ought to have proceeded on the second article, no matter what had been the verdict on the question of privilege.

THE PREMIER: I have already said that I do not intend to answer questions of law; but I must again point out that where the plea of privilege came in, the plea of justification could not be raised, except by special leave, which special leave was not granted. The only point in controversy was the plea of privilege, and controversy on that was put an end to, as I have already pointed out, as a consequence of the letter received from Mrs. Spear. Everyone thought the proceedings were over then. I suppose the learned Judge thought so: certainly other people in this State thought so, and Mr. Spear himself thought so.

MR. NANSON: What about Mr. Justice Hensman's reference to the "Third

Judge" article, in the course of his summing-up?

THE PREMIER: What on earth has the summing-up to do with it? The summing-up was delivered before the second disagreement. We are now talking about what happened after the second disagreement. The matter must have been regarded as settled, if what the leader of the Opposition states is correct; for the hon. member says the "Third Judge" article covered the same ground as the article read in Parliament; and if to the article read in Parliament the defendant would not plead justification, but pleaded privilege, I should have thought, as everybody else thought at the time, that he would not have acted differently if charged on the other, the "Third Judge" article. It is childish to say that the defendant, who avoided justification and pleaded privilege in connection with the article read in Parliament, would have availed himself of the plea of justification if he had been charged on the other article. I do not believe it.

MR. MORAN: Could the defendant plead privilege in respect of an article which was not read in Parliament?

THE PREMIER: Of course he could not plead privilege —

MR. MORAN: They why do you not proceed against him on his own article?

THE PREMIER: For this reason, that in the opinion of responsible officials the first article is not nearly so wide as the second article.

MR. NANSON: Then why did you put it in the indictment?

THE PREMIER: I have already said that I cannot answer a number of questions at once. The opinion I have stated was held by Mr. Justice Parker, whose opinion is not to be lightly cast aside, and was, moreover, held by a man whom we all know and all respect for his legal knowledge, Mr. Septimus Burt. The opinion —

MR. NANSON: Why did you put the second article in the indictment, then?

THE PREMIER: I say the opinion of responsible officials was that the second article was not sufficiently wide. Where there were two articles to go on, naturally one would proceed on the wider. Very often an indictment contains more counts than are proceeded with. Where, how-

ever, you have two counts, one covered by the other, what on earth is the good of proceeding on two counts when one covers both? Here, in the opinion of responsible advisers, the charge on the article read in Parliament covered the charge on the other article. We say, all alike, that really the first article is insignificant as compared with the article read in Parliament and subsequently published.

MR. MORAN: You were indeed merciful in giving the defendant the chance of pleading parliamentary privilege.

THE PREMIER: I was not, of course, the legal adviser of the Crown at the time; but I am prepared to take it on myself personally to say that no one was more astonished than myself when the plea of privilege was put forward as regards that article.

MR. NANSON: Oh, you must have known that plea would be raised.

THE PREMIER: No one was more astonished than Mr. Justice Parker himself. I know that for a fact, although I had nothing to do with the Government then. I know that Mr. Justice Parker was prepared to meet the plea of justification.

MR. MORAN: That is only an *ex parte* statement.

THE PREMIER: All our statements here are *ex parte*. I know what I have stated, for special reasons.

MR. NANSON: Why not meet the plea of justification by going on?

THE PREMIER: I want to point out that there was an opportunity of raising the plea of justification, of giving a practical demonstration of that bravery of which the defendant now talks. What on earth is the use of a man saying, "Let me meet the enemy to-day," when he might have met that enemy a week ago?

[Several interjections.]

THE PREMIER: Oh, may I speak occasionally?

THE SPEAKER: Order! It is not right to interrupt the hon. member.

THE PREMIER: Why did not the defendant raise the plea of justification when he might have done so? The point I want to emphasise is that, on the conclusion of the first two trials, there was no suspicion resting on Mr. Justice Parker; none whatever. There had been

no attempt to justify the charges made in Parliament, but, on the contrary, the plea of privilege had been set up. Notwithstanding that fact, however, it was Mr. Justice Parker who again insisted that, because these charges had been made in Parliament, he must have them dealt with. He took proceedings in the first instance against Mr. Spear. He was baffled in his main object then by the plea of privilege. Finding himself baffled in that respect, he said, "I want a Royal Commission, because a Royal Commission is the only tribunal that I now have available for the purpose of dealing with this question." And the application for a Royal Commission was made to that Ministry of which the leader of the Opposition was so distinguished a member, of which, indeed, he practically was the originator and founder—the Morgans Ministry. I should like to point out, also, to members of this House, and I would like to remind my good friend the member for the Murchison (Mr. Nanson), that the request for a Royal Commission came before my friend's Cabinet. But the then Ministers did not say, "Away with you; go to a jury!" No; they sent the request on to their successors.

MR. NANSON: The request came before a Cabinet meeting which was held, I think, a day before the Ministry left office, and at which routine business alone was transacted.

THE PREMIER: This request came before the Morgans Cabinet. This request for a Royal Commission, this wicked attempt to subvert the ends of justice, this nefarious design to interfere with the administration of the law, came before my friend himself, who instead of placing on record his protest, did nothing. Now, I have a keen recollection of seeing quite recently a minute made by the hon. member the day before resigning office, in which minute he says, "I shall do nothing in connection with this matter, but I desire to place on record, for the guidance of my successor, my strong opinion." I have seen that minute within the last ten days—

MR. NANSON: Yes; certainly.

THE PREMIER: But I have seen no suggestion, no minute, in connection with this request for a Royal Commission. The fact is that the hon. member looked on

the matter as I did, as every man in this House did; that is to say, he looked on it as practically settled. He thought, as we all thought, that the appointment of a Royal Commission was the only way of meeting, not the demands of this House, not the demands of the country, but the demands of Mr. Justice Parker himself.

MR. JACOBY: The Attorney General was absent from that Cabinet meeting.

THE PREMIER: What had the Attorney General to do with it? The question is not one of law, but one of the liberty of the Press. The leader of the Opposition resigned from office, leaving behind him this request for a Royal Commission which had come before the Morgans Ministry, without a word of protest, or a word of warning, or a word of guidance for his successors. Apparently, shortly after the two abortive trials the Morgans Ministry ceased to exist; and perhaps my good friend the leader of the Opposition, initiating that system of consistent partisan politics in which he is so strong a believer, thought "Here is a good chance to beat the Government." His paper first began the agitation that qualified Mr. Spear as a public martyr, who suffered in vindicating the "liberty of the Press." That kind of feeling went on for a bit, until apparently Mr. Spear posed as a man who was persecuted. He did not say a word about the reason why the prosecution was ultimately withdrawn. He posed as a man who had been twice tried, upon whose case a jury had not been able to agree, who had been put to enormous expense, and against whom the proceedings had now been discontinued. And I suppose he then wrote that Press challenge that he was then prepared to justify the article. It may be that the success of his flimsy plea of privilege raised the hopes that he might get through on the more serious offence. When the second charge was made, on the article called "The Third Judge," a wrong was, in my opinion, as I have already said, done, not to the administration of justice, there being no outrage to justice at all, but to Mr. Justice Parker, and it was made at the time when he was not in this State. It was made in the face of his wish for the appointment of a commission, and in my opinion that prosecution should not have been instituted, for reasons I gave in my previous answer, and for reasons

given by the leader of the Opposition in his remarks this evening. The reason is that we cannot call upon our Judges any more than our friend or colleague in this House to prosecute a certain class of journals because of the sweeping statements contained in their articles. If the hon. member had limited his attack to that point, I believe he would have made a strong case, because the Government did act wrongly in that. But what I urge is that if a wrong was done it was not a wrong to Mr. Spear, it was not a wrong to the *Spectator*, but to Mr. Justice Parker; and throughout the whole of my friend's observations what he appeared to think was that this was done to injure Mr. Spear, to injure the *Spectator*, and at the instance of Mr. Justice Parker. We have reference made to the fact that on the second trial—what I call the second trial, being on the second libel, but it was the third trial really—the plea of justification was entered. Members will be surprised to know that it was not entered until about five weeks after it ought to have been. No plea at all was entered until they were constantly pressed by the Crown Solicitor, who said, "I must have some plea."

MR. NANSON: I think neither side wanted to fight. Probably one man was frightened of being sent to gaol.

THE PREMIER: That may or may not be so; but if we found a few days before this second charge came on that neither party was prepared to fight, what I am at a loss to understand is why my friend appears before us as the champion of Mr. Spear, represented as saying, "Come one, come all." He does not come at all. What I want to point out is that there never was a full plea of justification. They take certain parts of the article. They do not say, "We justify the whole of the contents of the article." They take certain parts of the article and say, "These words of which you complain do not bear the meanings you allege, but they bear other meanings, which other meanings are true." That is an innuendo. When a man wants to fight fairly, and not to avail himself of legal technicalities, he says, "The words are true in substance and in fact." [Interjection.] This is not a law case. This is a case in connection with which

the roof of this building has been almost shattered with the eloquence of my friend. It is represented as a matter that men should weep over throughout the length and breadth of this State, because the administration of justice has become so demoralised. It is not a question of law, but one of far more transcendent importance. There was no plea then of the man who said, "I will raise no legal quibbles: I will say it is absolutely true in substance and in fact." He said, "The innuendoes are not true; they are not justified." Members will remember that I read the reasons Mr. Justice Parker gave in his letter why he did not care to go on with this prosecution, and I am quite certain they will appeal to every legal member of the House. There is no more difficult thing than to get a conviction for criminal libel against any man. There are so many technicalities which can be raised, and members must never forget that, although a man will talk outside and say "I will prove all these words: I will be as good as I say," yet directly he goes into Court and answers to the charge there, even if he justifies his assertions, you will find his counsel availing himself of all the privileges and protection which surround the ordinary criminal, and he will say, "You must not convict a man like that; you must not send a man like that to gaol."

MR. MORAN: That is the bad advice of lawyers.

THE PREMIER: Not bad advice: they all avail themselves of it. No legal member will deny that the process of criminal libel is not by any means the best method of settling the truth or untruth of the charges made. I entirely agree with the objections raised by the learned Judge, and I put it to the members in this way, that the first two trials had gone off on the question of privilege. A lawyer would realise that, but would an ordinary layman have realised it? And when this second charge was brought up on the ground of the "Third Judge" article, would not the counsel for Mr. Spear—and I know him well enough to be acquainted with his ability—have said, "Here is this man charged with publishing this article, whilst the more serious article read in Parliament remains unchallenged to-day"? And it would have been extremely difficult to convince

a jury of laymen that the plea of privilege prevented the merits of the case from being gone into. They would have thought: What is the good of trying this man when the article has twice been made the subject of a trial, and twice without success? I have no hesitation in expressing my opinion that had that trial gone on, the trial relating to the third article, it would have been most unsatisfactory, and there would not have been a fair opportunity to Mr. Justice Parker or any other man under those circumstances to vindicate his character. That is my opinion. A suggestion has been made that civil redress was available; but such was not the case. The only person whom civil proceedings would have suited was Mr. Spear, but at that period you could not have sued Mr. Spear, owing to a time limitation. There would have been a chance of taking civil proceedings, if the Government could have found out who handed the article to Mr. George before he read it in Parliament. If we could have found that out, then that individual, by the mere fact of handing the article to Mr. George, would have been responsible as the publisher. Mr. Leake endeavoured to find that fact out, but Mr. George absolutely declined to give the name of the person from whom he got that article unless a Royal Commission was appointed, and then he promised to give all the evidence he had available. Mr. Leake endeavoured to obtain the necessary facts to justify the proceedings in this case, that is proceedings dealing with the article read in Parliament. Mr. George took up that attitude, and he did so directly after the debate took place. The day after the debate in October last, Mr. Leake wrote to him asking the name of the person who handed him the article; but Mr. George wrote and refused to say unless a commission was appointed, in which case he would give the full evidence. It seems to me there has been collecting round this question for the last few months an amount of political feeling that is undesirable; a certain amount of political feeling that convinces me there is very grave risk as to the fairness of any trial which may be held on the point. If there were a criminal trial to-morrow on this question by one side or the other, I very much doubt whether we could get

a jury of free and impartial men to deal with it. The matter has extended so far now that the time is too late to do it. It has been my opinion that even when Mr. Spear for the first time came and said, "Shoot at me, I will defend myself," such a feeling had grown up that it was very doubtful whether a proper trial could have been held.

MR. MORAN: That is another indictment against juries.

THE PREMIER: I admit it, and I say our jury system requires serious overhauling. I am sorry to have trespassed so much on the patience and good temper of the members of the House. I was anxious to point out that we have had two abortive trials, and that the real issue was not justification, but the side issue of privilege on both of those trials which were brought at the instance of the learned Judge; not because we in this House wanted it, but because he was anxious to vindicate his character. Those proceedings failed, and were terminated in the way suggested, following on that letter. But quite apart from that letter, there having been two abortive trials on that comparatively side issue, a *nolle prosequi* would have been the usual thing. The learned Judge himself applied for a commission, that he might vindicate his character in the eyes of members of this House. While he was absent from this State the second prosecution, on the "Third Judge" article, was determined on. I believe that prosecution to have been wrong, and the learned Judge, when he came back, took up the same attitude. The leader of the Opposition states that the "Third Judge" article covered the same ground as the other. I do not think it entirely did, and I believe I am fortified in that, not only by the opinion of Mr. Justice Parker, but also by the opinion of Mr. Burt. I assert that if a prosecution on the "Third Judge" article had gone before an ordinary jury of laymen, the jury would have had in their minds the fact that the main article as read in Parliament had twice been dealt with without success, and no farther trial having taken place they would have said, "Why should we deal with this comparatively unimportant article when the other article is not successfully dealt with?" This subject should not

have been dealt with as a question affecting the merits of the case at all. What have we to do with the merits or demerits of it? Whether Mr. Justice Parker was guilty or innocent does not affect the principle which I thought the hon. member was going to deal with during the first 10 or 15 minutes of his remarks. He branched away from that, and dragged in a discussion on the merits of the case, and perhaps I have been wrong in following his footsteps in that direction.

MR. NANSON: It is a very great question, the truth of the charges.

THE PREMIER: This is not the proper place to deal with the truth of the charges, because no charges have specifically been made. We have a right to say, if any member in the House wants to bring charges against a Judge, that he should do it in a constitutional manner, and stand or fall by it, and not mix it up with the liberty of the Press. If a member stands up and says the conduct of the proceedings has been such as to show that the Government have not done right, that does not affect the merits of the case at all. The merits of the case have nothing to do with the House. The hon. member should not have referred at all to the brief on behalf of Mr. Spear, and I ought to apologise to the House for having followed the hon. member in that course, but I could not help it, because I thought it was right that we should keep before the House the reputation of those who are not here to speak for themselves.

MR. MORAN: Tell us the scope of the commission. What they are going to do?

MR. NANSON: Are you going to appoint a commission of Judges?

THE PREMIER: Towards the end of my friend's remarks, he said he would be satisfied if he knew what the personnel of the commission consisted of.

MR. NANSON: If there were three Judges.

THE PREMIER: I find no trace of that in the motion.

MR. NANSON: I will withdraw the motion if you appoint a commission of three Judges.

THE PREMIER: Does not the hon. member think it would have been wiser to withdraw the motion, instead of introducing the merits of the case? My friend agrees that he does not support

the motion on principle; because if on principle it is wrong not to follow the ordinary legal tribunal, then any sort of commission will be wrong. The personnel of the commission does not interfere with that fact. If I appoint a commission of two or three Judges, that does not become one of the legal tribunals of the country. It is an extraordinary tribunal, and will be equally extraordinary no matter what the personnel.

MR. NANSON: It will be a tribunal that will command the confidence of the country, if you appoint three Judges.

THE PREMIER: What I want to point out is that we are asked by the motion to affirm that the charges made by the *Spectator* newspaper against Mr. Justice Parker should be dealt with by the established legal tribunal.

MR. MORAN: That would be the best, would it not?

MR. NANSON: We will accept a compromise.

THE PREMIER: The motion is the only matter we are here to deal with, and we are limited, I submit, to that.

MR. NANSON: I would accept a compromise.

THE PREMIER: I think the best compromise the House can come to is this. Every member of the House believes Mr. Justice Parker to be innocent of the charges which have been made: then why not have the courage of our opinions, and say so, and have done with it? There is a great deal of clamour outside.

MR. NANSON: We are neither court nor jury.

THE PREMIER: You are very like a jury, because you are so prejudiced. I need hardly say I rather resent the introduction here of the *Spectator* or of Mr. Spear, because we have nothing to do with Mr. Spear or the *Spectator*.

MR. MORAN: Or Mr. Justice Parker.

THE PREMIER: Or Mr. Justice Parker; nothing whatever. The only question before us is that certain charges have been made in regard to the proceedings in connection with these charges, that they have, it is contended, been of such a nature as to show the Government are lacking in their duty to the House and to the country, and that is the real and main point. Most members will agree with me when I say this matter has not been satis-

factory from its very inception. I should like to know how it was that the matter ever came to be mentioned in the House.

MR. MORAN: Ask your own Commissioner (Mr. W. J. George).

THE PREMIER: This is one of the questions we want a commission to deal with; and the next point that has been forced on members of the House is, what about the charge of blackmailing? That is another matter which we want dealt with.

MR. MORAN: That does not affect the country a bit.

THE PREMIER: It was entirely on the question of blackmail that the matter was first brought up in the House.

MR. MORAN: The *Spectator* never brought forward an accusation of blackmailing.

MR. NANSON: You were urged to appoint a select committee, and you refused to do it. I asked you myself.

THE PREMIER: There is need to appoint a Commission to deal with the origin of this matter, also to deal with the charge made in Parliament as to the blackmailing; and these are the two most important matters. I have not heard from a member of the House a suggestion that they believe Mr. Justice Parker guilty of the charges. In view of the attitude taken by hon. members of the House and the public outside—and it is wonderful what a newspaper can do, however small its circulation may be—it may be advisable to extend the purview of the case and give larger powers, more especially when we are asked by Mr. Justice Parker to have a Commission appointed. I may express this opinion, that if when I came into office I found on the file no insistent request from Mr. Justice Parker for a Commission, I should have said, "This matter must end." But it was one of those questions which I as Premier had to consider. The people depend on me to do what is fair, and if they cannot trust me, then they had better bundle me out. The reason why a Commission is to be appointed is not because I believe it necessary, but because Mr. Justice Parker has insisted that it will be a tribunal which can deal with the question.

MR. MORAN: Now as to the scope of the Commission?

THE PREMIER: That is not raised by the motion.

MR. MORAN: It is a very important point, though.

THE PREMIER: Hon. members may depend on my getting the best Commission I can, and I shall be glad if during this discussion any suggestions are thrown out which will assist me in the matter. I believe that in October last we were unjust in this House; I believe our machinery was used for an unworthy purpose; and I believe also we individually and collectively did a wrong which some people are now making capital out of. What I ask the House to do is that, realising the main blame rests on us, realising that all this trouble has arisen because of a gross abuse of the privileges of this House, realising that every one of us firmly believes Mr. Justice Parker is not guilty of the charges, then why not have the courage of our convictions? Why not say: We have been sent here as members of the House, our electors believing us to be honourable men, and seeing there have been these trials and that no charge has yet been made in a court of law saying that Mr. Justice Parker is guilty of the charges, let us do our best to repair the wrong done, and seeing that enough has already been done now to vindicate the most sceptical, let us drop the whole matter.

MR. MORAN: Well, drop it.

THE PREMIER: If we grant a Commission, we do so not because we believe it necessary, but because it has been demanded by Mr. Justice Parker, who was unfairly dealt with in this House last session and to-night. I hope members will reject the motion emphatically, and I hope they will not think for a moment that I or my colleagues are not, or that my predecessor was not, anxious to preserve the liberty of the Press. I hope members will not convict or accuse me of not being determined, above all things, to see that justice be dealt out with equal hand to all alike. I hope members will not say of me, because a man is a Judge of the land, I give him a law which I refuse to the poor. Whilst I am Premier of the State I shall insist that the same tribunals which apply to one set shall apply to others; and I shall never allow political capital, or journalistic capital, to be made by the abusive use of

the House, or by abusive charges being brought forward not in the interests of justice but to serve party and political purposes.

Mr. C. J. MORAN (West Perth): It appears the only thing that interests this country at present is whether that "madman" (Mr. George), from his place in the House, made a mad charge of something which he could never substantiate. We know from the Government that he was a "madman" in politics; we have their word for it. Therefore, the only question that is troubling Western Australia is that a Royal Commission be appointed to prove the charges made by a madman! That may be gratifying to this Chamber, and more gratifying to the present Government; but I am sorry to know that this Commission is not to touch the wider question whether a Judge of the State has been guilty of conduct which necessitates his removal from his place or not. This is a minor charge. Do not let us be guilty of cowardice. I will not be guilty of cowardice, and I will say at once it must not be believed for one moment I assent to the statement that Mr. Justice Parker is innocent of these charges. There are many thousands of people, tens of thousands, in Western Australia who believe him guilty; and why should I get up and whitewash that gentleman because he is a Judge of the Supreme Court? Why should I do it? Why should I use the machinery of Parliament? The Government made the appointment to the Bench; therefore they cannot divorce themselves from that particular aspect of it. They are anxious that his character shall be vindicated, because their characters will go with his to a large extent. Why should I allow the forms of Parliament to be brought in to draw a red-herring across this question? Because a man holds a high station, should he be granted a Royal Commission, when the Government would never dream of giving to the thousands of poor men in Western Australia who have been hardly dealt with, and say they cannot get justice in the Supreme Court, a Commission if they came to Parliament and asked for one. I think the proper thing would have been for the Government to drop the matter entirely. There have been two trials, after all on a side issue; and it rested with Mr. Justice

Parker himself to preserve his fair fame, his fair name, which is as precious to him as is every other man's, and no more, by taking any action he thought necessary; and if the Government had come to this House and said that on the change of Premiership this matter was to be dropped for ever, I should have supported them. I did try to get an amendment on the Address-in-reply moved to the effect that the appointment of a Royal Commission now was inexpedient and unnecessary. [MR. ILLINGWORTH: Move that as an amendment.] No; I shall not. I consulted with leading members on the other (Government) side of the House, and told them that if they would move it I would second and support it. It rests with the patient Government majority to move that amendment, or to vote on this matter with the Government. But a Royal Commission! What will a Royal Commission have to deal with in this matter? We are told it will have to deal with the question of blackmail. What has Mr. George's assertion that Mr. Parker was blackmailed by the *Sunday Times*—which nobody believed then, and which the *Spectator* laughed out of court as a ridiculous statement to make—what has that question to do with whether Mr. Parker robbed somebody 12 years ago? This is what men who do their duty in Parliament, men who view the absolute importance of this matter, who hear public opinion expressed in the trams and in the streets, as they must, this is what men who read the newspapers of Western Australia, ought to ask themselves. They do not care whether Mr. George made a charge of blackmail—like many more of his rambling statements in this House. They do not care if Mr. Parker gave £1,000 to the *Sunday Times* to keep an article out. The *Sunday Times* was not known, nor was Mr. George, nor this responsible Parliament, when the things of which Mr. Justice Parker has been accused occurred. Mr. Parker is either fit to be a Judge, or unfit to be a Judge, because of what he did before this country had Responsible Government. That is the main issue; and I will not have a red-herring drawn across the track. I regret the Government did not consent to drop this matter, and not to carry out the farce of a Royal Commission. And when this Royal Commission has dealt

with the matter, when this heavily-laden mind of Mr. George shall have unbosomed itself to a Royal Commission—that bosom of his which beats with patriotic pride, and would not tell even the Premier what it knew unless before a Royal Commission—when Mr. George has unbosomed himself, where are we? He discloses who gave him the article he read in this House; and the fact remains that the *Sunday Times* people prepared the article themselves from documents in the Supreme Court, and from the evidence of men holding high positions in Western Australia. What does it matter who gave the article to Mr. George, or why the *Sunday Times* kept it out of its columns? What the public ask is, did the *Sunday Times* believe that article to be true, or did it not? Did the *Sunday Times* leave out that article on the ground of policy? Probably it did; because its proprietors were very much opposed to another Judge on the Bench, and were supporters of the Government who placed Mr. Justice Parker there. And no doubt it is proper for any newspaper to consider its policy in that way. We all know that many articles are set up; the question arises in the office whether they shall be left out; and many are left out. What has it to do with Mr. Parker's character as a Judge, what the *Sunday Times* put in or left out? I appeal to the Premier, and tell him he is not filling his high position fairly in this House; and I tell him why. There is one sacred tribunal for the administration of law, and that is the Supreme Court of the State. Shall a Judge be tried before the Supreme Court? Shall a beggarman be tried before it? The law has always said, yes. The Supreme Court is, as the Premier has said, the one tribunal for the rich and the poor. Mr. Justice Parker has availed himself of that tribunal, and has come out of the court not in a satisfactory way. How many thousands of men are in the same position? How many thousands have appealed to the courts, and come out not as they would have liked? Which of the two men concerned in this case has come out as he would have liked? Is Spear satisfied? He says no; he says he is ruined, and has not had a chance of proving his case. Mr. Justice Parker says what I was very sorry to hear from the lips of a Judge. I shall

read it as taken down from a letter read in the House the other evening, and which to me was a matter of deep regret, because the historian who writes this tale will treat it as a black mark against the jury system of Western Australia. Says Mr. Parker:—

I doubt whether a jury would find that the libel bears the meanings alleged in the information. When the last trial was on, Mr. Burt told me he did not think there was much in the article upon which the present information is laid; and if there is a doubt about its meaning, the jury should certainly give Spear the benefit of it.

Here is a Judge who presides over the lives of men—not their reputations merely—in the Supreme Court of Western Australia; he sits there and tries them, and has assisting him in such trials the jury which he is not prepared to trust in his own case. Mr. Justice Parker says: “I cannot trust a jury; I am afraid they would acquit Spear.”

THE PREMIER: Oh, no. He does not say that.

MR. MORAN: I would not misrepresent the Judge. Those are the very words of Mr. Parker's own letter, and it is supported by the Premier. All through the Premier has aimed a blow at juries.

MR. QUINLAN: He is not far wrong, either, in regard to juries.

MR. MORAN: Well, for heaven's sake let the men who believe that, have the courage to attack the system of trial by jury.

MR. QUINLAN: I have attacked it.

MR. MORAN: Let them say that after a thousand years of trial by jury, that which we call the rock of liberty of the British people is no longer a rock but a shifting sand.

MR. QUINLAN: Your own experience shows you what it is.

MR. MORAN: The system is attacked by the member for Toodyay.

MR. QUINLAN: I am going to tell the truth, anyhow.

MR. MORAN: Well, I am certain that if the hon. member will rise in this House and strike a blow at trial by jury—[MR. QUINLAN: I have done it before]—there will be a terrific blow struck at this Parliament. An Oliver Cromwell will rise up and come in here on behalf of the people, and strike us out of here very quickly; because, powerful as we are, we are not powerful enough to attack the

system of trial by jury. It was fought for by the Barons at Runnymede; it is the keystone of every man's liberty to-day in the British dominions, and the one thing which, when it is taken from the people in other parts of the Empire, they clamour for most loudly. It is the great rock upon which the prisoner has always taken his stand. [THE COLONIAL SECRETARY: Wave the flag.] When I do wave anything, I wave a flag—not a dirty old handkerchief, as does the member for Pilbarra. I hope that when I have a flag to wave, it will be a flag which will vindicate the liberty of the people of Western Australia. I hope when I wave a flag, it will not be a party "whip" with an old dirty pocket-handkerchief to flip round the necks of supporters, to make them vote for me when I am aiming a blow at the sacredness of the Supreme Court Bench. What is a Royal Commission? A substitute for trial-by-jury. It is a trial of whom? Of nobody, we are told by the Premier, because Mr. Justice Parker is not put on his trial at all. Only Mr. Spear and Mr. George are to be tried; nay, I do not think even Mr. Spear is to be tried—neither Mr. Spear nor Mr. Parker; neither the man who says the Judge is not fit to hold his position, nor the Judge of whom that is said; but that precious individual who was last year reviled in this House as the basest of the base, who nauseated this House so that the then leader of the Government (Mr. Leake) had to leave the Chamber, and, who, in spite of all this, has to-day been given by the Government the biggest appointment in Western Australia. Why has Mr. George been given that appointment? And now I will say what I am not afraid to say. There is some connection between Mr. George's appointment and the Spear-Parker case—[MINISTERIAL MEMBER: Prove it!—and the country thinks so, too. A point that has to be thought of in appointing the Royal Commission is that a Royal Commission will be abortive until its report is adopted by this House. It has been forgotten that this House will have the whole thing over again, unsatisfactory as it may be. The Royal Commission will bring up a report about where Mr. George got the article which he read in this House; and how much farther will the case be then? Will the Com-

mission have dealt with the question whether Mr. Justice Parker is innocent or guilty of those charges? Not for a moment. If the Commission be appointed, what will it do? Supposing it be desired to inquire into the charges, as we are told it is now desired to do, how can justice be done by a Royal Commission? Who will call the witnesses? Who will take the evidence? Who will prosecute and who defend? The Commission will defend, because the Government, having a very strong bias in the matter, will look to that. Who will prosecute? Who will sift the evidence? Where is the money to come from to carry on this case? Is it to be as in the case of a man put on his trial for his life in the Supreme Court? Who will take any interest in the matter? Who will sift the various charges made, if Mr. Parker wants them sifted? Whose duty is it to do so? Is Spear going to put his hand into his pocket, or into someone else's pocket, and fee a big lawyer to appear week after week before three drivelling Royal Commissioners, who know nothing at all about the thing in hand—is that to be the procedure? And what will become of it then, supposing he does? Will the rules of evidence be observed? Will all the principals in the various cases mentioned be called? Will they be examined and cross-examined? Will the truth finally be got out? Will the people of Western Australia be satisfied as to whether Mr. Justice Parker is guilty on those six or seven charges? And on behalf of Mr. Parker I would say that this unsatisfactory hanging-up of the matter through an abortive Royal Commission will, I believe, give him more pain and do him more injury than anything else. Why? Does anyone think the country will be satisfied with what Mr. George will tell the Commission? Does anyone think the matter can be kept quiet unless the various people mentioned in the articles referred to to-night be heard? Unless these people be heard, will the country rest satisfied with Mr. Parker's evidence? Does anyone think there is not a danger that the more this matter is stirred up, the more it will smell? If that is not so, then let us go into the matter thoroughly and fully. And the point is, the highest tribunal in the land is this Parliament—the onl-

tribunal which is higher than the Supreme Court. Now, if we wish to inquire fully, and if Mr. Justice Parker wishes to inquire fully into the charges made, we, the people's representatives, are skulking behind our privileges unless we take those Supreme Court files and examine them, and examine Mr. Justice Parker's whole career. I agree it is now impossible in this case to get justice in the Supreme Court; but that is only one of two courts. At first, I should have infinitely preferred to let the matter drop; but do not appoint a tiddlywinking Royal Commission to deal with an altogether outside issue. Let us bravely do our duty, as other Parliaments in many parts of the British dominions have done, and attack and defend in Parliament the reputation of this highly-placed official.

THE PREMIER: That ought to be done on a specific charge laid by some member.

MR. MORAN: It ought to be done by the Government, if they are going to do anything. Why should the leader of the House wish to burke the matter? Why has not the Premier said: "Here are the files dealing with the cases; make what you can out of them?"

THE PREMIER: I have not any files dealing with them.

MR. MORAN: A motion of the House can get them in an hour. Parliament is supreme. Why, the whole House of Commons at one time took in hand the biggest trial the world has ever seen. That House, in the time of Edmund Burke, became the prosecutor of Warren Hastings, and they prosecuted that man.

THE PREMIER: By impeachment.

MR. MORAN: By impeachment before the House of Lords.

THE PREMIER: But specific charges were laid.

MR. MORAN: Certainly specific charges were laid; and I say we as Parliament are equally supreme with the British Parliament, that we here are as supreme over Western Australia, its Judges and its people, rich and poor alike, as was the House of Commons over Warren Hastings. We are getting too much in the habit of appointing Royal Commissions and select committees. The tendency in that direction existing at the present day is bringing the Parliament of this country into contempt. We are not worthy to be sitting here if,

whenever a knotty point comes up, there is some skulker heard saying, "I do not want to talk about so-and-so; let the matter be referred to a select committee or a Royal Commission." The Premier has said, "Why attack the reputation of a man who is not here to defend himself?" I ask, did anyone ever hear so foolish, so futile an argument brought forward in a Legislative Chamber before? How can it be maintained that we are fit to control the affairs of the country, to carry on its railways, its public works, the various State departments, if we are not at liberty to discuss and to judge the conduct of our own officers? How are we to know whether our officers are fit to have charge of our departments unless we discuss the capabilities of those officers? Is not this argument, that a man must not be attacked or criticised because he is absent, the most fallacious argument ever advanced? We must not attack anybody who is not present! When the member for Hannans (Mr. Reside) the other night attacked the head of the Locomotive Branch of the Railway Department in the most stringent fashion, did the Premier rise to rebuke the hon. member for making that attack? I, for my part, maintain that the hon. member was doing his plain duty; that he was acting within his rights and duties as one of the representatives of the people in accusing a high official of not doing his work. If that official was not defended by the Government who employed him, then the indictment of the member for Hannans remains as proven. Again, the very Government sitting on the Treasury bench to-night, when they sat here, in Opposition, most persistently and consistently attacked the reputation of Mr. John Davies; and when those gentlemen attained power, what did they do? They put Mr. John Davies on his trial. Did they not attack the reputation of Mr. John Davies as I have said? They did everything in their power to take away from that gentleman his reputation. The members of the very Government who now say we must not handle the reputation of a man not in the House, have done that very same thing in the case of Mr. John Davies.

MR. NANSON: The Government have travelled on that.

MR. MORAN: Quite so; they have travelled on it right through their political career.

THE PREMIER: And you are now adopting their tactics.

MR. MORAN: Have I not heard the member for East Fremantle (Mr. Holmes), in his place in this House, hour after hour attack Mr. John Davies? I say, all honour to that member for having done so. In my opinion, he did nothing that was wrong. He may have made some most extraordinary charges, but he did persist and bring the matter to the culminating point of inquiry. I am prepared to maintain that if we had in this House a few more members like the member for East Fremantle, members prepared to speak their mind straightforwardly about officials, members who scorn to restrict themselves to the casting of innuendoes, this Parliament would be more worthy to claim that it represents the people of this State. This House, I maintain, is earning the contempt of the people. On every knotty point the cry is, "Appoint a Royal Commission," or "Appoint a select committee." The Notice Paper is full of motions for the appointments of select committees. Every problem arising in connection with our Public Works administration is referred to a Royal Commission or a select committee. Let hon. members ask themselves what Parliament is doing. What are we drawing our salaries for? For hoodwinking the people. This motion we are discussing to-night is designed to hoodwink the people of Western Australia.

THE PREMIER: What, your leader's motion?

MR. MORAN: The proposal of the Government to appoint a Royal Commission to deal with the Spear-Parker case, if adopted, amounts to referring to an outside body what Parliament itself should do. That is what I mean by hoodwinking the people. I do not mean that the motion of the member for the Murchison (Mr. Nanson) constitutes an attempt at hoodwinking the people. I do not altogether agree with that motion. My advice on the point was to make a motion, "That in the opinion of this House the appointment of a Royal Commission is inexpedient and unnecessary." The appointment of a Royal

Commission is inexpedient because the Commission can do nothing, and it is unnecessary — well, what is inexpedient is generally unnecessary; but the proposed appointment is unnecessary because it now rests with Mr. Justice Parker to take what steps he may think fit in the matter. But if we depart from the Supreme Court and from the line of ordinary law, if we depart from that sacred principle of appealing to the highest court of the State to protect our reputations, there is only one way of doing it, and that is to move, in full House, "That the House do now resolve itself into a Committee of Inquiry into Mr. Parker's fitness for the position of a Supreme Court Judge." All the facts which a Royal Commission can elicit, we can elicit; all the witnesses a Royal Commission can get we can get, and get better. Why? If the inquiry be too wide and too laborious to admit of the process of calling witnesses to the Bar of the House, then witnesses can be called and examined within the purlieus of these premises. All the matter that a Royal Commission can bring out this Parliament can bring out for itself. And besides, surely to goodness the charges which have been made relate to cases publicly tried here in Western Australia! Are the records of the Supreme Court locked against this House? As a body of 50 honest men, can we or can we not arrive at a decision on the question of whether Mr. Parker is a fit and proper person to hold a Supreme Court Judgeship? If hon. members opposite are so chary of Mr. Parker's reputation, that is the way, and the only way, in which they can protect it. Let the sole tribunal which is higher than the Supreme Court try Mr. Justice Parker. There is no man in this House who would be dog enough to seek, for political ends, to hurt Mr. Parker, if that gentleman were proved innocent of the charges levelled against him. What a verdict the verdict of the House would be! A verdict to be proud of. A verdict amounting to a pronouncement that the people's representatives had inquired into the conduct of their servant, and had acquitted him of blame. What a unanimous verdict it would be! The law specially provides that a Judge can be removed only by the vote of an absolute

majority of both Houses of Parliament. There is a special law for Judges; our statutes provide that a Judge cannot be removed in the ordinary fashion. Not being an ordinary individual, he can be removed only by the vote of an absolute majority of this Chamber, and the vote of an absolute majority of another Chamber, if he be found guilty of charges levelled against him. If we are not prepared to adopt this course, to try Mr. Parker ourselves, then I say, let us be prepared to drop the whole matter for ever. Two courses are open to us. Either let us have an inquiry by Parliament itself, or let us drop the matter into that oblivion from which it were better had the affair never emerged. I am perfectly certain that these two courses, and these two courses only, are open to hon. members. I regret the decision of the Government in the matter. I regret that the Government have whipped up their party—

MINISTERS: No.

MR. MORAN: The leader of the Government made an appeal to the members of his party to-night. He said this motion was in the nature of a political attack on him.

THE PREMIER: Not on me.

MR. MORAN: A political attack on your party then. The patient majority has been whipped up. History is repeating itself to-night once again; there is no doubt about that. However, the country, I say, will not be satisfied with this Royal Commission. It is foolish in the extreme to prophesy that a most bitter and acrimonious discussion will occur when any Royal Commission inquiring into this matter presents its report to the House. The people will not be satisfied with the report of any Royal Commission; neither will members be satisfied. I, for one, will not be satisfied with the report of any Royal Commission. I shall never be satisfied to allow a farce to be perpetrated in this matter; and it is the merest farce to appoint a Royal Commission to inquire into a minor charge in connection with this grave case. Our course is, either ourselves to deal with the matter thoroughly and fully, or else to drop it once and for all. Supposing I were to say, "Mr. Justice Parker is entirely innocent of the charges preferred against him,"

people would at once retort on me, "How do you know he is innocent?" And, in point of fact, how do I know whether Mr. Justice Parker is innocent or guilty? How does any man in this Chamber or out of it know whether or not Mr. Justice Parker is innocent of these charges? How can anyone know? We are not seers; we have not the gift of second sight; we cannot look into the mind of Mr. Justice Parker to glean whether he is innocent or guilty. We can, however, take the most practical steps to ascertain whether he is guilty or not guilty.

THE PREMIER: Why should we not in this case assume, as the law assumes, a man to be innocent until he is proved guilty, and therefore treat him as innocent?

MR. MORAN: Certainly; I am quite ready to say that he is innocent, and to let the whole matter drop for good and all; but do not let us say we will hold this man innocent until he is proved guilty, and then avoid the proof of guilt. Certainly the law holds every man innocent until he is proved guilty; but the law sets to work in the most thorough fashion to ascertain the facts bearing on the question of guilt or innocence. The Government, however, propose to do no such thing. The Premier would not make a promise as to what the scope of the proposed Royal Commission would be; he would not say how the Commission was to be constituted; he would not say whether the Commission was to consist of a police magistrate or possibly an ordinary J.P. from the backblocks. Such a Royal Commission to try a Judge! Is so high an officer as a Judge of the Supreme Court to have his character whitewashed by an ordinary police magistrate? Do the Government propose to appoint some business man with far-reaching ramifications over the length and breadth of Western Australia to try this case affecting a Judge of the Supreme Court? Is a business man such as I have described likely to consent to try the case, knowing that he may be affected, and most materially affected? Who is to try the case? Who is to try, on a criminal charge, a Judge? Judges are understood to be far removed from all business operations. Why do we insist that our Supreme Court Judges shall be utterly removed

from the sphere of business? The reason is that a Judge must not be affected by bias, fear, relationship, or any consideration of that nature; and yet it is proposed to try a Judge, either by a police magistrate of the usual type or by an ordinary business man. What will be the end? What can come of it? I predict that the eventual result of the appointment of a Royal Commission will bring about the very trouble the Government wish to avoid. The Spear-Parker case will become a party question at the next election, as sure as I stand here. No candidate standing for a seat in either House will escape being interrogated on the question, if at the next election the matter be still before the country in the form of the report of a necessarily abortive Royal Commission. In my own mind I believe that if the Premier had his own way, he would drop the whole matter. He sees the weakness of the position, I am sure. It was not his wish, I venture to say, to appoint a Royal Commission. Why, I ask, has not the hon. gentleman had the courage of his convictions, and why has he not said, "Well, the country has had enough of the Spear-Parker case; we cannot go to the Supreme Court again; and therefore I intend to let the matter drop now and for ever. So far as I am concerned, let the parties fight it out in their own fashion for themselves." Why did not the Premier come to that conclusion; or why, having come to that conclusion, did he not make up his mind to do justice? Very probably he was actuated by a desire to assist Mr. Justice Parker, to help him through his difficulties. But, if so, why did he not put to the House a motion affirming that Mr. Justice Parker is innocent of all the charges levelled against him, and is in every way a fit and proper person to hold the position of a Judge of the Supreme Court? Then hon. members might either have risen in their places to analyse the facts, or they might have simply voted for the motion; just as they chose. One of these two courses was open to the Premier: he might have left the matter either in the Supreme Court, or he might have brought it into this House in the shape of a motion. A Royal Commission which will not inquire into the matter one way or another can be of no use. It is all

very well to say, in the end, that Parliament has adopted the report of the Royal Commission. Seeing that his character will not be inquired into by the Commission, Mr. Justice Parker may get away, saying "I have been tried by a Royal Commission and found not guilty," and so may be lauded up to the highest; but what will be the good of that? I appeal to hon. members to put aside party considerations. I appeal to some hon. member to move an amendment affirming that the whole matter ought to be dropped. My opinion is that the affair ought never to have been taken up. After the second trial the Government blundered, and blundered egregiously. For my part, I cannot sit still in my place and allow to pass in silence the most important matter which could possibly come before this Assembly—the sacredness of the Supreme Court before which we may all have to appear at some time or other in our lives, perhaps civilly and possibly in some other connection. If the salt lose its savour, wherewith shall it be savoured? If the Supreme Court Bench lose its purity, wherewith shall it be purified? Where will injustice end if the fountain of justice be defiled? If the Supreme Court of this State be not untarnished, with what degree of confidence can our citizens appeal to any tribunal? The suitor in the lower courts must always have before him the bright beacon of a Supreme Court of absolutely stainless character. This matter of the utmost importance has not, I maintain, been treated by the Premier in a statesmanlike manner. I am not going to find fault with the hon. gentleman for dealing in a generous fashion with an old friend. In one way I admire him for such conduct; but, nevertheless, I do consider that he would be acting rightly in allowing this business to take its natural, ordinary, legal course. If need be, let it come before the House in order that it may be threshed out; but, best of all, seeing what has already been done in the business, seeing that the legal tribunals have been appealed to, let the Government permit the parties to fight the matter out on the lines adopted hitherto. If necessary, farther action can be decided on later. It is not the part of the Government to endeavour to

prevent the case from being fought to an issue, to try to draw a red-herring across the trail, as I maintain will be the result of the attitude taken by the Government to-night, if persisted in. I confidently appeal to the Government, and to all hon. members representing large constituencies—constituencies containing not hundreds but thousands of the workers of this State—not to allow a red-herring to be drawn across the trail of this great case. The member for Cue has rightly said that Royal Commissions constitute only the whitewashing machines of Parliament, by means of which grave scandals, such as could never exist naked in the light of day, are disguised. That is what has often happened. There is no doubt the Spear-Parker case has created more sensation than any other case that has occurred in Western Australia. I do appeal to hon. members who call themselves democrats, who say they are here to safeguard the interests of the people, not to allow in the case of highly-placed individuals what would not be permitted in the case of lowly individuals. No harm whatever can be done by carrying the motion moved by the leader of the Opposition. The only result of carrying that motion will be that the Government will not appoint a Royal Commission, and that each disputant in this case will be left to fight the matter out in his own way, and to vindicate his character as best he may.

MR. W. B. GORDON (South Perth) : The Government appear to have erred in instituting proceedings as regards the second article in the *Spectator*. They admit it, and it was done practically against the wishes of Mr. Justice Parker. The case having already been tried twice in the Supreme Court and not properly ventilated, or no satisfaction being given to either side, Mr. Justice Parker, I suppose, thought he would get more justice from a Royal Commission. The Government admit their mistake, and they are appointing this Royal Commission. A lot of legal points have been brought out in reference to this matter; but I submerge them altogether to get to the origin of the whole thing, and I ask myself whether this article was originally published in the interests of the public, or to gain notoriety and increase the circulation of the paper. The latter was the case. I come now to

the vital point, and that is the appointment of this Royal Commission. I maintain, and I say boldly here, that the member for the Murchison (Mr. Nanson) and the member for West Perth (Mr. Moran), in baulking the appointment of this Royal Commission, are endeavouring to hide something. They think there is some evidence coming out in reference to the Spear-Parker case which will be against those people they are holding a brief for.

MR. MORAN : I cannot allow these wild remarks of the hon. member to go. The hon. member must apologise when he says I hold a brief for anybody. I will not allow that to be said in this Chamber, and I appeal to you, Mr. Speaker, to protect me.

THE SPEAKER : I think it was an improper statement to make, certainly; accusing any hon. member of holding a brief.

MR. GORDON : I apologise. In fact, I don't think he has the ability to do it.

MR. J. C. FOULKES (Claremont) : I hope the Government will not persist in their intention to appoint a Commission to deal with this particular case. There have been only three speeches so far, but already I have heard a great number of heated remarks, which prove conclusively to my mind that Parliament is not the proper tribunal to deal with such an important case as this. Reference was made by the member for West Perth (Mr. Moran) to the case of Warren Hastings. Anybody who has studied the report of that trial knows as well as possible that the case was decided, or was practically looked upon, from a party view. There is another matter which has occurred to me, namely that no Commission which the House can appoint will have sufficient status and authority to deal with this case, because whatever the report of the Commission may be, it will not carry sufficient weight among the general public. Even if it does convict Mr. Justice Parker, he is a gentleman who has a great number of friends in this State, and they naturally will not feel justified in believing the report of the Commission; and even if the Commission exonerate him, as I hope they would, still that would not prevent these charges from being reiterated, and so the report will not be final and conclusive.

People in this State would still be in a position to reiterate these charges week after week, and if they thought fit and had occasion, they would be able to add fresh charges, which means practically that this matter would never be settled. And, as we all know, the report of a Royal Commission has not the same authority as a decision in the Supreme Court. In the Supreme Court there are Judges and also officials whose duty it is to carry out the findings and decisions of those Judges. For instance, it is within the province of the Sheriff and the Master of the Supreme Court to see that the judgments of the Judges are carried out; but with regard to reports of Parliamentary committees, and particularly a Commission of this kind, there are no officials to see that any findings made are carried out. I therefore think it is best for Mr. Parker's own sake that no Commission should be appointed by this House. I do not think that this House can take notice of charges made by outside individuals. If a member of this House has any cause of complaint against a Judge, it is his duty to table a motion here to the effect that the Judge shall be removed from the Bench. Our Constitution has provided for an emergency of that kind; but I believe there is not a single member of the House, or any other House, who has the slightest inclination to table a motion of that kind. Also another aspect has occurred to me, and it is this: none of those charges brought against Mr. Parker are laid against him in his character as a Judge. They are all charges dealing with his character previous to his appointment as a Judge, and I contend that this House has no authority or right to deal with the charges made with regard to the conduct of a Judge which may have occurred before his appointment; because, if you commence that, where are you to draw the line? I would take a case for example, though I do not suppose it has ever occurred. Suppose a Judge in his youthful days, when he was a boy of thirteen or fourteen, was convicted of some petty crime, perhaps that of apple-stealing or something of the sort, is this House to go back so many years and try a case of that kind? No. It is not within the province of any Parliament to deal with any case of misconduct perpetrated by a

Judge prior to his appointment. The only thing Parliament can do is to discuss his conduct after his appointment as Judge. I do not altogether like the motion brought forward by the member for the Murchison (Mr. Nanson). It conveys certain suggestions and certain hints to which we cannot shut our eyes. It says here, "That in the opinion of this House to appoint a Royal Commission to inquire into the charges made by the *Spectator* newspaper against Mr. Justice Parker"; and then follow the words of which I complain, these being "while recourse can be had to established legal tribunals, is inexpedient and objectionable, and is open to the construction that the Supreme Court does not command the confidence of its own Judges." It is not the business of this House to give any suggestions or hints whatever as to how Mr. Parker should appear or answer any charges laid against him. This motion by the member for the Murchison conveys a hint, a very strong suggestion, to Mr. Justice Parker that he should have recourse to established legal tribunals. What I wish to warn this House against is the danger of entering upon a wrong channel. I think the member for West Perth said that this is the commencement perhaps of a long and unhappy history. We have to take the greatest care at this stage of the proceedings that we do not make a false step. Therefore I contend that the best thing we can do is to pass an amendment to the effect that "This House does not approve of the appointment of a commission to inquire into the charges against Mr. Justice Parker." I feel sure that it is honestly the wish of every member of the House that Mr. Justice Parker shall be vindicated. The worst possible thing for this State is the existence of any doubt whatever as to the character of our Judges. I have not read any of these charges which have been made against Mr. Justice Parker. I have tried to come here with an open and clear mind, and I am perfectly impartial about it. But I have very strong views as to Mr. Parker's conduct as a Judge since his appointment, and as a legal practitioner in this State. I may tell the House that his appointment was hailed with delight and satisfaction by all the legal practitioners here and in Fremantle. All the

legal practitioners have the greatest respect for his ability and character as evidenced in the Supreme Court. I move as an amendment :

That all the words after "that" be struck out, and the following inserted in lieu :—"In the opinion of this House, to appoint a Royal Commission to inquire into the charges against Mr. Justice Parker is unnecessary."

MR. F. ILLINGWORTH (Cue) : I second the amendment.

MR. T. F. QUINLAN (Toodyay) : I rise for the purpose of moving a farther amendment, which I trust will commend itself to the House. Respecting the amendment submitted by the member for Claremont it means dropping the motion before the House and preventing any farther inquiry. The amendment which I intend to propose, I venture to say will commend itself to every fair-minded person in the State. I propose that all the words after "that" in the original motion be struck out, and the following inserted in lieu :

That in the opinion of this House, a Royal Commission consisting of three Supreme Court Judges be appointed to inquire into the charges made against Mr. Justice Parker; the sittings of such commission to be held in public, and the proceedings to be conducted according to the rules of procedure adopted in the courts of law.

THE SPEAKER: We have first to deal with the amendment which the member for Claremont has submitted. The hon. member had better not say anything until that has been dealt with. If the proposal of the member for Claremont be carried, then it will become the substantive question, and the hon. member can move his amendment to that.

MR. R. HASTIE (Kanowna) : I have listened to a good deal of the debate, but unfortunately I missed some. I was present at the beginning when I heard the member for the Murchison, in introducing the question, declare that it was not a party matter. After a bit I came in again, and was surprised to hear the heated way in which the Premier dealt with the subject; and subsequently when the member for West Perth was delivering his strong and threatening speech, I was surprised to find that instead of this being a matter which should not excite party interest, it was a subject which was being discussed from a party point of view, stronger than anything I

have yet heard in this House. This is a very serious matter, and I wish members would try and put party issues out of their mind, and come to a conclusion as to what it is best to do in the matter. We have heard a lot of discussion as to the different tribunals that ought to consider this case, but one point particularly to my mind has not been sufficiently emphasised. It has been pointed out by one or two members that there is a tribunal in this country that should be held responsible for our Judges, and that tribunal is Parliament. Parliament is the only body that has a say as to whether a man is fit to be a Judge on the Supreme Court Bench or not. This matter was brought before Parliament last year when it was introduced by the member for the Murray, and we have not yet finished with it. We need not go into side issues, nor is it our particular business whether the *Spectator* published that article or not. The fact is that in the House a responsible member made an attack upon Judge Parker, and we are now placed in a position which it is difficult to deal with. The member for Claremont in his particularly able and judicious speech asked us to declare practically that we are satisfied with Mr. Justice Parker, also that we should say that we will have no farther inquiry. But that surely is too tall an order. I have never yet hinted here or anywhere else that I have any doubts as to the character of Mr. Justice Parker, but I do not feel myself competent to say that there is nothing whatever in the charges. I believe in justice, and Parliament ought to take means to find out the truth. The member for West Perth told us how this could be done. We could meet here and have Mr. Justice Parker before us at the Bar, and go into the minutiae and all the details.

MR. MORAN: I never asked that we should bring him to the Bar of the House or into the parlour, or anywhere else.

MR. HASTIE: How could we try him in his absence?

MR. ILLINGWORTH: He should be tried at the Bar of the House.

MR. HASTIE: I have endeavoured, in my particular way, to find out the methods in which Parliament could get information on this subject. One is by a select committee, and the other is by the

appointment of a Royal Commission of three Judges. I think all members of the House will agree with me that a select committee is not a very desirable body. The other means of inquiry is by a Royal Commission, and I do not know what would be the best kind of Commission to appoint. Three Judges have been suggested, but I understand that in connection with some of the charges the name of one of the Judges appears, and in all probability that Judge would have to refuse to sit on the Commission. However, if the announcement made by the Premier is gone on with, that will not prevent the Premier from appointing three Judges if they will sit; if not, two Judges and one other person. It has been said here that a Royal Commission would, for various reasons, not be the best possible tribunal; but at the same time a good Royal Commission could be got to sit just as well as three Judges. Let us understand the position we would put three Judges in. They are human, as every man is, and they would be trying one of themselves. If a Commission composed of three Judges gave a verdict which said there was nothing whatever in the charges, a great number of people—those hundreds and thousands of people the member for West Perth speaks for to-night—would not believe these three Judges. And when the time came for the question to be considered—a party question as it is to-day—every possible objection that could be brought forward against a Royal Commission could be equally brought forward against three Judges.

MR. MORAN: Why do anything? Let Mr. Parker do his own.

MR. HASTIE: I suggest a Royal Commission of some kind, but I do not like to say how it should be composed. We have got to maintain the position.

MR. MORAN: You will support the Government, whatever they do.

MR. HASTIE: Parliament is responsible for the continuance of an undesirable Judge on the bench, if there be such; and we should get information in order to say whether that is so or not. I do not wish to go into the question any farther, or to mention some of the points which seem to me to have very great interest, except that I am rather astonished to find why there is such great

anxiety to prevent this Royal Commission sitting, and I wish the mover of the motion, when he replies to the debate, would satisfy our curiosity in that respect. I hope the House will give a definite decision to-night as to what course is to be taken. I think nothing of a more satisfactory nature has been suggested than the appointment of a Royal Commission.

MR. F. ILLINGWORTH (Cue): In a very few words I desire to express my conviction that this House is being placed in a most undignified position. The course of action proposed, indeed the whole of the courses of action proposed, are entirely irregular; and if we do not rise to the position which we as a House occupy in connection with our judicial bench, we ought not to take notice of remarks and statements that reach us in an informal way, as there is a proper means of dealing with the Supreme Court Bench. It is provided for in our statutory legislation, and the only thing this House is in order in taking cognisance of is a motion directly charging a member of the Supreme Court Bench with unfitness or some improper action. Going into details of the case as appearing in the Press, and unfortunately brought into the House in a most improper manner at the time—every member of the House saw it was a huge blunder which was being committed, but it was impossible to restrain the member on that occasion.

MR. MORAN: It will break out again in the railways.

MR. ILLINGWORTH: I think we ought to take a course, if we possibly can, to retrace our steps. We find ourselves in this position, that a number of very improper and irregular things have been done. It seems absurd to ask a Commission to inquire into certain remarks which it has taken ten years to come forward, and it seems an unreasonable thing to take notice of any remarks that reach us in an informal way. Is there a member in the House who is prepared to come forward and boldly say, "I charge Justice Parker, or any member of the Bench, with being unfit for his position," or will any member say the appointment was an improper one, for any political reason? Are members prepared to make a distinct charge in the House which the House can deal with in

its corporate capacity as the representatives of the people? I strongly support a good many of the expressions which have fallen from the lips of the member for West Perth. I think we are in a false position; we have been all the time. We were placed in a false position by the action of an hon. member whom we were unable to control, and the very force of character which made him uncontrollable when sitting in the House as a member will make him capable of controlling that vast department of the State, the railways. I do not wish to enter into any discussion of the case, but I hope members will see that we are in a false position, and I hope the House will dispose of for ever a discussion of Mr. Justice Parker or Mr. Justice anybody else, except in the formal way provided by statute. I hope, too, that this discussion will induce the Government to abandon for ever any idea of a Commission. I am not prepared to dictate what the Government should do, but I do hope the tone of the House as expressed to-night will convince the Government that the appointment of a Commission to try a Judge would be an altogether improper proceeding. The member for West Perth (Mr. Moran) very properly called attention to a historical case in the annals of the British Parliament. That case was placed before a tribunal beyond reproach. But unfortunately, we in this country are restricted in our choice for establishing such a court. In the first place we have only four Judges, one of whom, I think, is just about to go away on leave, and another of whom is the person whose case is to be inquired into. In Great Britain there are hundreds of Judges, there is a wide selection, with possibilities which we do not possess. I do not read that illustrious paper of which special mention has been made; but I have not heard nor have I seen anything in the Press to indicate that one shadow of suspicion has ever been thrown on the character of Justice Parker. There have been suggestions made about a Mr. Parker who was not then a Judge, about certain transactions which date back for many years; transactions which, perhaps, if they were dealt with by men who understand similar transactions, would have a very different appearance to those who examined them. But what I contend

for—and I think the member for Claremont (Mr. Foulkes) has expressed it much better than I can—is simply that we are going beyond our powers in investigating matters regarding a Mr. Parker. We have to do with Justice Parker. Now, is anyone inside or outside the House prepared to make a charge against Justice Parker? I think there is no one in the House, and I have heard of no one outside, who is prepared to make such a charge. And what have we to do with rumours that are ancient history, if there be any foundation for them at all?

MR. NANSON: If there be foundation, their antiquity does not affect them.

MR. ILLINGWORTH: What have we to do with matters on which there cannot possibly be satisfactory evidence, in which the persons interested may be alive or dead, and the documents may exist or may not? If I understand the present tone of the House, members are heartily sick of the Spear-Parker case. The tone of the House is absolutely opposed to the appointment of a Commission; and members are not prepared to make a charge against Mr. Justice Parker, and deal with it in the ordinary, constitutional way. And, therefore, it seems the House is not prepared to do anything. And what I suggest is that the House should do nothing, and do it well; and I, therefore, move

The previous question.

MR. MORAN: I think the motion of the previous question is not debatable.

THE SPEAKER: No.

MR. ILLINGWORTH: I said I simply felt I was expressing the feeling of the House that the question should be finally disposed of; that there should be no Commission, and that the only proper way to deal with the question as it now stands was to go on with the previous business.

MR. MORAN: It looks like the gag.

MR. ILLINGWORTH: That was not my intention.

MR. NANSON: Go to the country; appeal to the people.

THE PREMIER: I would not move the previous question.

MR. ILLINGWORTH: I have no desire to move the previous question, except as indicating that, in my opinion, it is the proper method of finishing the

debate. I beg leave to withdraw the motion; but still, I think it is the proper way.

Motion by leave withdrawn.

THE PREMIER: I hope the House will permit me to make a statement, not as leader of the House, but as a man whom all members know. When I came into office I thought this question was settled, and that the settlement of it was the best settlement possible in the interests of the State. But when I looked up the papers, I found that a promise had been given to Mr. Parker that a Commission should be appointed. I looked into the matter, and made a minute regarding the opinion I then formed; and I still hold that a Royal Commission is not the best means of dealing with this question.

MR. MORAN: The promise is not binding on the House.

MR. ILLINGWORTH: The House has not made any promise.

THE PREMIER: The promise was made by my predecessor—I think inadvisedly and unnecessarily; but I renewed it, and renewed it not because I thought it was in the interests of the State or of Parliament, but because it had been made by my predecessor. In dealing with this motion, I could not help feeling—I may have been wrong—that there was a good deal of animus underlying it; and perhaps for that reason I looked on it more as an attack on my predecessor, whom on all occasions I intend to support. But now we have arrived at a stage when I am glad of an opportunity of expressing my own convictions in this Parliament, and before the people of this State, where there cannot be any suggestion that I wish to burke full inquiry. I say unhesitatingly that no charge should be made in this House against a Judge, unless in a constitutional manner.

MR. MORAN: That is where the mistake was first made, in the charge being made by a "madman."

THE PREMIER: That was an objection I took when the discussion arose in October last, that we had no right by indirect methods of this nature to override what is one of our constitutional safeguards, so important to the purity of our judicial Bench, namely that which affects the appointment and the removal

of Judges. The law is perfectly clear that if one wishes to attack a Judge when once appointed, that must be done by a recognised method. The position is that before a member lays a charge against a Judge and seeks to obtain the support of the majority in this House, he does not listen to what a newspaper says, whether the *Spectator* or any other paper. He would realise the importance and the gravity of the matter. He would listen to the charges, and say to the person who gave him the information: "Adduce to me your evidence; I shall not make a charge against a Judge unless you satisfy me beyond a reasonable doubt that you have a very strong case." So that in following that method there is an abundant protection, because the member would make use of numerous precautions before taking any decisive action. That is the action we ought to have adopted before, and should adopt now. I submit, with due respect, that the motion as amended by the member for Claremont is the motion to which we ought to agree; and the position will then be: there have been charges made against Mr. Justice Parker; they have never yet been specifically made in the Press; they were made through this House.

MR. MORAN: The first lot were made specifically in the Press.

THE PREMIER: True. That was a short time previously. Some charges were made against Mr. Parker, but after his appointment. Now I wish to ask the House to look at this question quite free from the political and party feeling which has grown up around it in the last few months. Suppose to-morrow a newspaper attack were made against, say, the Chief Justice or any other Judge; clearly it would not be our duty to move the adjournment to draw the attention of Parliament to that charge. We should at once say, "That is entirely a matter for the learned Judge." But if any member thought the charges made were so serious that they ought to be brought to the attention of the House; before he did that, he would inquire into the matter, and abundantly satisfy himself that the charges were true. In fact, I think any reasonable and cautious member of the House would go farther, and not only satisfy himself, but most likely consult several others to make certain

that they agreed with him, instead of relying entirely on his own judgment. Now, why should not that proper, and I really believe fairest, method be adopted in connection with this case?

MR. NANSON: Because the Crown have already initiated proceedings; and you should not run away from them.

THE PREMIER: Do not let us make ourselves a catspaw of my friend opposite because he desires to get possession of the Treasury bench. This is too important a matter. Rather than see the House led astray on a matter like this, which affects a question of principle, I would allow my friend to come over and take my place. I say this is a question that affects a principle far more vital than the existence of the James or the Nanson Government.

MR. NANSON: It affects Mr. Justice Parker.

THE PREMIER: It affects a principle far more important than even Mr. Justice Parker; and I believe I am expressing the opinion of hon. members when I say that those who wish to make charges against our Judges must make them by the ordinary and recognised method, upon which we must allow no encroachment, because it has been in practice for a number of years, and is recognised as one of the greatest safeguards, in fact the only safeguard, of the purity of our Bench, in the appointment and removal of our Judges.

MR. MORAN: That is, as regards members of Parliament.

THE PREMIER: As regards members of Parliament. If attacks be made in the Press against a Judge, he can deal with them; and if serious attacks are made which a member of Parliament takes up, that member can make a specific charge. But before a member does that, before he pins his name to a specific charge, he takes every possible means of ascertaining the real facts; and I submit that is the attitude we ought to take up; and if it had not been for the promise made by my predecessor, that is the position I should have taken up. I could not do it previously, because it might have been open to misconstruction; but I seize the opportunity, now that we have passed out of the heated atmosphere of debate, to express my own conviction as to what I firmly believe to

be the plain duty of the members of this House.

MR. F. WALLACE (Mount Magnet): I for one, being a prominent supporter of the Government, have carefully listened to this debate. I have spoken with the leader of the Opposition, and was inclined, prior to the debate, to vote with him. Then, on hearing his arguments—and I must say it is the misfortune of that gentleman that he introduces so much venom into his speeches that those who are inclined to follow him are turned the other way—it appears to me that a previous leader of the House blundered; and I wish to know, as a supporter of the present Government, are the supporters of the present Government to support Ministers who are determined to carry on their shoulders the blunders of their predecessors? It appears to me that in this matter—

MR. MORAN: That is what you are doing.

MR. WALLACE: I want to know where I am. I do not know yet where I am. I believe the opportunity will not be given hon. members, in this connection, to know on which side of the House they ought to sit; but I do want to know whether I am to be asked now, and in the future, to shoulder the blunders committed by a former Administration.

OPPOSITION MEMBER: Come and sit on the right side of the House.

MR. WALLACE: I believe the right side is that on which I now sit; but whilst sitting here, I do not say I am ready to support every action of the present Ministry.

THE PREMIER: Hear, hear.

MR. MORAN: Vote for the motion.

MR. WALLACE: Please let me make my own speech. If the late Premier made a mistake—and I venture to express the opinion that he did make a mistake, and that it was not the business of Parliament to interfere between Mr. Justice Parker and the proprietor of a newspaper—

MR. MORAN: That is the true position.

MR. WALLACE: The matter has been brought to its present position by the blunder of a former Administration. I now ask the Premier to assist hon. members on this (Ministerial) side of the House to come to a decision, to help them to vote in such a way as will not in the

future implicate them in blunders of the same sort. Are we to be eternally voting in support of an Administration which shoulders blunders it is not responsible for? I for one shall not do it. I sincerely trust that on this occasion the Government will adhere to the motion for the appointment of a Royal Commission; and this for one reason. Rightly or wrongly, I feel that there are members of this House and men outside, dishonourable men, associated in the promulgation of this vile attack on Mr. Justice Parker, who fear that a Royal Commission will bring their machinations to light. That is what I believe; and, holding such a belief, I advocate that hon. members support the proposal for the appointment of a Royal Commission which will sift the whole matter. We have heard certain statements—

MR. MORAN: You want a Commission to get at members of Parliament, then, and not one to deal with Mr. Justice Parker?

MR. WALLACE: There are snakes in the grass. The late member for the Murray, Mr. George, and other hon. members made attacks on certain gentlemen who were not in a position to defend themselves here; and thereupon, to use the expression of the member for West Perth (Mr. Moran), those hon. members "crawfished."

MR. TAYLOR: Do you think there are snakes in this Chamber?

MR. WALLACE: I fear we have some here.

MR. MORAN: I can see one very plainly.

MR. WALLACE: And I fear there are many outside. I have expressed my opinion of the action of the late Ministry; and it is for the present Ministry to suggest to me whether I am right in holding my position, and whether I should continue to hold it or not. I am prepared to stand down instantly, if so desired. At the same time, however, I consider that hon. members will be doing their duty in supporting the proposal for the appointment of a Royal Commission. I noticed that the leader of the Opposition during the whole of the debate was in a terrible state of pain. When he saw that the Premier spoke just now as member for

East Perth, and not as leader of the Government, the member for the Murchison rejoiced. I could hear the hon. member tittering with joy because he was to be given an opportunity of backing down. Now, if the Premier proposes to assist the leader of the Opposition in running away after delivering attacks of the nature for which he is renowned throughout the State, I shall not vote for the Premier. I hope hon. members on both sides will support the Government, and carry the motion for the appointment of a Royal Commission.

THE SPEAKER: There is no motion before the House for the appointment of a Royal Commission.

MR. WALLACE: The amendment is before the House now.

THE SPEAKER: But the amendment is against the appointment of a Royal Commission.

MR. MORAN: What is the hon. member talking about?

MR. WALLACE: I understand perfectly what I am talking about. I feel bound, however, to ask why the member for West Perth (Mr. Moran) is allowed such latitude. All that hon. member's battles are won by sheer bluff; and he seems to do just what he likes in this House, without let or hindrance. I know what is the question before the House. I speak as I do in order to induce hon. members to support the appointment of a Royal Commission by opposing the amendment. That is the point I want to make.

MR. J. L. NANSON (mover): It appears to me that in the discussion of this question a palpable effort is being made by certain members on the other side of the House, notably by the Premier, by the member for Claremont (Mr. Foulkes), and by the member for Cue (Mr. Illingworth), to distract attention from the main issue by means of the introduction of side issues. The member for Claremont has moved an amendment to my motion, which amendment, whatever may be thought of it in this House, will outside the House and throughout the country, if it be passed, be regarded, I venture to say, as leading to a most "lame and impotent conclusion." The hon. member suggests that it is unnecessary to appoint a Royal Commission. Well, the term "unnecessary" is a vague, colour-

less, and very wide term; one on which a large number of interpretations may be placed. I recognise perfectly the object of the member for Claremont, the object of the member for Cue, and the object of the member for East Perth (the Premier), who in his non-official capacity now supports the amendment. Those hon. members wish it to go forth to the country and to the world that there is no necessity for the appointment of a Royal Commission because there is nothing at all to inquire into. My motion opposing the appointment of a Royal Commission was not brought forward because I considered inquiry unnecessary. It was brought forward because I deemed inquiry by a Royal Commission not expedient. I believed before this debate began, and I still believe, that an inquiry is necessary, and that the inquiry should be made either by the Supreme Court, or, as I said in opening on this motion, by a special Commission of three Judges, which would virtually be trial by the Supreme Court. That, the Premier told us, was a departure from my principle. I am willing to admit that the proposal partook of the nature of a departure from my principle, but its real nature was that of a compromise. I am anxious to see the matter settled on a satisfactory basis, and I am prepared immediately to withdraw my motion if the Premier will agree to the appointment of a Royal Commission composed of three Judges. If three Judges cannot be obtained in this State, then let us endeavour to get one outside this State to make up the necessary number. I consider that the court thus constituted should be open to the public, that it should be governed by all the ordinary rules of procedure in force in courts of law, and that the trial should, therefore, be tantamount to a trial by Judges instead of a trial by jury. I am not one of those who disbelieve in the system of trial by jury. I believe in that system fully. I know that occasionally mistakes are made by jurymen, because jurymen are fallible, as Judges equally are fallible. While I am not one of those who distrust juries, neither am I one of those who distrust the judicial Bench of this State, or indeed the judicial Bench of any Australian State. I care not, therefore, whether the tribunal appointed be one in

which an ordinary jury is the final arbiter, a jury of 12 men taken from the ranks of the common people, or whether it be a court in which the jury will be composed of three Judges from the Supreme Court Bench. The latter course, if adopted, will carry with it at least this advantage, that Mr. Justice Parker will be tried by his peers, that he will be tried by three men as eminent as himself, holding equally high positions with that which he now holds. I, for one, do not for a moment doubt but that the fullest justice would be done, and that the verdict of three Judges would be in every respect as satisfactory as the verdict of a jury. If the amendment of the member for Claremont, however, be carried, what will be the result? Simply that this discussion will have been absolutely in vain so far as regards bringing the matter to a satisfactory conclusion; that the Government will flaunt that amendment in the face of the public and will maintain that the Parliament of Western Australia has decided that the matter must go no farther. Now, I do not care very particularly, in a business of this kind, what the Parliament of Western Australia may declare. I am more concerned with what the people of Western Australia will declare in a matter such as this. If Parliament should say one thing, if it should say that this matter is to be dropped, is to go no farther, and that there is to be no inquiry of any kind, either by a Commission of Judges or by a jury, then I answer that at the right time I shall be prepared to carry the debate a step farther by appealing from Parliament to the people.

THE PREMIER: Make the charge in Parliament.

MR. NANSON: At the proper time I shall be prepared, if necessary, to make a charge in order that the matter may be probed to the bottom. The Premier, in the course of a speech characterised by a considerable degree of feeling against myself, feeling which it was quite unnecessary to introduce into the debate, feeling of a purely personal kind, proceeded from making attacks on myself individually to making attacks on the people of this State in public meeting assembled. The first reference I made to the Spear-Parker scandal was made at a large meeting held in the Queen's

Hall in this city; I referred to the subject again at a large meeting held in Kalgoorlie; I referred to it for the third time at a meeting held at Geraldton, and once again referred to it at a meeting held in Coolgardie. What is the term by which the Premier stigmatises the people who attended those meetings? He declared that I had been talking to the "mob." The Premier tells this House that the people who came to listen to me in the Perth Queen's Hall were a mob; that the people to whom I spoke at Kalgoorlie were a mob; that the people who listened to me at Geraldton were a mob; that the people who heard me at Coolgardie were a mob. This is your democrat! this is the man who believes in Government by the people and for the people!

THE PREMIER: And from the people.

MR. NANSON: I wonder does the hon. gentleman who talks of mobs, address his audiences in similar terms at election time? Did the hon. member when recently addressing in the Perth Town Hall an audience whose component parts were, no doubt, very similar to those of the audience I addressed in the Queen's Hall, tell the ladies and gentlemen present on that occasion that in his estimation they were a mob? If they were not a mob in his estimation when he spoke to them in the Town Hall, why were they any more a mob when I happened to address them in the Queen's Hall?

THE PREMIER: Because you demoralised them.

MR. NANSON: The member for Cue asks whether any member is prepared to state that Mr. Parker should not occupy a seat on the Supreme Court Bench.

MR. ILLINGWORTH: I never said that.

MR. NANSON: Perhaps the hon. member will explain what he did say. I have that statement on my notes, as made by him. If he will explain, I can go on afterwards.

MR. ILLINGWORTH: I asked whether any hon. member was prepared to make against Mr. Justice Parker, or against any other Supreme Court Judge, a charge tantamount to saying that he was unfit for his position on the Bench. I maintain that no hon. member, unless he is prepared to charge a Judge in a constitutional manner, has a right to deal with him at all.

MR. NANSON: The member for Cue, it appears, asked whether any member of this House is prepared to make a charge against Mr. Justice Parker. I am not prepared to make a charge against Mr. Parker; but I am prepared to say that Mr. Parker should not occupy a seat on the Supreme Court Bench while these charges are hanging over him; that Mr. Parker would have shown a greater respect for public opinion, and would have shown a more sensitive conscience, if he had retired from the Bench until such time as these charges had been disposed of. I do not hesitate to say that once a case of libel is brought into the Criminal Court, once the Crown has decided to prosecute, no matter whether blunder or no blunder, there can be no drawing back. One cannot, in a matter of this kind, wipe out the past. Hon. members opposite, no doubt, would like to say that no past ever existed; but a past does exist, and will continue to exist. There is only one way to settle this scandal satisfactorily, and that is to go to the ordinary tribunals of the country or to a tribunal which commands the same amount of respect as one of these ordinary tribunals—in other words, a tribunal composed of three Judges of the Supreme Court Bench; and until this is done, no matter what Parliament may say, no matter what the dominant body of the public may say on this subject, it will still be open for every disappointed suitor in Western Australia who goes before Mr. Justice Parker and who loses his case, whether through, as he thinks the fault of the Judge, or as he thinks the fault of the jury, to say that it was before a Judge who, when a libel action was brought on his behalf by the Crown against a journalist, refused to fight that libel action and to see it through to the bitter end.

THE PREMIER: You ought to hear what the disappointed suitor now says about any Judge.

MR. NANSON: The Premier in his opening speech indulged in a magnificent piece of special pleading, no doubt; but that is the one solid fact which he has never yet attempted to controvert, and which he cannot controvert. He knows well, and every member of this House knows, that if in the columns of the *West Australian* I were to libel the

Premier, and the Premier were to commence proceedings against me or against the paper I am connected with, and if after the matter had gone a certain way the hon. gentleman withdrew from those proceedings, the great mass of the people would only put one construction on such conduct. They would say the hon. gentleman was not game to carry the matter to its end, that he feared an adverse verdict, and that his character would not be justified. If that be true of the hon. member for East Perth, it is equally true of a Judge of the Supreme Court; it is equally true of any man in this community, no matter of what position, be he Governor or be he a hod-carrier. That is a truth no member in this House can controvert; and the people of this country are not likely to be led away by the legal subtleties of the hon. gentleman. They will only look on that one clear, plain, convincing, invincible issue, and say that Mr. Parker went out of that case simply because he dared not defend it.

THE PREMIER: Why do you attack Mr. Justice Parker like this? You ought to be ashamed of yourself.

MR. NANSON: I knew that was coming. The hon. gentleman has tried to diminish the weight of my attack by declaring I am making a personal attack on Mr. Justice Parker. But I am doing nothing of the kind. I am making no personal attack on Mr. Parker. I am merely pointing out what will be the construction put upon the matter by people who know nothing about Mr. Parker; who do not care twopence-halfpenny about him; to whom he is an absolute stranger; who know nothing of him as a Judge, and who are, after all, the great majority in this State. They have no personal feeling in this matter. They believe, and surely it is a righteous belief, that a Judge ought absolutely to be above suspicion, and that it should be impossible to point a finger at a man and say, "There goes a man who dared not continue an action after he had begun it. There goes a man who, when certain statements had been put in and papers applied for, dared not go on with it." The hon. gentleman says I am attacking Mr. Justice Parker. Assuming I am attacking him, is it not better that a Judge should be attacked in this Chamber, that I should here openly

voice what would be said, than that an innuendo should go on in conversation behind his back? Surely if there be anything in a reputation, if a man's character be more valuable than his money, if it be the most valuable thing he can possibly possess, then the Government should say, "We will do everything in our power to help you to clear your character in the eyes of the community at large." I have no fear of the result. I believe Mr. Parker to be an honest man, a man whose character will stand the fullest investigation that can be made; but what construction can the country put upon Mr. Parker's character when they see it proclaimed on that side of the House that the Government are unwilling to support an inquiry, and are doing everything in their power to attempt to stifle inquiry? If the member for East Perth, who enjoys the distinguished honour of being a King's counsel, were so solicitous for the honour and integrity of the Bench, surely he would say "This case must go on. It must be sifted through and through to the very bottom. There must be no withdrawal of it until a verdict of the Supreme Court has been given." That is what a man would say who was solicitous for the character of his friend and who believed his friend could clear his character. I believe that Mr. Parker can clear his character; so far as I am permitted to approach a case *sub judice*, that is my personal belief, simply from what I know of Mr. Parker; but the hon. gentleman opposite apparently does not share that belief. At any rate he is not game to put it in practice. The Premier has told us that we should not glorify this class of journal, and I would ask who were the first persons in this House to glorify a journal of that character? The very four members of the Government who, I said, stood in the dock of public opinion over this matter; members who have been "mum" about it all the while. I expected they would take their colleague to task for telling them they made this gigantic error. No one would have noticed that article, but, as I said before, it would have fallen absolutely still-born. It would have fallen long ago into the limbo of oblivion, if the Government had not taken it up and said: "The *Spectator* published this article on their own responsibility, and we intend to put them

in the criminal dock for publishing it." Then they talk about glorifying the paper and about a fine advertisement. Let the hon. gentleman put himself in the position of a poor journalist and see what it amounts to.

THE PREMIER: Poor journalist?

MR. NANSON: I say "poor journalist." The Government have done more to glorify and advertise that paper than any other set of men in the community. And then the hon. gentleman went on to tell us that because the charges made against Mr. Parker were characterised by me as being vile, therefore they should not be taken into court. Here we surely have a contradictory state of affairs. The Premier tells us these charges should not be taken into court because they are vile. Mr. Burt and Mr. Justice Parker tell us that the charges should not be taken into court because they are mild.

THE PREMIER: I referred to vile statements in the article read in Parliament, but Mr. Justice Parker referred to the mild statements in the article not read in Parliament.

MR. NANSON: The actual gravamen of the charge was identical in both cases. It was merely that there appeared in the *Sunday Times*, in addition, a few more glorious adjectives than there were in the other paper. Mr. Justice Parker was called a "shark." I am not a legal gentleman. Possibly my friend considers it a tribute to a lawyer to be called a shark. I should not care to be called a shark, but Mr. Burt and Mr. Justice Parker, and probably the Premier, think it a little bit of badinage to call a Judge a shark. In that paper they went on to say that Mr. Parker had "pouched several thousands." I can understand it may be a legal pleasantry to call a Judge a shark, but I cannot see how any stretch of humour or of charity can say it is mild language to use of a Judge, to assert that he has pouched several thousands, nor can I understand why a direct charge of that description is not a fit charge to be investigated by a jury. The Premier himself told us no one expected that the article read in this House—the article Mr. George unfortunately and indiscreetly introduced, and perhaps stronger language would meet the case—would be defended on the plea of privilege. I put it to the member for East Perth, not in

his character as a politician, not in his character as Premier or as a statesman, but in his character as a lawyer, whether, supposing he had been defending Mr. Spear, he would not have availed himself of that plea. For my own part I am still unconvinced, and if I had been on that jury, I do not care how many times the case was tried, I would have returned a verdict of not guilty on the plea of privilege.

THE PREMIER: I do not think much of you as a judge of evidence.

MR. NANSON: I hold that the law courts should interpret in the most liberal sense the right of reporting debates in this House, and if a report is not absolutely full but sufficiently so to give a fair idea of the debate and to show what amount of credence was placed in the allegations made, we should hesitate very long before convicting a journalist of libel. I go farther, and say that even if he were technically guilty of libel, the offence was merely a trivial one, and what he should have had to defend was not a question of privilege, but a question of actual facts for which he was responsible. The Premier took exception to my saying that if a verdict of guilty had been found on the two trials, Mr. Parker's character would not have been affected one way or the other. I pointed out to the honourable gentleman that in this opinion of his he was opposed by Mr. Justice Hensman, and I offered to lend him a full report of the trial so that he might see if he was in error. Mr. Justice Hensman's opinion takes only a few words, and I will quote it. That Judge said:—

You must bear in mind we are not inquiring into the truth or falsity of this article. Whatever your verdict is, whether it be one of guilty or not guilty, the character of Mr. Parker will not be affected in any way by it.

Therefore, we get to this conclusion, that even if Mr. Spear had been found guilty of an abuse of privilege, still the really vital question in which the people of this country are greatly interested—they do not care twopence whether the newspaper committed a breach of privilege or not—the question whether the character of the Judges can be assailed with impunity or not, was left absolutely where it was before any trial was begun. If, therefore, it was a surprise to the Crown or to

the prosecution that this plea of privilege was entered, why, I ask, when they decided to go into court on the second occasion, knowing that the plea of privilege would be relied upon and that in the first instance the jury had failed to agree on that question of privilege, did they not abandon it altogether and try Mr. Spear on the article for which he pleaded justification? The Crown knew exactly what plea would be raised. They had failed in regard to the plea of privilege, and instead of leaving that alone and going on the question of fact, they still elected to go on the question of privilege. The Premier has said a good deal to-night about attacking a man who is absent from the House. I regret if any words of mine have borne the construction of attack. I have endeavoured, as I always endeavour, to present any matter which I am arguing, with all the force at my command; and I regret that the Premier, while objecting to attacking a man in his absence, commits the selfsame error himself. After all, I do not belong to the legal fraternity. It is my lot to be a journalist, and I feel sympathy, not only for the Judge, but I feel some sympathy for the journalist in this matter. The Premier told us that Mr. Spear had his chance when brought into Court, that he did not take it, but ran away. Let us nail that statement to the counter. I have a full report here of the first prosecution: let us see how that argument was dealt with by the counsel who appeared for Mr. Spear.

THE PREMIER: I want to know what his plea was.

MR. NANSON: I am going to tell you. Mr. Harney, who appeared for Mr. Spear in that action, immediately met the objection which was advanced by Mr. Burt, and which is now advanced by the Premier, and I cannot do better than quote the language of the learned advocate to show that at the first trial there was no attempt to run away. Mr. Harney said:—

Now I am very sorry, but I cannot allow you to be left under the impression that we wilfully and violently assaulted Mr. Parker, and then took refuge under a cowardly plea. My friend's conduct forces me to ask you this question.

The conduct of Mr. Burt, who appeared

for the prosecution. Mr. Harney goes on to say:—

If this trial was to be the grand and noble challenge that he would have you think, then why, I would wish to know, is this man to be held responsible for what he never wrote, and no notice at all taken of what he did write? Why is he to be brought before you for doing something in his duty as a public journalist, and no notice taken of his doing the same thing in his personal capacity. The second article was included in the original file—it was referred to in the police court; it was there relied upon as being outside any privilege. But when the case comes before a jury, that article is withdrawn. Why? I should like an explanation. Why should the article be taken to which the proper answer is privilege, and not go on that article for which there is no possible plea but justification?

THE PREMIER: That is all very well after you charge a man, to say why cannot he plead something else. That is part of the game.

MR. NANSON: It may be part of the game, but I will proceed with my quotation, and it appears to evoke some sparks from the hon. member opposite.

THE PREMIER: I entirely agree with it.

MR. NANSON: I am glad of it: the process of conversion has begun. I will proceed with the quotation, if the hon. members opposite have finished with their interjections. Mr. Harney went on to say:

Why not frame an indictment on that which we could not answer without justification? Had they substituted the "Third Judge" article, there would be no plea of privilege, but only one of justification. Then we should stand or fall on its truth or falsehood. That would be a clear issue; but the article that they have proceeded with, I am bound to say, my learned friend himself must have known could not lead to investigation of the merits.

THE PREMIER: Are you going to read the whole of that address?

MR. NANSON: A good deal of it.

THE PREMIER: If you are going to read it, then I shall have to read Mr. Burt's address afterwards.

MR. NANSON: All right; you will have the opportunity. I don't think the public have had an opportunity of going into this case.

THE PREMIER: They can buy the *Spectator* supplement very cheap, you know.

MR. NANSON: Perhaps I may be allowed to give them this. Mr. Harney goes on to say:—

And again I have to say—and I am pained to say it—that Mr. Parker does not seem to have desired a full investigation. I am bound to put that to you. Does it not look very like this: instead of being a challenge, it is a blind to public scrutiny. "Oh, we will bring Mr. Spear into Court, and we will charge him, not on what he wrote himself, but on what some other man wrote, in the hope that his counsel—Mr. Harney or somebody else—will plead privilege. And then we will point our hands to the charge, and say, 'This is a shocking man! he cannot prove it, so it is a lie. If he could prove it he would.'"

THE PREMIER: He spoke as an advocate then.

MR. NANSON: I do not care how that gentleman spoke, whether as an advocate or not. I am appealing to the reason of members, and Mr. Harney's words will carry their own meaning. If they are not reasonable, hon. members will know what weight to attach to them. Mr. Harney goes on to say:—

Let them indict us on that which we must prove, and see what we will do. That is fair. As regards the defamation, nobody can choose between the articles. Let them charge us with what we wrote. Let them not have recourse to this shuffling, the result of which will be to leave the whole thing to be inquired into.

Yet the hon. member for East Perth tells us we should not defame the character of a person who is absent from us, while he also tells us Mr. Spear ran away from the charge.

THE PREMIER: So he did.

MR. NANSON: That might be the hon. member's idea of running away. If there was any running away, it was quite as much on the other side as on Mr. Spear's side. I can quite believe at this stage Mr. Spear is not anxious that the matter shall go into court again. Having stood two trials, he shrinks from the expense of a third trial, and he knows the issues are tremendous to him, and his character is as dear to him as the character of a Judge is to that Judge. If he be found guilty of libel and is sent to gaol for publishing it, Mr. Spear is a ruined man, the same as Mr. Parker is a ruined man if the verdict goes against Mr. Parker. I have nothing to do with the fact whether Mr. Spear wishes to go into court or not. I remember when I was presiding at a meeting in the Town Hall

in support of the candidature of the member for West Perth, he was asked what he would do in regard to this matter, and his answer was, "Let justice be done, though the heavens fall." That is the line I take in the matter. The Minister for Mines laughs. I am glad to see he finds something to laugh about. I should have thought that there was nothing humorous in the idea that justice might not be done. Perhaps the hon. member thinks it is a strange thing that justice should be done in Western Australia, but I hope that is not the reason why he laughs. Is it a marvellous thing and an unheard-of thing that justice should be done in this country? I say, let justice be done. I do not care whether it be Mr. Justice Parker or Mr. Spear: one or the other must pay the penalty in this matter. If Mr. Justice Parker be guilty of the charges brought against him by Mr. Spear, he must leave the Supreme Court Bench. All are agreed on that. If on the other hand Mr. Spear fails to justify charges of so terrible a character, no punishment which the law can inflict for criminal libel is too severe. This is not a question of individuals, it is not a question of Mr. Parker or of Mr. Spear; it is a question of the public interest, of the purity of the Supreme Court Bench, a question of preventing anyone saying that there is a man on that Bench who cannot court investigation in the courts of law in this country. Another point advanced by the Premier is that the defendant in the third trial did not plead justification. The hon. member has accused me, or rather has accused me by inference if not specifically, of holding in this matter a brief for Mr. Spear; and he based his accusation, if it was intended as an accusation, on the fact that I quoted from certain papers in the case. It is unworthy of the hon. member to bring forward an accusation of that kind, as he must know that at the beginning of this session, if I had liked I could have tabled a motion in the House that all the papers in connection with the Spear-Parker case be laid on the table, and I could have had those papers. But as I could get them without going to that trouble in another way, I did not see any use in giving extra expense to the Government

department over which the hon. member presides, because I could get them in a less official manner. I have here, I think it is called the plea, and I do not wish to weary the House, therefore I am not going to read through the different pleas advanced; but I will take this one about the Garden Island case, in which Mr. Parker is accused of being a "shark" by the *Spectator* and pouching several thousand pounds. What is the plea to that? The defendant says:

That the words do not mean what is in that portion of the said information alleged, and that the said words without the said meaning and according to their natural and ordinary signification, are true in substance and in fact.

And then the document goes on to explain the circumstances. The member for East Perth knows, perhaps what non-legal members do not know, that this plea is drawn up in the form that any lawyer would have drawn it up in framing a plea of justification. Indeed, no lawyer appearing for the defence would allow the prosecution to put any strained interpretation on the words; and the defendant says that he takes the words in their ordinary lawful meaning, and he leaves it to the jury as directed by the Judge to put their interpretation on them.

THE PREMIER: But that is not the law.

MR. NANSON: It may or it may not be the law. I am not prepared to take the law on that point from the member for East Perth, and I think I know also something about the law of libel. Had this case gone into court, I say this plea amounted to a substantial plea of justification, and the jury were asked to say whether the words bore the interpretation placed on them. The defendant, even if he were disposed to wriggle out of a plea of justification, had no opportunity of doing so. He might have attempted it, but the English language gives the plain meaning. I appeal to hon. members who have read the article. I have not it here or I would read it to them, but I quoted Mr. Justice Hensman's opinion of the article, and Mr. Justice Hensman pointed out the plain and ordinary signification of the words used by Mr. Spear. It was essentially a matter to go before a jury. It was a pure case of fact, and I say it was their duty to sift the matter to the bottom.

Then the Premier told us the case had been dropped because of the intervention of the mother of the defendant. That creates a peculiar position. [MR. MORAN: The Premier does not believe that.] On the one hand, we have the mother of the defendant, assisted by Mr. R. S. Haynes, bringing this matter before Mr. Justice Parker; and we can imagine the moving eloquence with which Mr. Haynes supported the plea of the mother. On the other hand we have the defendant saying: "I do not want this case dropped; I want to go on with it." And he writes to the newspapers. He does not write a private letter that is kept back and brought up at the last moment; but in the most public manner possible—in both daily papers, if my recollection serves me—he publishes a letter defying the Government to go on with this prosecution; and on the other hand, his mother writes a semi-private letter to be brought under the notice of Mr. Justice Parker. I hold it was very improper that such letter was ever brought under Mr. Justice Parker's notice; and I do not think any man of the world would say that Mr. Parker should, in ordinary circumstances, have allowed a letter of that kind to weigh very much with him. I think he would have been perfectly justified in saying: "However ready I am to listen to a mother's plea, I am entitled to consider my own character as more important, and must vindicate my character." But it is not only that. Which should have occupied the first place in the Judge's mind, even if we leave that altogether outside of consideration—the plea of the defendant to be put in the dock and to stand his trial, or the plea of his mother that he should not be put in the dock because it would give her great distress of mind? Why, it reads more like a comic opera than anything else, that description of the meeting between Mr. R. S. Haynes and Mr. Justice Parker, two men of the world, deeply touched with this widow's plea, when all the time the defendant was saying: "Try me! For heaven's sake, try me!" And they reply to him: "Your poor mother objects to it; we shall not respect your feelings; we shall respect the feelings of your mother"—and I can imagine Mr. R. S. Haynes wiping a tear from his eye.

THE PREMIER: The poor defendant was very grateful afterwards.

MR. NANSON: Well, the poor defendant may have been grateful, or he may not.

THE PREMIER: He said he was.

MR. NANSON: But I must confess he has very peculiar ways of showing his gratitude; that is if there be anything in those letters he wrote to the newspapers.

THE PREMIER: Some little time afterwards.

MR. NANSON: I am afraid I have wearied the House by this lengthy review of the case; but I have spoken on the general question because there is a possibility that when the amendment goes to the vote it will be carried—I trust it will not be, but there is that possibility; and therefore I do not wish to deprive myself of the privilege of answering the speeches as a whole. But, in conclusion, I would ask hon. members, in voting on this question, to bear one consideration very strongly in mind. Member after member has told us that a blunder has been committed. Well, that is my own view. As I said at the beginning of my first speech, I thought Mr. Justice Parker's reputation was so high that the charge made in the *Spectator* could at that stage have been treated with contempt. But the proceedings having been begun, my contention is that they should have been gone on with. Now I urge this House, one blunder having been committed, not to commit a still greater blunder. Do not let members attempt to bury this matter. Depend upon it, if Parliament attempt to bury the matter by the amendment of the member for Claremont, there will be a resurrection; but it will not be a resurrection of a very glorious character; and the spectre that will then arise, at the time possibly of a dissolution, will be a very painful spectre to some hon. members who vote for that amendment. We cannot by any declamation, by any use of a brute majority, by expressing the individual opinions of members, close up finally and for ever a charge of this description. The Government practically opened the matter by taking cognisance of it; the Government must see it through to the bitter end; and it is no reply to say that someone else had the leadership

of that Government at the time, and that now the member for East Perth occupies that position. No matter what Government be in power, that legacy must be dealt with, and dealt with satisfactorily. That brings me to a point which I had nearly omitted. The Premier endeavoured to make capital out of the fact that Mr. Justice Parker's request for a Royal Commission came before the Government of which I had the honour to be a member. Well, that Government held office for a very few weeks only, I think four; and for three out of those four I was busily engaged in fighting a hotly-contested election, not only against my opponent, but against the member for Pilbarra (Hon. W. Kingsmill) and against the member for Mt. Margaret (Mr. Taylor). I had all the forces of one of the ablest members of the Labour party against me, and one of the ablest members—so far perhaps as education and cookery classes may be concerned—of the present Government. I ask, is it reasonable to suppose that while I was fighting for my political existence, while nine out of ten members of the House were declaring that I should never be allowed to enter it again, I could concern myself with what Mr. Justice Parker might then be doing with regard to a Commission? Why, it may be information to hon. members to tell them that while I was a member of the Morgans Ministry, as far as my recollection serves me, I never attended any Cabinet Councils at all, unless we call a Cabinet Council a meeting held at midnight on the evening we were sworn in, before we departed to our several constituencies and entered upon a most disastrous battle for some of us, although a very pleasant one for me. However, when I got back, on the day before we left office a meeting of the Executive Council was held; and I believe there is a distinction between a meeting of the Cabinet and of the Executive Council; and it was then mentioned casually that Mr. Justice Parker had applied for a Royal Commission. Now what would have been said if on the very day we banded in our resignations to the Governor—and I believe they were accepted on the following morning—we had proceeded to appoint a Royal Commission to deal with those charges?

THE PREMIER: I say you did not leave a memorandum behind you.

MR. NANSON: I had no opportunity of leaving any memorandum. The matter was not in my department. I spent a week in the Lands Department, and I left some memoranda behind me. I am glad to see the hon. member has been reading them, and I hope they will do him good, for some of them contain very admirable sentiments. But I should like to call attention to what is possibly a very irregular action on the part of the Premier. He is an older politician than I, but I have always understood that it was a breach of parliamentary and ministerial procedure to refer to what takes place in Cabinet, no matter whether it might be a Cabinet Council of the present Government or of any of its predecessors.

THE PREMIER: I was not referring to anything that took place in Cabinet.

MR. NANSON: Undoubtedly the Premier said the matter had come before us in Cabinet. If that is not referring to what takes place in Cabinet, I do not know what is.

THE PREMIER: No.

MR. NANSON: I regret the hon. member should have made so grave a lapse, and so made it necessary for me to inflict on this House what is, perhaps, a somewhat belated explanation. Nothing would have given me greater pleasure than to have written a minute on that subject; but although I have not placed a minute on official record, my minute has been written on the platform of the Queen's Hall in Perth, on the public platform in Geraldton, on the public platforms in Kalgoorlie and Coolgardie; and now that public minute is written here to-night. No one can say that I have been afraid to repeat in this House what I have said on the public platform, or that I have been afraid to repeat on the public platform what I have said in this House. I may be rash, I may occasionally show venom, but hon. members must at least give me credit for possessing the courage of my convictions. [**MEMBERS:** Hear, hear.] I ask the members of this House to believe, in voting on this question, that I have no thought whatever against Mr. Justice Parker, and that I

have no thought whatever in favour of Mr. Spear. Let Mr. Spear be punished, and punished with all severity, if he has done wrong. I ask hon. members to believe that I have every thought for the reputation of the Supreme Court of Western Australia, and that I have every thought for the administration of justice in this State. I do not care what this House may be, or what this House may do: I shall not hesitate, so long as I consider that a slur rests on our Supreme Court or on the administration of justice in this State, to carry this matter even beyond the walls of this Chamber, and put it to the people who in the last resort must give the verdict.

EXPLANATIONS.

MR. FOULKES: I desire to offer a personal explanation. The member for the Murchison (Mr. Nanson) complains that the wording of my amendment is rather vague, with regard particularly to the word "unnecessary." I thought I had made my reason for using the word quite clear. The reason why I employed the word "unnecessary" was this. I said it was unnecessary to appoint a Royal Commission, because no charges had been brought against Mr. Justice Parker in this House. No charge whatever having been brought against Mr. Justice Parker in this House, I consider that the time has not arrived for the appointment of a Royal Commission, and that a Royal Commission is, therefore, not necessary. That is the meaning of the word "unnecessary" in this connection. I hope I have made my meaning quite clear.

MR. NANSON: I was speaking not of your meaning, but of the meaning the people would put on the word.

MR. FOULKES: I am responsible only for the meaning I place on the word myself.

MR. QUINLAN: May I rise to ask your ruling, Mr. Speaker, as to whether, in the event of the present amendment being carried, I shall be debarred from moving the amendment I have suggested?

THE SPEAKER: In the event of the amendment of the member for Claremont becoming the substantive question, as it will become if the original motion be

negatived, your amendment will come in.

MR. QUINLAN: I asked for this information for the benefit of the House generally, because we want to understand our position clearly.

DEBATE.

HON. F. H. PIESSE (Williams): Before the amendment is put, I should like to say a few words. The matter before us being of the utmost importance, it is necessary, in the interests of the House, that members should not vote without expressing their opinions; therefore, I desire now to speak to the amendment. My view is that the Government, having once taken the matter up, should have gone through with it. I certainly believe that Ministers should, in the first instance, have taken no notice of the attacks. There the mistake was made. These accusations, appearing as they did from time to time in the public Press, were no doubt construed by the public as not casting any serious reflections on the character of any man, and particularly not on the character of a Judge. Admittedly, an error was made by Ministers in taking up the matter in the first instance. We know the course the prosecution ran. The first trial proved resultless, and the second ended in the same way. Then the Government, influenced apparently by sentiment, regardless of the anxieties of a parent fearful of the results of a farther trial for her son, entered a *nolle prosequi*. It appears that the defendant's mother wrote asking for interference on behalf of her son; and owing, no doubt, to a mistaken feeling of sympathy on the part of those concerned, including, we may believe, the Judge himself who was most closely concerned in the matter, farther proceedings were abandoned, with the result that the Judge, who was not satisfied with the course things had taken, asked that a Royal Commission should be appointed to inquire into the charges. The Government in their wisdom considered that this was the better course to take. In my opinion, Ministers acted most injudiciously in agreeing to the appointment of a Royal Commission. They should have proceeded with the trial in the Supreme Court until they had brought the matter

to some final conclusion. They should, if need were, have gone on from day to day continuing the prosecution in the same way as would have been done in an ordinary criminal case. Then there would have been no necessity for the making of such a motion as that now before hon. members.

THE PREMIER: In an ordinary criminal case, after two abortive trials the prosecution is generally closed.

HON. F. H. PIESSE: The circumstances here were different. There is no doubt in my mind that the Government made a serious mistake in agreeing to the appointment of a Royal Commission. I am, therefore, decidedly opposed to the amendment. I maintain that the matter should go on. If we are to protect our Judges, if we are to give Mr. Parker an opportunity of clearing himself, then the Government, seeing that they previously took the matter up and considered it necessary to proceed in the criminal court with a view to vindicating the Judge's character or allowing the defendant to prove his case, should certainly proceed still farther. In the circumstances, I shall vote against the amendment of the member for Claremont, and await the debate on the farther amendment to be proposed by the member for Toodyay (Mr. Quinlan).

MR. MORAN: Is it competent to move an amendment on the motion after this?

THE SPEAKER: Of course it is. The only thing is that if there be a majority in favour of these words standing, they must stand as part of the motion. Other words can be added to them.

[Two or three members retired towards the door, to avoid voting. Attention being called to this, the Speaker said they must vote. They accordingly returned to the benches.]

Question—that the words proposed to be struck out stand part of the resolution—put, and a division taken with the following result:—

Ayes	...	...	...	13
Noes	...	...	...	25
				—
Majority against			...	12

AVES.
Mr. Atkins
Mr. Butcher
Mr. Hicks
Mr. Holman
Mr. Moran
Mr. Morgans
Mr. Nanson
Mr. Piessie
Mr. Stone
Mr. Taylor
Mr. Throssell
Mr. Yelverton
Mr. Jacoby (Teller).

NOSS.
Mr. Daglish
Mr. Diamond
Mr. Ewing
Mr. Foulkes
Mr. Gardiner
Mr. Gordon
Mr. Gregory
Mr. Hassell
Mr. Hastie
Mr. Hayward
Mr. Higham
Mr. Holmes
Mr. Illingworth
Mr. James
Mr. Kingsmill
Mr. McDonald
Mr. Monger
Mr. O'Connor
Mr. Purkiss
Mr. Rason
Mr. Reid
Mr. Reside
Mr. Smith
Mr. Wallace
Mr. Quinlan (Teller).

Question (Mr. Nanson's motion) thus negatived, all words after "that" being struck out.

AMENDMENT (MR. FOULKES'S).

THE SPEAKER: The question now is that the following words be inserted in the resolution: "in the opinion of this House, to appoint a Royal Commission to inquire into the charges made against Mr. Justice Parker is unnecessary." That is the main question now before the House. Amendments can be proceeded with, if desired.

MR. MORAN: The position now is that those who wish to vote for the amendment by the member for Toodyay (Mr. Quinlan) for three Judges must vote against the amendment by the member for Claremont (Mr. Foulkes). We do not want to have any misunderstandings. I am certain the last vote was not clearly understood.

AMENDMENT (THREE JUDGES).

MR. QUINLAN (Toodyay): I now rise to move the amendment I intimated, for the appointment of a Commission of Judges; and I think a very large majority, if not the whole of the people in the State, will feel that some such course as I propose should be adopted, namely that three Judges shall be appointed as a commission. Although I have so worded the amendment that it shall apply to three Judges, I am open to a suggestion from any member. I believe there are some who wish there should be two Judges, and so far as I am concerned I shall be satisfied if there be one. [SEVERAL MEMBERS: No.] I desire to

meet the wishes of the House generally. I wish, at any rate, to adhere to the word "three," and perhaps it may meet the view of the House later on to modify the amendment so as to make the number two. My object is to appoint a Commission which will have the confidence of the country. I know from many years' experience what takes place in respect to commissions and committees. I have sat on a number myself from time to time, and the circumstances at present surrounding the question at issue are such as have never occurred in my experience, at any rate, in this State before. Therefore, I think it would be better to have a Commission of Judges, rather than have any ordinary laymen, because laymen may have certain feelings—for there are circumstances connected with this case which may involve feelings of prejudice on one side or the other. As far as Mr. Justice Parker is concerned, I can only say I have heard rumours, not since he has been appointed a Judge, as to his career in this country years ago. I am an old-young colonist, and the very charges made mention of in the newspaper have been common property throughout the State. I may refer to one instance which I am sure will be recalled to the minds of many in the State—the Sloan case. Personally, I have the highest regard for Mr. Justice Parker. He has been a friend of mine, and I am glad to say I have been a friend of his. This case having now arisen, and even as much as I am open to be fair to Mr. Parker or anyone else, if I were asked to accept a seat on this Commission I should have to refuse, because there may be some tint of feeling either to one party or to the other. As to the other gentleman concerned, I have only known him within the last few weeks, and he is equally entitled to all consideration, and, above all things, he is entitled to justice at our hands. So far as the request for a Commission made by Mr. Justice Parker is concerned, that matter did come before the Morgans Ministry, and in justice to the gentlemen concerned at that time, it is my duty to say that I read the request of Mr. Parker, and I was the only member of the Ministry who did read it through. I had it in my hands, and when I mentioned the subject it was unanimously agreed that as the

Government were going out of office almost that minute, we should leave the matter to our successors. It is only fair to our predecessors and successors to say that. The matter only came forward for a moment, and I think it is only fair and due to the reference made by the Premier to say this, because he intimated that we had not dealt with the question. It was before us, and we left it for others without comment or remark as to what we proposed should be done. It is only due to Mr. Morgans and his Ministry to say that when the matter was simply mentioned as a subject of business, Mr. Morgans instantly, and all others agreed, that it was not a matter, owing to the circumstances, that we should deal with, but that it should be left to our successors. That is a complete answer, and a strong answer indeed, to the remark that we were afraid to deal with the question. In the request, and it has been mentioned already or I would not refer to it otherwise, it was asked that this Commission should be appointed, as Mr. Justice Parker would not feel justified in holding his position. I know I am bound by oath, and I should not have mentioned it to my best friend had it not been referred to to-night; and I again repeat that we felt the subject was too important to deal with when we were going out of office. Therefore, no charge can be laid against the door of the Morgans Ministry, for we occupied our position for such a short time. The question of Mr. Pennefather's appointment, I think, should be allowed to drop. And all I need say is that Mr. Pennefather was recommended—

THE SPEAKER: That has nothing to do with this amendment.

MR. QUINLAN: I know, and I simply say Mr. Pennefather was recommended by the highest authority, and I will say no more than that he was removed from office by our successors. My object in moving for a Commission of Judges is that, supposing the case went to a Court, which is preferable to an ordinary Commission, we know full well—at any rate, I do, and I do not say it for the first time—I have not the confidence in juries that the people in this country have, and I have paid for my experience. I like the law which is in vogue in Scotland. I know the oath which is taken in the courts, and there are certain members in

the House who know it well; but no matter how strong a case may be, there are men who have so little regard for an oath, or who are low enough to treat the oath with the contempt which it does not deserve, and are willing to give a verdict to suit their purposes. That is my reason for objecting to trial by jury. I have had to pay the penalty in this State, and if it had not been for Providence, probably I should not have been here to-night. The day came when the truth prevailed, and those who expressed themselves afterwards, the members of that same jury, told me that if they had to sit there till doomsday they would not again give that verdict, but they were forced to do so. Therefore I have reason to feel a special prejudice against the juries of this State. This is no party question, so far as I am concerned. I am not a party man, and it is to be regretted the question has been raised, and has emanated from a particular party in the House.

MR. NANSON: It must come from one side or the other.

MR. QUINLAN: Exactly. There are a good many sides in the House, and I do not think that the particular side which one occupies means anything; at any rate it does not in my case. With respect to the reason given why the charge against Mr. Spear was withdrawn, I am not satisfied that the reason which prompted Mr. Justice Parker was the letter from the man's mother, and I have no hesitation in saying that. I say emphatically if Mr. Justice Parker could justify the reasons by the dates of the letters, I should be satisfied to accept that reason. I have read it in the newspapers that a letter arrived here, and it was thought fit to ask afterwards that proceedings be terminated, and on that point alone I am voting to-night. Mr. Justice Parker did not, in my opinion, satisfy the Crown Law authorities that they should terminate the proceedings. I think the Government should appoint persons on this Commission whom we have confidence in. Hence my amendment before the House. With regard to whether Mr. Justice Parker is a fit and proper person to occupy the judicial Bench, I agree in some measure with the remarks of the member for Cue (Mr. Illingworth). So far as we know, Mr. Justice Parker has

justified his appointment in every respect. But the question has been raised as to transactions of his in times past. We wish to have the Bench as pure as possible; and as he has himself sought a commission of inquiry, I see no alternative but for the House to adopt the suggestion, and the solution of a Commission of Judges is the better for all parties, because, as I said before, a trial by jury would, in my opinion, mean persecution to either Mr. Parker or Mr. Spear. I am not wedded to the actual number of commissioners, because there seems to be a feeling that one or two Judges would meet the case. But as has been suggested by others more competent to express an opinion, in the case of any dispute arising and the question at issue being so important, it would be better to have three. Whether those three commissioners be Judges now on the Bench of this State, I am not particular. Let there be one, two, or three of those Judges, or let any other of the Supreme Court Judges of Australasia be asked to act, and that will meet the case. The member for Yalgoo (Mr. Wallace) raised the question of the distinction between a Royal Commission and a court of law, saying there was in the former an absence of fear. I cannot agree with him. I think there is fear in either case. Firstly, it is most difficult to get any layman to accept a position on a Royal Commission; and there is quite as much fear in the case of jurymen. Therefore, to terminate the whole proceedings and to close this question, which unfortunately has been so frequently raised, I hope and trust that the amendment I have indicated, and which I now formally move, will meet with the approval of the majority:—

[That] in the opinion of this House, a Royal Commission of three Supreme Court Judges be appointed to inquire into the charges made by the *Spectator* newspaper, in its own article, against Mr. Justice Parker; the sittings of such commission to be held in public, and the proceedings to be conducted according to the rules of procedure adopted in courts of law.

MR. DIAMOND: You should include the whole of the charges.

MR. QUINLAN: I shall be happy to do so, and to alter my amendment so as to include both articles published in the *Spectator*.

MINISTERIAL MEMBER: No; the whole of the charges, including that of blackmail.

MR. H. J. YELVERTON (Sussex): I second the amendment of the member for Toodyay. In the course of this debate it has been suggested that Parliament should deal with this question, that charges should be brought against Mr. Justice Parker in this House, and that the House should deal with them. I do not approve of that course, but think it would be far better to take the course indicated in the amendment and asked for by Mr. Justice Parker himself, that a Royal Commission be appointed, and that we should appoint the Supreme Court Judges members of that commission. It has been said that if this course be adopted we have only one Judge in this State who is capable of sitting on that commission. Well, so far as I am concerned, rather than have injustice done to the State, I should go to the cost of importing a few Judges to make up the number. It has been said this evening that the conduct of Mr. Parker before his appointment to the judicial Bench should not be considered. I do not agree with that view. Undoubtedly, beyond everything else in this State the Supreme Court Bench should be pure, not only in respect of the conduct of the men appointed to it from the date of their appointment, but in respect of their conduct prior to appointment, in respect generally of their conduct before their elevation to the Bench. Mr. Justice Parker's elevation was undoubtedly due not solely to his high standing at the Bar and in Parliament. I firmly believe that nothing has assisted towards that end more than the high public esteem in which Mr. Parker has been held for so many years, which esteem I believe he will retain even to the last; for I feel sure that his character will be vindicated by inquiry into the charges. Inquiry is necessary, not only in the interest of Mr. Justice Parker, but also, and above everything else, in the interest of the administration of justice. In view of the last consideration, in especial, I am desirous that a Royal Commission should be appointed and that this Royal Commission should consist of Supreme Court Judges. It has happened too frequently during the last 12 months

that in this House the qualifications and the fitness of members of the Supreme Court Bench have been brought into the arena of political discussion. There should be an end of that; but so long as these charges hang over Mr. Justice Parker, there can be no end of it. For my part, I think that the sooner the proposed Royal Commission is appointed and the sooner the charges against Mr. Parker are fully investigated, the sooner it is shown to the House and the country that either Mr. Spear is wrong and Mr. Justice Parker right, or the converse, the better it will be for the administration of justice in this State. The leader of the Opposition has said to-night that this should not be treated as a party question; and I believe the same thing has been said by the leader of the Government. I hope and trust that the matter will not be treated in a party spirit. I feel sure that many hon. members on the opposite (Ministerial) side feel that above everything else we should keep the purity of our Supreme Court Bench above reproach; and the only way to do that, so far as this case is concerned, is to make full and ample inquiry. Now, the best method of making that inquiry, to my mind, is the method proposed by the member for Toodyay (Mr. Quinlan). Many speakers have remarked, in the course of this debate, that they are perfectly satisfied, and I say for myself that I am perfectly satisfied, that Mr. Justice Parker will come out of the ordeal in the best possible manner. But although hon. members may be satisfied, I must ask whether the country is satisfied to let matters stand as they are. I ask whether a man tried by Mr. Justice Parker would not feel that a slur has been cast on the administration of justice in this country, and that he is placed in a false position in being tried by a Judge against whom certain charges have been preferred and whose character has not been vindicated as to those charges. Such a state of things should not be allowed to exist; and the sooner we take such a course as will end that state of things, the better for ourselves and the country as a whole. As for the remarks which have fallen from the leader of the Government this evening in connection with the assertion that Mr. Justice Parker asked for the appointment of a Royal Commission in his own

interests, I think Mr. Parker may well pray, "Heaven save me from my friends." I was indeed glad to hear the member for Mt. Magnet (Mr. Wallace) say that he wished matters to be made clear on this occasion, so that he might know exactly where he stood with regard to his leader on the other side of the House, and so that he might feel that his leader was not inducing him to take up a false position in supporting a proceeding initiated by the late Government.

THE TREASURER: I thought you said just now that this was not to be treated as a party question.

MR. YELVERTON: I hope it will not be treated as a party question. I was, however, glad to hear the member for Mt. Magnet speak out as he did, party question or no party question. What we have to ask ourselves is this. Are we here merely to see justice done to Mr. Spear, or merely to see justice done to Mr. Parker? Are we not here to do something more than even that—to see justice done to the people of this country by assuring the purity of everyone connected with the Supreme Court? I have heard, and with regret, that the members of the Labour party intend proposing a farther amendment. I have heard it stated, but I hope it is not true, that the Labour party desire to propose that only one Judge should be appointed to the commission, and that the other two members of the commission should not be Judges of the Supreme Court. I can only say that if the Labour members do purpose taking that course—

MR. DAGLISH: The Premier has asked us not to do that.

MR. YELVERTON: It will be only a proof to members on this (Opposition) side of the House that the Labour members are not particularly eager that justice should prevail, but are anxious, rather, still to vote with the Government to whom they have so long given support.

[Several interjections.]

THE TREASURER: I thought this was not a party question.

MR. YELVERTON: Mr. Parker, in a letter read here this evening, has said, or implied, that he feared a jury would place a wrong construction on the point at issue, and that it was for this reason he wished a commission to be appointed. If that be the case, if such is really Mr.

Parker's feeling on the point, it would, I am sure, be a matter of satisfaction to that gentleman to know that the commission was to consist of Supreme Court Judges; for if he fear the result from a trial by jury, he surely cannot fear a result arrived at by his brother Judges.

MR. MORAN: Hear, hear; or any other Judges.

MR. YELVERTON: Quite so. It has been said to-night that there are many sides in this House. Unless this amendment be carried, and unless it be thus shown that this House desires above all things to obtain justice, I for my part shall be prepared to maintain that the best side of this House is the outside. I wish to remind hon. members that the leader of the Opposition has on several occasions during the course of this debate expressed himself as willing to withdraw his motion in favour of the suggestion that three Supreme Court Judges should be appointed as a Royal Commission to investigate the charges. I have pleasure in supporting the amendment moved by the member for Toodyay.

THE PREMIER: May I draw the attention of hon. members back to the position in which this question stood when it arose at half-past four this afternoon? In answer to certain questions put by the leader of the Opposition a few days ago, I informed the hon. member that it was the intention of the Government to accede to the request of Mr. Justice Parker and appoint a Royal Commission. Hon. members will remember that. The suggestion to appoint a Royal Commission was at once opposed by the leader of the Opposition.

MR. NANSON: There are commissions and commissions, you know.

THE PREMIER: No doubt there are. We are aware of that. There is also a capital A and a small a. The proposal to appoint a Royal Commission has been opposed by the hon. member until the last few moments. Even the last speaker says he does not know what will happen if a commission be appointed. So the position now is this.

MR. MORAN: We cannot trust you: we want the Judges.

THE PREMIER: I am glad of that observation. I wanted to bring the matter down to that, and I want to be emphatic on it. It comes to this. I

said we should appoint a commission, and the Opposition want to dominate and say who are going to be on the commission. I was going to suggest to those who supported the Government that the Opposition were doing it because they could not trust us: they were good enough to say so. It rests with this House to say whether they will trust the Government to appoint a commission. I ask the House, therefore, to oppose every amendment, and knock the motion out.

MR. A. E. THOMAS (Dundas): I should not have risen to speak at this late hour of the night had it not been to explain my action in refusing to take part in the last division. I could not understand the position, and I preferred, therefore, to go outside the House rather than record my vote on either one side or the other on a subject which I did not thoroughly understand. I wish to say I am in favour of an open inquiry into the whole of the charges made against Mr. Justice Parker. The country absolutely demands that these charges shall be inquired into. Other speakers have said the matter had no business to be introduced at all; but it was brought forward, and I have been asked repeatedly in travelling through this country what my opinion was in regard to the charges made against Mr. Justice Parker. I have stated that I honestly believe Mr. Justice Parker to be absolutely innocent of all charges brought against him. I have said that to those people who have inquired from me, and then they have said to me, "Why have proceedings been stopped? It looks to us fishy." That is the opinion of people throughout the country, but I do not think for a moment it is the opinion of members of this House. In order that those people shall be satisfied in regard to the matter, I am in favour of the fullest inquiry being made. In my own mind, I am certain what the result is going to be so far as Mr. Justice Parker is concerned. I am not, however—and I say this candidly—prepared to allow the Government to appoint the commission unless they are ready to agree that, as members of the House, or at least some sections of the House suggest, the commission shall consist of Judges of the Supreme Court. The Government have been challenged throughout the whole of this State, and if the Premier

would have stood up and said it was the intention of the Government to make the *personnel* of that Commission as required by members of different portions of the House, the debate would have closed early this evening; shortly after tea, at any rate.

THE PREMIER: The leader of the Opposition made that suggestion at the conclusion of his speech.

MR. THOMAS: The leader of the Opposition made it at the close of his speech, and several interjections were made whilst the Premier was speaking, asking that he would give an assurance that the commission should consist of Judges of the Supreme Court. The Premier refused to give such an assurance. I want a Royal Commission appointed to consist of three Judges. That is what I am going to vote for, and I will not vote for anything else.

MR. J. EWING (South-West Mining): I am pleased indeed that the Premier has placed the issue before us clearly. I simply rise because some of us on this (Government) side of the House have been told we are servile supporters of this particular Government; that we are a brute majority. I am absolutely independent, and can do what I think best in the interests of the State. I am satisfied to leave this matter in the hands of the Government, and I suppose the majority of members are willing to do so. As far as Mr. Justice Parker is concerned, or Mr. Spear, I have nothing to say beyond this, that I think it would be only right and proper that the members who choose to bring such vile imputations forward on the floor of this House—

MR. MORAN: Once more I rise to a point of order. No member on this side brought any vile accusations against anybody.

THE SPEAKER: That is not a point of order at all.

MR. EWING: I maintain that such statements were made in this House as members were not justified in making, unless prepared to stand on the floor of the House and take advantage of the statute as it stands to-day. If they can do that—

MR. MORAN: I must rise to a point of order, even if I am ruled out. I am endeavouring to get your ruling in

this matter, Mr. Speaker, and I intend to ask it.

THE SPEAKER: What is your point of order?

MR. MORAN: The hon. member has just stated that some members in this House brought vile accusations against Mr. Justice Parker. I am going to have a consistent and recorded ruling on the matter. Is the hon. member in order in stating that any hon. member of this House brought vile accusations against anybody?

THE SPEAKER: I do not see that he is out of order in doing so, and certainly there is nothing for me to rule upon. There is no point of order.

MR. MORAN: I am glad to have that ruling, because we can reply in the same strain.

MR. NANSON: I rise to a point of order. If any member accuses others of having made vile charges against anybody, is not that member compelled to state which members have made those vile charges, and what the charges were?

MR. EWING: I think the Speaker has given his ruling.

THE SPEAKER: I have not given a ruling on the point now raised. I do not exactly understand what it is.

MR. NANSON: I will put it again. The hon. member (Mr. Ewing) has stated that members on this side of the House have made vile charges against Mr. Justice Parker, and I wish to know whether the hon. member, having made that statement, is not compelled to specify what members made those vile charges. That is one question.

THE SPEAKER: I do not think there is any point of order raised in that. The hon. member makes certain charges. You can believe them or not, as you like.

MR. NANSON: Then I rise to another point of order. Is not the hon. member compelled to state what those vile charges are?

THE SPEAKER: No; I do not think he is.

MR. EWING: I have taken no notes, but certainly the impression conveyed to my mind by this debate was that imputations were being made on the fair fame of Mr. Justice Parker. I am responsible for my own actions in this House, and responsible for the impression which the speeches of the hon. members made on me.

THE SPEAKER: I do not think the hon. member is in order in making charges against members opposite, unless he can substantiate those charges.

MR. EWING: I was simply conveying the impression made upon my mind. I do not wish to detain the House at any length, but simply desire to say that acting independently I do not think it is right at the present juncture for the Government to allow themselves to be dictated to as to the *personnel* of this commission. As far as I am concerned, I am perfectly satisfied to leave the matter entirely in their hands, and to take the responsibility of being called a servile supporter of the present Government, for the simple fact that at the present juncture I have absolute faith in them.

MR. A. Y. HASSELL (Plantagenet): I am not one of those who made vile charges. I am not satisfied to leave the appointment of this commission in the hands of the Government, and in my opinion the Government ought to accede to the reasonable request of this House that they should appoint Judges of this State, or if they cannot get Judges here, Judges from some other State, to sit on that commission. I shall vote for the amendment of the member for Toodyay.

MR. A. E. MORGANS (Coolgardie): I did not intend to say anything on this subject; but having listened to the eloquent address of the member for the Collie railway (Mr. Ewing), I think it is only right to make some remarks with regard to the extraordinary position he has taken up. The hon. member has accused gentlemen on this side of the House of bringing serious charges against Mr. Justice Parker. I deny that. Not a single gentleman on this side of the House has done so; and when that hon. member accuses gentlemen on this side of having done it, he accuses them of that which he knows to be absolutely untrue.

THE PREMIER: I rise to a point of order, more particularly as the hon. member has only been in the House for an hour, and this debate has been in progress since half-past four.

THE SPEAKER: I must ask the hon. member to withdraw the remark. He cannot accuse an hon. member of stating an untruth.

MR. MORGANS: I will do that. I will say, in connection with the statement which the hon. member made, that he did not substantiate the charges against members on this side. I hope that is not out of order. The Premier has risen to say that I have not been in the House more than an hour, but I am replying now to what the member for the Collie railway said.

THE SPEAKER: The hon. member is out of order in addressing another member in that way.

MR. MORGANS: Well, the member for the Collie.

MR. EWING: I am not the member for the Collie, which shows that the hon. member has such a knowledge of the House that he does not even know what districts members represent.

MR. MORGANS: The member for the South-West Mining district. The hon. member said that according to his mind this side (Opposition) had accused Mr. Justice Parker of certain serious offences. Has the hon. member got any mind at all? I doubt it very much indeed. He was not able to substantiate the charges which he brought against members in this House, that certain members had made vile charges against Mr. Justice Parker.

MR. EWING: I said that was the impression on my mind.

MR. MORGANS: I doubt if the hon. member has any mind at all to have an impression made upon.

MR. EWING: I suppose that is wit.

MR. MORGANS: I think it is most unfair for any member to get up and bring serious charges of such a kind against other members. Addressing myself to the point, I may say that I think it is very desirable that an inquiry should be made into this question, an inquiry that will satisfy the whole of the public and this House. I do not agree with the suggestion made by the member for Toodyay. If an inquiry is made at all, it should be an absolute and complete inquiry of every charge brought against Mr. Justice Parker. I am not prepared to support any motion in this House which will not allow the inquiry to be a complete one. I am sure no one in the House has a higher opinion of Mr. Justice Parker than myself, and I am certain that whatever inquiry is made, he will come

out victorious. In view of the fact that Mr. Justice Parker has himself pointed out the difficulty of bringing this question before a jury, some consideration should be given by the members of the House to his wishes as to the nature of the inquiry. The proposal that the inquiry be made by three Judges of the Supreme Court appears to be a very reasonable and proper one. Surely the learned Judge could not desire a better tribunal than that of his *confrères* on the Bench. If an arrangement of that kind be come to, that will be a solution of this very disagreeable and difficult question. Some objection has been raised to this tribunal because I understand it is difficult to get three Judges to form a tribunal.

A MEMBER: There is only one Judge here.

MR. MORGANS: If that be so I confess I see some difficulty in the way. I should not be disposed to see Judges imported from the other States to try this case. I am bound to say that if the Government are impressed, and I am sure they are, with a full sense of their duty with regard to this important case, they well know the tribunal that will be satisfactory to the Parliament and the public of the country. I think the Government should take some notice of the advice given in this House.

THE PREMIER: I am always glad to do that.

MR. MORGANS: I think the Government should take notice of the observations made in the House as to the nature of the tribunal; and at least, in view of the debate which has taken place to-night, and in view of the fact that so many members have shown a fair desire that this inquiry should be one that will go to the very foundation and root of this difficulty, an inquiry which will give satisfaction to the House and the public, and in view also of the fact that this House has expressed itself so clearly that its desire is that at least some Judges of the Supreme Court should occupy an important position on that inquiry—appoint one or two, if possible, of the Judges of the country to take part in this important inquiry. The Premier, with his usual brilliancy, referred to the short time I had the honour of presiding over the destinies of this country. I am quite

aware it was a very short time, and I very soon, with the members of my Cabinet, was labelled "not wanted." And I was not long, in conjunction with my colleagues, in stepping down from that important position. But I would like to point out to the Premier that this question which did come before the Executive Council at that time was only brought forward the very day we were about to hand in our resignations to the Governor; therefore the impression he wished to convey, that we had shelved this question, is not correct.

THE PREMIER: I did not wish to convey any such idea.

MR. MORGANS: I accept the explanation of the Premier, and I will say this. Had we remained in power, and had this question come before us as it has come before the present and the last Government, we should have taken steps to have dealt with it. We should have looked upon it, as we did at that time, as one of the most important questions before the country. There is no doubt about one point. If a Judge of the Supreme Court of the country has his name brought before the public, it is the first duty of the Government, and of the Judge himself, to clear the Judge of the charges brought against him. That should be the first duty of all reasonable and honest men. I am sure Mr. Justice Parker is one of the first men in the country to have an inquiry, and a proper one, into the case, and I can only hope that to-night the House will take a reasonable view of the position. I was very much disappointed to hear the Premier make a party question of this matter, and I regret that the Premier did so, because I know his desire is that this question shall be satisfactorily settled.

THE PREMIER: Do you agree with the member for West Perth, that you cannot trust us?

MR. MORGANS: No; I do not agree with that; but I think the Premier was a little hasty in arriving at his conclusion. This is not a party question. It involves the honour of the State of Western Australia; and therefore I would ask the Premier not to look at it in the light he appeared to regard it in at the moment. I think he has already altered his opinion. I am sure he will be prepared to accept

any reasonable proposal on this important question, and I would now sincerely appeal to the House to arrange this question to-night on a satisfactory basis. Let something be done that will settle it once and for ever. The whole agitation is bringing discredit on the Supreme Court of the State, which is one of the greatest misfortunes that could befall the country; and therefore I think it the duty of every member to assist the Government in arriving at some satisfactory solution of this very difficult question, and that if we arrive at a solution to-night not on party lines, but for the benefit of the State, an end will soon be put to a most unsatisfactory state of things which has existed for the last twelve or eighteen months in reference to one of our Supreme Court Judges. If the member for Toodyay is prepared to alter his amendment to make it read "articles," so that the whole question can be investigated and nothing kept back, I will give him my support.

MR. J. J. HOLMES (East Fremantle): Briefly, I wish to say that in my opinion a Royal Commission should never have been promised to Mr. Justice Parker; but such commission having been promised, it is not right for the Government to go back on that promise, and to leave Mr. Parker without the means of redress to which he is entitled. [MR. MORAN: He has still the Court.] He has been promised, and the country has been allowed to believe, that he is to have this commission. He is entitled to the commission; and what I want is a commission without any limitation whatever—a commission to inquire into the whole of the charges made against Mr. Parker; and I wish the Government to have a free hand to appoint that commission. I should much like to see the commission consist of three Judges of the Supreme Court; but if the House carry a resolution that a commission be appointed consisting of the Supreme Court Judges—[MR. NANSON: Or a Supreme Court Judge]—either a Judge or the Judges, and the Government find they are unable to get those three Judges to act—

MR. MORAN: Let them come to the House for farther instructions.

MR. HOLMES: Then the commission cannot be appointed. If the House cannot trust the Government to appoint a Royal Commission, and leave it to

Ministers' discretion as to who shall sit on it, then it is the duty of the House to turn out the Government, who have no right to exist if they cannot be intrusted with the appointment of a Royal Commission. I am not prepared to say whether Mr. Parker is guilty of the charges, whether Mr. Spear is backed up by facts in his statements; but I wish to see the whole circumstances satisfactorily cleared up; and if Mr. Parker be guilty of the charges made against him, he should be removed from the Bench. If it can be proved that Mr. Spear has been guilty of making false charges against Mr. Parker, he should be made to pay the penalty.

MR. MORAN: You cannot punish him through a Royal Commission. That is just where you are "missing the 'bus."

MR. HOLMES: If we cannot punish Mr. Spear for a false accusation, we can at all events exonerate Mr. Parker.

MR. NANSON: You can punish Mr. Spear in reputation.

MR. HOLMES: And in exonerating Mr. Parker we shall at all events be doing our duty. I do not know what commission the Government will appoint; but I am satisfied Ministers desire to do what is right and just; I think they will be guided by the expression of opinion from members who sit on the opposite side; and if it be possible to appoint three Judges as a commission, that will be done. But if any difficulty should arise, I wish the Government to have a free hand to appoint any man. None of the amendments before the House will meet my view. What I want is a commission without any limitations whatever, to inquire into the whole of the charges made against Mr. Justice Parker.

MR. QUINLAN: I am agreeable to accept the suggestion to make my amendment read "articles."

MR. ILLINGWORTH: Does the hon. member realise that in the use of the word "article" he is confining the inquiry to the statements made by the *Spectator*? The far more important thing is the statements made in this House.

MR. NANSON: Better move that the words "articles in the *Spectator*" be struck out, and insert the words "charges against Mr. Justice Parker."

THE SPEAKER: That can be moved after the amendment has been put.

MR. QUINLAN: My seconder is agreeable to adopt the suggestion.

THE PREMIER: I hope hon. members clearly understand that my objection is to the House controlling the selection of the *personnel* of the Royal Commission. The Government agreed, weeks ago, to the appointment of a commission to inquire into the whole matter. The motion of the leader of the Opposition, I may remind hon. members, has really been in opposition to that proposal; and only on the very eve of the defeat of his motion has my friend taken up the appointment of a Royal Commission. He wants the House to take from the Government the power of settling the *personnel* of the proposed commission. The hon. member has said that this is his desire because he cannot trust the Government.

MR. NANSON: Oh, no; pardon me. I did not say that.

THE PREMIER: The member for West Perth (Mr. Moran) said it; and he spoke honestly, I think. What I want to make clear is that if the House cannot trust the Government to pay due respect to its wishes, if the House cannot leave to us the control of the *personnel* of this Royal Commission, then I cannot and will not continue to hold the reins of office.

MR. G. TAYLOR (Mt. Margaret): I have listened with great attention to the debate ever since half-past four o'clock this afternoon. It is now midnight. I am indeed sorry that the Premier has made a party question of this motion.

THE PREMIER: The Opposition are doing that.

SEVERAL MEMBERS: No.

MR. TAYLOR: This matter is one which hon. members should be able to discuss without introducing into the discussion any party feeling whatever. When the debate continued after half-past 10, I knew that this must be either a party question or a question affecting Fremantle; for to see, as we see to-night, Fremantle members remaining in this House until 11 o'clock, and even midnight, is most unusual. I have spent 18 months in this Chamber, and I have never seen a Fremantle representative present after half-past 10 o'clock at night unless the matter under consideration was one directly affecting the interests of

Fremantle, or directly affecting either the Government or the Opposition. I repeat, the presence of the Fremantle members after half-past 10 bore in on me the fact that this must be a party question. I am pleased to be able to say that the party of which I am a member has not dealt with the motion in a party spirit. If the matter come to a decision to-night, members of the Labour party will be able to record their votes just as they think fit. My personal feeling is that either the Supreme Court should be left open to Mr. Justice Parker, or that the business should drop. That, shortly, is the view which I think the House as a whole should take. The Supreme Court represents the next highest tribunal to this Chamber, and the Supreme Court, I understand, is still open to Mr. Justice Parker. Then, I say, let Mr. Parker avail himself of the Supreme Court. I heard the speech delivered by the former member for the Murray, Mr. George; and I think that few of those then sitting in this House chastised Mr. George more severely than I did on the delivery of the speech in question. I deeply regret, from one aspect, the statement made by the Premier to-night, that Mr. George, in delivering the speech referred to, had been the catpaw of a few conspirators. I am sorry to think that such a man as Mr. George has now been placed in charge of one of the greatest assets of this State, having the largest roll of employees in Western Australia. I wish to point out that if a few conspirators can make a catpaw of Mr. George as a member of Parliament, his chance of escaping from being made the catpaw of the commercial world is but slight. Is Mr. George a man of sense and brains? I say that if he could be manipulated in this Chamber, he can be manipulated in the Railway Department. I am pleased to hear the Premier re-echoing the sentiments to which he gave expression in this House when he was a private member. He then was accustomed to say that the late member for the Murray, Mr. George, was not a man of whom serious notice could be taken. In this connection I may remark that at the time Mr. Morgans was forming his Cabinet, it was generally considered that Mr. George was utterly impossible as Minister for Railways. I have heard

every member on that (Ministerial) side of the House say as much. Now, however, he is perfectly fitted for the position of Commissioner of Railways, because he has been appointed to the position by the present Government. Referring to the case in point, I would like to know how many Judges in this State are eligible to sit on this commission. [MR. MORAN: Three.] I have been given to understand there is only one. [MR. NANSON: There are two, if not three.] I have heard that when the present Judges were barristers in this State, they were engaged in cases of which this matter is the outcome, and that the case of a man named Sloan was settled five minutes before the court was opened. I am told, I do not know whether I am right or not, that Mr. Justice Heusman, as a barrister, was defending a man named Sloan. I have also been told that Mr. Moorhead as a lawyer in this State was mixed up in the purchase of some land which Mr. Justice Parker was selling, or something to that effect. I say that when those Judges have been mixed up in these cases as barristers—and all these troubles cropped up as far back as 10 or 12 years ago—I think it is unfair to call upon those Judges to sit upon the commission. I do not know whether the statement made by the member for Sussex (Mr. Yelverton) is correct or not, that the Labour party intend to move that one Judge and two other persons should be on the commission. That was news to me. Although I do not care to go in for too much importation, if it be necessary in this great question in order to have those charges tried by a tribunal which will give satisfaction to this State, the Government would be justified in bringing the Judges from the other States to sit on this commission, if it be decided that a commission shall end the matter; but I myself would prefer, as I said before, to see this case tried by the Supreme Court. That is the authority to decide it, in my opinion. Notwithstanding all the arguments that have been used to-night in favour of the commission, I am perfectly convinced that the country would be more satisfied with the decision of the Supreme Court than the decision of any commission. I know that commissions, not alone in Western Australia, but throughout the length

and breadth of the Commonwealth, are looked upon by people outside Parliament and generally by people inside Parliament as being white-washing machines, and it will take a lot to live that impression down. Let this case go to the Supreme Court, or let it drop altogether, for I do not believe a commission will satisfactorily clear the matter up, unless it be formed of three Judges. Any other commission would not do justice to the case, which is too great a question to be left in the hands of the ordinary drivelling commission that the member for West Perth (Mr. Moran) referred to to-night. I am very sorry this has been made a party question.

[12 o'clock, midnight.]

MR. H. DAGLISH (Subiaco): I intend in this matter, when it comes to a division, not to cast a party vote in any form. I am pleased with the utterance of the member for West Perth (Mr. Moran), and hope he will, in the second division, support the opinion he expressed when he first spoke, that members should refrain from handing over the responsibilities of Parliament to any outside body. I, as one member, am quite prepared to accept the responsibility. If I knew of any facts that militated against Mr. Justice Parker as a Judge, I would be prepared to bring them before the House and lay a definite charge. Is there one member in the House who has such knowledge that will justify him in laying a charge against Mr. Justice Parker? I say if there be such knowledge, the member who possesses it, if he will do his duty to the House and the country, and towards the Supreme Court Bench, he will prefer a definite charge against Mr. Justice Parker.

MR. NANSON: There have been charges preferred.

MR. DAGLISH: I have no knowledge of such charges.

MR. NANSON: Members have been talking about them.

MR. DAGLISH: I know there have been charges made in the Press about Mr. Justice Parker; but they have not been taken up by members of the House, and the member for the Murchison has distinctly refused to make them to-night.

MR. NANSON: The Government have taken them up.

MR. DAGLISH: If the member for the Murchison believes the charges, and takes the responsibility of uttering them from his place in the House—

MR. NANSON: I believe these charges should be investigated. Am I to make charges in order to have them investigated?

MR. DAGLISH: Certainly.

MR. NANSON: Am I to sacrifice myself on the altar of public duty, if I am not able to get justice by other means?

MR. DAGLISH: It is a recognised fact that a man is not called upon to answer anything in a public court that ordinary rumour accuses him of committing. Before any individual can be put on his defence, there must be an accuser, and that accuser must lay a definite charge against the accused. We have not yet reached that stage in regard to Mr. Justice Parker.

MR. MORAN: Parliament has not, but the *Spectator* has, surely?

MR. DAGLISH: I am quite aware these statements have been published in the *Spectator*, but are we to put a Judge on his defence every time a statement is published in any newspaper whatever?

MR. TAYLOR: In this Chamber.

MR. DAGLISH: I am quite aware of what has taken place in this Chamber; I am aware of what the member for Mt. Margaret has said in regard to it. If we are to take notice of every little thing of that sort, we shall be continually having these wrangling debates, which are no credit to members of the House and do no credit to the House itself.

MR. MORAN: You blame the Government.

MR. DAGLISH: I am not blaming any particular party, but I say the House is degraded by debates like that which has taken place to-night, and the sooner we come to the end of it the better we shall stand in the respect of the community, and the better we shall be able to do the service we are sent to perform for the community. I hope the proposal brought forward by the member for Claremont will be carried to-night, and I ask members who say they are in favour of a commission to give us something definite for a commission to investigate. Let us have distinct charges, and if no member has the courage to make charges, let him vote that no charges exist. It is not

necessary to put the country to the great expense of investigation if we believe in Mr. Justice Parker.

MR. MORGANS: Mr. Parker has asked for a commission.

MR. DAGLISH: I quite believe that; but I do not see why the country should go to the heavy expense of an inquiry unless some responsible person fathers the charges.

MR. THOMAS: The charges are contained in *Hansard*.

MR. DAGLISH: If the House is satisfied and every member is prepared to express his personal opinion as to Mr. Justice Parker, and to say that he is satisfied Mr. Justice Parker is innocent, if every member in the House holds that opinion—and members are fully competent to form an opinion—there is no need for an investigation. I am prepared to support an investigation if we can get anyone to father the charges; but until the charges are fathered, I contend that there is no case for an inquiry. It is quite open for any member to make a charge in the public courts against Mr. Justice Parker. His position does not protect him or put him outside the pale of the law; and if any private person outside the House feels he has a knowledge of evil done, or of a breach of the law committed by Mr. Justice Parker in the past, that person has his legal remedy, and such remedy should be sufficient against Mr. Parker as well as against any other member of the community.

MR. MORAN: Mr. Parker has still his legal remedy against the *Spectator*.

MR. DAGLISH: That is exactly the position I take up; but we are not here to consider Mr. Parker's or Mr. Spear's persons, but to act solely for the benefit of the community; and it seems to me, notwithstanding all the protests from the Opposition side of the House, that this was introduced as a party question; it was made a vehicle of attack not only on the late but on the present Administration—not only inside the House to-night, but outside. The Spear-Parker case occupied a prominent place in the programme submitted by the leader of the Opposition in the Queen's Hall as the Opposition programme. That was one of the leading planks the hon. member put forward.

MR. NANSON: To keep the Supreme Court above suspicion. That is surely a good plank.

MR. DAGLISH: My point is that the hon. member put forward as one of his leading planks what he told us to-night he did not wish to discuss as a party question; and I say the two positions are contradictory. [MR. NANSON: No, no.] The hon. member wishes an investigation into the Spear-Parker case by a method he proposes, not by the method the Ministry proposed and are now supporting. The hon. member has turned a remarkable somersault in regard to this business. He came forward at the outset in the Queen's Hall, and objected to any investigation but an investigation in the ordinary courts of law. He came forward to-night and objected to any investigation but an investigation by the court; and during the course of this debate he has been converted to the position of the Government, and the whole question he is now fighting is the question of the *personnel* of the commission. I am prepared to follow the member for West Perth (Mr. Moran) when he says this is not a matter to be referred to a commission.

MR. MORAN: Why do you not support me?

MR. NANSON: Do you wish to shut it up?

MR. DAGLISH: I do support that position; but I refrained from speaking on it because I wished to save the House such a long debate as this has become. I am now prepared to vote in favour of the amendment of the member for Claremont, and I hope the member for Claremont will do the same.

MR. NANSON: Do you wish to smother it?

MR. DAGLISH: Yes.

MR. P. STONE (Greenough): I move the adjournment of the debate. I think we have done a fair day's work. This is a matter of great importance, and I do not think it should be rushed.

MR. NANSON: I have a long speech yet to make, and am prepared to sit till daylight.

Motion (adjournment) put and negatived.

[12:20 o'clock, a.m.]

MR. C. J. MORAN: To reply at length to the remarks of members who were opposing the very reasonable solution of the difficulty offered by the amendment of the member for Toodyay, was hardly necessary. Undoubtedly the issue would be fairly tried in a court, where counsel on both sides would be fed by the Government, where the poor man would not have to pit his slender means against the boundless resources of the Crown Law Department. The contention of the Premier that the Opposition had sought to make this a party question, was painful, if not ludicrous, and would hardly find acceptance save among the faithful "poor-dog-Tray" followers of the Ministry. The hope that the Labour party would rise superior to party considerations on this important issue seemed likely to be disappointed. The red flag of party had undoubtedly been raised aloft by the Premier, and by the Premier alone, so soon as the hon. gentleman saw that there was a chance of the dispute being referred to the arbitrament of three Supreme Court Judges. It could not be said that this had been made a party question by himself, although he had interjected that he could not trust the Government to appoint a commission. If he were prepared to trust the Government, he would not be sitting in Opposition. Of course, his distrust of Ministers was purely of a political nature; apart from politics, his trust in the members of the Cabinet was implicit. To show that, though an Oppositionist, he was capable of taking an unbiassed view of Ministerial appointments, he need only refer to his defence of Mr. George. In connection with the Spear-Parker case, hon. members must not lose sight of the fact that Mr. Parker had been elevated to the Bench by the present Government, practically. Mr. Parker had been appointed in succession to, or in supersession of, a gentleman who ought never to have been removed from the Bench. The character of the Judge removed had not been attacked; and, with all due reverence to the memory of the late Premier, it must be said that the people of this State would not be content to let the Spear-Parker case rest because the Judge affected was the brother-in-law of the head of the Administration which appointed him. The appointment and

the relationship were two things which could not be divorced from each other in the public mind. Parliament could not control either the thoughts of the people or the writings of the Press. He was not prepared to trust the Government, for he could see plainly that it was their desire to burke the question of the real charges made against Mr. Justice Parker. They did not want to have a fair trial, wherein Mr. Spear should have the benefit of Government funds the same as Mr. Parker. Why should Mr. Justice Parker have the Government officers and the Treasury of this country behind him, and this poor journalist have to stand upon his own resources? If we were going to have a Royal Commission, let it be the next perfect thing to the Supreme Court. Let it consist of three Judges, and let counsel attend and funds be provided for a thorough inquiry. The leader of the Government said he believed in one law for the rich and another for the poor. The Premier's prejudices, sympathies, and aspirations, all went one way. How could members dissociate the fact that, if Mr. Parker were found unworthy of a seat on the Supreme Court Bench, the present Government were somewhat to blame in taking down a blameless man and putting up a blameable one? The member for the South-West Mining District boasted of his independence, but he flopped into his seat with an announcement that whatever trend the debate might take he was going to vote with the Government. Random the honourable member's statements always were. The hon. member tried to make a party question of this. What did he arrange to do in connection with this question?

MR. DAGLISH: The hon. member backed down.

MR. MORAN: It was the hon. member on the Government side who was to have moved the amendment, and who backed down because he was not backed up by members on the Government side. One had thought, and did so still, that the Government committed a wrong in taking the matter out of the Court. There ought never to have been any attempt to appoint a commission when the Supreme Court was at the disposal of the parties. Let him (Mr. Moran) state to the House what probably the

House knew but which the country did not know. Mr. Justice Parker had to-day his full remedy against Mr. Spear and the *Spectator* awaiting him, and why did he not take advantage of it? If one was wrong in saying that Mr. Justice Parker had his remedy against Mr. Spear, why did Mr. Parker give reasons for not taking that remedy? The Premier read a letter to the House in which Mr. Justice Parker gave reasons why he was not going against the *Spectator* in the Supreme Court, and one reason was because Mr. Justice Parker would not trust a jury. The leader of the House was not prepared to trust a jury either. A jury was good enough for a poor man and a rich man for that matter, but it was not good enough for the sacred presence of Mr. Justice Parker. [MEMBER: What about Toodyay?] It was good enough for Toodyay. Was it not the most lamentable instance that we know of that the Premier of the country should seek to place the blame against the Supreme Court, which was the rock of liberty for every British subject? The Judge presided every day in the Supreme Court and directed juries in cases of life and death; but when this same Judge's own trial came on, he was afraid that the jury would find for Spear.

MR. HIGHAM: There was a disagreement.

MR. MORAN: It was no use speaking about disagreements of the past, but Mr. Justice Parker was afraid of a disagreement in the future. Did the hon. member for Fremantle also believe that there would be disagreements? [MR. HIGHAM: In some cases, in libel cases.] If juries were not to be trusted in cases of libel, then it would be better to clear the way and have no libel cases tried. If we were going to admit that juries should not try cases of libel, then let Parliament give the poor journalist and the rich Judge, or the low journalist and the high Judge, in the future, one tribunal; still keeping in mind the good maxim that we should not have one law for the rich and another for the poor. Mr. Justice Parker had his legal right against the *Spectator* as he always had had. [THE MINISTER FOR MINES: No.] Certainly. Surely the member for Yalgoo (Mr. Wallace) did not think some hon.

members were "snakes in the grass," and wished to avoid a Royal Commission for fear of some discoveries about Mr. George? [MR. WALLACE: That was the statement.] Then perhaps the hon. member would have the manliness to mention those members' names, and not allow any party in the House to lie under an aspersion. A feeling appeared to be prevalent amongst a little coterie on the Government side that something might be brought out as to where Mr. George got his "galley proof," and who led Mr. George into the trap; and probably that the trap had been laid with the consent of members of the House. But even were that so, in what way did it affect Mr. Parker's character? Surely every hon. member was free from improper motives in this matter. How could the Opposition be shirking inquiry by trying to refer the case to the highest tribunal in the land, to three Supreme Court Judges? and if three Judges were not procurable in Western Australia, there were numerous precedents for borrowing Judges from the other States, which would no doubt be acknowledged by the ardent federalists on the Government side who were the first to talk of "one people, one flag, one destiny." The Government found no difficulty in importing members for the Civil Service Commission. Their reason for opposing the amendment appeared to be that they did not want an impartial and thorough inquiry. [MINISTERS: Not so.] The actions of Ministers proved that their desire was to confine the scope of the inquiry to something done or alleged by Mr. George, the late member for the Murray. [MINISTERS: No.] The object of Ministers was to ascertain whence and how Mr. George obtained the galley proof of the suppressed *Sunday Times* article. They were desirous of getting on the track of a very pretty scandal. But how would the eliciting of scandalous information advance the settlement of the matters at issue? He had supported the suggestion of the member for Cue (Mr. Ilingworth) that the Royal Commission to be appointed should inquire into everything appertaining to the *Sunday Times* article and to the alleged blackmail; how Mr. Spear got hold of the article, who wrote it, who gave the information to the *Sunday Times*, and so forth. Opposition

members were not red-herring drawers in any sense: they desired only the very fullest inquiry. We must ask ourselves the question why Mr. Justice Parker did not proceed when Mr. Spear pleaded justification. The special pleading indulged in by the Premier to-night in no way answered that question. No doubt, it might have been considered a good journalistic stroke by the *Spectator* to publish the article read by Mr. George. Reporters could not afford to be too scrupulous in obtaining information. They were keen for news; and this was, perhaps, a good thing for the country. However, the fact remained that the *Spectator* did publish the article read by Mr. George, word for word as it was read. Therefore, the prosecution of Mr. Spear afforded the first instance in the history of the British Empire for probably a century past of a newspaper proprietor being put on trial for the publication of a report of parliamentary proceedings. If Mr. Spear's publication of an article constituted a libel, did not Mr. George's reading of the same article constitute a slander? Was it not ridiculous that the publication of an article read in the presence of perhaps five or six hundred people by a member of Parliament from his place in the House should be deemed libellous? Ministers had missed this most salient point, that the *Spectator* printed, at least a month prior to the publication of the *Sunday Times* article read by Mr. George, an article of its own, making almost precisely the same charges. Was it not somewhat strange that the *Spectator* newspaper had published their own article a month before Mr. George read the *Sunday Times* article in the House, and it was not a libel then? Why did not Mr. Justice Parker proceed against the *Spectator* on their own article, where the publisher could not have pleaded privilege, because that was never read in the House? The publisher could not have shielded himself, but must have gone before the tribunal and have taken the consequences of his actions. That was not done. He heard that His Excellency Sir Arthur Lawley compelled action to be taken in this matter. He did not say it was true for a moment, but he could well imagine that a gentleman of his high attainments and keen desire to see the State he ruled over preserve

the most precious monuments of the British Constitution would feel himself awkwardly placed.

THE MINISTER FOR MINES: There was no truth in the statement.

MR. MORAN: The Minister for Mines did not know whether there was, any more than he (Mr. Moran) did. He heard that the Governor expressed a desire that some action should be taken. He did not say he believed it, but this assertion was given for what it was worth. It was a most unfair thing for the Premier to get up in the House and say that in his opinion Mr. Spear was a coward because he would not justify the article read by Mr. George and published in the *Spectator*. Were the journalists of Perth supposed to justify everything they reported as having been said in the House to-night? Because Mr. Spear would not justify the mouthings of a man in the House who was attacked for bringing the matter forward, perhaps rightly so too—because Mr. Spear would not take on his shoulders the carrying through of the wild assertions of Mr. George, he was a coward and ran away! Would the House say how much or how little a newspaper should report of the proceedings of the House? What a nice state of affairs we should get to! Supposing the newspapers of Western Australia were bound to publish everything, or nothing, that took place in Parliament, how many columns would the *West Australian* stretch out to, or how many columns would the *Morning Herald* have to publish of the information given to the House on the Spear-Parker case? Where would the freedom of the Press come in? Where would be the "Cherub" or "Nondescript" who picks out the pleasant little pieces to please the readers of his newspaper, and leaves out the long windy speeches of members, one's own included? He did not wish to justify the *Spectator*, but the article was read in Parliament and was then published by that newspaper. Hundreds never heard of the article before. The country would ask to-morrow, why had Mr. Justice Parker abandoned the prosecution of Mr. Spear on the one article whereof he could not plead privilege? And the answer was given in Mr. Parker's own words: because he was not able to trust a jury.

THE COLONIAL SECRETARY: Not alone that.

MR. MORAN: What was the other reason?

THE COLONIAL SECRETARY: The letter.

MR. MORAN: There was this mother's appeal, this letter which was used four months after it came to hand; and it would appear that Mr. Spear's mother, like all good mothers, was anxious for the fate of her son. What did it mean to her if her son had been convicted? It would mean that her son would have to go to gaol as a criminal. Mr. Spear would have stood alone and unfriended if it had not been for the kind and generous action of one man, because Mr. Spear could not fee counsel to defend him: this one man befriended Mr. Spear with his purse. That information had come to him within the last fortnight; and let members remember that Mr. Spear could not get a lawyer in Perth to appear for him.

MR. NANSON: They had to import one.

MR. MORAN: That was a very serious position for Mr. Spear. Doubtless both mother and son were very anxious about the trial; and the Government were determined to gaol Spear at any price, hoping that the Judge's character would thus escape inquiry. That was the position. [**THE COLONIAL SECRETARY:** It was the Opposition.] Only one gentleman supported Mr. Spear financially, and enabled him to carry on. Mrs. Spear, seeing the gravity of the position, wrote a letter to an old friend, Mr. R. S. Haynes, who on receiving it showed it to Mr. Parker. Mr. Parker kept that letter for three months, during which the Government used all the power they had to gaol Spear.

THE COLONIAL SECRETARY: Surely not.

MR. NANSON: Oh, yes.

MR. MORAN: Undoubtedly. The letter came about December. The prosecution, or Mr. Parker, for some months kept that letter back until it was found there was no chance of gaoling Spear on the question of privilege, after trying him twice for what he was not responsible for—the utterances of Mr. George. Then when those attempts failed in respect of the *Sunday Times*

article, the prosecution indicted Mr. Spear on his own article, when the plea of privilege could not be raised. Mr. Spear presented the muzzle of his most dangerous weapon — justification — over his breastwork, and immediately the enemy beat a retreat. Mr. Parker retired, and discovered he had the letter from the defendant's mother, asking for mercy. No doubt Mr. Parker would be moved by that appeal. It was the Government, much more than Mr. Parker, who wanted to gaol Mr. Spear. The Government would not allow Mr. Parker to retire, but brought on the two trials, advising the Judge to indict Mr. Spear on the article read in Parliament, providing all the evidence, ransacking the Crown Law Department, and finding the guns to fire; and it was doubtless the action of the late leader of the Government (Mr. Leake) which led to proceedings being taken against Mr. Spear on the "Third Judge" article, probably in Mr. Parker's absence. Then Mr. Parker produced the letter, as if to say the plea of justification was only a coincidence. He said he would not prosecute farther, but would apply for a Royal Commission, for before a jury he would probably get the worst of it. The words of Mr. Parker's letter were that there was a doubt as to the meaning of the *Spectator* article, and that Mr. Spear, according to British law, should get the benefit of that doubt. Mr. Parker stated that Mr. Burt told him on the occasion of the last trial that there was not much in the article on which an indictment could be based. Was not Mr. Parker pre-judging the case in making that statement? Mr. Parker appeared unwilling to entrust his case to a jury in the very court over which he presided. The proper course for the Government, when Mr. Justice Parker was unwilling to go farther, was to say to Parliament, "We have now dropped this matter for ever. It is Mr. Parker's lookout. We are satisfied that Mr. Parker's character is stainless." It had been suggested that some hon. member should take on himself the duty of formulating charges against Mr. Justice Parker. For his part, he should be very sorry to undertake that duty, because he considered that Mr. Parker had been an ornament to the Bench ever since his

elevation and would continue an ornament to the Bench so long as he remained on it. That, however, was not the question at issue. The moment that Mr. Parker retired from the prosecution, the Government also should have withdrawn. Ministers, however, thought fit to wave the flag of party for a motive, which motive could no longer be hidden. The object of the Government was to ascertain, if possible, the "snakes in the grass" referred to by the member for Mt. Magnet (Mr. Wallace). But what was the use of that knowledge when obtained? Supposing it were proved that a clique, either in or out of Parliament, had made a catspaw of Mr. George, how much farther should we be towards a settlement of the charges against Mr. Justice Parker? Members were entitled to ask, on this point, *Cui bono*? Members were entitled to demand that the proposed inquiry should go into every phase, shade, and aspect of the charges and everything relating to them; but we did not even know how wide or how narrow the scope of the inquiry was to be.

THE PREMIER: It had been distinctly stated by him what the scope of the inquiry would be.

MR. MORAN: The Premier had said nothing on that point. The Premier did not tell the House whether the inquiry was going to cover Mr. Parker's career as a lawyer, and whether it was going to cover the charges in both those articles in the *Sunday Times* and *Spectator*.

THE PREMIER: There was no need to cover both. The one read in Parliament included the other. He thought the one read in Parliament was more offensive than the other, but they were practically the same.

MR. MORAN: If the article read by Mr. George in the House a month after Mr. Spear published his article was the same, why did not Mr. Parker proceed against Mr. Spear before the article was read in the House?

THE PREMIER: Mr. Justice Parker did not care a rap what was published in the *Spectator*. It was what was published in Parliament that affected him.

MR. MORAN: If so, why did Mr. Justice Parker make Mr. Spear a victim, and not proceed against Mr. George?

THE PREMIER: Because he could not do so. Mr. George was absolutely protected by parliamentary privilege.

MR. MORAN: The poor journalist was not protected. They tried to gaol one, and they let the other go free, and made him a Commissioner of Railways. If Mr. Parker did not care a jot about Mr. Spear, why did he not come the next day to this House for a Royal Commission, instead of prosecuting Spear? He had tried to incriminate Mr. Spear, and having twice failed, and being challenged to go to trial on the article on justification, he said, "No; I will go for a Royal Commission." That somewhat weakened the assertion of the present Premier that Mr. Justice Parker did not care about Spear. It was not, however, Mr. Justice Parker who tried to put Mr. Spear into gaol, but the present Government. They were the prime movers in these prosecutions. When Mr. Justice Parker asked for a Royal Commission, why did not the Premier say, "No, Mr. Parker; we think it is a proper thing for you to go on with your action in the Supreme Court?" Nothing could replace trial by jury. Not even a trial by three Judges could shield Mr. Parker from these accusations. His proper course was to take Mr. Spear to trial on the plea of justification. The best alternative was closed by the unwillingness of one party to get three impartial men to try the case in such a way as would satisfy everybody. One did not know how it would be possible to drag members of Parliament before a Commission. He hoped members of Parliament would show the greatest eagerness to give evidence on every point if they were asked to do so. A trial by three Judges was the only inquiry which could now satisfy him, and such an inquiry would not satisfy him if it was not conducted on the same principle as trial by jury, open to all, counsel receiving fees from the Government to appear for both sides, and every protection given to Mr. Spear, because he was a citizen of the State just the same as Mr. Parker was, and his life and liberty were just as valuable to the State. The liberty of the poorest man in the State was just as valuable as Mr. Parker's liberty. He would oppose with all his power the proposal to have one Judge to hold the inquiry. He would be willing to trust a jury of twelve men. He was

prepared to stand by the rock of liberty of the British people, which was trial by jury, but he would not allow trial by one Judge alone. It would be most undesirable that one Judge should have the onus placed upon him of deciding this great question. It would not be fair to the Judge, and he (Mr. Moran) would not accept the verdict as a good one: there were thousands of people of the same way of thinking. If there were three Judges sitting on the case, as in the Full Court, if a majority of those Judges gave a verdict, the country would be satisfied. There had been nothing in the life of Mr. Justice Moorhead or Mr. Justice Hensman which would prevent either from sitting on this Commission. If Mr. Justice Hensman was not fit to sit on this Commission, then why was he fit to try Mr. Spear?

A MEMBER: Mr. Justice Hensman was going away on six months' leave.

MR. TAYLOR: It would be well to have a Judge imported to try Mr. Spear.

MR. MORAN: It would be well to have three Judges imported to try Mr. Spear, for why should not the case be tried by Justices Stone, Hensman, and Moorhead, with a new Judge if such there were?

MR. PURKISS: Judge Hensman was going away for six months.

MR. NANSON: A short time to wait.

MR. PURKISS: Too long.

THE COLONIAL SECRETARY: One Judge was going away, and another could not sit.

MR. MORAN: These were mere quibbles. Would Judge Moorhead give a false verdict, or Judge Hensman violate his oath, because in the remote past they had acted as barristers in the cases in question? Could Judges be found who had not so acted?

MR. PURKISS: For such reasons, Judges refused every day to sit.

MR. MORAN: Then let the Government import Judges. Why drag in laymen, who might themselves have to appear before Judge Parker?

MR. DIAMOND: Jurymen were laymen.

MR. MORAN: But they gave a collective verdict. Why were Government

supporters making such wicked attacks on the jury system?

THE TREASURER: The member for Toodyay also attacked it.

MR. MORAN: This was most extraordinary under constitutional Government. Less than three Supreme Court Judges would not suffice. Speaking merely as a private citizen, he was not prepared to leave in the hands of the present Government either the nomination of the Royal Commission or the delimitation of the scope of the inquiry. The House was certainly entitled to give directions on these points. It was to be regretted that no member on the Government side had seen fit to move an amendment affirming that Mr. Justice Parker should be left to seek his remedy in the Supreme Court. The next best thing to that was proposed in the amendment of the member for Toodyay. A court consisting of three Supreme Court Judges would be fair to Mr. Parker, to Mr. Spear, and to the country. Parliament could direct the Government to appoint a court of three Judges; but Parliament could not force Mr. Parker to proceed in the Supreme Court against Mr. Spear. Therefore, we had better do what was in our power, at the same time expressing our regret that Mr. Parker had not pursued Mr. Spear on the indictment in which the latter might have been incriminated. The member for Claremont (Mr. Foulkes) himself had said that the proper course was to let Mr. Justice Parker proceed in the Supreme Court, and that neither the Government nor Parliament should interfere. In conclusion, he felt bound to reiterate his firm conviction that the Government never wanted to have the matter properly inquired into. They desired to appoint such a commission as would vitiate the value of any inquiry, whereas the country wanted to know the truth, the whole truth, and nothing but the truth.

MR. BUTCHER moved the adjournment of the debate.

Motion (adjournment) put, and a division taken with the following result:—

Ayes	...	...	...	9
Noes	...	...	...	24
				—
Majority against				15

AYES.
Mr. Butcher
Mr. Holman
Mr. Moran
Mr. Nanson
Mr. O'Connor
Mr. Stone
Mr. Taylor
Mr. Yelverton
Mr. Jacoby (Teller).

NOES.
Mr. Daglish
Mr. Diamond
Mr. Ewing
Mr. Foulkes
Mr. Gardiner
Mr. Gordon
Mr. Gregory
Mr. Hassell
Mr. Hastie
Mr. Hayward
Mr. Higham
Mr. Holmes
Mr. Illingworth
Mr. James
Mr. Kingsmill
Mr. Monger
Mr. Purkies
Mr. Rason
Mr. Reid
Mr. Reside
Mr. Smith
Mr. Thomas
Mr. Wallace
Mr. McDonald (Teller).

Motion (adjournment) thus negatived.

At 1:30 a.m., the **SPEAKER** left the Chair for 10 minutes, and resumed it.

MR. MONGER moved that the question be now put.

MR. NANSON: Gag! We could speak outside the House, if we were not allowed to speak inside.

THE TREASURER seconded the motion.

Motion put, and a division taken with the following result:—

Ayes	...	...	...	23
Noes	...	...	...	10
				—

Majority for ... 13

AYES.
Mr. Daglish
Mr. Diamond
Mr. Ewing
Mr. Foulkes
Mr. Gardiner
Mr. Gordon
Mr. Gregory
Mr. Hastie
Mr. Hayward
Mr. Higham
Mr. Holmes
Mr. Illingworth
Mr. James
Mr. Kingsmill
Mr. McDonald
Mr. Monger
Mr. O'Connor
Mr. Purkies
Mr. Quinlan
Mr. Rason
Mr. Reid
Mr. Smith
Mr. Wallace (Teller).

NOES.
Mr. Butcher
Mr. Hassell
Mr. Holman
Mr. Moran
Mr. Nanson
Mr. Reside
Mr. Taylor
Mr. Thomas
Mr. Yelverton
Mr. Jacoby (Teller).

Motion thus passed, that the question be now put.

MR. FOULKES: Would it be in order to ask the Premier a question?

THE SPEAKER: No.

Question (that the words proposed to be struck out stand part of the resolution) put, and negatived. The words struck out accordingly.

Question (to insert the amendment) stated:

THE PREMIER: It was to be hoped the House would get to a division now on the main point. He did not think any member could accuse him of exercising harshly the powers he possessed as leader of the House. Since half-past four, certainly since a quarter to five, the House had been discussing one question.

MR. NANSON: No. One issue had been brought up, the appointment of three Judges.

THE PREMIER: The House had been discussing one question, the main point being whether there was or was not to be a commission. When the substantive motion was decided, an amendment was brought forward, the effect of which would be that we recognised now there should be a commission, but we asked the House to appoint it. He did not think the House ought to nominate the commission. Unless the House thought the Government unworthy and incapable of appointing the commission, the Government ought to appoint it. Apparently some misapprehension had arisen in connection with the matter. His intention always was that if he could get a Judge to act, a Judge should act. Farther than that, his idea was that there should be a commission which should consist if possible of our Chief Justice and two laymen; and to remove difficulty as far as possible, he determined to himself prepare a list of laymen, and intended to ask the assistance of his friend the leader of the Opposition to see if he could suggest farther names, so that the Government themselves might appoint the two. If he had desired to exercise his powers, the commission might have been appointed three or four days ago. As the motion which had now been introduced was coming on, he delayed the appointment. He submitted to members, except the extremists on the front Opposition bench, that they might trust the Government to appoint this commission. We knew the importance of the commission, and were anxious to appoint men who would do justice. There had been a long discussion on the question, and the sooner it was brought to a determination the better.

MR. NANSON rose to speak.

MR. McDONALD moved that the question be now put.

THE SPEAKER: The hon. member could not do that whilst another member was up.

[2 o'clock, a.m.]

MR. NANSON said he could not congratulate the members who sat behind the Government, and voted on every occasion at the behest of the Government, on their actions to-night. All through the debate there had been a studied and determined attempt to stifle opposition; and but for the fact that the member for West Perth spoke early in the debate, an endeavour would have been made from the Government side of the House to gag him. Members over there were running away. [Several members leaving the Chamber.] They could not face the artillery from the Opposition side of the House. Let members run away by all means. He could speak to empty benches, and probably find those empty benches contained as much intelligence as hon. members on the Government side. The action of the Government all through the debate had been to stifle discussion, and attempt to force on a division on the question when the full strength of the members on the Opposition side had not been heard. Opposition members were not in the habit of declaring that members on the Government side made vile charges and then ran away. He made that charge and now proceeded to prove it, and prove how members had attempted to kill the discussion and hide the true issues. In the first place we had the member for Cue, who in dulcet tones rose in his place and took advantage of what he thought was the inexperience of members on the Opposition side, although he (Mr. Nanson) was fortunate in having one beside him who knew every form and movement in the House. In dulcet tones the member for Cue proposed that the previous question be put.

MR. ILLINGWORTH: It was explained at the time.

MR. NANSON: It was put forward as a sort of "feeler," but it was too much even for the well-drilled phalanxes on the Government side. Even they could not stand the gag applied in so brutal, so open, so undisguised a form. The member for Cue, like a little boy who pulled a knocker and ran away, then ran away

from his nice little suggestion that this discussion should be burked. Oh, no; the hon. member did not wish to burk discussion at all! Finding the obedient supporters of the Government would not follow him, the hon. member dropped this nice little idea, that the question be put without farther discussion. The member for West Perth delivered a speech that certainly called for answer and demanded answer, but no member on the Government side of the House rose to answer it. The allegations and arguments that he (Mr. Nanson) submitted, beginning some time about half-past four yesterday afternoon, still remained unrefuted. The Government still remained silent, they still remained under the lash except for an occasional squeal from such members as the member for South Perth and the member for the South-Western Mining district. The Government had enough wit to know their action was incapable of defence. He thanked the Premier for refraining from appointing a commission while this motion was pending; but even such a practised tactician as the Premier would not then have dared to appoint the commission. Though he had flouted Parliament before, even his hardihood stopped short at that. He (Mr. Nanson) supported the member for Toodyay's amendment, not because it was the best course, but the next best course to that embodied in the defeated motion.

MR. MORAN called attention to the state of the House.

[Bells rung and quorum formed.]

MR. NANSON: Next to a trial by Judge and jury, a tribunal of Judges was preferable. If he could not get a whole loaf, he would take half. He was not closely wedded to the principle of trial by jury, provided another equally good tribunal was available. A tribunal consisting of three Judges would be much like the Supreme Court in Banco, and would be as good as trial by Judge and jury. Both the member for South Fremantle (Mr. Diamond) and the member for Toodyay (Mr. Quinlan) objected to juries. The latter member, however, suggested that in place of a jury we should adopt a tribunal equal to a jury, and in some respects even superior. It had never been suggested by him that Mr. Spear, if tried and found guilty, should not be punished with the fullest

penalty. That end, however, seemed to be unattainable; and the Government and the majority of members seemed unwilling to support his motion, by which, like any other reasonable man, he had sought to get the next best thing. He wished to protest against the refusal of the Government to allow the debate to be adjourned. Possibly the intention of Ministers was to wear out the Opposition by a process of exhaustion, if they failed to burke discussion by moving the previous question or moving "that the question be now put." A moment later, and the delivery of his speech would have been prevented by the motion of that Ministerial puppet, the member for Cockburn Sound (Mr. McDonald). It was to be regretted that the Premier, who on many occasions had been compelled to hold, with a few other members, the Opposition benches against great odds, should, now he had a majority behind him, endeavour to stifle free discussion. To maintain that an important question could be debated with freshness, acumen, and vigour at a quarter-past two in the morning was absurd. However, the Government were determined to force the matter to a decision, and to crush the amendment of the member for Toodyay. Not only the majority had its rights, but the minority also, and it was an evil day for this House when the Premier, who was the leader and who should be the protector of its liberties, attempted to stifle discussion and to compel members to sit all through the night and in the early hours of the morning in order that he might snatch a division on this subject. He (Mr. Nanson) did not mind if he sat there until daylight. He would stay there until he had expressed his views to the utmost extent. If the tactics at present pursued were to be those of the Premier, they would get a stomachful of them before the session was finished, for this was not the only time in which he would have to sit, not only till late at night, but far into the morning. If the hon. gentleman threw down the challenge, he (Mr. Nanson) willingly accepted it, and members would see at the end of the session who it was who had attempted to obstruct business and burke discussion. The hon. gentleman was only at the beginning of his political course as Premier, and had yet much to learn, if he

thought he could bully and hector and drive those on the Opposition side of the House into going his way, simply because he had a majority behind him. The Premier said he did not believe in party government. No; he did not believe in it certainly when party government could do him any harm, but when he had a majority behind him and could use it in a tyrannical fashion, did he not then believe in party government? Yes. That was a horse of a different colour. The hon. gentleman, for all his hypocritical cant against party government, knew as well as he (Mr. Nanson) that he was ready on every occasion in this House to avail himself of party, and there was no man who better understood the art of successfully drilling a party into obedience. Not only were there his followers on the direct Government benches, but he had hypnotised or done something or other in order to drill the Labour party into obedience. The Premier called for the tune, and the Labour party piped at his bidding. No matter what the member for East Perth proposed, one firmly believed the member for Subiaco—or, as he preferred to call him, the member for smother, because he wanted to smother this question to-night—would be ready to swallow it holus bolus. One had not the slightest doubt in his mind that when the Railway Bill came up, the Labour party would be hard at work in endeavouring to gild the pill they would be called upon to swallow at the behest of the Government. The Labour party—the Labour party, good heavens! Had they seen the Labour parties in the Eastern States? Members on the Labour bench had yet to learn their duty. There was only one member of that party who understood the functions of a Labour party. He had opened his speech this afternoon by disclaiming any intention to make this a party matter. When the question of his own re-election as leader of the Opposition was not settled, he thought it was his duty to inform members of the Opposition that whatever might happen, whether he was elected or not, it was his intention to—he did not say how, as he did not know at that time, for he wished to see what answer the Premier would give to the questions which he asked—bring this subject up, and he had expressly stated this so that if the Opposition thought it

would embarrass them in any way in electing him as leader of the party, they had a right to reject him and put someone else in his place. He had studiously refrained, in party meetings and in the precincts of the House, from asking members in what way they intended to vote on the question, as he did not wish to make it a party matter in any way. He had hoped that the member for East Perth would have allowed the question of justice to rise superior to claims of party, but the Premier preferred to put party first and justice afterwards. What he regretted more than anything else was that in the Premier's insensate fury on behalf of party, on behalf of Government and those on the Government side, he did not scruple to sacrifice Mr. Justice Parker. If there was one side of the House which was endeavouring to do a good service for Mr. Justice Parker, it was the Opposition side. Through every stage of the proceedings, who had attempted to burke inquiry? Who had attempted to burke the motion? Who had attempted to block the amendment of the member for Toodyay? The members on the Government side. The members on the Opposition side had attempted to have an inquiry of the fullest sort made. Members on the Opposition side were ready to amend the motion, to give the inquiry the widest possible scope. The member for East Perth had led members to believe there was a sort of conspiracy, but he did not prove this conspiracy. Let the Premier produce the men who had made a tool of his present Commissioner of Railways, and have the fullest inquiry. The only conspiracy, if there were any, was on the Government side—a conspiracy of silence.

MR. JACOBY called attention to the state of the House.

[Bells rung and quorum formed.]

MR. NANSON: In the Queen's Hall and in many important towns, he (Mr. Nanson) had drawn attention to this conspiracy; but neither the Premier in his policy speech, nor other Government members before their electors, had taken up the challenge: they knew better. By the motion, one good purpose at least had been served: the conspiracy had been uncloaked, and the plot to keep the matter quiet broken up. Such grave public scandals should not be allowed to die out,

but should be adequately scotched or killed. The truth of the charges should be investigated in the fullest possible fashion; so that the matter might be brought to a satisfactory termination, instead of to the termination of suppression desired by the Premier and the member for Subiaco (Mr. Daglish). The Premier, speaking as leader of the Government, endeavoured to make much capital out of the fact that the amendment might be regarded as a motion of no-confidence in the Government. That contention was ridiculous. It was perfectly within the competence of the House to express to the Government a wish as to the form which the proposed commission should take. The Government could well be left to select the *personnel* of the commission, so long as the House defined that the members of the commission should have the legal status of Supreme Court Judges. Whatever Supreme Court Judges were available in this State might be utilised, because otherwise a slur might appear to be cast on our Bench. If, however, the Government considered our Judges not competent to deal with the matter, they should search Australia for a suitable tribunal. The contention that Judges could not be obtained from the sister States was absurd, seeing that at the present time the Government had two Royal Commissioners appointed from the Eastern States inquiring into our civil service. The purity of the administration of justice was infinitely more important, more vital, and more transcendent to the people of this State than even the question of civil service reform. No matter at what cost, the stigma at present resting on our Supreme Court Bench should be removed. The tactics of the Government were directed to giving the business a decent, or rather indecent, burial. No people were more sensitive in regard to the administration of justice than Englishmen or Australians. The Briton's boast had always been that the judicial Bench of his country was absolutely above suspicion; and the reputation of our Supreme Court should be to us a more precious jewel than all the wealth of the Golden Mile. It was no question of pounds, shillings, and pence, nor was it a question of the difficulty of getting Judges in the Eastern States. If we asked Judges to come here and administer justice, they could not, un-

less false to their oaths of office, refuse the appeal, made as it should be made by the Government of this country. If Judges were not obtainable here, they were obtainable elsewhere, and no one knew better than the Premier that if he went the right way about it he could obtain those Judges. The Premier would have ground of complaint if members said, "You are to obtain this Judge, that Judge, and the other Judge, but you are not to obtain this Judge, that Judge, and another." Members left the *personnel* of the commission absolutely to the discretion of the Government. If he would honestly and heartily take this direction from the House, and there was no reason why he should not, that the commission should be composed of Judges, we could fully trust him to see that the right Judges were appointed. In fact, there was no question of right Judges. He (Mr. Nanson) did not know of any single Judge in Australia at the present moment who did not command in a matter of this kind the confidence of the people of the State to which he belonged. He had been accused on more than one occasion by members on the Government side of making a grab at the Treasury benches. Such observations he had hitherto treated with contempt. The Premier of the country had accused him of bringing forward a motion so that he might drive the Government from the Treasury benches. That was an unworthy accusation, and he knew that when the Premier thought over that statement calmly he would admit it had been made in the heat of the moment. The Minister for Mines laughed, as usual. A laugh seemed to be the sum total of that member's contribution to the debate. A sneer and a laugh became the hon. member, who was utterly incapable of appreciating a generous sentiment, or of believing that anyone was actuated by disinterested and noble motives.

THE MINISTER FOR MINES: It was not necessary to hear generous sentiments from the hon. member.

MR. NANSON: When an inconvenient motion was brought against the Government, the argument was at once advanced that the country wanted stable Government, but it might be stable Government at too high a cost. If by

stable Government was meant a Government fast-rooted in iniquity, then we were purchasing stable Government too dearly. The hon. member for East Perth had only a short record as Premier, and it was unfortunate and deplorable that at the outset of the bright career the Premier had ahead of him, he should attempt to burke inquiry and to stifle the process of the law courts in this country. The hon. member had a great opportunity when he assumed office of saying, "No matter what happens, no matter at what inconvenience, I take my stand on this one firm, unalterable principle: I will see that justice is done, no matter at what inconvenience or hardship." That was the supreme thing in every country, that which we were to aim at, that justice should be done. Let the country decide whether the Premier's action evidenced his desire that justice be done. The attempts to apply the closure showed a determination to keep the subject from being ventilated. Not for any reason could the question be dropped at this stage, for it had so much vitality that, if now dropped, it would afterwards be said that we dared not handle it. The member for Subiaco (Mr. Daglish) said this debate had degraded the House. If so, the House should not object to being again degraded, if this were degradation. It was astonishing that the Labour party, which had come in as the determined foe of anything like the suppression of truth, instead of supporting him (Mr. Nanson) on this non-party matter, should join forces with the Government to make it a party question. That hon. member had accused him of turning a somersault by adopting the opinion of the Government; but the Government had changed their opinion, for they were supporting the member for Toodyay's amendment, though it was not clear that the Premier would finally accept that amendment. If the Government were willing to accept the amendment, the Premier need but say so, and the debate could be closed immediately without a division. The most amazing part of the speech of the member for Subiaco (Mr. Daglish) was his reply to the question of what should be done in this matter. With a rare outburst of candour, the hon. member said he wanted the matter smothered.

MR. DAGLISH: The hon. member (Mr. Nanson) had used the word "smothered." In reply to a question whether he (Mr. Daglish) wanted the question smothered, he had said "yes," referring to the question before the House.

MR. NANSON: No doubt the member for Subiaco had his instructions from the Government on the point. The difficulty, however, was that the matter had to be smothered not only in Parliament, but outside, among the people. The Premier had asked that the constitution of the Royal Commission should be left entirely in the hands of the Government. There was a time when perhaps that course might have been adopted; but the attitude of the Government on this question had certainly not been so friendly or so mild as to entitle them to such a large measure of confidence from the House. Putting Mr. Spear aside, the general feeling on this subject was such that the House was certainly entitled to give to the Government a wide and general direction that the Commission, however formed, should consist of three Supreme Court Judges. The Government had fought inch by inch and step by step against making an effective inquiry, and were still fighting that way. When members left it to the Government to say what Judges they would appoint, Ministers said it was casting a slur on the general formation of the commission. Judging by their past actions, the Government were not so willing as some members would have it believed to constitute the commission so that it should consist of three Judges. If they were willing to so form the commission, why could not the Premier say so and let the matter be settled without farther debate? But the very fact that he was unwilling to give any assurance to the House justified members on the Opposition side in the attitude they were assuming. When the member for West Perth (Mr. Moran) was speaking, the Premier interjected that Mr. Parker did not wish to go against the *Spectator* because the article in that paper was not the one referred to in the House. He regretted that it would be necessary for him to refer, and possibly at some length, to *Hansard* with regard to this matter. The Premier would lead members to suppose that the only thing referred to in the House was the article known as the sup-

pressed *Sunday Times* article. That was not the case at all. When Mr. George brought this matter under notice, the first paper he read was an extract not from the suppressed *Sunday Times* article, but from a goldfields paper, the *Evening Star*, published at Boulder on Wednesday, 9th October, stating that "a great and sensational exposure is promised shortly"; also, that "Mr. George is to open the debate, which may furnish startling disclosures"; and so on. The Premier had taken the stand that only those newspapers could be proceeded against that were mentioned in Parliament. If it was reasonable to go against the *Spectator*, why, when the Government were undertaking a crusade against the Press, did they not include the *Evening Star* in that crusade? A good deal had been said about the *Spectator* charges not being mentioned in Parliament. But the fact was the charges were mentioned in Parliament. Mr. George mentioned the actual words himself. They were to be found in the debate which took place on the 15th October, 1901, at page 1538 of *Hansard*. Mr. George did not read that article in the *Spectator*, and for a very good reason, because it contained precisely the same matter as that which had appeared in the suppressed *Sunday Times* article. The argument of the Premier was that Mr. Justice Parker and the Government took no notice of the *Spectator* article because it was not mentioned in Parliament; but it was mentioned in Parliament by Mr. George, who, in order to avoid reading it, said the *Spectator* had published a similar article, which he would not read, as it was practically the same as the suppressed article. The reason that no notice was taken of the *Spectator* article by the Government because it was not mentioned in the House fell to the ground, because the article was mentioned. It was not actually read, but the contents were indicated sufficiently to say that it was read in the House. That was the sort of quibble the Government relied upon. Could absurdity and quibbling go farther? Could the arts of a special pleader be dragged into the House in a more flagrant and open manner? [THE COLONIAL SECRETARY: Than at present.] Already reference had been made by him to the question of the

expense of an inquiry, and he did not wish to labour that point unnecessarily. By accepting the member for Toodyay's amendment, the question of expense could be satisfactorily settled. Early in the session the Premier had refused to provide funds for Mr. Spear's defence. Mr. Spear might yet be proved to be the greatest scoundrel unhung; but that should not be assumed. After the plea of privilege, he should never have been proceeded against on the first count, but on his own article, on the question of fact; therefore his future expenses in the case should be borne by the country, and this was a small matter in comparison with the need for finally settling the question. The Government having accepted the principle of a Royal Commission, he (Mr. Nanson) would meet them half way. If Mr. Justice Parker had not confidence in a jury, let him have a Royal Commission; but supporters of the amendment maintained they had a right to state generally what form that commission should take. The alleged difficulty of obtaining Judges was non-existent. In the first words he had spoken on the motion, he declared that it was not regarded as a party question on this (Opposition) side of the House; and in the last words he would speak on the motion, he desired to reiterate that declaration. In demanding that the proposed Royal Commission should be composed of Supreme Court Judges, the House was casting no slur on the Government. We did not want a Royal Commission of commission agents, or auctioneers, or bookmakers, or police magistrates, or amateur lawyers; but a commission drawn from the very highest legal talent available. If hon. members opposite could only shake themselves free from the shackles of party, they would recognise the proposition to be eminently reasonable, wise, and safe.

[3-15 o'clock, a.m.]

MR. DIAMOND moved that the question be now put.

MR. HIGHAM seconded.

Motion put, and a division taken with the following result:—

Ayes	...	...	...	22
Noes	...	...	...	11
Majority for	...	...	...	11

AYES.	NOES.
Mr. Daglish	Mr. Butcher
Mr. Diamond	Mr. Hassell
Mr. Ewing	Mr. Holman
Mr. Foulkes	Mr. Moran
Mr. Gardiner	Mr. Nanson
Mr. Gordon	Mr. Reside
Mr. Gregory	Mr. Stone
Mr. Hastie	Mr. Taylor
Mr. Hayward	Mr. Thomas
Mr. Higham	Mr. Yelverton
Mr. Holmes	Mr. Jacoby (Teller).
Mr. Illingworth	
Mr. James	
Mr. Kingsmill	
Mr. McDonald	
Mr. Monger	
Mr. Purkiss	
Mr. Quinlan	
Mr. Rason	
Mr. Reid	
Mr. Smith	
Mr. Wallace (Teller).	

Motion thus passed that the question be now put.

Question (Mr. Quinlan's amendment, three Judges) put, and a division taken with the following result:—

Ayes	...	...	...	14
Noes	...	...	...	20

Majority against ... 6

AYES.	NOES.
Mr. Butcher	Mr. Daglish
Mr. Foulkes	Mr. Ewing
Mr. Hassell	Mr. Gardiner
Mr. Holman	Mr. Gordon
Mr. Moran	Mr. Gregory
Mr. Morgans	Mr. Hastie
Mr. Nanson	Mr. Hayward
Mr. Quinlan	Mr. Higham
Mr. Reside	Mr. Holmes
Mr. Stone	Mr. Illingworth
Mr. Taylor	Mr. James
Mr. Thomas	Mr. Kingsmill
Mr. Yelverton	Mr. McDonald
Mr. Jacoby (Teller.)	Mr. Monger
	Mr. Purkiss
	Mr. Rason
	Mr. Reid
	Mr. Smith
	Mr. Wallace
	Mr. Diamond (Teller).

Amendment thus negatived.

THE PREMIER: The question was now disposed of.

THE SPEAKER: Yes.

MR. THOMAS: On a point of order, was not the word "that" still left?

THE SPEAKER: The question was put "That in the opinion of this House."

MR. THOMAS: Was not the question to insert after the word "that" certain words following?

THE SPEAKER: That was so.

MR. MORAN: Then there was a question before the House now?

THE SPEAKER: What was that question?

MR. MORAN: The word "that."

ADJOURNMENT

THE PREMIER moved that the House at its rising do adjourn until 7.30 the same evening (Thursday).

MR. MORAN: It was only right that the House should meet at 4.30. Because there had been a long sitting, that was no reason why the House should not meet at the usual hour. Parliament sat on only three days of the week, although he (Mr. Moran) thought it should meet on five days of the week and at 2.30 each day. By-and-by the Government would come in clamouring to rush the business through at the end of the session. He hoped the House would insist on meeting at the usual hour.

THE PREMIER withdrew the motion, and moved that the House do now adjourn.

Question put and passed.

The House adjourned at 3.25 a.m., until Thursday afternoon.

Legislative Assembly,

Thursday, 14th August, 1902.

Sir Arthur Lawley: Letter of Farewell—Papers presented—Question: Timber Concession—Question: Arbitration Court, Agent Pleading—Question: Harward Reports, Interjections—Legal Practitioners Act Amendment Bill, second reading moved—Administration (probate) Bill, in committee, reported—Public Notaries Bill, in committee, reported—Explosives Act Amendment Bill, second reading resumed, in committee, reported—Elementary Education (district boards) Bill, second reading—Justices Bill, second reading—Adjournment.

THE SPEAKER took the Chair at 4.30 o'clock p.m.

PRAYERS.

MR. SPEAKER announced that he would leave the Chair for 20 minutes [to enable