

Upon a subsequent occasion Mr. B. again voted in a division of the House, and upon the same day a writ was issued against him by one Clarke, claiming the penalties. The old point, as to the division of a day, was at once suggested; and the statement of claim was demurred to upon the ground that, as a writ is supposed to issue at the earliest moment of the day of its date, it had issued before the offences complained of. Mr. B. failed in his demurrer, 7 *Q. B. Div.* 151; and in the Court of Appeal he fared no better, 8 *Q. B. Div.* 63.

Clarke only survived this difficulty to meet one more serious. It was said that "when a penalty is created by statute, and nothing is said as to who may recover it, and it is not created for the benefit of a party grieved, and the offence is not against an individual, it belongs to the Crown, and the Crown alone can maintain a suit for it." Mr. Justice Matthew thought that this proposition was unsound, and the Court of Appeal agreed with him (7 *Q. B. Div.* 38), but the House of Lords reversed the decision (8 *App. Ca.* 354) and this terminated the action in Mr. B.'s favor.

It only established, however, that the Attorney-General, and not a common informer, must be plaintiff, and an information was forthwith filed. In this the real points in controversy were tried at bar in the Queen's Bench Division, when a verdict was entered against the defendant. The stability of that verdict has been upheld by the Court of Appeal.

The principal question decided is as to the religious belief necessary to the taking of an oath. The Master of the Rolls disposes of it by citing the old decision in *Ornithund v. Baker*, 1 *Atk.* 21, where Miles, C. J., said, "I am of opinion that such infidels as believe in a God, and that He will punish them if they swear falsely, may and ought to be admitted as witnesses in this, though a Christian country. And on the other hand, I am clearly of opinion that such infidels (if any such there be) who either do not believe in a God, or if they do, do not think that He will either reward