

HON. MR. OGILVIE, from the committee, reported the Bill without amendment.

HON. MR. ABBOTT moved the third reading of the Bill.

The motion was agreed to, and the Bill was read the third time and passed.

BILLS OF EXCHANGE ACT AMENDMENT BILL.

(In Committee.)

The House resolved itself into a Committee of the Whole on Bill (B) "An Act to amend the Bills of Exchange Act, 1890."

(In the Committee.)

On section 5,—

HON. MR. POWER—I do not feel altogether convinced by the logic of the leader of the House as to the merit of this clause. The clause which stood in the Bill as it was introduced in the other House last year, the work of which this amendment was intended to do, is as follows:—

"When a bill payable to order on demand is drawn on a banker, and the banker on whom it is drawn pays the bill in good faith and in the ordinary course of business, it is not incumbent on the banker to show that the endorsement of the payee or any subsequent endorsement was made by or under the authority of the person whose endorsement it purports to be, and the banker is deemed to have paid the bill in due course, although such endorsement has been forged or made without authority."

Now, I can see that there is no material difference between the effect of the enactment which both Houses declined to pass last year and the amendment proposed by this clause 5. The hon. leader of the House told us that it was intended to provide for the cases of banks chiefly—in fact, altogether—that it was intended to put a bank which paid the amount of a forged cheque in the position of a holder in due course. Any hon. gentleman who reads the amendment proposed by clause 5 and reads section 60 of the English Act, which both Houses declined to take last year, will see that they are substantially the same. I have read the section in the English Act. The clause in this Bill is :

"2. If the drawee of a check bearing a forged endorsement pays the amount thereof to a subsequent endorser, or to the bearer thereof, he shall have the rights of a holder in due course for the recovery back of the amount so paid from any endorser who has

endorsed the same subsequent to the forged endorsement, as well as his legal recourse against the bearer thereof as a transferrer by delivery ; the whole, however, subject to the provisions and limitations contained in the last preceding sub-section."

That means, I think, just about the same thing as the provision in the English Act. I am not undertaking to discuss now the right or the wrong of the thing, but the effect of this enactment will be that the bank will have a remedy against every endorser on a cheque bearing a forged endorsement subsequent to the forged endorsement. Then the bank has a remedy against the person to whom the money has been paid and every previous endorser up to the forged endorsement. The man who endorses immediately after the forged endorsement pays his money for the amount of the cheque, and he loses it. Under this enactment he loses the money, instead of the bank. I do not know of any reason why a person to whom a cheque is presented bearing a forged endorsement should lose the money any more than the bank. He has no better means, probably, of knowing that the endorsement is forged than any subsequent endorser. Of course, as the law now stands, the bank is not placed in just as good a position as the holder in due course, and the question is whether we should make that change in the bank's position.

HON. MR. ABBOTT—The clause which this House rejected last year has no bearing on the clause now proposed. One has no bearing on the other and no relation to the other. The clause which we rejected last year relieved the bank from the responsibility of paying a cheque which bore a forged endorsement, and could hold the maker of the cheque and charge it to his account, notwithstanding that the person to whom the cheque had been given and to whose order it was payable had never endorsed it. In other words, it proposed to transfer from the bank the responsibility for forged endorsements and to lay it upon the maker of the cheque. That was the practical object, as every banker in this House understands, of the clause we threw out last year, and a reference to *Hansard* will show I am correct. We said here we would not consent that a man should be deprived of his money which he had deposited in the bank after the bank holding his money having a valid voucher for the