

ments. The report of the Committee being adopted the Bill was read the third time and passed.

#### SUPREME AND EXCHEQUER COURT.

On motion of Mr. Blake the House went into Committee on the Bill to make further provision in regard to the Supreme Court and the Exchequer Court of Canada, Mr. Mills in the Chair. Several verbal amendments having been made to the Bill,

Hon. Mr. BLAKE proposed a series of new clauses, of which he had given substantial notice on the notice papers. The 26th section would read—"An appeal to the Supreme Court in any *habeas corpus* matter shall be heard "at an early day, whether in or out of "the prescribed Session of the Court."

The law gave considerable jurisdiction to the Court in connection with these matters. It was at any rate doubtful whether these cases should be heard out of the prescribed Sessions, which were held in January and June; and it was obviously improper that any of them should be postponed until these Sessions.

The 29th clause was as follows:—

"In any *habeas corpus* matter before a Judge of the Supreme Court, and any appeal to the Supreme Court in any *habeas corpus* matter, the Judge or Court shall have the same power to bail, discharge or commit the prisoner or person, or to direct him to be detained in custody or otherwise to deal with him, as any Court, Judge, or Justice of the Peace having jurisdiction in any such matters in any Province of Canada."

The 28th Section read:—

"On any appeal from the Supreme Court in any *habeas corpus* matter under the said Act, it shall not be necessary, unless the Court shall otherwise order, that any prisoner or person on whose behalf such an appeal is made shall be present in Court on the argument of the judgment on such appeal, but the prisoner or person shall remain in custody to which he was committed or remanded at the time of giving the notice of appeal, unless on liberty on bail by order of Judge of the Court which refused the application, or of a Judge of the Supreme Court, provided that the Supreme Court may, by writ or order, direct that such prisoner or person shall be brought before it."

The presence of the party accused he thought should not be made a necessity; and it seemed to him essential that greater elasticity should be permitted in this relation. If an appeal came from Cape Breton or Vancouver Island, the enforced pre-

sence of the accused would involve consequences which were not to be thought of.

The next clause was an amendment which he could not consider as otherwise than important. His attention had been directed notably to the subject of the working of the Act for the extradition of criminals, and he had come to the conclusion that while no substantial injustice was at all likely to arise from leaving the law as it stood, yet it was possible that by the passage of this Act, delays and difficulties productive of considerable inconvenience might be created. The person held for extradition required a judicial trial before a judicial functionary, and after the magistrate had finally committed him for removal from the country, he had recourse to the highest tribunal of the Province on an application for a *habeas corpus* in order that it might be determined whether the decision was legal or not.

Immediately after that the papers came before the representative of Her Majesty who, on advice, of course, was bound to consider whether on the whole extradition should take place or not. These seemed to him to be sufficient safeguards against improper extradition; but delays might result from the existence of appellate jurisdiction. He also proposed the following clauses:

#### "COSTS.

"30. The Judges of the Supreme Court, or any five of them may, under the 79th section of the said Act from time to time make general rules and orders for awarding and regulating costs in each of the said Courts in favour of and against the Crown as well as the subject.

"31. Any costs adjudged to Her Majesty in either of the said Courts shall be paid to the Receiver General, and the Receiver General shall pay out any moneys in his hands for the time being legally applicable thereto, and which may be voted by Parliament for the purpose, any costs awarded to any person against Her Majesty.

#### "CERTIORARI.

"32. A writ of *certiorari* made by order of the Supreme Court or a Judge thereof issue out of the said Court to bring up any papers or other proceedings had or taken before any Court, Judge or Justice of the Peace, and which may be considered necessary with a view to any enquiry, appeal or other proceeding had or to be had before the Supreme Court.

"And also that section 58 be amended by adding after the words 'Crown alone' in the 8th line, the words following: 'And in all