

On section 3,

Mr. THOMPSON (Antigonish). This has been inserted because the issue of public Statutes and private Statutes has been very much increased since the Act of 1867, and it has been considered reasonable that a larger share of the expense of printing should be borne by persons who have obtained private Acts.

Bill reported as amended, read the third time, and passed.

APPLICATION OF CERTAIN FINES AND FORFEITURES.

House resolved itself into Committee on Bill (No. 82) respecting the application of certain fines and forfeitures.—(Mr. Thompson, Antigonish.)

(In the Committee.)

Mr. THOMPSON (Antigonish). As some members of the House are here who were not present when I explained the provisions of this Bill, I may state that it is found necessary to make some further provision for the application of fines, penalties and forfeitures imposed for the violation of some of the Statutes of Canada. This has been made the more necessary by a decision of the Supreme Court of Canada, in 1885, in the cause of Fitzgerald vs. McKinlay, which is not yet reported. I stated the substance of that decision the other day, and I think the interpretation put upon it by my learned friend from Prince Edward Island (Mr. Davies) was not substantially different from mine. It was to the effect that the clause of the Interpretation Act which makes provision for the disposition of fines, penalties and forfeitures does not provide for the imposition of these fines or forfeitures, when imposed in course of criminal proceedings. Therefore, the first clause of this Bill provides that they shall belong to the Crown and be for the public uses of Canada, and the second clause provides that the Governor in Council may from time to time direct in what way they shall be applied. One class of cases was mentioned the other day, the cases arising under the Canada Temperance Act; and I understand that the suit under which the decision of the Supreme Court was given was a cause under that Statute. But there are various other Statutes in respect of which the same difficulty arises. An instance occurred a little while ago in which the intervention of the Minister of Justice was asked for the enforcement of justice. The Minister of Justice did intervene, in deference to the public sentiment of the place, and the evident necessity that public order should be enforced more strictly than it would be if the prosecution were left to the private authorities. The result was that the supposed offender was made to give sureties for his appearance; he subsequently became a defaulter in respect of his sureties, and there was no legislation indicating to what destination the sum forfeited should go. I mention that as one of a class of cases different from the cases mentioned the other day. The hon. member for South Huron (Sir Richard Cartwright) suggested to me that it would be desirable that a return should be made to the public Treasury of the fines and forfeitures. On looking into that matter, it appears to me that the present enactments on the subject are sufficient. The present Statute requires that the convicting magistrate shall make his return to the Clerk of the Peace for the county; for it seems to have been the policy at the time of Confederation to make use of the existing municipal officers, and since that time the returns have been made to them. A subsequent clause provides that the Clerk of the Peace or other officer of each district or county, within twenty days after the end of each General Sessions of the Peace, shall transmit to the Minister of Finance, or the Receiver-General, a true copy of all such returns made within his district or county. On page 54 of the last Auditor-General's

report, will be found a statement of a considerable amount of the fines and forfeitures which have come into the Dominion Treasury under these provisions. It is true, most of these fines and forfeitures have been returned by Federal officers, and the returns, which have been heretofore made by the convicting justices, have been comparatively few. Some returns, however, have been made, and the returns can be enforced under this provision. I admit that it seems desirable to have a more efficient machinery, and I propose, as early as possible, to present to the consideration of the House a Bill for the simplification of proceedings and the recovering of fines and penalties. I think, however, that a leading principle such as that in this Bill, may be adopted, by which we shall avoid considerable confusion which now exists for the recovery of fines and forfeitures under the existing Acts.

Mr. BLAKE. It seems to me that the proposal the hon. gentleman makes is open to some objections. It, in fact, throws into the hands of the Governor in Council the whole disposal of this important question. I think it would have been well if the hon. gentleman had some scheme for the disposition of fines and forfeitures which he thought proper in the public interest, and submitted that to the judgment of Parliament. We are really more and more, session after session, becoming a mere machinery for handing over additional powers to the Governor in Council; and now this important power is proposed to be added. The hon. gentleman will agree, I think, that this is a matter which, for very obvious reasons, ought to be dealt with upon large and general principles. To give a power of this kind enables the Governor in Council practically to deal according to his discretion with individual cases—to make a disposition of a fine or a fee according to one principle in one case, and according to another principle in another case, which does not seem to me to be correct. Of course, I am not now discussing the application of the prerogative with reference to a remission; I am discussing the disposition of the exacted fine or penalty. The hon. gentleman made an observation which, I think, calls for a remark. He mentioned an instance in which, in deference to the public sentiment of a particular locality, and in order to secure a more efficient result than would have been secured if the matter had been left to the private authorities, the Dominion Government had intervened. Of course, I do not know the particular case the hon. gentleman refers to; but it seems to me that between a class of cases, as, for example, prosecutions in reference to the revenue, and so forth, in which the Government occupies rather the position of a private prosecutor, and cases under the general administration of justice, there is a very clear line of distinction; and it would be an unfortunate thing if, upon an application from a locality, and in deference to what the hon. gentleman calls the public sentiment of a locality, the Dominion Government should interfere to do that which is after all the duty of the local authorities. With the local authorities rests, under the Confederation Act, the administration of justice. If the arrangements for the administration of justice are ineffective, then public opinion ought to direct itself to the remedying of whatever defects there may be. If the arrangements are sufficiently effective, and are not properly carried out, then public opinion ought to act on the officers whose duty it is to carry them out; but I think it would be unfortunate if either such arrangements, or the action taken upon such arrangements, should result in proceedings being taken in Ottawa with reference to the administration of justice. I suppose the hon. gentleman's difficulty was that after he had deferred to the public sentiment and taken proceedings, he found himself put to some expense, and would be willing to pay the expenses out of such fines and fees as he could collect. This would involve confusion and complications undesirable in the extreme.