

HON. MR. ABBOTT—If my hon. friend had said yesterday about this bill, to let it stand until Thursday, Friday or some other day, I would readily have done so. The point my hon. friend supposed was affected by this Bill and the decision of this House that he says is reversed by it, was the one we arrived at last year, that we would not give the banks any privilege over ordinary holders in respect of paper on which the endorsement was forged. We were asked to pass a law which would have allowed the banks to receive any paper presented to them without verification of the endorsements, and to hold the owner of the deposit depleted by the cheque for the amount paid out on the cheque. The Senate refused to do that, as my hon. friend said on, the motion of the hon. gentleman from Montreal, and I entirely concurred with that hon. gentleman in that view; because, although I have something to do with banks myself, I think that would have been a most improper privilege to have accorded to them; and after considerable difficulty a clause was framed and passed which seemed to protect the banks sufficiently, by naming a limited time within which notice should be given of any claim that the maker's or endorser's name was forged, and if a claim was not made in respect of the forgery within that time, which was a year, that then the right of claim would cease. That was adopted by this House and the other House. It is in the clause which makes that provision that this clause which my hon. friend objects to was appended. My hon. friend suggested or thought that this clause destroys the clause in the Act which we passed after so much care and study and discussion.

HON. MR. POWER—To a certain extent, I said.

HON. MR. ABBOTT—In point of fact, I think if my hon. friend will look at it after having a little more time he will see that it does not at all. The Bill simply provides that if the drawee of a cheque bearing a forged endorsement pays the amount thereof to a subsequent endorser or to the bearer thereof he shall have all the rights which the law gives to a holder in due course, as well as his legal recourse against the bearer thereof as transferrer by delivery. If it stopped there it might be open to my hon. friend's objection, but it continues:

"The whole, however, subject to the provisions and limitations contained in the last preceding sub-section," and the last preceding sub-section is the one which deals with the manner in which a man must proceed who pretends that his money has been taken from him by a forged cheque or a forged endorsement on a cheque; so that this provision is made subject to the precise limitation which this House put into the Bill last session, about the right of a depositor to claim repayment of money taken from his deposit on a forged cheque. I am sure my hon. friend will see, on reflection, that the clause is not open to his objection, and I am perfectly willing now that the committee should rise and report progress, and ask leave to sit again, if my hon. friend wishes to refer to the Bill of last year and satisfy himself. That is a complicated measure, and I am not surprised that hon. gentlemen should fail at once to seize the purport of the amendment; and I am willing to postpone the further consideration of the Bill. But it would be unreasonable to ask me to concur with my hon. friend in thinking that this clause impinges in any way on the principle laid down last year, or interferes with it in any respect.

HON. MR. KAULBACH—My hon. friend from Halifax deserves the thanks of the House for having brought out this explanation. The leader has effectually explained the Bill and thrown light on the subject, which we certainly did not have before. Evidently, yesterday my hon. friend did not give all the information as fully and lucidly as he has given it to-day.

HON. MR. SCOTT—As I understand it, this Bill is predicated on the assumption that the bank does not stand in as good a position as an individual would in reference to the payment of a cheque on which an endorsement has been forged.

HON. MR. ABBOTT—It is not exactly that. An individual would be in the same position if he paid such a cheque drawn on him.

HON. MR. SCOTT—The assumption is that the last party, whether a bank or an individual, paying it, would not have rights against all the parties up to the forged endorsement.