

THE SENATE.

Ottawa, Wednesday, March 7, 1883.

THE SPEAKER took the Chair at Three o'clock.

Prayers and routine proceedings.

THE NICHOLSON DIVORCE BILL.

MOTION.

The order of the day having been called,

"Second Reading, (Bill D)—Peter Nicholson's Relief Bill, and the Petitioner to attend and be heard by his Counsel."

HON. MR. KAULBACH said:—I ask the attention of the House to the following telegram which has been received by the Clerk of the Senate.

DETROIT, Mich., March 6, 1883.

To E. J. LANGEVIN.

Re Nicholson Divorce, have proceedings stayed. I desire to be heard. I am Peter Nicholson's wife. Have just been notified. My solicitor will write.

ROSETTA NICHOLSON.

I consulted, upon this with the leader of the Government in this House, and I think it will be in accordance with his wish and the desire of the House if I should ask that the order of the day be discharged and made the first order on the paper for Monday next, and that the Clerk of the Senate notify the wife of the Petitioner of the decision of the Senate on this matter.

HON. MR. MILLER—Before that motion is carried I would like to call the attention of the Minister of Justice to the remarks which I made upon a previous occasion when this matter was before the House, in regard to somebody assuming the duty of watching the regularity of proceedings of this character. I stated then that as our functions were not only of a legislative, but of a judicial character as well—in fact, even more judicial than legislative—it was desirable that somebody should be charged with the duty of seeing that the requirements of the law in cases of this kind were complied with. I intimated also that from the position which the leader of this House occupies as Minister of Justice, he would be the most suitable person to assume the duty. I

now beg to call his attention to the fact that already, in my opinion, a very important irregularity has crept into these proceedings. I may say at once that I do not wish to throw any opposition in the way of the hon. member, who has charge of this bill, and it is not with any wish on my part to frustrate him in the object which he has in view that I make these remarks on the present occasion; my desire is simply that we should, in so important a matter as the one before the House, proceed regularly, and also to prevent irregularities being drawn hereafter, as is now being done, into precedents. By the rules of the House in relation to Divorce Bills it is required (by the 73rd Rule) "that a copy of the notice in writing, is to be served, at the instance of the applicant, on the person from whom the divorce is sought, if the residence of such person can be ascertained and proof on oath of such service, or of the attempts made to effect it, to the satisfaction of the Senate, is to be adduced before the Senate on the reading of the petition."

Now by rule 76 "the second reading of the Bill is not to take place until fourteen days after the first reading, and notice of such second reading is to be affixed upon the doors of the Senate during that period, and a copy thereof, and of the Bill duly served upon the party from whom the divorce is sought, and proof on oath of such service adduced at the Bar of the Senate, before proceeding to the second reading, or sufficient proof adduced of the impossibility of complying with this regulation."

Now, in bringing this matter before the House at the present time, it will enable the hon. gentleman who has charge of the Bill to see, at any rate in the steps he has taken, that proper proof is brought before the Bar of the Senate on oath. I find also that in compliance with the 73rd rule of the House an affidavit has been produced, an affidavit which is on the minutes of the Senate, and which appears to have been sworn before a commissioner of the High Court of Justice of the Province of Ontario. I wish to direct the remarks I am making, specially to the Minister of Justice and the legal gentlemen of the House, and to call their attention to the fact that this affidavit is not headed in any court, but is made before a commissioner of the