

then, what power have they to take oaths to be used before Parliament? Therefore I say we cannot dispense with the rule altogether and take any evidence at all which may be satisfactory to the Senate. We have no affidavit before us. Will the Minister of Justice say to us that the statement of any member, or any statement placed before the House, would meet the requirements of the rule because it might be satisfactory to the Senate?

HON. SIR ALEX. CAMPBELL.—No, because it must be on oath.

HON. MR. MILLER—If he admits that, he strikes from beneath his feet the distinction between the rules. I might ask the mover of the bill how this irregularity would affect proceedings elsewhere? Suppose we pass this bill, and send it down to the other House, and suppose any member of that body should raise the objection which, on the face of the papers, is so clear to every lawyer, that there is no evidence at all of the service of that notice, is it likely that the other branch of Parliament, and the able legal minds in it, would pass a bill involving such serious consequences as are contemplated in this measure, on proceedings which strike away the fundamental necessity of evidence under oath, which is so strictly enforced in every British court of justice?

HON. SIR ALEX. CAMPBELL—I agree that the evidence must be under oath, and I agree that a commissioner for taking affidavits in a certain court has no power to take affidavits for another court, but I think we require to give this subject further consideration before we commit ourselves to this—that there can be no evidence on oath except that which may be offered at the Bar of the Senate. There are certain oaths which may be given which are extra-judicial, and which are yet legal, and on which perjury may be assigned, and which may be acceptable proof on oath to the Senate. I cannot say before whom such an oath could be taken at this moment—let us suppose an oath to be taken before the chief justice, or a magistrate in his own locality. There are affidavits (I remember some) which are authorized to be taken in Ontario, and persons who are authorized to administer oaths, and it may possibly be—I do not

say it is, but it may be, that an oath may be administered by a chief justice, or some officer entitled to administer oaths, which might be considered satisfactory by the Senate, and which might be voted as satisfactory, although not taken at the Bar.

HON. MR. BOTSFORD—Under the discretion given to the Senate.

HON. SIR ALEX. CAMPBELL.—Yes, because it does not require to be proved at the Bar of the Senate, whereas the service of the other papers must be proved by evidence at the Bar. The hon. gentleman will admit that there is a distinction intended between those two oaths where it says in one instance proof on oath will be sufficient, and in the other it must be made at the Bar of the House. If it be as I imagine for the moment, that a legal oath may be administered in a case of this kind by some officer in the province from which the application comes then I think that oath being legal might be accepted by the House under the 73rd rule as sufficient. I do not say it is sufficient, I do not think we should admit the view taken by my hon. friend, but I think there is a possibility that such an oath may be administered legally and that the House may properly vote that it be sufficient evidence. We had better examine that matter and bring it up again before we come to the conclusion to which my hon. friend has arrived, after more consideration than I have been able to give the subject, or the House generally has had an opportunity of doing.

HON. MR. SCOTT—It seems to me in reading the rule it is perfectly clear that proof on oath must be at the bar. The qualifying words apply to that part of the rule which refers to the service not being a personal service; that an attempt has been made at service and has not been completed; the words of the rule are: "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." It is thus perfectly clear that proof on oath is to be adduced where the service is not a personal one, and where the Senate must be satisfied that the party had notice.