

properly observed, it is a judicial proceeding, and it is exceedingly important that the parties interested in the case should receive due notice. If a party owed ten dollars or ten pounds, there is not a court of justice in the province that would allow proceedings to go on against him without better evidence than such an affidavit as this. The smallest debt could not be collected in a court of law upon such evidence, and surely it should not be considered sufficient in a matter of such importance as the separation of a man from his wife. Therefore, there is the greatest necessity that at the very foundation of those proceedings there should be at least proper conformity with the rules of the House. I do not think it is a proceeding which we should permit to go on in defiance of the rules. It cannot be presumed for a moment that this is conforming with the rule, because the affidavit which has been produced is, as I have said, simply a nullity for several reasons; in the first place the party before whom the oath was taken had no power to administer it, even in the County of Grey, and, if he had, then he had no authority at all to take it in the County of Essex. He is not an officer clothed with power to administer the oath in that particular district. Outside of the County of Grey he has no power whatever to administer an oath. Any one in the streets could have taken it as well. I think that to accept it would not only be a grave mistake, but it would be laying down the principle that the Senate should not conform to its own rules, and that in such an important matter as divorce we were accepting as evidence a simple statement, (for it is no more than that), that one of the parties who is to be affected by the bill had due notice of it.

HON. SIR ALEX. CAMPBELL.—In speaking I mentioned the word "petition," intending to use the word "notice."

HON. MR. MILLER—Where I differ from the Hon. Minister of Justice is here, and it is a radical difference—it goes to the very foundation of the whole of the evidence adduced. In passing, I may remark that the objection stated by the hon. member from Niagara would prevent that affidavit from being read in any court

whatever. Mr. McHugh, a commissioner for taking evidence in the county of Grey, has power only to take affidavits in that county, and for use in the high court of justice for the Province of Ontario. He has no power outside of that which is expressly given to him by the terms of his commission, and Mr. McHugh in the county of Grey, or out of the county of Grey, attempting to take a affidavit to be used in proceedings outside of the high court of justice for Ontario, is guilty of a breach of the law with regard to the administering of extra judicial oaths.

HON. SIR ALEX. CAMPBELL—I agree to that.

HON. MR. MILLER—With reference to the distinction drawn by the Minister of Justice between evidence under the 73rd rule and evidence under the 76th rule, even admitting his contention in that respect (which I do not) he certainly cannot deny that we must have evidence on oath of the service of that paper. Now, waiving the technicality which has been alluded to, I say you have no proof on oath.

HON. SIR ALEX. CAMPBELL—In this case, no.

HON. MR. MILLER—I say waiving the technicality we have no proof on oath. I would bring this matter before the House just as I do now, if that affidavit had been regularly sworn to before a commissioner entitled to take affidavits for the high court of justice for Ontario. My objection is much more important, and much more concerns the character of our deliberations and investigations than any irregularity I could base upon a mere technicality. I say you have no evidence; and I say further there is no power in this country to take any proof whatever on oath in a matter of this kind before a committee is struck, excepting on the oath administered by the Clerk of this House at the Bar. Now, who else can administer that oath? The hon. gentleman will not deny that every commissioner appointed to take an oath is limited by the authority contained in his commission. Mr. McHugh and all other commissioners of the High Court of Justice in Ontario, are limited by the terms of their commissions: