

to prove the service of the notice by affidavit, and accepting it as sufficient evidence. I do not think it would be advisable—at all events not without further consideration—to shut off all evidence of the service of the petition, other than by the production of witnesses at the bar of the House. I do not think we should do so now at all events. We will consider the rules further in that respect, and the House might be satisfied with other proof than oral evidence at the bar. I am very glad the hon. gentleman from Richmond has drawn attention to this subject. When he drew attention to it before, I wrote a note to the Law Clerk asking him to watch those bills, and to draw my attention to any irregularities which he might observe in them. He did not notice the irregularity in this instance, and I did not either. I would suggest to the hon. member from Lunenburg that it would be very desirable to supply a second affidavit, properly entitled, and sworn before a proper commissioner, because, as my hon. friend from Niagara has pointed out, the person before whom this affidavit was taken is a commissioner for the county of Grey, whereas he takes it in another county; so, clearly, upon the face of it, this is no affidavit—it is merely an assertion that the paper has been served. I think my hon. friend will do well to supply that want and put in a proper affidavit, that the service was duly made, and then ask the House to say by resolution that the evidence of the service is satisfactory; and I think it will be well for the House to consider the suggestion of the hon. member from Richmond on some future occasion, that suggestion being that we have no power to consider any evidence satisfactory which is not given at the bar of the House. There are, of course, cases in which affidavits may not be entitled in any cause; in this case no cause has been begun.

HON. MR. MILLER—I did not say “cause,” I said “court.”

HON. SIR ALEX. CAMPBELL—My hon. friend thinks it ought to be entitled before the Senate.

HON. MR. MILLER—No, I do not think any such affidavit can be taken at all.

HON. SIR ALEX. CAMPBELL—Still there is a class of affidavits admitted in Ontario although not entitled in any court, and on which perjury can be assigned. I do not think this is one of them, but there are such affidavits. I suggest to the hon. gentleman from Lunenburg that he replace this affidavit by one taken before a commissioner entitled to administer oaths, and ask the House to accept the service as satisfactory.

HON. MR. SCOTT—My hon. friend has not fully appreciated the force of the remarks of the hon. gentleman from Richmond. Those remarks went to the very foundation of the proceedings, not to the service of the petition, but to the notice which clearly, by our own rules, must be given, and proof of service of the notice to be established under oath at the Bar.

HON. SIR ALEX. CAMPBELL—That is what I spoke of. I called it a “petition,” I meant “notice.”

HON. MR. SCOTT.—The rule is absolute. The 73rd rule requires a copy of the notice to be served on the person from whom divorce is sought, and proof on oath of such service, or 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, can it be contended that there is the least scintilla of evidence of the service of the notice? If this were an affidavit it still would not be in conformity with the rule of the House. The oath which is clearly intended there, is an oath at the Bar, unless the Senate dispense with that and pass a resolution saying that they would accept in lieu of it an affidavit. However, the rule is not complied with in that particular. Then, again, as has been observed by the hon. member from Niagara, this is not an affidavit; it is merely so much waste paper—it is not an irregularity, it is an absolute nullity. Suppose this were a proceeding in which Mr. McHugh had a right to administer an oath, he certainly would not be allowed to administer it in the county of Essex any more than one of our pages would. If we permit this proceeding to go on it is simply ignoring the 73rd rule. Now, I look upon the observance of that rule as of the highest importance in proceedings of this kind. As has been very