and their views will be read with interest. Mr. Johnston deals with the subject at some length, and his views are as follows:

Having been asked my opinion in reference to the proposed amendment to the Criminal Code, making the evidence of a witness taken at an abortive trial admissible at a subsequent trial of the accused person on the same charge, where the witness is dead, absent or unable to attend Court, and also with regard to the section as it now stands, I have pleasure in giving my views on the subject.

One has first to consider the effect of sections 687 and 688 on the admissibility of evidence taken at a preliminary enquiry. I think it is manifestly unfair to both the Crown and the accused that the evidence of a witness, as it is now taken at a preliminary investigation, should be used for any purpose at the trial. The person arrested is usually confined in gaol, and within a day or so the investigation takes place. The facts of the case are not fully developed, and certainly counsel for the prisoner cannot possibly be fully instructed. The examination-in-chief is, therefore, imperfect, and the cross-examination may be, in its result, most misleading, in the light of subsequent discovery of facts, or because counsel is not fairly seised of the real issue which is presented later on at the trial. The evidence is generally taken in long-hand, and taken very imperfectly. Sufficient time cannot in many cases, particularly in Toronto, be allowed for proper cross-examination. A few questions are asked, the magistrate decides to commit, and the cross-examination ceases. If the accused is not represented by counsel, the cross-examination of witnesses is a farce. Another feature has to be considered, namely, that the Crown case is presented by the Crown officer, the Crown Attorney, who has usually much experience and is specially skilled in conducting this class of cases, and who is possessed of all the facts known at the time of the enquiry before the magistrate. The counsel for the accused does not know the facts which he is called upon to meet until they are detailed in a hurried manner in the witness-box. It is an unequal and unfair combat. This evidence taken and written in a necessarily imperfect manner, the Clerk of the Court being the sole judge as to what is important and what is not, may be used at the trial under certain conditions. The