

* * * in shorthand." The stenographer's notes are not necessarily a record of all that takes place; and, the conviction being in due form, there is nothing to shew a transgression of sec. 96.

But, even if the magistrate erred in this respect, that would not invalidate the conviction, the provisions of sec. 96 being merely directory: *Rex v. McDevitt* (1917), 39 O.L.R. 138; *Rex v. Coote* (1910), 22 O.L.R. 269.

The third contention was, that there was no evidence upon which the magistrate could find guilt; but there was evidence which justified the conviction, and the question of credibility was entirely for the magistrate.

Motion dismissed with costs.

MASTEN, J.

NOVEMBER 28th, 1917.

*FREEMAN v. TOWNSHIP OF CAMDEN.

Easement—Grant of Land to Township Corporation for Highway—Reservation of Cattle-pass under Highway—Agreement—Liability for Maintenance and Repair—Easement Passing under Devise of Dominant Tenement—Severance—Use of Cattle-pass by Owners of both Halves.

Action for a declaration of the plaintiff's right to a cattle-pass under a highway in the township of Camden and to have it maintained and kept in repair by the defendants, the township corporation, and to compel the defendants to repair and maintain it.

The action was tried without a jury at Napanee.

R. S. Robertson and U. M. Wilson, for the plaintiff.

J. L. Whiting, K.C., and J. E. Madden, for the defendants.

MASTEN, J., in a written judgment, stated his findings: (1) that an easement by way of a cattle-pass under the highway was validly created in favour of Thomas McDonagh at the time the highway was built, and that the obligation to maintain the structure necessary to the existence of the easement then rested on the defendants; (2) that the highway was laid out in or about 1857, and that the lands for the highway were granted by McDonagh to the defendants, reserving the easement now in question; (3) that the cattle-pass had been used at all times since the construction of the highway until now, and during that time had been repaired,