

mony in case of death before the trial. They cannot be used, however, where the witness himself can be produced. See Evidences; Testimony; Letters Rogatory."

The reasons advanced by Mr. Rose against the admissibility of these depositions or statements on oath are, that the originals were not read over to the witnesses and signed by them. Mr. Erwin, though, swears that the witnesses did read over their depositions, except one, who may not have read over all of his cross-examination by counsel for accused. Besides being taken in a manner recognized by our law, the presumption nevertheless, is, that the originals are depositions in the United States because they have been taken in a regular judicial proceeding, had before a competent officer without objection on the part of the accused, and have even been accepted and acted upon by the defendants in a proceeding in a court of justice in New York presided over by Judge Brown.

Unless section 10 of the Extradition Act would evidently declare that foreign evidence must be taken according to the law of the demanding country, I must hold that this is not required, and that for the admissibility of evidence, I must be governed by the Canadian law, and according to our law, the papers filed are copies of depositions on oath, and can be received although taken in the foreign country, because section 10 permits it.

The witnesses having testified in the presence of the accused, and having been cross-examined by them in a regular judicial proceeding the papers that are filed before me must be termed copies of depositions, as distinguished from affidavits or statements on oath.

"An affidavit is simply a declaration on oath in writing, sworn before an officer authorized to administer an oath. Its validity does not depend on the fact whether it is entitled in any cause or in any particular way." Abbot's Law Dictionary.

"An affidavit is a statement or declaration reduced to writing and sworn or affirmed to before some officer who has