

ary, 1902, before a magistrate with having committed an indecent assault upon a female. The preliminary inquiry was begun at the house of the girl's father, where she was residing. The prisoner was represented by counsel, but before the girl's cross-examination was concluded, it became necessary, owing to her illness, to adjourn the proceedings, and they were adjourned till the 27th February. In the meantime the magistrate consulted the County Crown Attorney with reference to the charge, and on hearing from him telegraphed to the prisoner's counsel that he had got the official's opinion, and the case would have to go to Sarnia, and asked counsel to telegraph in reply whether he would come up or not. Counsel, taking this as an intimation that the accused would be committed for trial, telephoned the magistrate that, if he intended to send the prisoner to Sarnia at any rate, there would be no use in his coming, and accordingly he did not appear on the subsequent proceedings. On the morning of the 27th the magistrate went out to where the girl was residing, and obtained her signature to her deposition as it had then been taken down, the prisoner not being present or represented, and in the afternoon resumed the inquiry at his own office in Alvinston. The accused was present, but not the witness whose examination had been interrupted at the first meeting. Prisoner was asked if he had anything to say. He replied "nothing," and on the evidence as already taken was committed for trial. At the trial it was proved that the girl was so ill as not to be able to travel, and her deposition taken and signed as above mentioned was tendered by the Crown and admitted in evidence, contrary to objection. The County Judge reported that he considered that the prisoner's counsel had waived his right to further cross-examination, and that in any case the certificate on the depositions governed. By sec. 687 of the Criminal Code it is enacted that "if upon the trial of an accused person such facts are proved upon oath or affirmation of any credible witness that it can be reasonably inferred therefrom that any person whose deposition has been theretofore taken in the investigation of the charge against such person is . . . so ill as not to be able to travel . . . and if it is proved that such deposition was taken in the presence of the person accused, and that his counsel or solicitor had a full opportunity of cross-examining the witness, then, if the deposition purports to be signed by the Judge or justice before whom the same purports to have been taken, it shall be read as evidence in the prosecution without further proof thereof, unless it is proved that