

he had done to the prosecutrix while he was in the Balmoral hotel, and he declined to answer.

The trial Judge ruled that the witness was not obliged to answer.

The prisoner was found guilty, but sentence was deferred.

The following question was reserved by the trial Judge for the consideration of the Court of Appeal:—

Was my ruling correct with regard to the questions put to the prosecutrix and Brennan, and, if not, was any such substantial wrong or miscarriage thereby occasioned as to require a new trial?

E. Mahon, for the prisoner.

J. R. Cartwright, K.C., for the Crown.

The judgment of the Court (MOSS, C.J.O., OSLER and GARROW, J.J.A., MULOCK, C.J., and BRITTON, J.), was delivered by

OSLER, J.A.:—On the argument counsel for the prisoner stated that he would not press the objection to the trial Judge's ruling that the prosecutrix was not bound to answer the questions put to her. The authorities shew that such ruling was right. The prosecutrix may be asked questions to shew that her general character for chastity is bad. She is bound to answer such questions, and, if she refuses to do so, the fact may be shewn: *Rex v. Clarke*, 2 Stark. 244; *Rex v. Barker*, 3 C. & P. 589; *Regina v. Holmes*, L. R. 1 C. C. R. 334, 337. So too she may be asked whether she has previously had connection with prisoner, and, if she denies it, that may be shewn: *Rex v. Martin*, 6 C. & P. 562. Such evidence is relevant to the issue, since in both cases it bears directly upon the question of consent, and the improbability of the connection complained of having taken place against the will of the prosecutrix.

And she may be asked, but, inasmuch as the question is one going strictly to her credit, she is not generally compellable to answer, whether she has had connection with persons other than the prisoner. This seems to rest, to some extent, in the discretion of the trial Judge. Whether, however, she answers it or not, that is an end of the matter; otherwise, as many collateral, and therefore irrelevant, issues might