

be read in evidence.

that it can be reasonably inferred therefrom, that any person whose deposition has been taken in the investigation or previous trial of any charge before a judge or justice, is dead, or so ill as not to be able to travel, or is absent from Canada, and if it is proved that such deposition was taken in the presence of the person accused, and that he, 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 it purports to have been taken, or duly certified by a shorthand reporter, acting as such at the investigation or previous trial, it shall be read as evidence on any trial of the accused person thereafter on the same charge, without further proof thereof, unless it is proved that such deposition was not in fact signed by the judge or justice purporting to have signed it, or certified by the reporter as aforesaid.”

New s. 744.

9. Section 744 of the said Code is hereby repealed and the following substituted therefor:—

Appeal when no question is reserved.

“744. If the Court refuses to reserve the question, the party applying may move the Court of Appeal as hereinafter provided.

“2. The Attorney General or any person who has applied to the court to reserve any such question of law, may, on notice of motion to be given to the accused or prosecutor, as the case may be, move the Court of Appeal for leave to appeal. The Court of Appeal may, upon the motion and upon considering such evidence, if any, as they think fit to require, grant or refuse such leave.

“3. If leave to appeal is granted, a case shall be stated for the opinion of the Court of Appeal as if the question had been reserved.

“4. If the sentence is alleged to be one which could not by law be passed, either party may, without leave, upon giving notice of motion to the other side, move the Court of Appeal to pass a proper sentence.

“5. If the court has arrested judgment and refused to pass any sentence, the prosecutor may, without leave, make such a motion.”

Section 748 repealed.

10. Section 748 of the said Code is hereby repealed.

Section 773 amended.

11. Section 773 of the said Code is hereby amended by adding thereto the following subsection:—

If depositions disclose offence other than that for which accused is committed.

“2. In case the depositions taken upon the charge or charges upon which the prisoner has been committed to gaol for trial disclose an offence or offences other than such charge or charges, the judge, upon the application of the county crown attorney, clerk of the peace or other prosecuting officer, may refuse to try the prisoner upon such charge or charges; and in case of such refusal the prisoner shall remain in custody, or be admitted to bail, to take his trial or be otherwise dealt with at the next court of competent jurisdiction to try the offence or offences so disclosed by the depositions.”

Section 783 amended.

12. Section 783 of the said Code is hereby amended by striking out paragraphs (d.) and (e.), and by amending subsection 6 by adding thereto after the word “theft,” the