

Board of Audit, County of Elgin,

ST. THOMAS, 25th FEB., 1884.

DEAR SIR.—

It has frequently occurred to me that the Dominion Statute 32-33 Victoria, chap. 32, is overlooked by Justices of the Peace when persons are brought before them charged with petty offences, such as described in that Act, and that finding themselves unable to adjudicate, they commit the parties for trial before a court of competent jurisdiction—which means a Court of Record, thus involving all the expense and delay of a trial before the County Judge's Criminal Court, or the Assizes or General Sessions of the Peace, concerning matters, in most instances, of trivial importance, where the parties accused would be willing to be dealt with summarily if they had the opportunity afforded them of electing to do so.

The second section of the Act I refer to, 1st, provides for the prompt and summary administration of Criminal Justice in cases of simple larceny, larceny from the person, embezzlement, or obtaining money or property by false pretences, or feloniously receiving stolen property, *when the value of the whole of the property alleged to have been stolen, embezzled, obtained or received does not in the judgment of the Justice exceed ten dollars:* or—

2nd—With having attempted to commit Larceny from the person, or simple Larceny, or—

3rd—With having committed an aggravated Assault, by unlawfully and maliciously inflicting upon any other person, either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully or maliciously cutting, stabbing or wounding any other person, or—

4th—With having committed an assault upon any female whatever, or upon any male child whose age does not in the opinion of the Justice of the Peace exceed fourteen years, such assault being of the nature which cannot in the opinion of the Magistrate be sufficiently punished by a summary conviction before him under any other Act, and such assault, if upon a female, not amounting in his opinion to an assault with intent to commit a rape, or—

5th—With having assaulted, obstructed, molested, or hindered any Magistrate, Bailiff, or Constable, or Officer of Customs, or Excise or other officer in the lawful performance of his duty, or with intent to prevent the performance thereof, or—

6th—With keeping, or being an inmate or habitual frequenter of any disorderly house, house of ill fame or bawdy house :

Justices of the Peace have not the right or jurisdiction to finally adjudicate upon any of these offences (except in cases of assault and battery, and then only when the party aggrieved prays the Justice to proceed summarily on his complaint), they can, however, be dealt with by a *Competent Magistrate*, such as described in the first section of the Act.

In all cases when it is thought best, and a proper case to be tried, summarily, under the Act, the Justice of the Peace before whom such person is charged, may, if he thinks fit, remand the person for further examination, before the Judge of the County Court, or the Police Magistrate of the City of St. Thomas, or the Police Magistrate of the village of Aylmer, whichever appears to be the nearest *Competent Magistrate*, and the warrant of remand may be the same as form H. in the schedule attached to the Act 32-33 Victoria, chapter 31 of the Dominion Statutes (1869): up to the word "*forthwith*," and instead of what follows that word you can make use of and insert these words: *To take and convey the said A. B.*

" Before the Police Magistrate of St. Thomas, (or the Police Magistrate of Aylmer, or the Judge of the County Court of the County of Elgin.) [as the case may be.]

For further examination before him (under the provisions of the Act respecting the prompt and summary administration of Criminal Justice in certain cases) touching the said complaint, and to be further dealt with according to law."

" Given under my hand and seal this day of in the year of our Lord, one thousand eight hundred and eighty- at in the County of Elgin, aforesaid."

J. P. (L.S.)

An ordinary Justice of the Peace is not "*a Competent Magistrate*" within the meaning of the Statute.

The written charge against the accused, the depositions of witnesses for the prosecution and for the defence and the statement of the accused must be all duly certified and forwarded to "*the Competent Magistrate*" to whom you remand the case (be he the County Judge or one of the Police Magistrates) to enable him to deal with the case finally.

I have observed lately that Justices of the Peace have convicted parties accused of Larceny and fined them—and as this was decidedly an improper punishment and beyond their power of summary jurisdiction, I thought it well to bring the Statutory provisions to which I have referred, to their attention and thereby endeavor to prevent mistakes and save expense to the County, wherever it is possible to do so. Since there are two Police Magistrates in the County, and the law permits them to act with the same powers under the Act as the County Judge, it is desirable to have all suitable cases disposed of before either of them (whichever is nearest) as speedily and inexpensively as possible, and thereby perhaps save the expense of more formal proceedings in cases where the persons accused are willing to be tried summarily.

The expense of the Administration of Justice in this County are shown by Parliamentary returns to be much larger in proportion than they are in more populous Counties, and I imagine that the reason for it lies in the fact that a larger proportion of the cases of trivial importance are brought before the Courts of Record in the County of Elgin than is the case elsewhere.

I have the honor to be,

Dear Sir,

Your obedient servant,

D. J. HUGHES,

Chairman.

10 Charles A. O'Malley Esquire, J. P.
Wardsville

COUNTY OF ELGIN.