offence, is before a justice, whether voluntarily or upon a summons . . . the justice shall proceed to enquire into the matters charged against such person in the manner hereinafter directed." This section, then, does not purport to confer jurisdiction, and must, I think, be confined to cases in which the accused is rightly before the justices; in which case the procedure to be followed is pointed out.

Upon the argument counsel failed to point out any section authorising the adoption of the course pursued in this case. The case, therefore, falls to be determined upon general principles.

Regina v. McRae (1897), 28 O.R. 569, determines that where an information is laid before a magistrate he becomes seized of the case and that no other magistrate has any right to take part in the trial unless at the request of the magistrate before whom proceedings are taken. All the magistrates in the county have jurisdiction; but so soon as proceedings are taken before any one of these officers having concurrent jurisdiction he becomes solely seized of the case. The magistrate has under the statute, and possibly apart from the statute, the right to ask other magistrates to sit with him; and, if he does so, the whole Bench becomes seized of the complaint: Regina v. Milne, 15 C.P. 94.

The statute relating to Police Magistrates, 10 Edw. VII. ch. 36, sec. 18, recognizes this principle. So also do sections 10 and 34, which provide that the Deputy Police Magistrate, or, if there is no Deputy, any other Police Magistrate appointed for the county, may proceed for the Police Magistrate in the case of his illness or absence. Neither of these sections gives to the magistrate any power, once he has undertaken the case, to discharge himself, save in the case of illness or absence. He has no power to request another magistrate to sit for him. Contrast the provisions of the two sections with section 18, which provides that in the case falling within it, the magistrate may so request. By section 31, where the case arises out of the limits of the city, the Police Magistrate is not bound to act; but if once he does act it appears that he must continue to the end.

This view of the statute is quite consistent with the view taken in Regina v. Gordon, 16 O.R. 64.

It is argued on behalf of the respondent that prohibition ought not now to be awarded, because nothing remains to be done before the magistrate. The magistrate has acquitted. He has no jurisdiction. All that he has done is a nullity, and it may be that a more proper motion would have been for a certiorari, so that the proceedings taken before the magistrate might be quashed. But I think there is yet one thing that the magis-