

[except in cases coming within the provisions of section 785, and except in cases under sections 789 and 790 where the person charged is not a person who under section 784, subsection 2, can be tried summarily without his consent.”]

Section 785.—By substituting the following therefor:—

“**785.**—If any person is charged in the province of Ontario before a police magistrate or before a stipendiary magistrate in any county, district or provisional county in such province, with having committed any offence for which he may be tried at a Court of General Sessions of the Peace, or if any person is committed to a jail in the county, district or provisional county, under the warrant of any justice of the peace, for trial on a charge of being guilty of any such offence, such person may, with his own consent, be tried before such magistrate, and may, if found guilty, be sentenced by the magistrate to the same punishment as he would have been liable to if he had been tried before the Court of General Sessions of the Peace.

[“2. This section shall apply also to police *and stipendiary* magistrates *and recorders* of cities and incorporated towns in every other part of Canada.

3. Sections 787 and 788 do not extend or apply to cases tried under this section; but where the magistrate has jurisdiction by virtue of this section only, no person shall be summarily tried thereunder without his own consent.”]

NOTE.—The only change is in the addition of subsections two and three.

Section 785 at present applies to Ontario only, and it is proposed to extend it to cities and incorporated towns elsewhere.

The proposed subsection 3 is intended to make clear that where a prisoner elects to be tried under this section the punishment, if he is found guilty, is to be the same as if he were tried otherwise. This was no doubt the intention of the present section 785. Sections 787 and 788 provide for the punishment by the magistrate in ordinary cases under the Summary Trials Part. Section 785 declares that in cases under that section a prisoner may be sentenced to the same punishment to which he would have been liable if he had been tried before the Court of General Sessions of the Peace, and at such general sessions a greater punishment might by law be inflicted than where the magistrate convicts under sections 787 and 788. A doubt having been expressed whether, notwithstanding the terms of section 785, the punishment to be imposed thereunder is not limited by sections 787 and 788, it is expedient to remove any such possible doubt.

Section 789.—By substituting the following therefor:—

“**789.**—When any person is charged before a magistrate with theft or with having obtained property by false pretences, or with having unlawfully received stolen property, and the value of the property stolen, obtained or received exceeds ten dollars, and the evidence in support of the prosecution is, in the opinion of the magistrate, sufficient to put the person on his trial for the offence charged, such magistrate, if the case appears to him to be one which may properly be disposed of in a summary way, shall reduce the charge to writing, and shall read it to the said person, and, unless such person is one who[, under section 784, subsection 2,] can be tried summarily without his consent, shall then put to him the question mentioned in section 786, and shall explain to him that he is not obliged to plead or answer before such magistrate, and that if he does not plead or answer before him, he will be committed for trial in the usual course.”

NOTE.—The amendment consists in striking out the words “and may be adequately punished by virtue of the powers conferred by this Part,” in lines 9, 10 and 11 of the original and in the insertion of the words in square brackets.