

Section 958, as amended by chapter 32 of the statutes of 1893.—By substituting the following therefor:—

“958. Every court of criminal jurisdiction and every magistrate under Part LV. before whom any person is convicted of an offence and is not sentenced to death, shall have power in addition to any sentence imposed upon such person, to require him forthwith to enter into his own recognizances, or to give security to keep the peace, and be of good behaviour for any term not exceeding two years, and that such person in default shall be imprisoned for not more than one year after the expiry of his imprisonment under his sentence, or until such recognizances are sooner entered into or such security sooner given, and any person convicted, [by any such court or magistrate] of an indictable offence punishable with imprisonment for five years or less may be fined in addition to or in lieu of any punishment otherwise authorized, in which case the sentence may direct that in default of payment of his fine the person so convicted shall be imprisoned until such fine is paid, or for a period not exceeding five years, to commence at the end of the term of imprisonment awarded by the sentence, or forthwith as the case may require.”

[2. Any person convicted of an indictable offence punishable with imprisonment for more than five years may be fined, in addition to, but not in lieu of, any punishment otherwise ordered, and in such case, also, the sentence may in like manner direct imprisonment in default of payment of any fine imposed.”]

NOTE.—The words in square brackets are new. The amendment in subsection 1 is intended to remove a doubt as to whether a magistrate under the Summary Trials Part (LV) can impose a fine in lieu of imprisonment in a case within section 787. The 2nd subsection is designed especially for the Yukon Territory where the expense of maintaining long term prisoners is very great.

Section 971.—By substituting the following therefor:—

“971. In any case in which a person is convicted before any court of any offence punishable with not more than two years' imprisonment and no previous conviction is proved against him, if it appears to the court before which he is so convicted, that, regard being had to the [age,] character, and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a recognizance, with or without sureties, and during such period as the court directs, to appear and receive judgment when called upon, and in the meantime to keep the peace and be of good behaviour.

[2. Where the offence is punishable with more than two years' imprisonment the court shall have the same power as aforesaid with the concurrence of the counsel acting for the Crown in the prosecution of the offender.]

3. The court may, if it thinks fit, direct that the offender shall pay the costs of the prosecution, or some portion of the same, within such period and by such instalments as the court directs.”

NOTE.—Section 971 enacts that in the case of an offence “punishable with not more than two years' imprisonment” (that is, two years being the maximum punishment for the offence) the court may under certain circumstances and on certain conditions, instead of sentencing the offender at once, direct his release on probation of good con-