

THE JURISDICTION OF THE COURTS OF GENERAL SESSIONS OF THE PEACE.

them and contract for the building of such gaol and court house. By statutes passed in subsequent sessions of the same Parliament the times of holding these Courts were fixed and changed, and by subsequent Parliaments the existence of these Courts was recognized, but it was not until the first session of the third Provincial Parliament which met on the 29th May, 1801, that the statute 41 George III., chapter 6 was passed, by which—after reciting that doubts had arisen with respect to the authority under which the Courts of General Quarter Sessions of the Peace, the District Courts, the Surrogate Courts and the Courts of Request had been created and were then holden in the several districts of the Province, and also the authority under which commissions of the peace, commissions of assize and nisi prius, commissions of Oyer and Terminer, commissions to sheriffs and other persons concerned in the administration of justice had been issued in and for the said districts respectively—it was declared and enacted “that the authority under which the said Courts and commissions had been erected, holden and issued, and also all matters and things done by or by virtue of the same, are so far as relates to the authority under which the same have been so erected, holden, issued and done good and valid to all intents and purposes whatsoever, and that the provisions of all the acts of the Legislature of this Province respecting the said Courts and commissions, or any of them, are hereby declared to extend and be enforced (except as hereafter mentioned) in each and every the said districts respectively.”

This enactment, so far as it relates to the authority under which commissions of the peace have been issued and the Courts of General Quarter Sessions of the Peace have been held, was embodied in the Consolidated Statutes for Upper Canada chapter 17, section 1, and in the

Revised Statutes of Ontario chapter 44, section 2, and no doubt is the authority under which the Courts of General Sessions of the Peace are now held in Ontario.

It will be observed that this enactment did not create the Courts nor even define their jurisdiction. It simply gave the sanction of the Legislature to the Courts and to the authority under which they were held, and did not indicate what that authority was.

I think, however, there can be little doubt but that the first commissions of the peace were issued in what is now Ontario in consequence of the introduction of the English criminal law, and as a part of that system.

I have not found any decision to that effect, but it seems the reasonable conclusion from the ascertained circumstances, and it is the view adopted by the writer of an article in the CANADA LAW JOURNAL of February, 1871, on the Jurisdiction of the Courts of General Sessions of the Peace in case of perjury; in which article the question of the origin and jurisdiction of these Courts is considered and dealt with so fully as really to leave but little to be said on the subject.

It is almost unnecessary to say that the criminal law of England was introduced by royal proclamation into the then Province of Quebec in 1763, a few months after the cession of that Province to Great Britain under the Treaty of Paris, and that on the extension of the limits of that Province so as to include all the present Province of Ontario, by the Imperial Act, 14 Geo. III. chapter 83, it was by the 11th section of that Act, after praising the certainty and lenity of the criminal law of England and the benefits and advantages resulting from the use of it, which had been sensibly felt by the inhabitants from an experience of nine years, during which it had been uniformly administered, enacted that the same should