

until the next Court of Oyer and Terminer, great session or gaol delivery, the Court held that as the offence was a misdemeanour only, and the defendant might be prosecuted for it without being apprehended or in custody, the clause in the Act did not prevent the indictment being preferred at the Sessions; *Rex v. Cook*, 4 M. & S. 71.

It would seem from this latter case that the Sessions would only be barred jurisdiction where there was an express direction that the offence should be prosecuted before the Court of Oyer and Terminer or general gaol delivery.

Although Lord Kenyon, as I have already mentioned, in recognizing the fact that perjury and forgery at common law were exceptions to the class of offences which, being violations of the law of the land, have a tendency as it is said to the breach of the peace and are therefore cognizable by the Sessions, uses the expression, "why exceptions I know not," it seems clear that the reason why it was held that the Sessions had not jurisdiction over them was that it was considered these offences had not a direct and immediate tendency to cause such breaches of the peace as some other offences, which for that reason had been held to be indictable at the Sessions. In 2 Hawkins' Pleas of the Crown, book 2, cap. 8, sec. 64, it is said: "Yet it hath of late been settled that justices of the peace have no jurisdiction over forgery and perjury at the common law, the principal reason of which resolution, as I apprehend, was that inasmuch as the chief end of the institution of the office of these justices was for the preservation of the peace against personal wrongs and open violence; and the word 'trespass' in its most proper and natural sense is taken for such kind of injuries, it shall be understood in that sense only in the said statute and commission, or at the most to extend to such other offences only as have a direct and immediate tendency to create such breaches of the peace as libels and such like, which on this account have been judged indictable before justices of the peace."

This passage is quoted by Mr. Justice Wightman in his judgment in *ex parte Henry Bartlett*, reported in 7 Jurist