

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

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 649, decided in 1843, where the question of the power of a justice to commit for trial on a charge of forgery was discussed at considerable length.

This reasoning seems to be adopted and approved of by Chief Justice Wilson in the case of *The Queen v. McDonald*, 31 U. C. R. 339, when he says perjury and forgery not being attended with a breach of the peace the Courts of Quarter Sessions cannot try them.

Assuming then that the Court of Quarter Sessions in Upper Canada had the same jurisdiction as these Courts in England, and consequently jurisdiction over all cases of felony and misdemeanour except perjury and forgery, and such new offences, as by the Act creating them, were directed to be tried at the Courts of Oyer and Terminer and general gaol delivery; it remains to consider the changes effected by Canadian legislation and the decisions of our own Courts.

The statute 7 William IV., chapter 4, abolished the distinction between grand and petit larceny, and enabled the Sessions to try all cases of simple larceny (under certain restrictions when they were not presided over by a barrister). This statute seems to follow substantially the English Act 7 & 8 George IV. chapter 29, sections 2 & 3, although in the English Act the Court of Quarter Sessions is not mentioned, but every Court whose power as to the trial of larceny before was limited to petty larceny was given the power to try every case of larceny, the punishment of which could not exceed the punishment therein mentioned for simple larceny.

It is said in Dickenson's Guide to the Quarter Sessions that in England prior to this Act the Courts of Quarter Sessions only professed to try petty larcencies.

The various enactments in force as to the Sessions were consolidated in chapter 17 of the Consolidated Statutes for Upper Canada, and most of those are now in chapter 44 of Revised Statutes of Ontario.

No definition or limitation of the jurisdiction of the Court is to be found in either of these statutes, although in the Consolidated Statutes, chapter 17, section 3, is to be found sec. 5 of 7 William IV. chap. 4, declaring that it shall not be necessary for any Court of Quarter Sessions to deliver the gaol of all prisoners who may be confined upon charges of simple larceny, but the Court may leave any such cases to be tried at the next Court of Oyer and Terminer, if by reason of the difficulty or importance of the case, or for any other cause it appears to them proper to do so.

In the Dominion Statutes, passed in 1869, 32 & 33 Vict., there are several important enactments affecting the jurisdiction of the Sessions.

They are 32 & 33 Vict. cap. 29. sec. 12, by which it is enacted that no Court of General or Quarter Sessions or Recorder's Court nor any Court but a Superior Court having criminal jurisdiction shall have power to try any treason or any felony punishable with death or any libel.

This is, except as to the prohibition against libel, a re-enactment of 24 Vict. cap. 14 in substance.

Mr. Taschereau in his book on the Criminal Acts has given a list of the offences in respect of which the Sessions have not jurisdiction, in which he has included administering poison or wounding with intent to murder, and carnally knowing a girl under ten years of age. In both cases the death penalty has been abolished since the publication of his book, and I presume the offences are now within the jurisdiction of the Court.

Then 32 & 33 Vict. cap. 20 sec. 48 by which it is enacted that neither the justices of the peace, acting in and for any district,