

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

during these times it was settled that neither perjury at common law nor forgery at common law was within the jurisdiction of the Court; and this was recognized and affirmed by Lord Kenyon in the case of *Rex v. Higgins*, 2 East 5; and although he admitted he did not know the reason for the decisions, he considered them so well established that he would not interfere with them. Subject to those two exceptions, Mr. Archbold says that in modern times the general opinion of the profession is that the Court of Quarter Sessions has jurisdiction by virtue of the commission of all felonies whatsoever, murder included, though not specially named, and of all indictable misdemeanours, whether created before or after the date of the commission. As to the word "trespasses," he says the word used when the commissions were in Latin was "transgressionēs," which was a word of very general meaning, including all the inferior offences under felony, and also those injuries for which the modern action of trespass lies. It was usually rendered into law French by the word "trespas," and that is the word used in the original French of the statute 34 Edward III. chap. 1, and it is there rendered into English by the word "trespasses." It is said that when a statute creates a new offence, and directs it to be prosecuted before a Court of Oyer and Terminer or general gaol delivery, without mentioning the General or Quarter Sessions, that is deemed to be an implied exclusion of the jurisdiction of the Sessions with respect to that particular offence (*Rex v. Rispaill*, 1 Wm. Bl. 368; 3 Burr. 1320).

Where, however, a statute required that the offenders against it should be carried before a justice of the peace, and by him committed to the county gaol there to remain 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, chap. 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