

GOOCH vs. THE STATE.

The act of 16th Dec., 1846, conferring jurisdiction upon justices of the peace of assaults and batteries, &c., did not deprive the Circuit Courts of jurisdiction of indictments pending at its passage.

It only declares that such offences shall not thereafter be indictable, and transfers jurisdiction thereof to justices of the peace. (a)

Appeal from the Circuit Court of Scott county.

At the October term, 1846, of the Scott Circuit Court, the grand jury found an indictment against Tilmon D. Gooch, charging that, on the 3d day of August, 1846, he committed an assault and battery upon one Armstead Blevins, in said county. The indictment was returned 7th October, 1846.

At the April term, 1847, defendant appeared and pleaded not guilty, was tried, convicted and fined ten dollars; and appealed to this court.

It was assigned for error that the Circuit Court had no jurisdiction to hear and determine the indictment.

W. WALKER, for appellant, argued that the act of December, 1846, conferring jurisdiction of assaults and batteries, &c., upon justices of the peace, repealed the law under which Gooch was indicted, convicted and fined, and that the Circuit Court was thereby ousted of its jurisdiction of the offence.

WATKINS, Attorney General, made his brief in the case of *The State v. Cox, ante*, apply to this case.

(a) See *The State v. Cox, ante*.

OLDHAM, J. This case does not present the question whether the act of the Legislature of December 16th, 1846, enlarging the criminal jurisdiction of justices of the peace, is constitutional. The indictment was found, and the offence is charged to have been committed, before the passage of that act. The proceedings had in the case, are in conformity to the laws in force at the time of their adoption. The act of 1846, has no reference to cases pending in the Circuit Courts at the time of its passage, but declares that the offences therein specified shall not thereafter be indictable, and transfers the jurisdiction of those offences from the Circuit Courts to justices of the peace. There was no attempt to deprive the Circuit Courts of their jurisdiction over those cases of which they were possessed at the time of the passage of the act, but those courts were left free to proceed to final judgment. We see no error in the judgment of the Circuit Court, and the same is accordingly affirmed.
