

in the press. For the benefit of Canadian readers a few words upon the origin and functions of this institution may not be out of place.

ORIGIN OF THE GRAND JURY.

Many laymen and some lawyers have a vague notion that the Grand Jury system was established by *Magna Charta*. In his work on the Great Charter, however, Mr. McKechnie says: "One persistent error, universally adopted for many centuries, and even now hard to dispel, is that the Great Charter granted or guaranteed trial by jury." The error has no doubt arisen from a misreading of ch. 40 which provides that: "No freeman shall be arrested, or detained in prison, or deprived of his freehold or outlawed or banished, or in any way molested, and we will not set forth against him nor send against him unless by the lawful judgment of his peers and by the law of the land." Of this celebrated pronouncement Creasy said, in his *English Constitution* (p. 151 n.): "The ultimate effect of this chapter was to give and to guarantee full protection for person and property to every human being that breathes English air."

THE TRUE ORIGIN OF THE GRAND JURY.

Mr. McKechnie in the work above mentioned writes: "It was . . . Henry II. who laid the foundation of the modern jury system . . . In reorganizing machinery for the suppression and punishment of crime by the Assizes of Clarendon and Northampton, he established the general principle that criminal trials should (in normal cases) begin with formal indictment of the accused by a representative body of neighbours sworn to speak the truth. This was merely a systematic enforcement of one of the many forms of *inquisition* already in use; from that date onwards the practice so established has been followed in England. Criminal prosecution cannot be begun on mere suspicion or irresponsible complaints. The jury of accusation (or presentment) may be said to have been instituted in 1166, and has continued in use ever since, passing by an unbroken course of development into the Grand Jury of the present day."