

These provisions, though new in practice, are in principal no innovations. In the criminal code recently adopted in Virginia, a similar provision is contained. Laws of Virginia 1848, *page* 145, *sec.* 16. And it may be safely asserted, that the principle contained in them is in consonance with the common law itself. In a late case in Pennsylvania, the office of a grand jury was stated by judge King to be confined to the examination of such cases as were presented by the Attorney General, after previous binding over by a committing magistrate. This doctrine was held, in a case where a communication had been received from the grand jury, stating that charges had been made by one of their number, to the effect, that one or more members of a public trust had been guilty of converting public money to their own use, and asking that witnesses should be furnished them to enable them to examine the charge."

The remarks of the learned judge are so clear and forcible, that the commissioners cannot forbear giving them.

"The third and last of the extraordinary modes of criminal procedure," says he, "known to our penal code is that which is originated by the presentment of a grand jury." A presentment, properly speaking, is the notice given by a grand jury, of any offence, from their own knowledge or observation, without any bill of indictment being laid before them at the suit of the commonwealth. Like an indictment, however, it must be the act of the whole jury, not less than twelve concurring in it. It is, in fact, as much a criminal accusation as an indictment, except that it emanates from their own knowledge, and not from the public accuser, and except that it wants technical form. It is regarded as instructions for an indictment. That a grand jury may adopt such a course of procedure, without a previous preliminary hearing of the accused, is not to be questioned by the court. And it is equally true, that in making such a presentment, the grand jury are entirely irresponsible either to the public or to individuals aggrieved; the law giving them the most absolute and unqualified indemnity, for such an official act. Had the grand jury, on the present occasion, made a legal presentment of the parties named in their communication, the court would, without hesitation, have ordered bills of indictment against them, and would have furnished the grand jury with all the