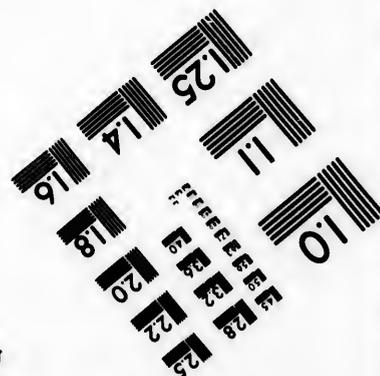
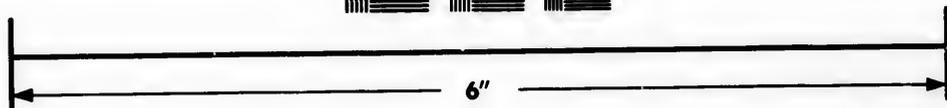
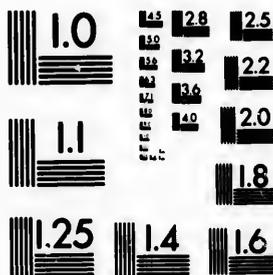


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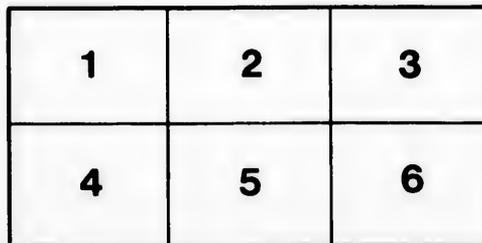
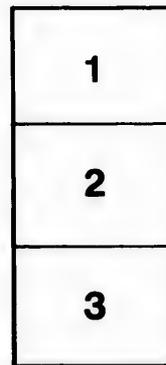
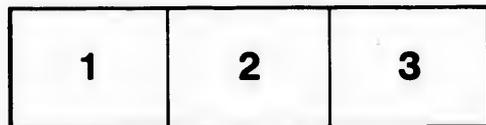
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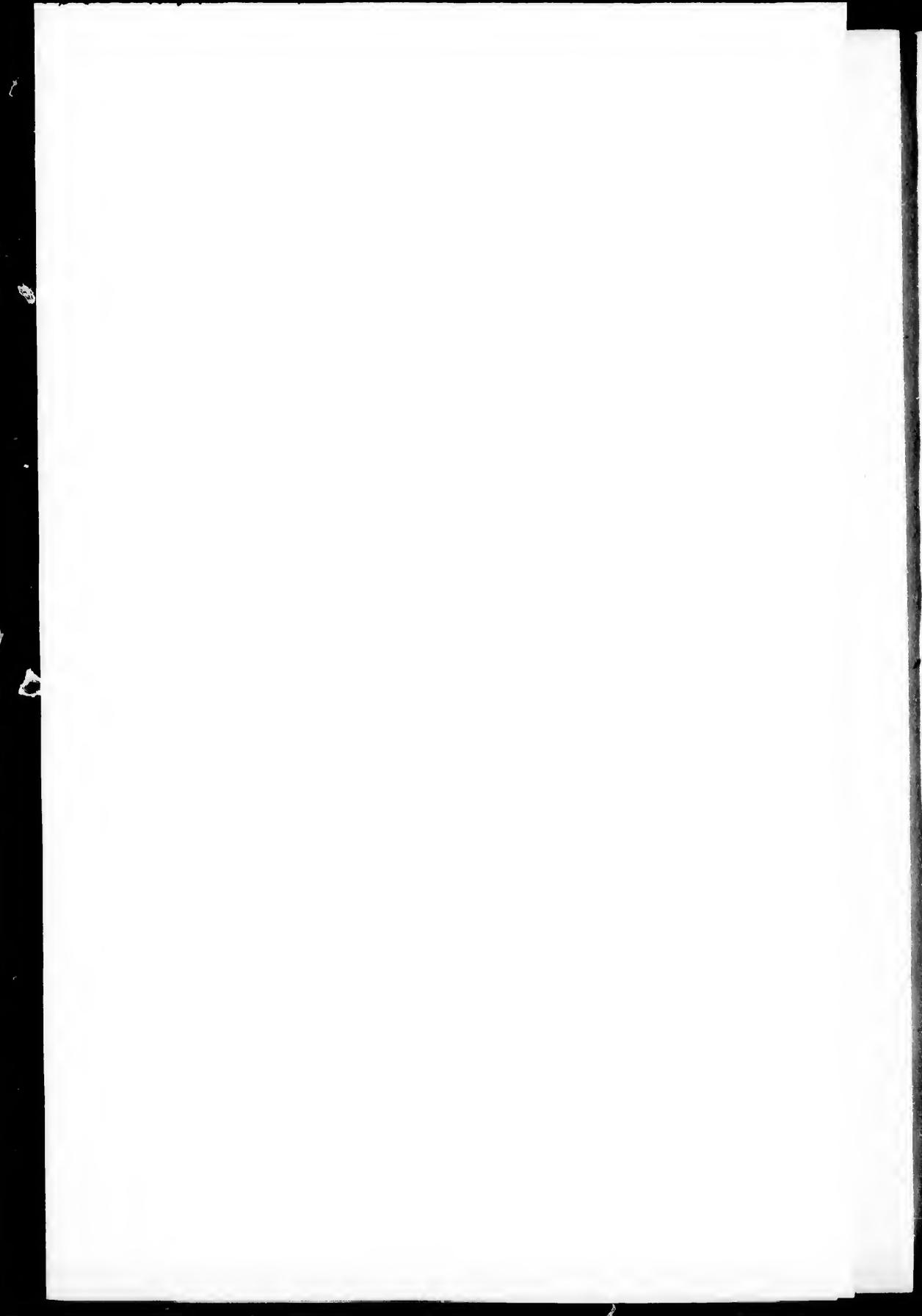
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MR. JUSTICE WÜRTELE'S

Charge to the Grand Jury,

Saturday, 10th December, 1887.

GENTLEMEN OF THE GRAND JURY :

The time having arrived for the winter term of the court for the trial of indictable offences committed in this district, you have been summoned and impanelled to form the Grand Jury.

It is one of the duties of the government, or to use the accepted term, of the crown, to see that the laws are respected and that those who commit offences are prosecuted and punished; and all necessary power has been given to the law officers of the Crown and their substitutes for that purpose. But as this power, if exercised without control, might be abused and become dangerous, it has been contrived, and it is a fundamental rule of our law, that no man can be called to answer to the Crown for any crime or serious offence unless upon the preparatory accusation of twelve at least of his fellow-subjects, and that the truth of every such accusation should afterwards be confirmed by the unanimous verdict of twelve other inhabitants of the district, indifferently chosen and free from all suspicion.

The Crown therefore submits all accusations to the grand jury, who inquire in each case whether there is sufficient ground to put the accused on his trial; and when the grand jury find that there is a sufficient case, the Crown next places the accused on his trial before a petit jury, who, after every opportunity for a full defence and after

a full enquiry, pass upon the truth of the accusation. The accusations will be taken before you by the substitutes of the Attorney General or the officers duly appointed to prosecute on behalf of the Crown.

Each accusation is reduced to writing and sets forth succinctly, but with certainty, the facts and circumstances essential to constitute the crime, and directly charges the accused with having committed it.

When this document is preferred to you, it is called a bill; and when you may find the charge founded, it becomes an indictment.

Every bill is signed by the Attorney General or one of his substitutes, and by the clerk of the Crown, to prevent unauthorized alterations after it has been found; and the names of all the witnesses whom it is intended to bring before you to be examined in support of a bill are endorsed on its back.

The officers prosecuting on behalf of the Crown and the clerk and other sworn officers of the court have alone the right to be present in your room during the examination of the witnesses, and may conduct the examination.

The witnesses produced must be sworn before being examined, and the oath should be administered either by your foreman or by any of you who in his absence may act on his behalf; and your foreman or such other member of the grand jury must write his initials against the name endorsed on the bill of each witness sworn and examined touching such bill. You must examine no witness whose name has not been either endorsed on the bill or submitted to you by the officers prosecuting on behalf of the Crown unless a written order to that effect be given by the presiding judge.

Upon the conclusion of the whole evidence in each case, all persons not members of the grand jury must withdraw; and you will then deliberate and decide whether or not you find the accusation justified.

As regards bills laid before a grand jury, its function is merely to inquire whether there is sufficient ground to call upon the accused to answer the accusation and to put him on his trial, and you therefore hear evidence only in support of the charge and not in exculpation of the accused. It is not the province of grand jurors to see whether there is any legal defence to be made to an accusation ; and really, if you heard evidence for the defence and, notwithstanding such exculpatory evidence, you decided to put an accused person on his trial, you would raise a presumption of guilt which might bias the minds and affect the impartiality of the petit jurors who would afterwards be called upon to try him.

However, if you should be unable from the evidence adduced to satisfy yourselves sufficiently to arrive at a decision, and you should have reason to know that there is other evidence within your reach which would qualify or explain away the charge under investigation, you have the right, and in fact it would be your duty, to seek the authorization of the presiding judge for the production of such other evidence.

If after due deliberation twelve of your body are of opinion that the evidence submitted is sufficient, and they are satisfied as to the truth of an accusation, you will find the bill, and your foreman will endorse it with the words " A True Bill " and sign his name under these words, adding under his signature the word " Foreman," to describe his office. If, however, on the contrary, you think that an accusation is groundless, or either frivolous or malicious, and a majority of you agree to reject the bill, your foreman will endorse it with the words " No Bill " and then sign his name and write after his signature the title of his office as in the other case.

When you have disposed of a bill, you will bring it into court and here deliver it to the clerk of the Crown who in your presence, in open court, will announce your finding.

When a bill has been rejected or ignored, another bill against the same person, for the same offence, cannot be found at the same term by the grand jury ; but fresh bills may be preferred to the grand jury at a subsequent term.

Although ordinarily a prosecution originates by a bill of indictment preferred in the name of the sovereign, still, when to your own knowledge a crime or an offence has been committed, you may and in fact you are bound to take notice of it without any bill of indictment being laid before you. This knowledge must be derived from your own observation or incidentally from testimony given before you, as for instance while inquiring into another offence. In such cases you proceed by presentment, that is to say, by a report to the court of the case, setting forth the facts and circumstances constituting the crime or offence and charging the offender with its commission. Like an indictment, a presentment must be concurred in by twelve at least of the grand jury. On such a presentment being made the officers prosecuting on behalf of the Crown frame an indictment on it, and the person accused is then arraigned and put on his trial.

The calendar or list of cases for the present term, which the clerk of the Crown has transmitted to me, is very light, and although some of the offences are serious ones, none of them call for any special notice on my part or require me to give you any particular instructions.

You have the right, at all reasonable times during the discharge of your duties, to apply to the court for advice ; and should any occasion arise during which you may require advice you will find me ready to assist you. Of course such advice must be restricted to matters of law. You have to take the law from the court and you must be guided in all questions relating thereto by the court, but the court can and should neither direct nor control you in weighing the evidence or in deciding whether or not the facts as shown by the evidence are sufficient to autho-

rize you to find a bill. You may also apply to the clerk of the Crown and to the officers prosecuting on behalf of the Crown for advice on questions of law or of procedure which may arise during your proceedings.

It is the province of the court to see that you perform your duty and exercise your powers in a legal manner and to direct you to that end, but the court neither keeps your conscience nor should control you in finding facts, or exercise any influence for that purpose.

The calendar speaks well for the general good behaviour of the inhabitants of this district during the past half year, and I am happy to be able to congratulate you upon the state of the district generally.

The oath which you have just taken will have strongly impressed upon you, too, amongst other obligations which lie upon you as grand jurors:—one, to preserve inviolate the secrets of the grand jury room, and the other, to act in the fulfilment of your duties without envy, hatred or malice, and without fear, favor or affection or hope of reward. The interests of justice do not require that it should be disclosed what particular jurors concurred in or opposed the findings of an indictment, while the feeling that everything which takes place in the grand jury room is under the obligation of secrecy must produce a sense of security and an independence of action on the part of the jurors which might otherwise be wanting. But the interests of justice and good conscience require that every action and every decision of the grand jury should be produced by the dictate of duty, a strict discrimination between right and wrong, and the exercise of impartiality. And in this connection there is one thing which I feel it my duty to impress upon you,—it is to ignore all party division, to suppress all political feeling or bias, and in acting on bills laid before you to close your eyes as regards the individuality of persons and to scrutinize only their acts. You must not allow yourselves to be approached on any matter

connected with your duties by any outside party. Such conduct would in fact constitute a grave offence which the court would have to notice and punish if brought to its knowledge.

Another duty you will be called on to fulfil will be to visit the common jail of the district and the court house and other public buildings, and to report on their condition. If you should find in the jail any prisoner who is not serving out a term of punishment, and against whom no action has been taken, you should draw the attention of the court to his case, so that the court may deal with it as may be proper.

Should it come to your knowledge that any public officer in the district wilfully and corruptly misconducts himself in the execution of his official duties, it will be your duty to mention the fact in your presentment, so as to draw the attention of the authorities to the matter.

The state of all municipal roads, and the proper working of the municipal and common school systems in the district also come under the scope of your observation, and for the general good are all fit subjects for comment and suggestion in your presentment.

I have heard many complaints respecting the office provided by the corporation of the county of Ottawa for the county registry office, and I think it right to direct your attention to this matter. It must not be overlooked that the titles of the freeholders of the county and other important interests may be seriously imperilled by the condition of the registry office, and that matter is therefore one which in the public interest should be inquired into and brought under the notice, if necessary, of the proper authorities.

While on the subject of the public buildings, I take the opportunity to express my satisfaction at the improvements which the city council of Hull have made in the rooms appropriated for the circuit court held in their city.

In concluding let me tell you that in order to allow you to discharge your duties in a fearless manner you are entirely irresponsible for your acts as grand jurors and that no action or prosecution can be taken against any of you for any of your official acts or for any of your findings ; and let me also remind you that the obligation of secrecy will preserve you from all obloquy or reproach when you mingle again with your fellow citizens.

You will now retire to your room and attend to the duties of your office.



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