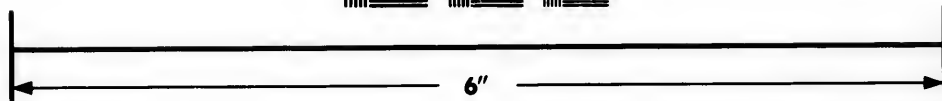
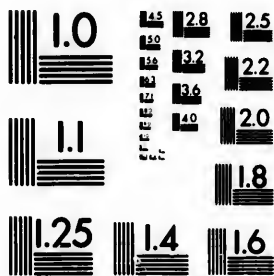


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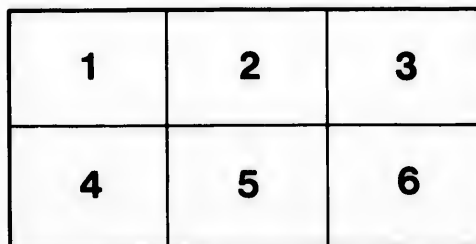
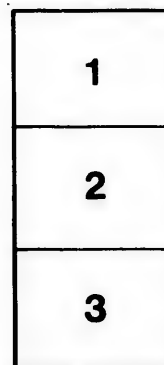
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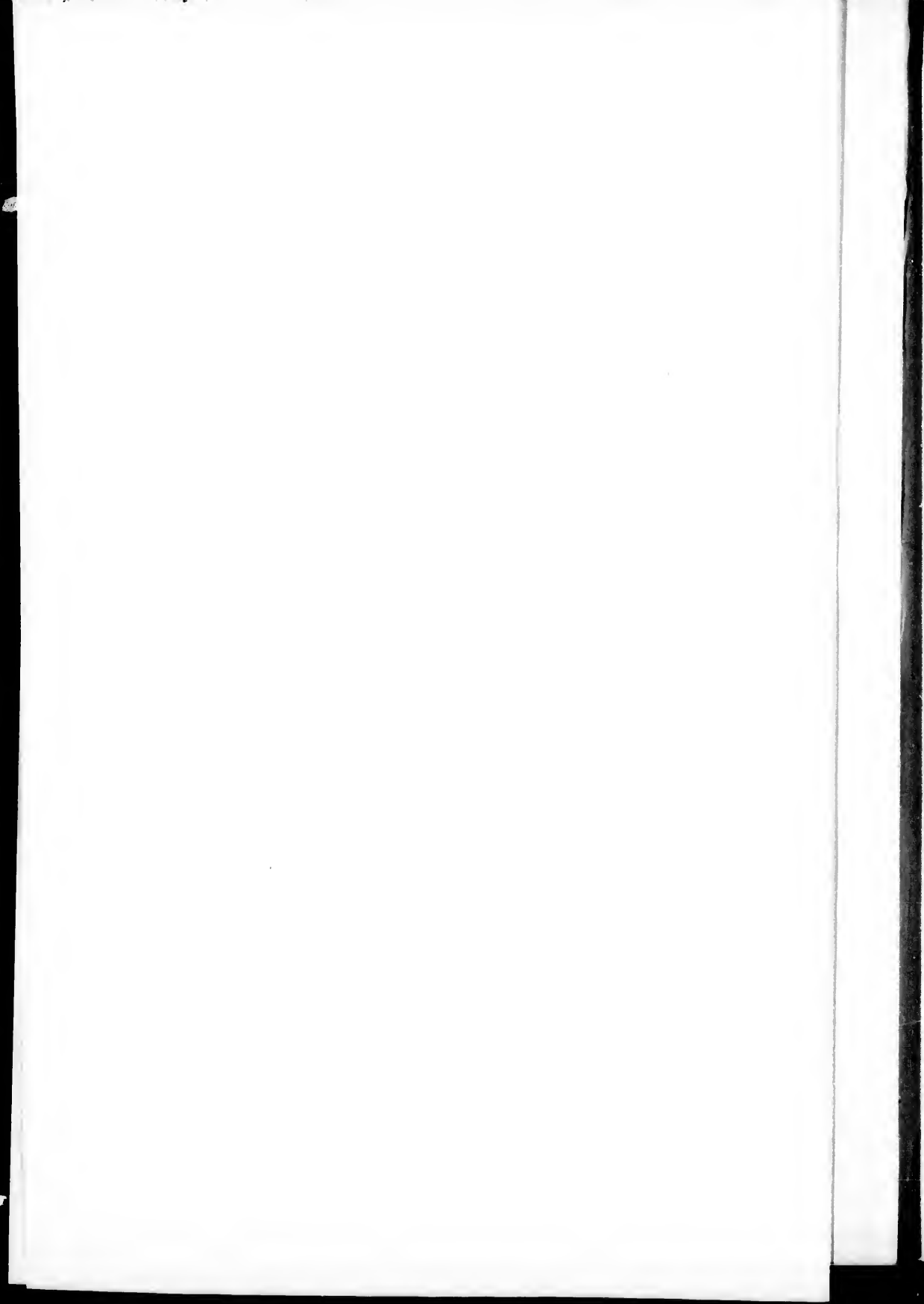
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Queen's Bench, Aylmer.
MR. JUSTICE WÜRTELE'S
Charge to the Grand Jury,
Monday, 11th June, 1888.

GENTLEMEN OF THE GRAND JURY :

As grand jurors you have, in your turn, been summoned and sworn in to form the "grand inquest" of this district for the present term of the court of Queen's Bench in the exercise of its criminal jurisdiction.

Your principal duty, as the body composing such grand inquest, is to take cognizance of all accusations which may be laid before you in the shape of bills of indictment by the officers prosecuting on behalf of the crown, and satisfy yourselves from the evidence to be adduced before you that sufficient cause appears for calling upon the accused parties to answer the charges made against them, and also to present accusations yourselves to the court against culprits for offences existing within your own knowledge or within the knowledge of some of you. Accusations may also be brought by a private prosecutor, but the bills of indictment in such cases can only be laid before you on an order of the court.

You can therefore legitimately act in this respect in two ways: first, on accusations which are given to you in

the shape of bills of indictment preferred by the public prosecutor, or submitted by a private prosecutor under the express authorization of the court ; and secondly, on crimes, misdemeanors or public evils requiring judicial notice, respecting which no bills of indictment are presented to you but which may come to your knowledge in the course of investigations had before you, or from your own observation, or from the disclosures of some of yourselves. When a grand jury finds a case which has been committed to it, it acts on the bill of indictment preferred to it ; but when it acts on its own knowledge, it reports the facts to the court by a document which emanates from itself and is called a presentment, and on which the public prosecutor afterwards draws an indictment.

The primary object of the institution of a grand jury is to provide a shield to those who may be unjustly accused either by private malevolence or by political intrigue ; and the theory of its powers and functions is that no person can be publicly put on his trial for an infamous crime without it having been first ascertained if there be a *primâ facie* case against him, and that there is such a degree of evidence as to his guilt as, unexplained, would be sufficient for a conviction. It is on account of this safeguard that this institution should be dear to us, and that it will always be upheld by the Parliament of our country.

You have been summoned by the Sheriff under a precept requiring him to return twenty-four persons from the body of grand jurors for the district ; but the number required to form the grand jury or grand inquest for the term must not be more than twenty-three nor less than twelve. In order to find an indictment, or make a presentment, twelve at least of you must assent thereto, for it is a maxim of the English criminal law, as Blackstone says, that “ no man can be convicted at the suit of the “ King of any capital offence, unless by the unanimous “ voice of twenty-four of his equals and neighbours, that

“ is, by twelve at least of the grand jury in the first place
“ assenting to the accusation, and afterwards by the whole
“ petit jury, of twelve more, finding him guilty.”

When a bill of indictment has been laid before you, you will proceed to examine the witnesses who are produced to support the accusation and whose names are indorsed on the back of the bill; and you must examine no other unless upon the written order of the presiding judge. The witnesses must be sworn either by your foreman or by any other of you acting on his behalf; and they may be examined either by the officer prosecuting on behalf of the crown, or by the clerk of the crown or his deputy, or by your foreman or any of you, as may seem fit to you. After the examination of each witness, your foreman, or any of you acting for him, must write his initials against the name of such witness on the back of the bill.

In making your investigations you must exclude mere reports, suspicions and hearsay evidence, and receive only legal evidence; but you must receive all the evidence which may throw light upon each case submitted for your consideration, whether it tend to establish the innocence or the guilt of the accused. As your investigation is only in the nature of an enquiry to ascertain whether there is sufficient ground to put the accused on his trial, only witnesses for the prosecution are produced before you; but if in the course of your enquiry you should have reason to believe that there are other witnesses whose evidence would qualify or explain away the charge under investigation, it will be your bounden duty to apply to the court for an order to cause them to appear before you and to authorize their examination.

After hearing all the evidence submitted to you in each case, you will carefully consider and weigh the same and then conscientiously decide the question whether or not you will find the bill. In proceeding with your examination of the witnesses, you have the right to enquire into

their credibility, and in considering their evidence you have it in your power to judge of such credibility.

As I have already stated, it will require twelve at least of your number to arrive at a finding. If you agree to find a bill, your foreman will indorse it with the words "A True Bill," and will sign his name and add thereto his qualification of "Foreman." If on the other hand you agree to reject a bill, it is indorsed in the same way, but with the words "No Bill." A presentment must also be signed by your foreman.

It is your duty to act on every bill of indictment which is preferred to you, and either find a true bill or reject it. You cannot return a special finding and select a part of a bill as true and reject the rest; but when a bill of indictment contains several "counts," or distinct accusations, you may find a true bill as to the charge in one count and ignore that in another; and when in a bill there are several defendants, you may find a true bill as to one defendant and not as to another.

If you should ignore a bill, a fresh bill cannot be laid before you for the same offence; but another bill for the same offence may be preferred at a subsequent term of this court, if fresh circumstances of suspicion should in the meantime arise.

During the examination of witnesses the counsel prosecuting on behalf of the crown and the officers of the court may be present, and, when so, usually examine the witnesses; but while in deliberation you should and must be alone, as this will conduce to a freer discussion and interchange of opinion among yourselves.

When you have disposed of the bills laid before you, you will bring them into court and deliver them to the Clerk of the Crown, who thereupon, in your presence, will announce your findings in open court.

You are required by your oath to keep your proceedings secret, and I trust that you will be careful to avoid

any breach of this obligation. The reason of this obligation is to secure freedom of deliberation and of opinion among you, which would be impaired if the part taken by each might be made known. Besides it is better that the responsibility of your findings should rest with the impersonal entity of the body of the grand jury than with any particular members of the body; it is therefore your common interest to preserve the secret of your deliberations inviolate.

It affords me great pleasure to be able at this term, as at the previous ones over which I have presided, to congratulate the grand jury upon the general good behaviour of the inhabitants of this large and important district. I am glad to be able to inform you, judging from the return furnished me by the Clerk of the Crown, that your labours will be very short, as his return contains only five cases to be laid before you,—one for wounding, one for arson, one for burglary and two for the larceny of trees. These cases do not call for any special instructions on my part, but of in the course of your investigations you should find that you require information or directions on any point, you can come into court and lay the matter before me, and I will then give you the necessary instructions.

Another duty which devolves upon you is to visit and examine the court house and common jail of the district and to report to the court, for the information of the proper authorities, the condition in which you may find them.

It also falls within your functions to draw the attention of the court to any dereliction of duty on the part of any public officer in the district and to any failure on the part of the municipal and school corporations to fulfil the obligations towards the public which are imposed upon them by law. And, while on this topic, I am glad to be able to say that since the last term of this court the county council of the county of Ottawa has taken the necessary steps to provide a proper registry office and to

place the records of that office in a state of security, and I take this opportunity to congratulate the members of the council on its action in this respect. I would also draw your attention to the neglected condition of the streets and highways in many parts of the district, and I would earnestly suggest the advisability of a stricter supervision on the part of the councils and road inspectors of our various municipalities.

The action of the provincial government in distributing copies of the municipal code in all the local municipalities of the province will tend to facilitate the proper working of the municipal system; and I venture to express the hope that when the acts respecting public instruction are consolidated the government may see proper to distribute the consolidated act in like manner among the school municipalities.

Within the last few days a great disaster has occurred in the city of Hull, which calls for our sympathy. A fire has destroyed the principal public buildings in the city, including the catholic church and presbytery, the convent, and the city hall and county court house, and has rendered over one hundred families homeless. The spread of the fire was most rapid, and this was due to the fact that almost all the dwellings and their dependencies were built of wood and that the water works, which the city corporation is now constructing, were not yet completed in the part in question of the city. It is sincerely to be hoped that the city council will now see the necessity of proceeding with all speed in completing and also in increasing the capacity of the water works, and of adopting measures to prevent the erection in future of wooden buildings within the city limits. If the prohibition of wooden buildings may seem on the one hand a measure of hardship towards the poorer classes of citizens, it must not be forgotten on the other hand that the liberty to erect such buildings is a cause of danger to the community at large

which should be curtailed in the interest of the public generally.

You will now retire to your room and proceed with your labours, and in doing so let me request you to keep constantly in mind the obligation imposed upon you by your oath of office, "to present no person for hatred or malice, nor to leave any one unrepresented for fear, favor or affection, or hope of reward, but in all things to present the truth and nothing but the truth to the best of your knowledge."



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