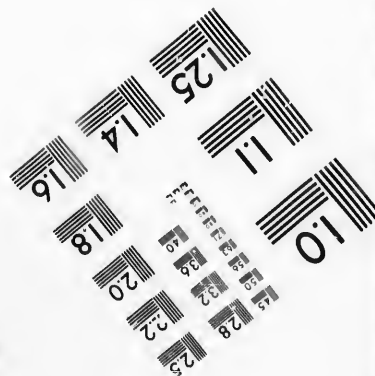
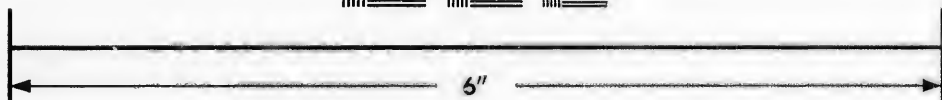
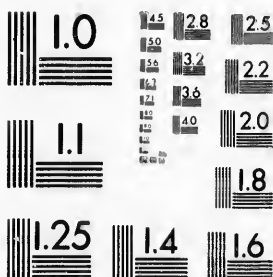


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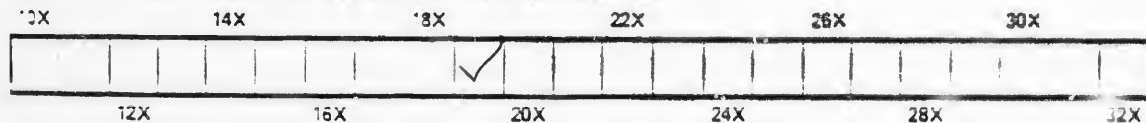
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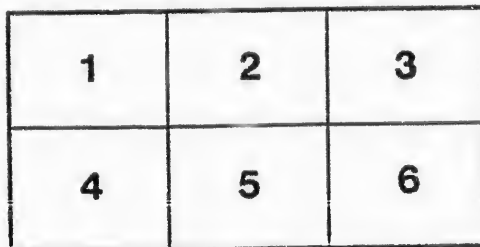
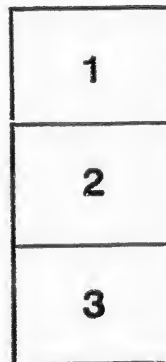
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A COLLECTION
OF
P A P E R S
AND
F A C T S,

RELATIVE TO THE
DISMISSION OF
WILLIAM SANDFORD OLIVER, Esq.

FROM THE
OFFICE OF SHERIFF OF THE CITY AND COUN-
TY OF ST. JOHN, IN THE PROVINCE
OF NEW BRUNSWICK.

Audi Alteram Partem.

PRINTED IN THE YEAR 1791.

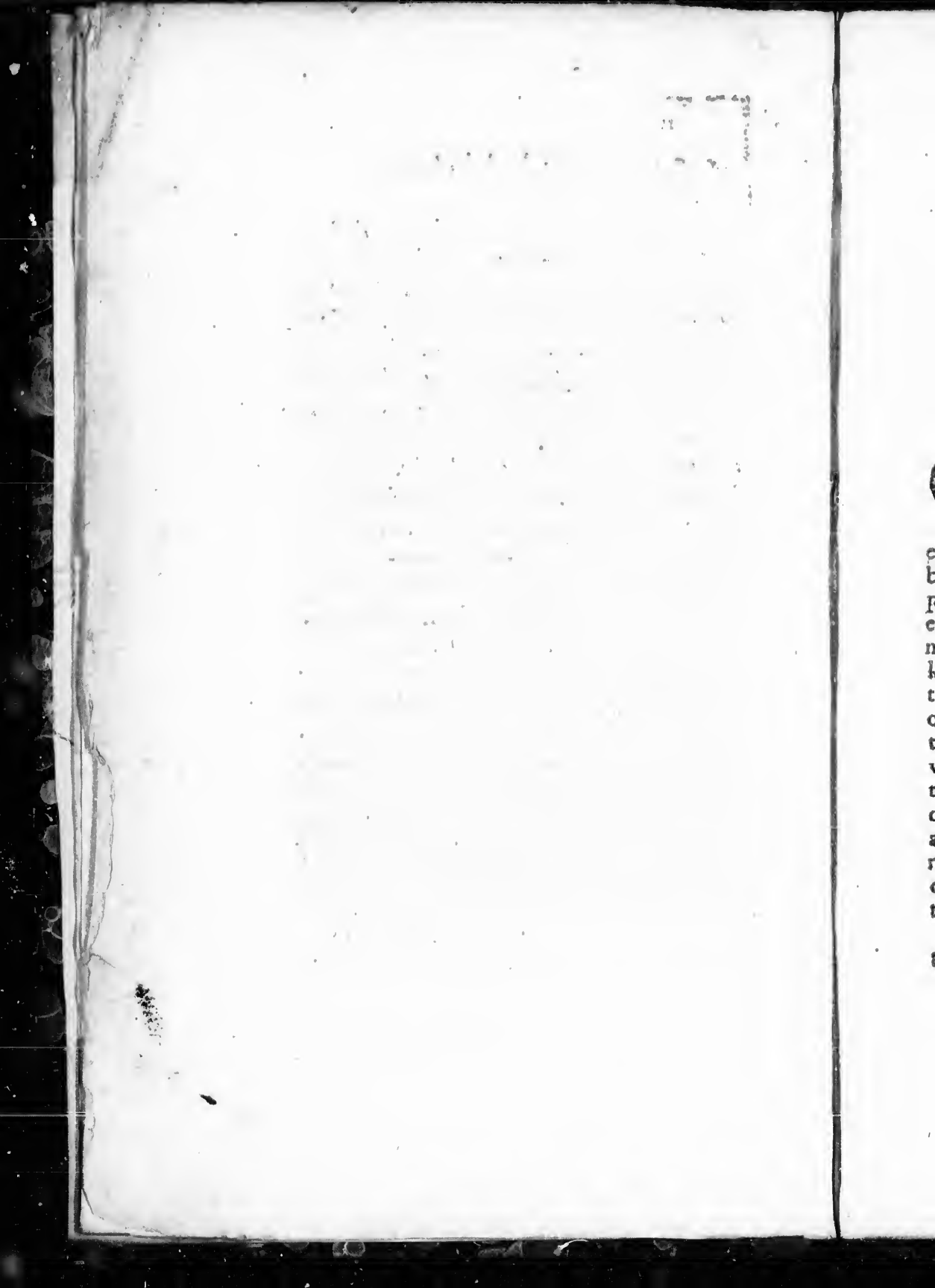
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ADVERTISEMENT.

TO a Man of feeling, nothing is so dear as his Character.—Injuries offered to his property, may be repaired, but it is not so with those that affect his reputation. When a Public Officer is dismissed from his employment, on a charge of misbehaviour, the world takes it for granted, that his disgrace is justly incurred; and should it be otherwise, it is incumbent upon him to undeceive them.—This has induced me to publish a collection of papers and facts relative to the late dispute between me and the Grand Jury—for the authenticity and veracity of which, I pledge my honor. The perusal of them, will enable every candid reader to determine how far my conduct has been excusable, and how far it has been reprehensible; and should it prove the happy means of rectifying the misrepresentations which have been most industriously propagated concerning this business, the pleasure to be derived from such an event, will, in a great measure, counterbalance what I have suffered in being deprived of my office.

W. S. O.



A
COLLECTION
OF
PAPERS *and* FACTS.

ON the 16th of March last, my duty, as Sheriff, leading me to the County-Goal, where there were then no prisoners, excepting criminals, I was informed, by the Turnkey, that the Grand-Jury had been there that morning, examined the upper part of the Goal, narrowly and *curiously* inspected the rooms where debtors were usually confined, and the lodgings of the Goaler and Turnkey—and had been very inquisitive respecting the treatment of debtors, and the appropriation of their several apartments; that he had given them all the information in his power, and was willing to have shewn them the lower part of the Goal, where criminals are kept, but they declined seeing it, saying *they had seen enough*, and departed. This visit somewhat surprized me, as it was altogether unexpected, and no complaint had been made to me respecting the treatment of any prisoners under my care.

From the Goal, I walked down to Mallard's tavern, where the Quarter-Sessions were sitting,

and found the Grand-Jury had broken up, after finishing their business for the day; seeing one of their number, a Mr. Squires, standing upon the stoop, I entered into conversation with him, and the late visit to the Goal being mentioned, I expressed my displeasure in pretty strong terms; what was said on the occasion, was scarcely uttered, before a number of the Grand-Jurors collected round me, whose behaviour I am almost ashamed to relate.—The language they addressed me in, was highly menacing and insulting; they repeatedly declared “*they would visit the Goal whenever they pleased, in spite of me;*” they dared me to prevent them, and went so far as to declare “*they would force me to open the doors for them.*” Many threats, and much opprobrious language, were bestowed on me, and on my returning homewards, a number of them, forgetful of their characters as Grand-jurymen, unmindful of my office of Sheriff, and in open violation of all decency and decorum, followed me down the street in a riotous, disorderly manner, and actually **MOBBED** me as far as market-house, at noon day. They afterwards repaired to the Attorney-General, who had no opinion as to the right they claimed of visiting the Goal, but informed them, if they had been ill-treated in the discharge of their duty, they might indict the offender for a misdemeanor, and furnished them with the form of a bill for that purpose, which they did not think proper to find.

On the Friday and Saturday following, there passed the papers subjoined, in the order in which they are numbered.

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N^o 1.

WE the Grand-Jurors for the present Sessions of the City and County of Saint John, having met together on Wednesday last, for the dispatch of our duty, a proposal was made, and unanimously agreed to, that we should go and examine the present condition of the County-Goal. After having gained admittance in the usual way, from the common Goaler, we examined the different rooms of said Goal, and returned to our place of meeting; *but to our astonishment, were attacked in the public street, by William S. Oliver, Esq. who insulted us in a most abusive and threatening manner, by calling us "a parcel of rascals or villains, and impertinent fellows; that it was a rascally proceeding to go to the Goal without his leave, and had he been there, he would have locked us all in."*

As this insult, so offered by the said William S. Oliver, to us as Grand-Jurors, *in the discharge of our duty*, is so flagrant an infringement of our constitutional rights, and an abuse as individuals, we cannot think of proceeding farther in the business for which we were summoned together, until a sufficient reparation is made by the said William S. Oliver, and 'till we are assured of the protection of the Court in our future proceedings. In this we are unanimous.

(Signed.)

AL. BLACK, Foreman.

Witness.

(Signed.) ISAAC BELL, Jun.
MOSES WARD.

THE Worshipful the Grand-Jury, for the body of the City and County of Saint John, have anticipated my intention of bringing before the Court a question of great importance to me in my office of Sheriff, which is, whether any set of persons have a liberty to enter the Goal of this County, without my permission.

The Court will recollect, that I am responsible for the safe custody of the prisoners in it—and that when I bring up a prisoner by Habeas Corpus, I am entitled to an indemnity against his escape, before he quits the prison; but if twenty persons (whatever may be their description) are at liberty to throw open the doors, and enter at pleasure, I conceive myself to run a much greater risque than in trusting a prisoner abroad under the care of my own officers.

I have hitherto supposed, that the admission or exclusion of persons, not having legal business in the Goal, was vested entirely in me as Sheriff, and this I hope to be further informed of by the Court, as well as whether it is part of the duty of the Grand-Jury to enter and examine the state and condition of the Goal, and form their conclusions on what they may see there, without an order from a Court of Justice for that purpose.

That the Grand-Jury, as the Grand-Inquest of the County, should enquire into, and present, all nuisances within the County, whether existing in the Goal or elsewhere, I by no means deny; but what I contend is, that this enquiry, like other enquiries of a Grand-Jury--(I say

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Grand-Jury, as having no reference to a Coroner's Jury) must be made by witnesses.

The present Worshipful Grand-Jury, alledge, that for dispatch of their duty, they agreed to go and examine the present condition of the County-Goal. If this was part of their duty, they certainly performed it in a new method, as the principal object to which this duty of their's led them, was, to examine the private apartments of the Goaler's wife and sister, especially the latter, and this part of their duty, they discharged with a diligence and minuteness of investigation beyond all praise ! What impresson the objects they there met with made upon their imaginations, I know not, but it certainly affected their memories very materially, they forgot their errand, and entirely omitted examining the lower part of the Goal, which contains four of the strongest rooms in it.—They forgot, when I casually met them on their return, * that *I never made use of the words rascals or villains* ; and from any thing that appears on the face of their complaint, they have since forgot that I am High Sheriff of this City and County, and consequently that I had a principal concern in whatever passed in the Goal.—The words I used were, that they were a set of impertinent fellows, and I might perhaps add, that had I been there, I should have locked them in.

I confess it would have been, perhaps, as well to have laughed only at their inexperience, and not have remarked the impropriety of their be-

* This was an error in the copy, which was made in haste—it ought to have been *when I casually saw some of them after my return.*

haviour quite so forcibly ; but the very ungentle manner in which they had intruded on my premises, in my absence, without notice, without leave, and for the purpose of picking up some cause of complaint, drew from me the words I used, before I had time for recollection ; and if the Court think they need any apology, I hope it will be preceded by an apology from the Grand-Jury to me, for having given me the provocation.

(Signed.)

W. S. OLIVER, Sheriff.

It is evident this paper was not serious, but ironical, especially towards the close, yet the Grand-Jury said they could have forgiven the first insult, but not the last.



N° III. *

FROM the grievous complaints that have often been made, respecting the condition of, and manner in which the common Goal of this County, has been appropriated, We, as Grand-Jurors for the present Session, thought it an incumbent duty to make enquiry after the grounds of those complaints.—And for that purpose, we went to the said Goal, and inspected its different apartments.

The upper floor, we find, is divided into four rooms, three of which are occupied as private

* It is observable, on this presentment, that the objects of it are, the disposition of the different apartments of the Goal, and their condition as to cleanliness.

lodgings, and *one* only appropriated for the reception of debtors—and *that* one, we conceive to be, in its present situation, very unfit for accommodating any description of prisoners—from its nauseous smell, and dirty appearance.

The inconveniences that must arise from employing the principal part of the Goal as a dwelling-house, are obvious. —In the first place, it is contrary to its original design—† and in the second, it is incapable of accommodating the different denominations of prisoners.

It is therefore hoped, that the Court, in its wisdom, will devise means to remedy a grievance which has been long and too justly complained ‡ of.

(Signed.)

AL. BLACK, Foreman.

Saint John, March 18, 1791.

Witness.

(Signed.) ISAAC BELL, Jun.



N^o IV.

A DISAGREEABLE misunderstanding and altercation having taken place between the Sheriff and Grand-Jury, and the Court being desirous that there should be unanimity and

† How could the Grand-Jury hazard this assertion, when there was not a single debtor in confinement, and they had not examined the four lower rooms of the Goal?

‡ These complaints are said to have been made to the Grand-Jury, by two persons who were not upon oath, as all evidences examined before a Grand-Jury, by law, ought to be.

concurrence in the different public bodies and officers, in the discharge of their public duties, have endeavoured to discover the cause of an event so unpleasent—and, upon enquiry, find, that the language made use of by the Sheriff to the Grand-Jury, arose from a supposed intention in the Grand-Jury, to treat him with pointed disrespect, in visiting and examining the Goal without his knowledge, *which the Court is satisfied was by no means their design,* * but that they visited the Goal from motives of duty, in discharge of their public trust.—The Court, therefore, earnestly recommend, that such an explanation may take place between the Sheriff and Grand-Jury, as will reconcile them to each other, and bury in oblivion the unfortunate dispute that has taken place.

(Signed.)

ELIAS HARDY, Clerk,

March 18th, 1791.

To the Grand-Jury for the City and }
County of Saint John, now sitting. }



N^o V.

THE Grand-Jurors having already put it in the power of William Sanford Oliver, Esq. High-Sheriff, to make acknowledgment for his misbehaviour—and having received a

* The Court judged more favorably of the Grand-Jury than they deserved, as it has been since confessed, by one of their number, that they studiously concealed their intention of visiting the Goal, from me, and chose to go at a time when they thought I should be absent.

contemptuous answer to their presentment, from the said William Sanford Oliver, Esq. † conceive that they are perfectly justified in applying for redress to the fountain from whence this office originates.

Yet, from motives of sympathy and compassion, and from a firm persuasion that the abuse proceeded from ignorance in Mr. Oliver, the Grand-Jurors are willing to accept of a public acknowledgment, as shall be approved of by them.

—Unanimous.

(Signed.)

AL. BLACK, Foreman.

Saint John, March 18th, 1791.

To the Court.



N^o. VI.

MR. Oliver, upon the recommendation of the Court, is willing to acknowledge to the Grand-Jury, that it was in consequence of an impression upon his mind, that the Grand-Jury intended to treat him with pointed disrespect, that he made use of the language he did, and made the reply given to their complaint; and that, had he not thought it was so intended, he would not have made use of any expressions

† There is something very extraordinary in their first applying to the Court, and then declining its interference: The Court recommended an explanation, but this they avoid, in order to apply to the Lieut. Governor! How does this agree with what they say in No. 7, "that it is their earnest wish, that the difference may be accommodated without going any further."

which could have been exceptionable, or given the least offence. If this explanation is satisfactory to the Grand-Jury, Mr. Oliver wishes that both the complaint of the Grand-Jury, and his reply to it, may be withdrawn, and considered as having never existed.

(Signed.)

W. S. OLIVER.

Saint John, March 19, 1791.
To the Court now sitting,



N^o VII.

THE insult was given by Mr. Oliver in a public manner, and an acknowledgment must † be made in the same way, *either in the open Court, or in public print, by asking the Jurors' pardon.*—And it is the earnest wish of the Grand-Jury, that the difference may be *accommodated* without going any further.

(Signed.)

AL. BLACK, Foreman.

Saint John, March 19, 1791.
To the Court.

† Is this the language of accommodation?

COURT of SESSIONS.

SAINT JOHN, March 19, 1791.

THE Committee appointed by the order of yesterday, report, that they proceeded to examine the state of the County-Goal, and the ground of the complaint preferred by the Grand-Jury—and found, upon that examination, that only one room on the upper floor, is kept for the confinement of debtors; but they are of opinion, that room is the most commodious for the purpose, being the largest and best situated, and they found that room in proper order for the reception of prisoners, although, at present, there is no debtor in the Goal, *the last having been discharged yesterday.* † Upon examining the Sheriff, the Committee were informed, that the debtors were put together in this room for the purpose of being accommodated by one fire, where either of them was able to procure fuel; that, when occasion required it, the room now occupied by Pontius, the Goaler, was cleaned for the reception of debtors; and that debtors and criminals had not been confined together, *and that no complaint had ever been made to him, by any debtor, of the mode of his confinement.*—The Committee do not see any cause to impute blame to the Sheriff, in any particular instance; they are, however, of opinion, that the hall

* This was a Committee of the whole Court, and the reader is desired to observe how materially it varies, in many parts, from the representations of the Grand-Jury.

† It was some days before.

ought to remain undivided—and that, for the convenience of confining debtors, of different description, in separate apartments, two rooms, upon the upper floor, ought to be kept constantly unoccupied for any other purpose than the confinement of prisoners. The Committee proceeded to examine the rooms upon the lower floor, *which the Grand-Jury did not inspect*, which are kept for the confinement of criminals; these they found by no means fit for the reception of any prisoners, by reason of the water, at this season of the year, making its way through the floor, which is occasioned by the want of a proper depth to the drain, which was dug or cut in the rock to carry off the water; they are, therefore, of opinion, that as soon as the season will admit, the drain ought to be cut to a proper depth, for that purpose, and such other work done, as will render the rooms upon the lower floor, habitable, without danger to the lives of the prisoners.

Ordered, That the foregoing report be accepted—and that the Common-Council of the City, be requested to see the necessary repairs made, and work done, to answer the purpose mentioned in the report; and this Court will, by some future order, direct re-payment to the Corporation, out of the County-Treasury, of such proportion of the sum as ought to be defrayed by the inhabitants of the Towns in the County, out of the bounds of the City.—And further *Ordered*, That the Clerk be directed to furnish the Sheriff with a copy of this Order, for his direction.

N° IX.

Saint John, April 5, 1791.

DEAR SIR,

I HAVE this day received the enclosed Letter, signed Al. Black, Foreman of the Grand-Jury—and as I have already advised with you, as my Attorney, respecting the misunderstanding between me and the late Grand-Jury, I now request you will be so good as to let me have your opinion in writing, respecting the business, with leave to communicate the same to some of my particular friends.

I have the honor to be,

Your very humble servant,

(Signed.) W. S. OLIVER.

ELIAS HARDY, Esq.



N° X.

(Inclosed Letter.)

Saint John, April 5, 1791.

SIR,

HAVING formerly informed you, that the Grand-Jury intended laying their complaints against you, before His Excellency the Lieutenant-Governor, I now acquaint you, that it has been transmitted to the Secretary, and by him, laid before the Governor.

I am, Sir,

Your's, &c.

(Signed.) AL. BLACK,

(Foreman of the Grand-Jury.

N. B. Mr. Oliver applied for a copy of the complaint, but was refused it.

Saint John, April 7, 1791.

SIR,

IT would have been more agreeable to me, to have given my opinion respecting your dispute with the Grand-Jury, on a case regularly stated, but as your friends are acquainted with most of the particulars, I shall proceed to give you my opinion by way of answer to your Letter.

In the first place, I take it to be clear law, that you are keeper of the Goal, and that, as such, no person has a right to enter it, without your permission: This I lay down as a general rule—and I know of no exception to that rule, in favor of the Grand-Jury, unless it can be supposed, that because they may present the condition of the Goal, when out of repair, they have, therefore, a right, at pleasure, to examine whether it wants repairs. As the Act of Assembly, recognizing their right to make such presentments, is silent on this head—and as the exercise of such a right must materially interfere with your responsibility for the safe custody of the prisoners under your charge, I am inclined to think they have no such right—but if they have it, it is, at most, only a right to examine *whether the Goal wants repairs.*

In the present case, such right is out of the question, as the intention of the visit (as I understand it) was not to examine whether the Goal wanted repairs, but to enquire how the particular apartments in it were appropriated; and even this enquiry, was restricted to the apartments for

debtors: In this enquiry, I am of opinion, the Grand-Jury exceeded the line of their duty.—Debtors may be confined wheresoever the Sheriff pleases (though it is otherwise with felons)—and if there is any just ground of complaint against the Sheriff, the remedy is by action upon the case, at the suit of the party aggrieved, and not by presentment of a Grand-Jury, it being a private injury, and not a public wrong. As to the words you made use of, viz. That the Grand-Jury “were a set of impertinent fellows,” and that, “if you had been there, you would have locked them in.” In words addressed to public officers (and the Grand-Jury I consider in a similar light) the law makes a great difference, whether, at the time the words were spoken, *they were in the execution of their office, or not.* In a case reported by Lord Coke; the words were, speaking of the Mayor of Plymouth, “thou art an insolent fellow;” on which is this note—“These words are scornful, and worthy of punishment—so to bind him” (meaning the Speaker) “to his good behaviour, *if they were published when the Mayor was sitting in the execution of his office.*”—As the Jury were not in the execution of their office, when the words were spoken, I conceive that the words addressed to them, “that they were a set of impertinent fellows,” are not legally cognizable; and as to the other words, “that had you been there, you would have locked them in,” the legal maxim applies, *non officit affectus nisi sequatur effectus.*—Mr. Black is wrong in styling himself Foreman of the Grand-Jury, as the functions of that body ceased, when the Court dismissed them.—Nor

can I see the propriety of preferring a complaint to the Lieut. Governor, when the Grand Jury, if insulted, had their legal remedy in the Supreme Court.

I hope what I have written, will be sufficiently explanatory of my opinion, and am,

Sir, your most obedient,

Humble Servant,

E. HARDY.



N° XII.

Frederickton, May 6, 1791.

A MEMORIAL from the Grand-Jury for the City and County of Saint John, complaining, That you had insulted them in consequence of their visiting and inspecting the Goal in that City, having been laid before his Excellency the Lieut. Governor, *together with copies * of the proceedings relative thereto, in the Court of General Sessions of the Peace for that County*—I am directed to inform you, that, as the Grand-Jury had an undoubted right, in their public capacity, to visit, and by their own inspection, ascertain the state and condition of the Goal—His Excellency thinks it was highly unwarrantable to offer the smallest insult, on that account,

* **N. B.** No copies were ever applied for by the Grand-jury; what copies they had, must therefore have been taken by themselves, and transmitted *uncertified*. The report of the Committee, it is believed, was never even seen by them, and, consequently, could not have been transmitted.

to a public body, whose importance in society, requires that they should be universally held in respect, and supported in the execution of their duty.—And His Excellency, therefore, expects that you will make an unqualified apology, to be delivered in writing under your hand, to the Foreman of the Grand-Jury, asking their pardon for the insult of which they have complained.

*I have the honor to be,
With great personal regard,
Sir, your most obedient,
And most humble Servant,
(Signed.) JON. ODELL.*

W. S. OLIVER, Esq.
(Sheriff for the City and County of Saint John.



N^o XIII.

Saint John, May 20, 1791.

SIR,

YOU will, I hope, have the goodness, to excuse my not answering your's of the 6th instant, by the return of the post, as the contents, equally important and unexpected, required time for consideration.

You are pleased to mention a memorial laid before his Excellency the Lieut. Governor, by the late Grand-Jury, together with copies of certain proceedings in the Court of General Sessions of the peace.—*This memorial, for reasons unknown to me, I was denied both a sight and copy of by the Grand-Jury ; I cannot possibly say any thing, therefore, as to its contents : And, with regard to the proceedings before the*

Sessions, many material facts are entirely omitted, and others so defectively and erroneously stated, that no fair judgment can be formed from those papers, of the dispute to which they relate.—This I infer from my knowledge that the Grand-Jury have never given themselves the trouble to possess themselves of some papers respecting the matter, which are materially explanatory of others. Had I been so fortunate as to have been indulged with a hearing, which I fully hoped, and the rather expected, as I flattered myself my conduct in office had been before unimpeached, I conceive I could have shewn, from the whole tenor of my behaviour, that I meant no unprovoked insult, and that I have acted consistently with the character I have hitherto supported.

I perfectly accord with you in what you say, relating to the importance of Grand-Juries, and the respect that is their due; at the same time, I beg leave to observe, that as my office gives me precedence in the County, next after the Lieut. Governor himself, some respect is also due from them to me.

The paper, signed by me, at the recommendation of the Court, will shew, that I have been no ways averse to an amicable adjustment of differences: This paper, with the further concessions offered at the time to the Grand-Jury, on my part, of which the inclosed is a copy,* and which the Grand-Jury did not think proper to lay before the Governor, the Mayor and Recorder, and, I believe I may say, the whole Bench, considered as sufficient: My sentiments were in unison with theirs, nor have they since changed,

* This inclosure it is not thought necessary to publish.

After this declaration, I can only add, that, though the emoluments of my office are my sole dependence, yet, if his Excellency deems me unworthy of filling it longer, I shall receive his commands with the most profound respect and submission. *I have the honor to be,*

With great respect,

Your very humble Servant,

(Signed.) W. S. OLIVER.

The Honorable JONATHAN ODELL, *Esq.*

To the foregoing Letter no answer was returned—but sometime afterwards, a Letter from Mr. Odell to the Mayor, desiring him to nominate to his Excellency the Lieut. Governor, a fit person to be appointed Sheriff of Saint John, was communicated to a friend of mine, that he might acquaint me with it; and in a short time, John Holland, Esq. was appointed Sheriff in my room.



THE Reader being now in possession of all the material facts relative to this business, I beg leave to ask him the following Questions :

I. Supposing the Grand-Jury had a right to visit the Goal, without my consent, was it civil in them to do it, without acquainting me—and, on the contrary, studiously to conceal their intentions?

II. When we consider, that at the time the Grand-Jury visited the Goal, there was not a single debtor in confinement—that no complaint whatever had been made to me, and no regular complaint to them, must it not appear singular, that they should think of visiting the Goal at all? And yet more so, that they should restrict their examination to only a part of it?

III. With what propriety, after the unhand-
some treatment I had experienced from them, in
mobbing me down the street, could the Grand-
Jury complain of any expressions that had es-
caped me?

IV. Was it generous in them, to suppress
entirely all mention of their behaviour to me?

V. Was it candid to state, that I attacked
them *in the discharge of their duty*, when they
had broken up before the time alluded to?

VI. What could induce the Grand-Jury to
decline the mediation of the Court, to throw
out the bill prepared by the Attorney-General,
and insinuate *so early* in the dispute, a disposition
to apply for redress, "to the Fountain from
whence my office originated?"

VII. Was the demand of the Grand-Jury,
that I should make a public acknowledgment,
"such as should be approved by them," con-
sistent with what they profess of an earnest wish
that the difference might be *accommodated* with-
out going any further, and the *sympathy* and
compassion which they affect to feel?

VIII. Which party appeared most in earnest
as to an accommodation?

IX. After the mobbing one through the
public street, what would my friends have
thought of me, had I asked the Grand-Jury's
pardon?

X. Ought not the Grand-Jury to have, at
least, allowed me a sight of the complaint pre-
ferred against me?

XI. What reason can be suggested to justify
their refusal?

William Sanford Oliver.

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