

**OBSERVATIONS ON THE
INUTILITY OF GRAND JURIES,
AND SUGGESTIONS FOR THEIR
ABOLITION. SECOND EDITION**

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Observations on the Inutility of Grand Juries, and Suggestions for Their Abolition. Second Edition by W. C. Humphreys

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W. C. HUMPHREYS

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OBSERVATIONS
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INUTILITY OF GRAND JURIES,
AND
Suggestions
FOR
THEIR ABOLITION.

SECOND EDITION.

TO WHICH ARE ADDED
A FEW REMARKS UPON THE NECESSITY OF EMPOWERING
CORONERS TO TAKE BAIL.

BY
W. C. HUMPHREYS,
ATTORNEY-AT-LAW.

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PREFACE

TO THE SECOND EDITION.

IN the year 1842 I ventured to call the attention of "Those who make the laws," as well as "Those who administer them," to that tribunal known as a component part of the Criminal Law of England by the title "Grand Jury."

I did so, hoping thereby to provoke an investigation, the result of which I felt must induce those who administer, to suggest to those who make the laws such a substitute for the Grand Jury as should warrant its abolition immediately, or within a period not far distant. My efforts so far had effect as to induce inquiry; the Grand Jury system became the subject of discussion; it was inquired into by a Commission (a) from Her Majesty, and also by a Committee of the House of Commons. It was commented upon by the public press (b); it was observed upon by Judges from the Bench (b); it was complained of by Counsel at the Bar, in cases where it was shown to be a crying evil (b); and it was the subject of legislative effort in two successive administrations; the

(a) See Evidence extracted from Report in Appendix B, p. 41 to p. 58.

(b) See Appendix A.

law officers of each making some endeavour to get rid of it by statute (*a*); but it still remains a useless—nay, a mischievous—incubus on the machinery of the Criminal Justice of the country. I have letters innumerable upon the subject, and inquiries are made, “When is the Grand Jury to cease?” I am in that position which enables me only to ask and not to answer that question with confidence; but, by the request of the many who think that the next session of Parliament ought not to pass over without another effort being made, I am induced again to remind those in power of the evils of the system which I took leave in 1842 to point out for their consideration; and I am emboldened the more to do so from the multitude of opinions concurring with my own which have gone forth to the public since the publication of my First Edition, from the Bench, the Bar, and the Press, some of which opinions I have from time to time collected and formed into Appendices (*b*) to the following, my own, “Observations.”

(*a*) Bill brought into the House of Commons, in 1849, by the Attorney-General and Solicitor-General, intituled, “A Bill to facilitate the Administration of Justice at the Central Criminal Court, and at Sessions of the Peace in and near the Metropolis.” *Also*, Bill brought into the House of Commons, 19th April, 1852, by the Attorney-General of that day, Mr. Secretary Walpole, and Sir W. Jolliffe, which was amended in Committee, and again brought before the House in the month of May, intituled, “A Bill to render it unnecessary to summon Grand Juries within the Metropolitan District, and for the Amendment of the Criminal Law in other particulars.”

(*b*) See Appendix A. and Appendix B., p. 29 to 58, *post*.

The Bills which were introduced into Parliament, like many, very many, important matters which are brought before the Legislature, were, from necessity, obliged to give way to others deemed of more immediate and pressing importance; and so each session was lost without the Bills, or either of them, becoming the Statutes of the Realm.

It is said that attempts will be renewed at the forthcoming session to establish the office of Public Prosecutor. If such an office be created, it would very much relieve those who have the duties of it. to perform, to have such duties lessened by the extinction of the Grand Jury; but whether there be or not a Public Prosecutor to enjoy the blessing, its abolition will be a great boon to the public at large.

While considering the subject of Grand Juries, my mind has occasionally turned upon the Jurisdiction of the Coroner. That officer has considerable power; he is intrusted with the duty of inquiring into the cause of death, when requisite; the importance of that duty is enhanced by his right to summon and compel the attendance of a Jury, to assist him in the investigation, which Jury has the responsibility of placing their fellow-creatures in the jeopardy of trial, if the death of one shall be found to have been caused by the hand of another; and the Coroner's power extends to the imprisonment of the party implicated by the finding of his own jury. Although that finding be in the absence and without the knowledge of the accused party, yet the Coroner has no power (and that is a great want) vested in him of admitting such accused party to bail. Upon the propriety of adding

that power to the others of his office, I have thought it right to submit, at the end of this pamphlet, a few remarks, under the title of "Bail by the Coroner (a) ;" hoping that Justice may be assisted by the consideration of them.

W. C. HUMPHREYS.

GILTSFUR CHAMBERS,
NEWGATE-STREET, LONDON.
January, 1857.

(a) See "Bail by the Coroner," p. 76, *post*.

INTRODUCTION

TO THE FIRST EDITION.

TO THOSE WHO MAKE THE LAWS, AND TO
THOSE WHO ADMINISTER THEM.

THERE are many persons high in authority, who have every disposition to correct evils when pointed out to them, but who, from their exalted stations, have little knowledge of the machinery by which the Law, and particularly the Criminal Law, is put in motion. They see its operation in its matured state, that is, when the Record of Accusation is on the Judgment Seat, the Prisoner is at the Bar, and the Prosecutor and Witnesses are in the Witness Box. The proceedings are all then under the controlling eye and attentive ear of the presiding Judge, and everything goes on smoothly, regularly, and with decorum; but the preliminary workings are under no such supervision—they are performed in the secret chambers of legal business. Whether or not they be necessary or serviceable, either to the state or to the public, few stop to consider; and the "Grand Jury System" forms a main part of these preliminary workings.