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# COMMON LAW GRAND JURY HANDBOOK

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*“Governments are instituted among Men,  
deriving their Just powers from the consent of the governed”*

# **COMMON LAW GRAND JURY HANDBOOK**

**JOHN DARASH**

THE COMMON LAW GRAND JURY HANDBOOK  
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**TAKE NOTE:**     *The content of this book are not the interpretation or the opinion of the author. But is documented history of the words of our Founders and decisions in Courts of Justice by the States and United States Supreme Courts.*



## TABLE OF CONTENTS

Table Of Contents - - - - -	5
Purpose of this Handbook - - - - -	6
Introduction - - - - -	6
Grand Jury - - - - -	8
A Fixture in its Own Right - - - - -	9
Law notes Magna Carta #52 - - - - -	10
Law notes Magna Carta #61 - - - - -	10
Can Investigate Merely on Suspicion - - - - -	11
The Fox & the Hen House - - - - -	12
Kentucky Resolutions - - - - -	12
Grand Jury Origin and History - - - - -	12
Common Law - - - - -	13
Courts without Honor - - - - -	14
Maxims - - - - -	14
Principals of Common Law - - - - -	14
Maxims on Legitimacy of Gov - - - - -	14
Maxims on Testimony and Evidence- - - - -	15
Maxims on Civic Duty of Citizens - - - - -	15
Maxims on Private Property - - - - -	15
Maxims on Unalienable Rights - - - - -	15
Maxims on Crime and Punishment - - - - -	16
Maxims on Judicial Reasoning- - - - -	16
Nature of the Grand Jury - - - - -	17
The Grand Jury's Tasks - - - - -	17
Investigation - - - - -	17
Selection of Grand Jury - - - - -	18
Organization, Oath, and Officers - - - - -	18
Procedure - - - - -	18
Quorum - - - - -	18
Evidence before the Grand Jury - - - - -	18
Questioning the Witness - - - - -	18
Calling the Accused - - - - -	19
The Evidence Needed - - - - -	19
Deliberations- - - - -	20
Secrecy - - - - -	20
Protection of Grand Jurors - - - - -	21
Practical Suggestions for Grand Jurors- - - - -	21
Jurist Vow - - - - -	21
Intent - - - - -	22
A Case in Point - - - - -	23
Bill of Rights - - - - -	25
Declaration of Independence - - - - -	26
Glossary of Terms - - - - -	30

## PURPOSE OF THIS HANDBOOK:

This Handbook will acquaint persons who have been selected to serve on a common law Grand Jury with the general nature and importance of their role as grand jurors. It explains some of the terms that grand jurors will encounter during their service and offers some suggestions helpful to them in performing this important public service. It is intended that this Handbook will, to a degree, provide a permanent record of much of the information presented in the Grand Jury orientation. Grand jurors are encouraged to refer to this Handbook periodically throughout their service to reacquaint themselves with their duties and responsibilities.

There is a war that has been raging since antiquity. It is a war for our hearts and our minds, for our flesh, for our very souls; to bring all mankind under a one world order (novus ordo seclorum). As George Washington put it in his Fair Well Address “...orchestrated by a small group of cunning, ambitious, and unprincipled men who have subverted the power of the People and usurped for themselves the reins of government. They have put in the place of the delegated will of the nation the will of a small but artful and enterprising minority to make the public administration the mirror of their ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common counsels and modified by mutual interests.”

Because government ‘FAILED’ in their duty to assure a proper education in our schools, it is the duty of the People to self-educate, educate their sheriff, and educate our children. This is the purpose of these Series of Handbooks, and the books Government by Consent and Court Access and the Common law.

Today Liberty and our very way of life are under attack. Because We the People are ignorant of the true Law of the Land and our History, we have lost our way! It’s not until we start to read about what we have inherited from our founding fathers that we start to realize how far we have drifted from the blessings of Liberty. But, there is hope.

Thomas Jefferson said, “*The purpose of government is to enable the People of a nation to live in safety and happiness. Government exists for the interests of the governed, not for the governors. The tax which will be paid for the purpose of education is not more than the thousandth part of what will be paid to kings, priests and nobles who will rise up among us if we leave the People in ignorance. Educate and inform the whole mass of the People... They are the only sure reliance for the preservation of our liberty. I know no safe depository of the ultimate powers of the society but the People themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education. This is the true corrective of abuses of constitutional power. An enlightened citizenry is indispensable for the proper functioning of a republic. Self-government is not possible unless the citizens are educated sufficiently to enable them to exercise oversight. It is therefore imperative that the nation see to it that a suitable education be provided for all its citizens.*”

## INTRODUCTION

**GOVERNMENT BY CONSENT:** “Under our system of government upon the individuality and intelligence of the citizen, the state does not claim to control him, except as his conduct to others, leaving him the sole judge as to all that affects himself.”<sup>1</sup> “Every man is independent of all laws, except those prescribed by nature, a/k/a Common Law, and “is not bound by any

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<sup>1</sup> Mugler v. Kansas 123 U.S. 623, 659-60.

institutions formed by his fellowman without his consent.”<sup>2</sup> “The sovereignty of a state does not reside in the persons who fill the different departments of its government, but in the People, from whom the government emanated; and they may change it at their discretion. Sovereignty, then in this country, abides with the constituency, and not with the agent; and this remark is true, both in reference to the federal and state government.”<sup>3</sup>

“In the United States, sovereignty resides in people. Congress cannot invoke the sovereign power of the People to override their will.”<sup>4</sup> Therefore, “sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the Common Law, Declaration of Independence, US Constitution, and the Bill of Rights are the definition and limitation of power.” In the preamble to our United States Constitution, “*We the People*” said:

*“We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”*

Thereby, “ordaining” the Constitution as the Law of the Land declared in Article VI, clause 2 where “*We the People*” said: “*This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby; anything in the Constitution or Laws of any State to the Contrary notwithstanding.*”

In Article III Section 2 clause 1, “*We the People*” said, “*The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States.*” In Article I Section 1 We the Sovereign People herein, “*vested all legislative powers in Congress,*” and we defined that legislative power in Article I section 8.

Whereas, Congress wrote fifty-seven (57) US Codes that govern ‘courts of equity.’ These codes are codes, statutes and regulations that govern government agencies and commercial activities. For example, USC Title 2 governs Congress, USC Title 3 governs President, USC Title 6 governs Homeland Security, USC Title 7 governs Agriculture, USC Title 10 governs Armed Forces, USC Title 12 governs Banks and Banking, USC Title 14 governs Coast Guard, USC Title 34 governs Navy, USC Title 39 governs Postal Service, etc. Therefore, “all codes, rules, and regulations are for government authorities only, not human creators in accordance with God’s laws.”<sup>5</sup>

We the People wrote the Common Law Declaration of Independence, the foundation of all American Law where we covenanted with God declaring: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.”

Thereby, We the Sovereign People created a Republic and ordained in Article IV Section 4 that: “The United States shall guarantee to every state in this union a Republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.”

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<sup>2</sup> Cruden v. Neale, 2 N.C. 338 (1796) 2 S.E.

<sup>3</sup> Spooner v. McConnell, 22 F 939 @ 943.

<sup>4</sup> Perry v. US, 294 U.S.330.

<sup>5</sup> Rodriques v. Ray Donovan (U.S. Department of Labor) 769 F. 2d 1344, 1348 (1985).

“A Republican government is one in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated.”<sup>6</sup> “For, the very idea that man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself.”<sup>7</sup>

The United States is the second “Lawful Republic” in history. The first, being Israel about 1400 BC. This is why our founding fathers referred to America as “New Israel.” For, like Israel We the People in 1789, placed ourselves under the same Law that Israel lived under, a/k/a “Common Law” or “Natural Law:” And it is in these “Courts of Law” alone where People are judged by a jury of their peers, the People and not the government whereas; “His majesty [natures God] in the eye of the law is always present in all his courts, though he cannot personally distribute justice.<sup>8</sup> His judges [Grand jury] are the mirror by which the King’s image [Justice] is reflected.”<sup>9</sup>

A lawful Republic receives its powers from ‘Natures God’ who through our covenant [Declaration of Independence] with Him, in a desire to be ruled by God and not man, blessed us with liberty and the unalienable right to have government by consent whereas, we wrote the Constitution and its capstone Bill of Rights to bind down government. And one of the ways we consent or not to government is in the courts via the Grand and Petit Jury. Two other ways are through Committees of Safety and the militia. Learn more - [www.NationalLibertyAlliance.org](http://www.NationalLibertyAlliance.org).

## GRAND JURY

*“The Jury is the Achilles heel of tyrants.”*

– HG Wells

The Grand Jury is one of the ways that We the People Consent to the actions of our government.<sup>10</sup> “If anyone has been deprived of their unalienable right, we will immediately grant full justice therein.” The will of the Grand Jury is the opening and manifestation of due process<sup>11</sup> in a court of law. The Grand Jury is the “Sureties of the Peace” that we find in the Magna Carta that was ordained by the People through the 5<sup>th</sup> Amendment<sup>12</sup> and, thereby officially acknowledged as an unalienable right. They are the posterity of our founding fathers. They are “*We the People*” that ordained and established the Constitution for the officers of this court to proceed with authority.

Justice Powell, in *United States v. Calandra*<sup>13</sup> stated, “The institution of the grand jury is deeply rooted in Anglo-American history; [n3] In England, the grand jury [p343] served for centuries, both as a body of accusers, sworn to discover, and present for trial, persons suspected of criminal wrongdoing; and, as a protector of citizens against arbitrary and oppressive governmental action. In this country, the Founders thought the grand jury so

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<sup>6</sup> In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; *Minor v. Happersett*, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627.” Black’s Law Dictionary, Fifth Edition, p. 626.

<sup>7</sup> *Yick Wo v. Hopkins*, 118 US 356, 370 Quotiens dubia interpretatio libertatis est, secundum libertatem respondendum erit.

<sup>8</sup> Fortesc.c.8. 2Inst.186.

<sup>9</sup> 1 Blackstone’s Commentaries, 270, Chapter 7, Section 379.

<sup>10</sup> **Declaration of Independence:** We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

<sup>11</sup> “**Due course of law**, this phrase is synonymous with “due process of law” or “law of the land” and means law in its regular course of administration through courts of justice.” - *Kansas Pac. Ry. Co. v. Dunmeyer* 19 KAN 542.

<sup>12</sup> **Amendment V:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury ... nor be deprived of life, liberty, or property, without due process of law.

<sup>13</sup> 414 U.S. 338, 343 (1974)

essential to basic liberties, that they provided, in the Fifth Amendment, that federal prosecution for serious crimes can only be instituted by a ‘presentment or indictment of a Grand Jury.’” Cf. *Costello v. United States*, 350 U.S. 359, 361-362 (1956). “The grand jury’s historic functions survive to this day. Its responsibilities determination whether there is probable cause to believe a crime has been committed, and the protection of citizens against unfounded criminal prosecutions.” *Branzburg v. Hayes*, 408 U.S. 665, 686-687 (1972).”

*“If any of our civil servants shall have transgressed against any of the people in any respect; and, they shall ask us (Common Law Grand Jury) to cause that error to be amended without delay; or, shall have broken some one of the articles of peace or security; and, their transgression shall have been shown to four Jurors of the twenty five; and, if those four Jurors are unable to settle the transgression, they shall come to the twenty-five, showing to the Grand Jury the error which shall be enforced by the law of the land.”* - Magna Carta, June 15, A.D. 1215, 61 (First recorded Grand Jury)

The People have the unbridled right to empanel and preside over their own proceedings unfettered by technical rules and to investigate merely on suspicion. It is the Grand Jury’s function to consider criminal charges whereas prosecutors have no authority to change or negotiate away the Grand Jury’s indictments. Indictments are final and any additional charges cannot be added without the consent of the grand jury.

*“The constitutions of most of our states assert that all power is inherent in the people; that they may exercise it by themselves, in all cases to which they think themselves competent, as in electing their functionaries executive and legislative, and deciding by a jury of themselves, both fact and law, in all judiciary cases in which any fact is involved ...”*<sup>14</sup>

In the U.S. Supreme Court case of *United States v. Williams*,<sup>15</sup> Justice Antonin Scalia, writing for the majority, confirmed that; *“The American grand jury is neither part of the judicial, executive nor legislative branches of government, but instead belongs to the people. It is in effect a fourth branch of government ‘governed’ and administered to directly by and on behalf of the American people, and its authority emanates from the Bill of Rights. Thus, [People] have the unbridled right to empanel their own grand juries and present ‘True Bills’ of indictment to a court, which is then required to commence a criminal proceeding.”* Our Founding Fathers presciently thereby created a ‘buffer’ the people may rely upon for ‘justice,’ when public officials, including judges, criminally violate the law.

Natural Law demands that only the People via ‘free and independent Grand Juries have the Supreme Judicial Authority to indict or not, to decide the law, to sit as the tribunal in all criminal cases that come before it, to nullify any statute, to deny any rules, to indict or not, Tribunals are established in 25 unalienable sovereigns whose decisions are final and cannot be ignored or altered.

*“Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, its institutional relationship with the judicial branch has traditionally been, so to speak, at arm’s length.”* – *United States v. Calandra*, 414 U.S. 338, 343, 94 S.Ct. 613, 617, 38 L.Ed.2d 561 (1974); Fed. Rule Crim. Proc. 6(a).

## **GRAND JURY IS A CONSTITUTIONAL FIXTURE IN ITS OWN RIGHT:<sup>16</sup>**

In *United States v. Calandra*, quoted in *US v Williams*, the United States Supreme Court said: *“The grand jury is an institution separate from the courts, over whose functioning the*

<sup>14</sup> Thomas Jefferson, letter to John Cartwright; June 5, 1824.

<sup>15</sup> 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992).

<sup>16</sup> *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992).

*courts do not preside. The “common law” of the Fifth Amendment demands the traditional functioning of the grand jury. The grand jury is an institution separate from the courts, over whose functioning the courts do not preside, we think it clear that, as a general matter at least, no such “supervisory” judicial authority exists. “[R]ooted in long centuries of Anglo-American history,”<sup>17</sup> the grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It “is a constitutional fixture in its own right.”<sup>18</sup> In fact the whole theory of its function is that it belongs to no branch of the institutional government, serving as a kind of buffer or referee between the Government and the people.<sup>19</sup> Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, its institutional relationship with the judicial branch has traditionally been, so to speak, at arm’s length. Judges’ direct involvement in the functioning of the grand jury has generally been confined to the constitutive one of calling the grand jurors together and administering their oaths of office”<sup>20</sup>*

### **LAW NOTES MAGNA CARTA #52.**

If anyone shall have been disseized by us, or removed, without a legal sentence of his peers, from his lands, castles, liberties or lawful right, we shall straightway restore them to him. And if a dispute shall arise concerning this matter it shall be settled according to the judgment of the twenty-five barons who are mentioned below as sureties for the peace. But with regard to all those things of which any one was, by king Henry our father or king Richard our brother, disseized or dispossessed without legal judgment of his peers, which we have in our hand or which others hold, and for which we ought to give a guarantee: We shall have respite until the common term for crusaders. Except with regard to those concerning which a plea was moved, or an inquest made by our order, before we took the cross. But when we return from our pilgrimage, or if, by chance, we desist from our pilgrimage, we shall straightway then show full justice regarding them.

### **LAW NOTES MAGNA CARTA #61.**

Inasmuch as for the sake of God, and for the bettering of our realm, and for the more ready healing of the discord which has arisen between us and our barons, we have made all these aforesaid concessions,--wishing them to enjoy forever entire and firm stability, we make and grant to them the following security: That the barons (*Free Men*), namely, may elect at their pleasure twenty five barons from the realm, who ought, with all their strength, to observe, maintain and cause to be observed, the peace and privileges which we have granted to them and confirmed by this our present charter. In such wise, namely, that if we, our justice, or our bailiffs, or any one of our servants shall have transgressed against any one in any respect, or shall have broken some one of the articles of peace or security, and our transgression shall have been shown to four barons of the aforesaid twenty five: those four barons shall come to us, or, if we are abroad, to our justice, showing to us our error; and they shall ask us to cause that error to be amended without delay.

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<sup>17</sup> *Hannah v. Larche*, 363 U.S. 420, 490, 80 S.Ct. 1502, 1544, 4 L.Ed.2d 1307 (1960) (Frankfurter, J., concurring in result).

<sup>18</sup> *United States v. Chanen*, 549 F.2d 1306, 1312 (CA9 1977) (quoting *Nixon v. Sirica*, 159 U.S.App.D.C. 58, 70, n. 54, 487 F.2d 700, 712, n. 54 (1973)), cert. denied, 434 U.S. 825, 98 S.Ct. 72, 54 L.Ed.2d 83 (1977).

<sup>19</sup> *Stirone v. United States*, 361 U.S. 212, 218, 80 S.Ct. 270, 273, 4 L.Ed.2d 252 (1960); *Hale v. Henkel*, 201 U.S. 43, 61, 26 S.Ct. 370, 373, 50 L.Ed. 652 (1906); *G. Edwards, The Grand Jury* 28-32 (1906).

<sup>20</sup> *United States v. Calandra*, 414 U.S. 338, 343, 94 S.Ct. 613, 617, 38 L.Ed.2d 561 (1974); *Fed.Rule Crim.Proc.* 6(a).

And if we do not amend that error, or, we being abroad, if our justice do not amend it within a term of forty days from the time when it was shown to us or, we being abroad, to our justice: the aforesaid four barons shall refer the matter to the remainder of the twenty five barons, and those twenty five barons, with the whole land in common, shall distrain and oppress us in every way in their power,--namely, by taking our castles, lands and possessions, and in every other way that they can, until amends shall have been made according to their judgment. Saving the persons of ourselves, our queen, and our children.

And when amends shall have been made they shall be in accord with us as they had been previously. And whoever of the land wishes to do so, shall swear that in carrying out all the aforesaid measures he will obey the mandates of the aforesaid twenty five barons, and that, with them, he will oppress us to the extent of his power. And, to anyone who wishes to do so, we publicly and freely give permission to swear; and we will never prevent anyone from swearing.

Moreover, all those in the land who shall be unwilling, themselves and of their own accord, to swear to the twenty five barons as to distraining and oppressing us with them: such ones we shall make to swear by our mandate, as has been said. And if any one of the twenty five barons shall die, or leave the country, or in any other way be prevented from carrying out the aforesaid measures,--the remainder of the aforesaid twenty five barons shall choose another in his place, according to their judgment, who shall be sworn in the same way as the others.

Moreover, in all things entrusted to those twenty five barons to be carried out, if those twenty five shall be present and chance to disagree among themselves with regard to some matter, or if some of them, having been summoned, shall be unwilling or unable to be present: that which the majority of those present shall decide or decree shall be considered binding and valid, just as if all the twenty five had consented to it. And the aforesaid twenty five shall swear that they will faithfully observe all the foregoing, and will cause them to be observed to the extent of their power. And we shall obtain nothing from any one, either through ourselves or through another, by which any of those concessions and liberties may be revoked or diminished. And if any such thing shall have been obtained, it shall be vain and invalid, and we shall never make use of it either through ourselves or through another.

## **GRAND JURY CAN INVESTIGATE MERELY ON SUSPICION:<sup>21</sup>**

The United States Supreme Court in *US v Williams* went on to say: “The grand jury’s functional independence from the judicial branch is evident both in the scope of its power to investigate criminal wrongdoing, and in the manner in which that power is exercised. Unlike [a] [c]ourt, whose jurisdiction is predicated upon a specific case or controversy, the grand jury ‘can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not.’”<sup>22</sup> It need not identify the offender it suspects, or even “the precise nature of the offense” it is investigating.<sup>23</sup> The grand jury requires no authorization from its constituting court to initiate an investigation,<sup>24</sup> nor does the prosecutor require leave of court to seek a grand jury indictment. And in its day-to-day functioning, the grand jury generally operates without the interference of a presiding judge.<sup>25</sup> It swears in its own witnesses<sup>26</sup>, and

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<sup>21</sup> *United States v. Williams*, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992).

<sup>22</sup> *United States v. R. Enterprises*, 498 U.S. ----, ----, 111 S.Ct. 722, 726, 112 L.Ed.2d 795 (1991) (quoting *United States v. Morton Salt Co.*, 338 U.S. 632, 642-643, 70 S.Ct. 357, 364, 94 L.Ed. 401 (1950)).

<sup>23</sup> *Blair v. United States*, 250 U.S. 273, 282, 39 S.Ct. 468, 471, 63 L.Ed. 979 (1919).

<sup>24</sup> see *Hale*, supra, 201 U.S., at 59-60, 65, 26 S.Ct., at 373, 375.

<sup>25</sup> See *Calandra*, supra, 414 U.S., at 343, 94 S.Ct., at 617.

deliberates in total secrecy.<sup>27</sup> We have insisted that the grand jury remain “free to pursue its investigations unhindered by external influence or supervision so long as it does not trench upon the legitimate rights of any witness called before it.”<sup>28</sup> Recognizing this tradition of independence, we have said that the Fifth Amendment’s ‘constitutional guarantee presupposes an investigative body ‘acting independently of either prosecuting attorney or judge’”<sup>29</sup>

## **THE FOX AND THE HEN HOUSE**

“If the government can select the jurors, it will, of course, select those whom it supposes will be favorable to its enactments [like they do now]. And an exclusion of any of the freemen from eligibility is a selection of those not excluded [like they do now]. It will be seen, from the statutes cited, that the most absolute authority over the jury box that is, over the right of the people to sit in juries has been usurped by the government;” – Lysander Spooner, *Trial by Jury*, page 92, 1852.

In conclusion, the Jury has the unalienable right to consent, or not to consent, as to the government’s accusations against the People. “The jury shall have the right to determine the law and the fact”<sup>30</sup> and the remedy/penalty and the power of Nullification.

## **KENTUCKY RESOLUTIONS**

A series of resolutions drawn up by Jefferson, and adopted by the legislature of Kentucky in 1799, protesting against the “alien and sedition laws,” declaring their illegality, announcing the strict constructionist theory of the federal government, and declaring “nullification” to be “the rightful remedy.”

## **ORIGIN AND HISTORY OF THE GRAND JURY**

The grand jury has a long and honorable tradition. It was recognized in the Magna Carta, the first English constitutional document, which King John accepted in 1215 at the demand of his subjects. The first English grand jury consisted of twenty five men selected from the knights or other freemen, who were summoned to inquire into crimes alleged to have been committed in their local community. Thus, grand jurors originally functioned as accusers or witnesses, rather than as judges.

Over the years, the hallmarks of our modern grand jury developed in England. For example, grand jury proceedings became secret, and the grand jury became independent of the Crown. As a result, a grand jury is able to vote an indictment or refuse to do so, as it deems proper, without regard to the recommendations of judge, prosecutor, or any other person. This independence from the will of the government was achieved only after a long hard fight. It can best be illustrated by the celebrated English case involving the Earl of Shaftesbury, who, in 1681, fell under the suspicion of the Crown. Displeased with him, the Crown presented to the grand jury a proposed bill of indictment for high treason and

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<sup>26</sup> Fed.Rule Crim.Proc. 6(c).

<sup>27</sup> *United States v. Sells Engineering, Inc.*, 463 U.S., at 424-425, 103 S.Ct., at 3138.

<sup>28</sup> *United States v. Dionisio*, 410 U.S. 1, 17-18, 93 S.Ct. 764, 773, 35 L.Ed.2d 67 (1973).

<sup>29</sup> *Id.*, at 16, 93 S.Ct., at 773 (emphasis added) (quoting *Stirone*, supra, 361 U.S., at 218, 80 S.Ct., at 273).

<sup>30</sup> NY Constitution ARTICLE I - BILL OF RIGHTS §8.

recommended that it be voted and returned. After hearing the witnesses, the grand jury voted against the bill of indictment and returned it to the King, holding that it was not true.

When the English colonists came to America, they brought with them many of the institutions of the English legal system, including the grand jury. Thus, the English tradition of the common law grand jury was well established in the American colonies long before the American Revolution. Indeed, the colonists used it as a platform from which to assert their independence from the pressures of colonial governors. In 1735, for example, the Colonial Governor of New York demanded that a grand jury indict John Zenger, editor of a newspaper called “The Weekly Journal,” for libel because he had held up to scorn certain acts of the Royal Governor. The grand jury flatly refused.

The grand jury as an institution was so firmly established in the traditions of our forebears that they included it in the Bill of Rights. The Fifth Amendment to the Constitution of the United States provides in part that “*no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury . . .*” Moreover, the grand jury system is also recognized in the constitutions of many of the states of the Union.

## COMMON LAW

Common law is not statutes as distinguished from ecclesiastical law. It is the system of jurisprudence administered by the purely secular tribunals. Common law as distinguished from law created by the enactment of legislators, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs; and, in this sense, particularly the ancient unwritten law of England.<sup>31</sup>

When the colonies separated from England, King John retaliated by revoking the charters. Technically, the colonies were without any legal authority to operate. However, civics (the branch of political philosophy concerned with individual rights) was generally taught and known by the people who asserted their rights and maintained order by applying the common law. The people united in the form of common law grand juries and continued the functioning of government.

“The Constitution for the United States of America acknowledges the Peoples’ right to the common law of England as it was in 1789. What is that common law? It does not consist of absolute, fixed and inflexible rules; but, broad and comprehensive principles based on justice, reason, and common sense...”<sup>32</sup> All state constitutions acknowledge the common law as the ultimate law system. Statutes and codes are applied only upon elected, appointed, and employed government individuals and people engaged in commercial activities. Statutes and codes are not to be applied upon the people.

Common Law a/k/a Natural Law is also the Magna Carta,<sup>33</sup> as authorized by the Confirmatio Cartarum, if the accused so demands.<sup>34</sup> The Confirmatio Cartarum succinctly says, “*our justices, sheriffs, mayors, and other ministers, which, under us have the laws of our land to guide, shall allow the said charters pleaded before them, in judgment in all their points; that is, to wit, the Great Charter as the common law and the Charter of the forest,*

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<sup>31</sup> 1 Kent, Comm. 492. Western Union Tel. Co. v. Call Pub. Co., 21 S.Ct. 561, 181 U.S. 92, 45 L.Ed. 765; Barry v. Port Jervis, 72 N.Y.S. 104, 64 App. Div. 268; U. S. v. Miller, D.C.Wash., 236 F. 798, 800.

<sup>32</sup> Miller v. Mosen, 37 N.W.2d 543, 547, 228 Minn. 400.

<sup>33</sup> June 15, 1215, King John I.

<sup>34</sup> November 5, 1297, King Edward I.

for the wealth of our realm.”<sup>35</sup> In other words, the King’s men must allow the Magna Carta to be pleaded as the common law if the accused so wishes it.

COMMON LAW ELUDES DEFINITION because it is NOT a list of laws; it is NOT built upon precedents or a collection of equity (*legislative law*) court rulings. Common Law is written into our hearts and minds being naturally common onto all men.

“This is the covenant that I will make with them after those days, saith the Lord, I will put my laws into their hearts, and in their minds will I write them.” Heb 10:16

“For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: Which show the work of the law written in their hearts, their conscience also bearing witness, and their thoughts the mean while accusing or else excusing one another.” Rom 2:14-15

Common Law is the Laws of Nature and of Nature’s God that proceeds upon two self-evident truths, called maxims: “For every injury there must be a remedy and in order, for there to be a crime there must be an injured party, without which no court may proceed.”

Maxims are brief statements of self-evident truth that control our Common Law courts. They provided discernment in the writing of our founding documents. It is an adviser to our legislatures, and every consideration of mankind that seeks what’s fair and best for all.

## **COURTS THAT DO NOT HONOR OR CONSIDER MAXIMS ARE NOT JUST**

Indeed, whether and to what extent these common law maxims are honored by public leaders is how we test the way they administer the law to govern. Our courts were established to enforce these principles of common law, the word Justice is synonymous with virtue, and virtue is a biblical principle that emanates from Jesus Christ alone.<sup>36</sup> Maxims are the laws that never change. These statements set essential limits on truth and are essential to the fair and efficient administration of justice according to the common law of mankind. No right-thinking person can disagree with a maxim. Every court is bound by the common law rules of equity established by the never-changing maxims. Maxims test those who judge and put an absolute limit on those who rule.

Maxims<sup>37</sup> and precepts are the rules of common law. Maxims are self-evident truths used to adjudicate common law cases, axiom (sayings) in logic are self-evident indisputable truths, “the result of human reason and experience.” Maxims are our common law heritage that binds us together as a people. If everyone knew the maxims of common law, our world would be a far better place.

## **LIST OF MAXIMS, A/K/A SELF-EVIDENT TRUTH**

### **MAXIMS ON PRINCIPALS OF COMMON LAW**

- All men are created equal.
- Men are endowed by their Creator with certain unalienable Rights.

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<sup>35</sup> Confirmatio Cartarum, November 5, 1297.

<sup>36</sup> Luke 6:17-19 And he came down with them, and stood in the plain, and the company of his disciples, and a great multitude of people out of all Judaea and Jerusalem, and from the sea coast of Tyre and Sidon, which came to hear him, and to be healed of their diseases; And they that were vexed with unclean spirits: and they were healed. And the whole multitude sought to touch him: for there went virtue out of him, and healed them all.

<sup>37</sup> Maxims are but attempted general statements of rules of law and are law only to extent of application in adjudicated cases. *Swetland v. Curtiss Airports Corporation*, D.C.Ohio, 41 F. 2d 929, 936.; Coke defies a maxim to be “conclusion of reason,” *Co.Litt.* 11a. He says in another place: “A maxim is a proposition to be of all men confessed and granted without proof, argument, or discourse.” *Id.* 67a.

- Liberty to all but preference to none.
- The safety of the people is the supreme law.
- The safety of the people cannot be judged but by the safety of every individual.
- To lie is to go against the mind.
- The only one who has any capacity or right or responsibility or knowledge to rebut your Affidavit of truth is the one who is adversely affected by it. It's his job, his right, his responsibility to speak for himself.
- No one else can know what your truth is or has the free-will responsibility to state it. This is YOUR job.
- Each of us is entitled to equal treatment under law.
- Workman is worthy of his hire.
- Nothing ventured, nothing gained.

**MAXIMS ON THE LEGITIMACY OF GOVERNMENT:**

- Just Governments derive their just powers from the consent of the governed.
- Unjust is State power where the law is either uncertain or unknown.
- The State should be subject to the law, for the law creates the State.
- The judge who decides a case without hearing both parties, though his decision be just, is himself unjust.
- Courts of justice are for the common people to command the power of the State.

**MAXIMS ON TESTIMONY AND EVIDENCE:**

- Words should be considered only as commonly understood and not with a meaning others construe to their own purpose.
- No one should be believed in court except upon his oath.
- Courts should not believe water runs upward of its own accord nor that impossibilities exist.
- The certainty of a thing in court arises only from making the thing certain in court.

**MAXIMS ON CIVIC DUTY OF CITIZENS:**

- Whenever any Form of Government becomes destructive, it is the Right of the People to alter or to abolish it, and to institute new Government.
- Each should use his own powers and property so as NOT to unjustly injure others.

**MAXIMS ON PRIVATE PROPERTY:**

- There is nothing more sacred, more inviolate, than the house of every citizen.
- Every home is a castle; though the winds of heaven blow through it, officers of the State cannot enter.
- Title is the right to enjoy possession of that which is our own.

**MAXIMS ON UNALIENABLE RIGHTS:**

- The Bill of Rights is a list of self-evident truths.
- None has a greater claim to live free.
- No one should be required to betray himself, i.e., no one should be made to testify against himself.

- The right of the People to keep and bear arms is necessary for the security of a free state.
- Everyone should be presumed innocent until his guilt is established beyond a reasonable doubt.
- Liberty to all but preference to none.
- None is entitled to any privilege denied to others ... absolutely none!
- It is against justness for freemen not to have the free disposal of their own property.
- No king, no priest, no celebrity, no judge, not any person has any greater right to walk free than any carpenter, plumber, or law-abiding street minstrel.

**MAXIMS ON CRIME AND PUNISHMENT:**

- He who acts in pure defense of his own life or limb is justified.
- Crimes are more effectually prevented by the certainty than by the severity of punishment.
- Perjured witnesses should be punished for perjury and for the crimes they falsely accuse against others.

**MAXIMS ON JUDICIAL REASONING:**

- The burden of proof lies on him who asserts the fact, not on him who denies it, because from the very nature of things a negative cannot be proof.
- No one should be twice harassed for the same offense.
- We are all equals in the sight of our law.
- Maxims test those who judge.
- Maxims put an absolute limit on those who rule.
- He who slices the pie should be last to take a piece.
- Servant judges cannot judge sovereigns.
- A thing similar is not exactly the same thing.
- Innocent until proven guilty.
- No one is above the law.
- Words should be considered only as commonly understood and not with a meaning others construe to their own purpose.
- All are equal under the law.
- Truth is expressed in the form of an affidavit.
- An un rebutted affidavit stands as truth.
- He who leaves the battlefield first loses by default.
- Sacrifice is the measure of credibility.
- A lien or claim can be satisfied only through rebuttable by affidavit point by point, resolution by jury, or payment.
- He who bears the burden ought also to derive the benefit.
- If the plaintiff does not prove his case, the defendant is absolved.
- No court and no judge can overturn or disregard or abrogate somebody's Affidavit of Truth.
- Words should be interpreted most strongly against him who uses them.

You can find Maxims of Law from Bouvier's 1856 Law Dictionary - The Lawful Path and Sir Edward Coke at [www.nationallibertyalliance.org](http://www.nationallibertyalliance.org).

In conclusion, there are 1000's of Maxims and many yet to be discovered. They are simply pure logic and justness clearly seen by any reasonable person.

## NATURE OF THE GRAND JURY

The powers and functions of the common law grand jury differ from those of the petit jury. The Grand jury listens to the evidence offered by the Sheriff or Coroner and the defense (if it chooses to offer any) and decides whether they believe that there is a crime and that the accused appears to be the perpetrator of that crime.

During a criminal trial the Petit Jury returns a verdict of guilty or not guilty. The grand jury, on the other hand, does not determine guilt or innocence, but only whether there is probable cause to believe that a crime was committed and that a specific person or persons committed it. If the grand jury finds probable cause to exist, then it will return a written statement of the charges called an “indictment.” After that, the accused will go to trial.

The grand jury normally hears only that evidence presented by the Sheriff or the Coroner which tends to show the commission of a crime. The grand jury must determine from this evidence, and usually without hearing evidence for the defense, whether a person should be tried for a serious crime, referred to in the Bill of Rights as an “infamous crime.”

An infamous crime is a crime potentially punishable by imprisonment, within the provision of the fifth amendment of the constitution that “*no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury.*”<sup>38</sup> It is not the character of the crime but the nature of the punishment which renders the crime “infamous.”<sup>39</sup>

As a general rule, no one can be prosecuted for a serious crime unless the grand jury decides that the evidence it has heard so requires. In this way, the grand jury operates both as a “sword,” authorizing the government’s prosecution of suspected criminals, and also as a “shield,” protecting citizens from unwarranted or inappropriate prosecutions.

## THE GRAND JURY’S TASKS

As stated above, the grand jury’s function is to determine whether a person shall be tried for a serious crime alleged to have been committed within the county or federal district where it sits. Matters may be brought to its attention by Sheriffs or Coroners, and from the personal knowledge of a member of the grand jury or from matters brought to a member’s personal attention. In all these cases, the grand jury must hear evidence before taking action.

After it has received evidence against a person, the grand jury must decide whether the evidence presented justifies an indictment, or “true bill,” which is the formal criminal charge returned by the grand jury.

If the evidence does not persuade the grand jury that there is probable cause to believe the person committed a crime, the grand jury will vote a “no bill,” or “not a true bill.”

## INVESTIGATION

The major portion of the grand jury’s work is concerned with evidence brought to its attention by the person bringing the charges. The grand jury may consider additional matters otherwise brought to its attention and may ask a Jury Administrator for assistance on how they might want to go forward.

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<sup>38</sup> Mackin v. U. S., 117 U.S. 348, 6 S.Ct. 777, 29 L. Ed. 909; Brede v. Powers, 263 U.S. 4, 44 S.Ct. 8, 68 L.Ed. 132.

<sup>39</sup> Weeks v. United States, C.C.A.N.Y., 216 F. 292, 298, L.R.A. 1915B, 651. But see Drazen v. New Haven Taxicab Co., 95 Conn. 500, 111 A. 861, 864.

## SELECTION OF GRAND JURORS

A grand jury is selected at random from a fair cross section of the community in the county or federal district where the alleged crime occurred. Thus, all citizens have an equal opportunity and obligation to serve.

Pursuant to law, the names of prospective grand jurors are drawn at random from lists of registered voters or lists of actual voters, or other sources when necessary, under procedures designed to ensure that all groups in the community will have a fair chance to serve. Those persons whose names have been drawn and who are not exempt or excused from service are summoned to appear for duty as grand jurors.

When these persons appear before the court, the presiding magistrate may consider any further requests to be excused. The magistrate will then direct the selection of 25 qualified persons to become the members of the grand jury.

## ORGANIZATION, OATH, AND OFFICERS

After the proper number of persons has been qualified as grand jurors, the Jury Administrator will appoint one of them to be the foreman, or presiding officer, of the grand jury. A deputy foreman will also be appointed, so that he or she can act as presiding officer in the foreman's absence. The foreman, the deputy foreman, and the remaining members of the grand jury are sworn in by the Clerk of the Court.

The oath taken by the grand jurors binds them to inquire diligently and objectively into all crimes committed within the district of which they have or may obtain evidence and to conduct such inquiry without malice, fear, hatred, or other emotion.

After the grand jurors have been sworn, the Jury Administrator will orientate and advise the grand jury of its obligations and how best to perform its duties. Careful attention must be paid to the instructions that may be given. After orientation the grand jury will hear testimony and consider documentary evidence in the cases brought to its attention.

## PROCEDURE

- 1) **QUORUM:** Thirteen of the 25 members of the grand jury constitute a quorum for the transaction of business. If fewer than thirteen are present, even for a moment, the proceedings of the grand jury must stop. This shows how important it is that each grand juror conscientiously attends the meetings. If an emergency will prevent a grand juror's attendance at the meeting, he or she must promptly advise the grand jury foreman. If the juror's absence will prevent the grand jury from acting, the grand juror should, if at all possible, attend the meeting.
- 2) **EVIDENCE BEFORE THE GRAND JURY:** Much of the grand jury's time is spent hearing testimony by witnesses and examining documentary or other evidence in order to determine whether such evidence justifies an indictment. The grand jury may ask that additional witnesses be called if it believes this necessary. The Jury Administrator will also assist in the preparation of the formal written indictments that the grand jury wishes to present. But no one other than the grand jury may remain in the room while the grand jury deliberates and votes on an indictment.
- 3) **QUESTIONING THE WITNESS:** Witnesses are called to testify one after another. Upon appearing to give testimony, each witness will be sworn by the grand jury foreman or, in the foreman's absence, the deputy foreman. The witness will then be questioned. Ordinarily, the prosecuting person for the government questions the witness first,

followed next by the foreman of the grand jury. Then, the other members of the grand jury may question the witness.

All questions asked of each witness must be relevant and proper, relating only to the case under investigation. If doubt should arise as to whether a question is appropriate, the advice of the Jury Administrator may be sought. If necessary, a ruling may be obtained from the court.

Because of the need for secrecy, described in more detail in the following section, the law forbids anyone other than authorized persons from being present in the grand jury room while evidence is being presented. This means that only the grand jury, the Jury Administrator, those prosecuting, the witness under examination, the court reporter, and interpreters when needed may be present.

Occasionally, prior to answering a question, a witness may ask to leave the grand jury room to consult with his or her attorney. The grand jury is to draw no adverse inference from such conduct, for every witness has the right to confer with counsel even though counsel may not be present in the grand jury room.

In fact, a witness may confer with counsel after each question, as long as he or she does not make a mockery of the proceedings or does not, by such, make an attempt to impede the orderly progress of the grand jury investigation.

Additionally, a witness who is appearing before the grand jury may invoke the Fifth Amendment privilege against self-incrimination and refuse to answer a question. In such a situation, the grand jurors may bring the matter before the court in order to obtain a ruling as to whether or not the answer may be compelled. One manner in which an answer may be compelled is by granting the witness immunity from prosecution in exchange for the witness' testimony.

- 4) CALLING THE PERSON UNDER INVESTIGATION AS A WITNESS: Normally, neither the person under investigation (sometimes referred to as the "accused," although this does not imply he or she is guilty of any crime) nor any witness on the accused's behalf will testify before the grand jury.

Upon request, preferably in writing, an accused may be given the opportunity by the grand jury to appear before it. An accused that does so appear cannot be forced to testify because of the constitutional privilege against self-incrimination.

If the grand jury attempts to force the accused to testify, an indictment returned against that person may be nullified.

Because the appearance of an accused before the grand jury may raise complicated legal problems, a grand jury that desires to request or to permit an accused to appear before it should consult with the United States Attorney and, if necessary, the court before proceeding.

Even if the accused is willing to testify voluntarily, it is recommended that he or she first be warned of the right not to testify. Also, he or she may be required to sign a formal waiver of this right. The grand jury should be completely satisfied that the accused fully understands what he or she is doing.

- 5) THE EVIDENCE NEEDED BEFORE A "TRUE BILL" MAY BE VOTED: It is the responsibility of the grand jury to weigh the evidence presented to it in order to determine whether this evidence, usually without any explanation being offered by the accused, persuades it that there is probable cause to believe that a crime has been committed and that the accused was the person who committed it.

Remember that the grand jury is not responsible for determining whether the accused is guilty beyond a reasonable doubt, but only whether there is sufficient evidence of probable cause to justify bringing the accused to trial. Only the evidence presented to the

grand jury in the grand jury room may be considered in determining whether to vote an indictment.

- 6) **DELIBERATIONS:** When the grand jury has received all the evidence on a given charge, all persons other than the members of the grand jury or an interpreter to assist a juror who is hearing or speech impaired, must leave the room so that the grand jury may begin its deliberations. The presence of any other person in the grand jury room while the grand jury deliberates or votes may nullify an indictment returned on the accusation.

After all persons other than the grand jury members and any interpreter for a hearing or speech impaired juror have left the room, the foreman will ask the grand jury members to discuss and vote upon the question of whether the evidence persuades the grand jury that a crime has probably been committed by the person accused and that an indictment should be returned. Every grand juror has the right to express his or her view of the matter under consideration, and grand jurors should listen to the comments of all their fellow grand jurors before making up their mind. Only after each grand juror has been given the opportunity to be heard will the vote be taken. It should be remembered that at least 13 jurors must be present and 12 members must vote in favor of the indictment before it may be returned.

The foreman of the grand jury must keep a record of the number of jurors concurring in the finding of every indictment and file the record with the Clerk of the Court. If an indictment is found, the grand jury will report it to the judge or a magistrate judge in open court. It will likewise report any “not true bills,” or decisions not to indict. A decision not to indict should immediately be reported to the court in writing by the foreman so that the accused may promptly be released from jail or freed from bail.

## **SECRECY**

The law imposes upon each grand juror a strict obligation of secrecy. This obligation is emphasized in the oath each grand juror takes and in the charge given to the grand jury by the judge.

The tradition of secrecy continues as a vital part of the grand jury system for many reasons. It protects the grand jurors from being subjected to pressure by persons who may be subjects of investigations by the grand jury or associates of such persons. It prevents the escape of those against whom an indictment is being considered. It encourages witnesses before the grand jury to give full and truthful information as to the commission of a crime. It also prevents tampering with or intimidation of such witnesses before they testify at trial.

Finally, it prevents the disclosure of investigations that result in no action by the grand jury and avoids any stigma the public might attach to one who is the subject of a mere investigation by the grand jury.

Essentially, the grand jury may disclose matters occurring before it only to the Sheriff and/or Jury Administrator for use in the performance of their duties, but even the Sheriff and Jury Administrator may not be informed of what took place during the grand jury’s deliberations and voting. The only other time matters occurring before the grand jury may be disclosed to anyone is when disclosure is ordered by the court in the interests of justice. Disclosure of such matters may never be made to grand juror’s friends or family, including a grand juror’s spouse.

## **PROTECTION OF GRAND JURORS**

The secrecy imposed upon grand jurors is a major source of protection for them. In addition, no inquiry may be made to learn what grand jurors said or how they voted, except upon order of the court.

The law gives the members of a grand jury broad immunity for actions taken by them within the scope of their authority as grand jurors. Because of this immunity, all grand jurors must perform their duties with the highest sense of responsibility.

### **PRACTICAL SUGGESTIONS FOR GRAND JURORS**

- Each juror should attend the grand jury sessions regularly, in order to ensure that a quorum of 13 members will be present to conduct the grand jury's business.
- Each juror should be on time for each meeting so that others are not kept waiting. The time of meetings should be scheduled so as to be convenient for the grand jury, the Sheriff, and the witnesses. Witnesses should be treated courteously when they appear before the grand jury. Questions should be put to them in an orderly fashion. The Sheriff should complete his or her questioning of each witness before the foreman asks questions. The remaining grand jurors will then have a chance to ask relevant and proper questions.
- Each juror has an equal voice in determining whether or not an indictment should be returned. Therefore, it is important that all grand jurors pay close attention to the testimony and other evidence presented.
- Each juror must be absolutely fair in his or her judgment of the facts. Otherwise, the grand juror will defeat the purpose the grand jury is designed to serve.
- During deliberations on a case, each grand juror should feel free to express his or her opinion based upon the evidence.
- Each juror has equal duties and responsibilities, and each is entitled to be satisfied with the evidence before being called upon to vote. No juror has the right to dismiss a witness or to shut off proper discussion if other jurors wish to pursue the matter further.
- No jury should undertake to investigate matters outside its proper scope merely because someone suggested an investigation, or because the investigation would be interesting.
- No juror should discuss the cases under investigation with anyone, except fellow grand jurors and the Sheriff and then only in the grand jury room. Of course, the grand jurors may always seek the advice of the Jury Administrator.
- Finally, every citizen who is selected to serve on a federal grand jury should bring to this task the determination to participate in a responsible manner and to make every effort to ensure that the grand jury will be a credit not only to the community it represents but to the United States.

### **JURIST VOW**

I vow<sup>40</sup> to the Governor of the Universe, in my capacity as Jurist, to insure that all public servants uphold the Declaration of Independence, US Constitution and Bill of Rights; and to carry out all of my deliberating under Natural Law; principled under Justice, Honor, and

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<sup>40</sup> Num 30:2 If a man vow a vow unto the LORD, or swear an oath to bind his soul with a bond; he shall not break his word, he shall do according to all that proceedeth out of his mouth.

Mercy; And to strictly adhere to the following two legal maxims: (1) Every right when withheld must have a remedy, and every injury its proper redress, and (2) In the absence of a victim there can be no crime “*corpus delecti*”; the State cannot be the victim but the People of the state can be.

### **THERE’S NO CRIME ABSENT INTENT**

In the essay on the “Trial by Jury” Lysander Spooner, in Chapter IX; The Criminal Intent wrote: “It is a maxim of the common law that there can be no crime without a criminal intent. And it is a perfectly clear principle, although one which judges have in a great measure overthrown in practice, that jurors are to judge of the moral intent of an accused person, and hold him guiltless, whatever his act, unless they find him to have acted with a criminal intent; that is, with a design to do what he knew to be criminal.

This principle is clear, because the question for a jury to determine is, whether the accused be guilty, or not guilty. Guilt is a personal quality of the actor, not necessarily involved in the act, but depending also upon the intent or motive with which the act was done. Consequently, the jury must find that he acted from a criminal motive, before they can declare him guilty. There is no moral justice in, nor any political necessity for, punishing a man for any act whatever that he may have committed, if he have done it without any criminal intent. There can be no moral justice in punishing for such an act, because, there having been no criminal motive, there can have been no other motive which justice can take cognizance of, as demanding or justifying punishment. There can be no political necessity for punishing, to warn against similar acts in future, because, if one man has injured another, however unintentionally, he is liable, and justly liable, to a civil suit for damages; and in this suit he will be compelled to make compensation for the injury, notwithstanding his innocence of any intention to injure. He must bear the consequences of his own act, instead of throwing them upon another, however innocent he may have been of any intention to do wrong. And the damages he will have to pay will be a sufficient warning to him not to do the like act again.

A case in point, recently a prosecutor convinced an uninformed Grand Jury to indict a woman who had forgotten that she left her young child in her vehicle and the child died. Clearly there was no criminal intent and one would think that the loss of her child is more than enough penance for her indiscretion.

This necessity for a criminal intent, to justify conviction, is proved by the issue which the jury is to try, and the verdict they are to pronounce. The “issue” they are to try is, guilty, or not guilty. And those are the terms they are required to use in rendering their verdicts. But it is a plain falsehood to say that a man is “guilty,” unless he has done an act which he knew to be criminal. This necessity for a criminal intent -- in other words, for guilt -- as a preliminary to conviction, makes it impossible that a man can be rightfully convicted for an act that is intrinsically innocent, though forbidden by the government; because guilt is an intrinsic quality of actions and motives, and not one that can be imparted to them by arbitrary legislation. All the efforts of the government, therefore, to “make offences by statute,” out of acts that are not criminal by nature, must necessarily be ineffectual, unless a jury will declare a man “guilty” for an act that is really innocent.

The corruption of judges, in their attempts to uphold the arbitrary authority of the government, by procuring the conviction of individuals for acts innocent in themselves, and forbidden only by some tyrannical statute, and the commission of which therefore indicates no criminal intent, is very apparent.

To accomplish this object, they have in modern times held it to be unnecessary that indictments should charge, as by the common law they were required to do, that an act was

done “wickedly,” “feloniously,” “with malice aforethought,” or in any other manner that implied a criminal intent, without which there can be no criminality; but that it is sufficient to charge simply that it was done “contrary to the form of the statute in such case made and provided.” This form of indictment proceeds plainly upon the assumption that the government is absolute, and that it has authority to prohibit any act it pleases, however innocent in its nature the act may be. Judges have been driven to the alternative of either sanctioning this new form of indictment, (which they never had any constitutional right to sanction,) or of seeing the authority of many of the statutes of the government fall to the ground; because the acts forbidden by the statutes were so plainly innocent in their nature, that even the government itself had not the face to allege that the commission of them implied or indicated any criminal intent.

To get rid of the necessity of showing a criminal intent, and thereby further to enslave the people, by reducing them to the necessity of a blind, unreasoning submission to the arbitrary will of the government, and of a surrender of all right, on their own part, to judge what are their constitutional and natural rights and liberties, courts have invented another idea, which they have incorporated among the pretended maxims, upon which they act in criminal trials, viz., that “ignorance of the law excuses no one.” As if it were in the nature of things possible that there could be an excuse more absolute and complete. What else than ignorance of the law is it that excuses persons under the years of discretion, and men of imbecile minds? What else than ignorance of the law is it that excuses judges themselves for all their erroneous decisions? Nothing. They are every day committing errors, which would be crimes, but for their ignorance of the law. And yet these same judges, who claim to be learned in the law, and who yet could not hold their offices for a day, but for the allowance which the law makes for their ignorance, are continually asserting it to be a “maxim” that “ignorance of the law excuses no one;” (by which, of course, they really mean that it excuses no one but themselves; and especially that it excuses no unlearned man, who comes before them charged with crime.)

This preposterous doctrine that “ignorance of the law excuses no one,” is asserted by courts because it is an indispensable one to the maintenance of absolute power in the government. It is indispensable for this purpose, because, if it be once admitted that the people have any rights and liberties which the government cannot lawfully take from them, then the question arises in regard to every statute of the government, whether it be law, or not; that is, whether it infringe, or not, the rights and liberties of the people. Of this question every man must of course judge according to the light in his own mind. And no man can be convicted unless the jury find, not only that the statute is law, -- that it does not infringe the rights and liberties of the people, -- but also that it was so clearly law, so clearly consistent with the rights and liberties of the people, as that the individual himself, who transgressed it, knew it to be so, and therefore had no moral excuse for transgressing it. Governments see that if ignorance of the law were allowed to excuse a man for any act whatever, it must excuse him for transgressing all statutes whatsoever, which he himself thinks inconsistent with his rights and liberties. But such a doctrine would of course be inconsistent with the maintenance of arbitrary power by the government; and hence governments will not allow the plea, although they will not confess their true reasons for disallowing it.

### **A CASE IN POINT**

Recently a woman left her child in a car and while going about her business forgot that the baby was in the car and the baby died. The woman was charged with man slaughter found guilty and was given a jail sentence. This was a miscarriage of justice because there was no criminal intent. Furthermore the loss of her child caused by her bad judgment and

forgetfulness is something she will have to live with for the rest of her life. There can be no punishment greater than that.

**CONCLUSION:** To decide cases correctly, grand and petit jurors must be honest and open minded. They must have both integrity and good judgment. The continued vitality of the jury system depends on these attributes. To meet their responsibility, jurors must decide the facts and apply the law impartially. They must not favor the rich or the poor. They must treat alike all individuals. Justice should be rendered to all persons without regard to race, color, religion, sex, or the legislated law.

The performance of jury service is the fulfillment of a high civic obligation. Conscientious service brings its own reward in the satisfaction of an important task well done. There is no more valuable work that the average citizen can perform in support of Justice than the full and honest discharge of jury duty. The effectiveness of our Natural Law system itself is largely measured by the integrity and justness of the jurors who serve in the Peoples courts.

## **BILL OF RIGHTS**

**AMENDMENT I:** Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

**AMENDMENT II:** A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

**AMENDMENT III:** No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

**AMENDMENT IV:** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**AMENDMENT V:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**AMENDMENT VI:** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

**AMENDMENT VII:** In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

**AMENDMENT VIII:** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**AMENDMENT IX:** The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

**AMENDMENT X:** The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, ARE RESERVED TO THE STATES RESPECTIVELY, OR TO THE PEOPLE.

## **THE DECLARATION OF INDEPENDENCE** **IN CONGRESS, JULY 4, 1776**

The unanimous Declaration of the thirteen united States of America, When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. -- That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -- That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to affect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.--Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the

State remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing  
Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and  
payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on  
the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences

For abolishing the free System of English Laws in a neighboring Province, establishing therein an arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

The 56 signatures on the Declaration appear in the positions indicated:

**Georgia:** Button Gwinnett, Lyman Hall, George Walton

**North Carolina:** William Hooper, Joseph Hewes, John Penn

**South Carolina:** Edward Rutledge, Thomas Heyward, Jr., Thomas Lynch, Jr., Arthur Middleton

**Massachusetts:** John Hancock

**Maryland:** Samuel Chase, William Paca, Thomas Stone, Charles Carroll of Carrollton

**Virginia:** George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, Jr., Francis Lightfoot Lee,

**Pennsylvania:** Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross

**Delaware:** Caesar Rodney, George Read, Thomas McKean

**New York:** William Floyd, Philip Livingston, Francis Lewis, Lewis Morris

**New Jersey:** Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark

**New Hampshire:** Josiah Bartlett, William Whipple

**Massachusetts:** Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry

**Rhode Island:** Stephen Hopkins, William Ellery

**Connecticut:** Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott

**New Hampshire:** Matthew Thornton

## GLOSSARY OF TERMS

**Accused:** The person accused of the commission of a crime. Use of this term does not imply the person under investigation is guilty of any crime. After a person is indicted by the grand jury, that person is referred to as the “defendant.”

**Charge to the Grand Jury:** Given by the Jury Administrator presiding over the selection and organization of the grand jury, the charge is the court’s instructions to the grand jury as to its duties, functions, and obligations, and how to best perform them.

**Deliberations:** The discussion by the grand jury members as to whether or not to return an indictment on a given charge against an accused. During deliberations no one except the grand jury members or an interpreter for a hearing or speech impaired juror may be present.

**District:** The geographical area over which a federal district court where the grand jury sits and the grand jury itself have jurisdiction. The territorial limitations of the district will be explained to the grand jury by the district judge.

**Evidence:** Testimony of witnesses, documents, and exhibits as presented to the grand jury by the Sheriff or otherwise properly brought before it. In some instances, the person under investigation may also testify.

**Federal:** The national government as distinguished from the state governments.

**Grand Jurors’ Immunity:** Immunity is granted to all grand jurors for their authorized actions while serving on a grand jury and means that no grand juror may be penalized for actions taken within the scope of his or her service as a grand juror.

**Indictment:** The written formal charge of a crime by the grand jury, returned when 12 or more grand jurors vote in favor of it.

**Information:** The written formal charge of crime by the prosecutor to the Sheriff, filed against an accused who, if charged with a serious crime, must have knowingly waived the requirements that the evidence first be presented to a grand jury.

**“No Bill”:** Also referred to as “not a true bill,” the “no bill” is the decision by the grand jury not to indict a person.

**Petit Jury:** The trial jury composed of 12 members that hears a case after indictment and renders a verdict or decision after hearing the prosecution’s entire case and whatever evidence the defendant chooses to offer.

**Probable Cause:** The finding necessary in order to return an indictment against a person accused of a crime. A finding of probable cause is proper only when the evidence presented to the grand jury, without any explanation being offered by the accused, persuades 12 or more grand jurors that a crime has probably been committed by the person accused.

**True Bill:** A true bill is a **written decision**, handed down by a grand jury that the evidence presented by the prosecution is sufficient to believe that the accused person likely committed the crime, and should be indicted.