

The First

REPORT

Of The

Grand Jury

COUNTY of ORANGE

August 21, 1890

Introduction and Notes By
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A Centennial Project
of the
GRAND JURORS' ASSOCIATION OF ORANGE COUNTY

Santa Ana, California

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GRAND JURY REPORT

COUNTY OF ORANGE 1890

TABLE OF

CONTENTS

INVITATION	p. 2
FIRST COUNTY COURTHOUSE	3
INTRODUCTION	4-5
GRAND JURY REPORT OF 1890	6-9
FIRST GRAND JURY	10
FIRST GRAND JURY FOREMAN	11-12
NOTES AND COMMENTS	13-24
Trabuco Canyon	13
Burrue! Point	13
Editorial Comments	14-15
Grand Jury Chronology	16-18
Donaldson-Spurgeon Drowning	18-19
Editorial Comments	20-22
Grand Jury Discharged	23
Grand Jury Compensation	24
INDICTMENTS	25-38
Indictment Against Dr. Howe	25-28
California Penal Code	28-29
Howe Biographies	30-31
Notes	31-32
Criminal Libel Indictment	33-38



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Authorized by the Grand Jurors' Association

An Invitation

THE GRAND JURORS' ASSOCIATION OF ORANGE COUNTY is composed of former Grand Jurors. The Association urges citizens of Orange County to consider service on Grand Juries.

The authority for the Grand Jury in the United States lies in the Fifth Amendment to the U. S. Constitution, and provision for the Grand Jury in California is contained in Article I, Section 8, of the California Constitution.

California is served by a Grand Jury system which provides one Grand Jury for each county whose functions are to:

1. Review the conduct of county government, and
2. Inquire into public offenses committed or triable within the county.

This system is unusual. Federal Grand Juries and County Grand Juries in most states are only concerned with criminal indictments and have no civil responsibilities.

The Grand Jury is usually composed of nineteen persons, or twenty-three in counties with over four million residents.

The Grand Jury term is from July 1 to June 30th, and jurors are selected about thirty days in advance in order to give them a chance to confer with the outgoing Jury and to arrange their affairs for the coming year.

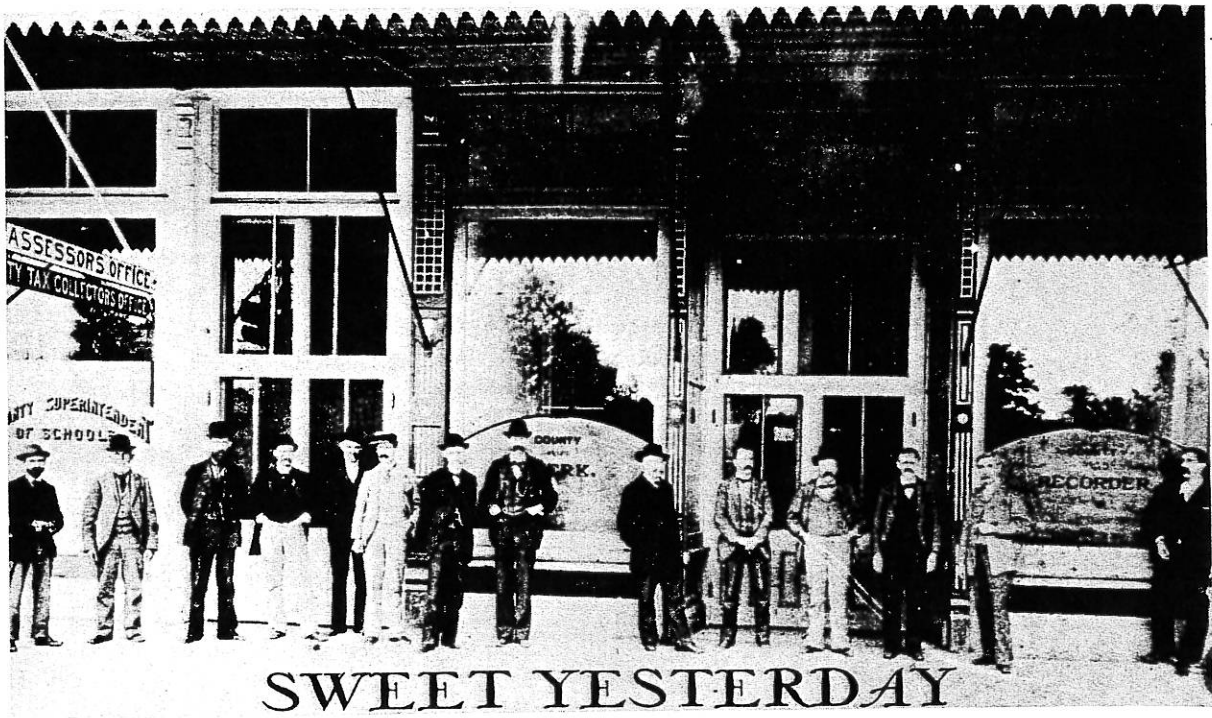
Any citizen, eighteen years or older who has not served as a Grand Juror during the previous twelve months, and has been a resident of the County for one year immediately prior to being selected, can serve. Jurors selected should possess intelligence, be of good character, and possess a working knowledge of the English language.

Further information can be obtained from:

ORANGE COUNTY GRAND JURY
700 Civic Center Drive West
Santa Ana, California 92701
Telephone: (714) 834-3320

GRAND JURY REPORT

COUNTY OF ORANGE 1890



FIRST COUNTY COURTHOUSE

This photograph shows the location of the original Orange County offices and Superior Court when the County was established in 1889. It was here that the first Grand Jury was selected on July 15, 1890 and delivered its report on August 21 of the same year. The photograph is part of the historical collection at Bowers Museum.

According to historian Jim Sleeper, Orange County's first Courthouse was located at 302½ East Fourth Street. A fascinating history of this early seat of our County government occurs in his "Sweet Yesterday: The Story of Orange County's 50¢ Courthouse", 8 Orange County Illustrated (April, 1970): 39-42.

The above photograph is used with the kind permission of Jim Sleeper.

GRAND JURY REPORT

COUNTY OF ORANGE 1890

INTRODUCTION



WITH THE ADVENT OF THE ONE-HUNDRETH ANNIVERSARY OF THE FOUNDING OF ORANGE COUNTY, a determined effort has been made to locate and publish unique materials relevant to the County's history. During the past century much primary material of considerable historical significance has either been lost or misplaced, always to the extreme detriment of the historical record. Among the victims of time and neglect, have been the Reports of the early Grand Juries of Orange County. Diligent efforts on the part of private citizens and County officials have failed to locate the original reports filed since 1890 with the Superior Court. It is only due to the remarkable practice of early Orange County newspapers to publish in full the texts of the Grand Jury Reports that these historically important documents have been preserved in any form.

What follows is the text of the first Report of the Orange County Grand Jury, submitted to the then presiding Superior Court Judge James W. Towner on August 21, 1890. The text of the historically interesting document has survived in three newspapers of that era, the Anaheim Weekly Gazette of August 28, 1890, the Orange News of August 27, 1890 and the Santa Ana Weekly Blade of August 28, 1890. The text of the Report published in these papers varies in several instances from one paper to another, the differences being relatively minor and the text in the Orange News being accepted as the most accurate of the three. It is clear that the printers for all the newspapers operated under somewhat of a handicap due to the condition of the official text signed and submitted by the Grand Jury Secretary. Due to a lack of clarity of expression, clerical error, or that a variety of hands composed the Report, the text was in places incomplete. The editors of the respective newspapers attempted to correct the text as best they could.

The first Orange County Grand Jury following the separation from Los Angeles County was impanelled on Tuesday, July 15, 1890, in the Congdon Building on Fourth Street, the original site of the Superior Court and County offices. The Jury consisted of nineteen members: 3 from Anaheim, 9 from Santa Ana, 3 from Westminster, 1 from Orange, 1 from Tustin, 1 from Trabuco, and 1 from Arch Beach. Most of the men on the first Grand Jury were prominent individuals in their respective communities. The first foreman was Carey R. Smith, a biography of whom follows this introduction.

GRAND JURY REPORT

COUNTY OF ORANGE 1890

INTRODUCTION

Much of the significance of the first Grand Jury report is obscured by synoptic nature of the text, while the passage of time has deprived us of much of the context in which the report was written. Fortunately, considerable contemporary material from newspapers and court records of the early 1890's has survived to provide background and color to the first report. A portion of this supplementary material is included in the footnotes and comments which follow the text of the 1890 Report.

The most important statement in the report is a deceptively brief and tantalizing sentence near the beginning of the Report: "We have found two true bills," indicating that the Grand Jury had returned two indictments. Research shows that these indictments, the first ever returned by an Orange County Grand Jury, were directed against Dr. Alvin J. Howe, a prominent Santa Ana physician and former President of the Santa Ana Board of Trustees, a position equivalent to that of mayor today and George R. Broadbent and Royal F. Burgess, editor and proprietor respectively of the Santa Ana Free Press. Dr. Howe, of Howe-Waffle house fame, was indicted on a charge of abortion, while the two newspaper men were charged with criminal libel. Both cases ended in acquittals. The damage to the careers and reputations of the defendants could not be so easily repaired.

Severe criticism falling short of actual indictment was directed against several Anaheim officials, including City Clerk Max Nebelung, Marshal John Landell and ex-Marshal F. C. Smythe. In 1892 the Anaheim Gazette would use the Grand Jury Report of two years previous against Smythe in his unsuccessful bid for the office of Orange County Sheriff. Ironically, Max Nebelung would eventually be appointed as foreman of the 1897 Grand Jury, such being the wheel of political fortune. Landell, on the other hand was elected Justice of the Peace for Anaheim Township within a few months of the publication of the Report, a position which he held until January 1, 1899.

The remaining object of the Grand Jury's criticism was Dr. Ira D. Mills, the first Coroner of Orange County, because of his inquest into the Donaldson-Spurgeon drowning in July, 1890. At the County Republican Convention held September 23, 1890, Dr. Mills was denied his party's nomination for Coroner by a vote of 48 to 31 in favor of Frank Ey. Dr. Mills retired both from public office and the practice of medicine, going into the under-taking business instead.

GRAND JURY REPORT

COUNTY OF ORANGE 1890

TO THE SUPERIOR COURT OF ORANGE COUNTY, STATE OF CALIFORNIA, THE GRAND JURY OF THE SAME COUNTY & STATE SUBMIT THE FOLLOWING REPORT:



WE HAVE BEEN IN SESSION FOURTEEN DAYS, much of the work accomplished having been transacted by committees appointed for and during adjournments for the purpose. We have examined into eleven cases brought to our notice, during which time we have examined thirty-four witnesses.

We have found two true bills.

We have examined into all matters pertaining to the interests and affairs of Orange County, which we herein report in routine as our investigation has progressed from day to day.

FIRST: We recommend that persons, companies and corporations who are in possession and management of places on the sea coast of this County resorted to by the public, as places for bathing, place buoys, ropes, boats and such other appliances in the water as will lessen the danger of drowning by persons visiting such places.

SECOND: We further recommend the proper officers look into any and all matters pertaining to the destruction of timber on government lands within the boundaries of Orange County, and especially that of Trabuca canyon.

THIRD: Information having been filed charging Dr. Mills, Coroner of Orange County, with having held an inquest on the body of Lieutenant Donaldson without authority of law; made a full and thorough examination, and find the charge sustained, but do not find the Coroner criminally liable; and would recommend that in all future cases the Coroner will not hold inquests unless in cases clearly covered by law, in order that the County may not be put to unnecessary expense; we therefore respectfully request the Board of Supervisors to carefully scrutinize all bills presented for payment for holding inquests.

FOURTH: We have examined the books of the Board of Supervisors and find that they contain a full record of all the County business and are properly kept as required by law.

GRAND JURY REPORT

COUNTY OF ORANGE 1890

We have examined the County Jail, which, with some slight improvements, is well suited to meet the present requirements of Orange County. We find the building well constructed, ventilated and kept.

Owing, however, to the location of the cells, it does not give enough security to the confinement of prisoners, nor does it insure a proper degree of safety to the Jailer. Therefore, we recommend to the Board of Supervisors that they cause a heavy iron grating to be erected in the west end of the Jail corridor, extending around and far enough on each side of the entrance thereto to afford the Jailer perfect security in locking prisoners in the cells. The jail register was examined and found satisfactory. The Sheriff's record of all arrests made was found correct.

FIFTH: We have examined the County Recorder's books, also those of the Auditor, Clerk, School Superintendent, Assessor, Sheriff, Tax Collector, Coroner, Public Administrator and Treasurer, and find the books of all the County officials thoroughly systematized and correctly kept. We find cash on hand in the County Treasurer's office, \$41,783.10, up to August 1st, 1890, and the amount after all outstanding warrants are paid (to be), \$40,072.94. We find also that all of the above named officials are courteous and efficient, and all moneys collected by them have been properly accounted for. We would recommend, however, that the Auditor keep a separate account with the Clerk of the Board of Supervisors, and that the Clerk of the Board of Supervisors keep a book in which entry be made of all moneys received by him as such clerk.

SIXTH: We find the County books exposed to great danger of destruction by fire, and would earnestly recommend the immediate attention and action of the Board of Supervisors in creating greater security to the County books.

SEVENTH: We have examined the Horticultural Commissioners and find that they are doing their duty as well as possible under existing laws, and recommend the attention of the Board of Supervisors and District Attorney to aid them as far as possible in enforcing the law.

GRAND JURY REPORT

COUNTY OF ORANGE 1890

EIGHTH: We have examined the principal bridges of the County, and we would recommend that the bridge across the Santa Ana River, which is built in connection with the S. P. R. R. bridge, be protected in some manner at its eastern extremity from the flow of water which strikes that particular point during the winter season, or in time of high water; also that the partition between the wagon track and the railroad track on said bridge be repaired. We also find the road on Fifth Street west of Santa Ana, and immediately east of the Fifth Street bridge, in bad condition, and would recommend that the first twenty rods more or less be graded up to the height of some two or two and a half feet so as to prevent any water from the Santa Ana River flowing around the east end of said bridge, and the doing away with the present culverts.

We also find that the support to or on which the west end of the bridge across Aliso creek rests is liable to be washed out at any time during high water, and should be protected. We further find that the bridge on the San Juan road between the windmill on the San Joaquin ranch and the Aliso Creek should be condemned and a new bridge erected in its place. We find that the crossings on the Southern Pacific railway are designated by signs as they should be for the protection of the traveling public. It has been brought to our notice that several of the engineers who run their trains over the Santa Fe road in the county fail to blow their whistles as required by law. We also find that the railroad cut through the point of the hill near the old stage station this side of San Juan is a dangerous place to those traveling with teams, and recommend that the attention of the Board of Supervisors be directed to the matter. We would further recommend that the Road Commissioners should not plow up any of the County roads after the rainy season, as plowing and grading the roads after that time puts them in worse condition for some months afterwards than if not disturbed. This should not apply to such roads as are situated on wet lands which could not be plowed in the rainy season. We also call attention to the bridge near Burrel Point, and directly west of Olive Mills, near the railroad track, and at the top of an abrupt elevation, which makes it very dangerous to persons passing that point with teams. We recommend that the road be graded down at the place some two or three feet, and ditch water piped under the road, and thus dispense with the bridge.

NINTH: We would also call attention to the condition of the shade trees, both in the city and country, which line streets and roads, that their branches overlap the streets and hang so low that they make it both annoying and dangerous to the traveling public.

GRAND JURY REPORT

COUNTY OF ORANGE 1890

TENTH: That we have examined into the case of the Los Angeles and Orange County Board of Commissioners, and fail to find any evidence of fraud.

ELEVENTH: We recommend the Board of Supervisors to appoint a sealer of weights and measures, as complaints have been made to the Grand Jury in relation to the matter.

TWELFTH: We find the books of the City [of Santa Ana] are correctly and well kept, and efficient and courteous officials.

THIRTEENTH: We have examined into the municipal affairs of Anaheim and find that the City Clerk has not kept his books as required by law, and that he has received reports from the City Marshals without proper investigation. We find by investigation of the last six months of ex-Marshall Smythe's term of office that he was short \$143, and that the stub books from four months of that time are missing and cannot be found; and that the poll tax receipt stubs for about \$126, eight dollars of which only are accounted for in his sworn statement to the City Trustees [are lost?--ED.]

We also find that John Landell, present City Marshal of Anaheim, has collected taxes, water rates and licenses, for which he has only given a partial account in his statement to the City Trustees, which has been paid since the books were examined, resulting in a shortage of \$916.42.

FOURTEENTH: We find that Marshal Landell has been carrying general tax funds in his possession indefinitely. He also had in his possession over \$1,000 of school money, which he has turned over since the investigation has been made. [This last sentence was crossed out.--ED.] Both Smythe and Landell admit that they do not know, or have no means of knowing, how much is actually due the City of Anaheim.

FIFTEENTH: We have carefully examined the books of the officials of the City of Orange, and find them satisfactorily and correctly kept.

CAREY R. SMITH, Foreman
H. N. SHORT, Secretary

GRAND JURY REPORT

COUNTY OF ORANGE 1890

FIRST GRAND JURY

JUDGE JAMES W. TOWNER of the Orange County Superior Court appointed the first Grand Jury following County division on Tuesday, July 15, 1890. The following list of the original Grand Jury is based on a brief notice appearing in the Santa Ana Standard July 19, 1890. In most instances, the Standard list provides the Juror's last name and first initials only. The full names of the Jurors, together with their ages, occupations and places of residence, are provided by the Great Register of Los Angeles County for 1888. The age of each Juror has been calculated by adding two years to each age provided by the Great Register, and must be viewed as only approximate.

<u>FOREMAN:</u>	Carey R. SMITH	46	Capitalist	Santa Ana
<u>SECRETARY:</u>	Harvey N. SHORT	53	Printer	Santa Ana
<u>JURORS:</u>	John AVAS	47	Stockdealer	Santa Ana
	Lorenzo N. BROOKS	37	Farmer	Arch Beach
	John CUBBON	42	Rancher	Santa Ana
	Thomas W. FAWCETT	68	Farmer	Westminster
	Richard H. GILMAN	43	Orchardist	Anaheim
	Alfred GOLDTHWAITE	54	Capitalist	Anaheim
	Charles A. HUNT	49	Rancher	Santa Ana
	John G. KIMBALL	53	Real Estate	Santa Ana
	Thomas J. LOCKHART	52	Farmer	Orange
	George W. McCAMPBELL	28	Farmer	Tustin
	Clarence H. MEACHAM	39	Farmer	Santa Ana
	Robert H. MILLS	62	Farmer	Westminster
	John H. MOESSER	55	Retired	Santa Ana
	Isaac N. RAFFERTY	55	Farmer	Santa Ana
	Theodore RIMPAU	63	Orchardist	Anaheim
	Walter K. ROBINSON	36	Rancher	Trabuco
	Robert E. STRONG	53	Minister	Westminster

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