

# Grand Juries in Canada: Their History, Powers, Suppression, and Path to Revival

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## I. Prologue: The Disappearance Without Consent

### 1. Statutory Removal Without Debate or Vote

- In Ontario, the Juries Act once included sections 32–36, outlining procedures for grand juries.
- By the 1990 revision, these were gone.
- There is no Hansard record of debate or vote—just silent omission in statute consolidation.
- These changes in section 32-36 appear to have been made in 1974. Yet they ran grand juries until 1977. Therefore the withdrawal of these provincial statutes did not remove the right to grand jury.

### 2. Historical Evidence of Use

- Grand juries were active in Ontario, Saskatchewan, Alberta, and BC until the mid-20th century.
  - Ontario held grand jury inquiries up to 1977, including one into Kingston Penitentiary.
  - The Criminal Code contained grand jury references until removed without explanation.
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## II. Legal Foundations and Case Law

### Reference re Residential Tenancies Act (1981)

“Parliament cannot by mere statutory provision, however explicit, oust the jurisdiction of superior courts which flows from the Constitution.”

**R. v. Awashish, 2018 SCC 45**

“The power of a superior court judge to control court proceedings and processes flows from the inherent jurisdiction conferred by the common law and the Constitution...”

**Roncarelli v. Duplessis, [1959] S.C.R. 121**

“There is no such thing as absolute and untrammelled ‘discretion’...”

**Amax Potash Ltd. v. Saskatchewan, [1977] 2 S.C.R. 576**

“The Crown may not by legislation expropriate property rights or fundamental legal rights without clear and unambiguous language.”

**Legal Doctrine of Implied Repeal Rejected**

- No express repeal of grand juries exists.
- Rights embedded in common law cannot be erased by statute.
- The Canadian Bill of Rights (1960) protects due process, fair hearing, and mechanisms like grand juries.

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**III–IV. Constitutional Authority and the Ongoing Validity of Grand Juries in Canada**

**A.**

**The Constitutional Foundation of Grand Juries in Canada**

**1.**

**Preamble to the Constitution Act, 1867**

“A Constitution similar in principle to that of the United Kingdom.”

This preamble incorporates unwritten but foundational elements of British constitutional law, including:

- The rule of law
- Judicial independence

- The grand jury, which existed in the UK as a safeguard against arbitrary prosecution and has been inherited into Canadian law as a constitutional principle.

2.

### **Section 91: Peace, Order, and Good Government**

This section grants the federal Parliament authority over matters essential to national coherence, including the legal and judicial frameworks that uphold civil liberties. Grand juries fall under this scope.

3.

### **Section 91(27): Criminal Law and Procedure**

“The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.”

This section gives exclusive jurisdiction over criminal law—including grand jury procedures—to the federal Parliament. Provinces have no constitutional authority to abolish or extinguish federally governed criminal procedures, including the grand jury.

**B.**

### **Grand Jury as a Civil Liberty**

The grand jury is not merely a procedural tool—it is a civil liberty, a mechanism for:

- Public oversight of state power
- Protection from arbitrary prosecution
- Initiation of criminal investigations where officials or courts may be conflicted

Protected under:

- Canadian Bill of Rights, S.C. 1960, c. 44
  - Section 1(a): right to liberty, security of the person, and enjoyment of property
  - Section 2(e): right to a fair hearing in accordance with the principles of fundamental justice

These provisions codify the right to due process, which includes the right to a grand jury where historically recognized and not lawfully repealed.

**C.**

**The Alberta Precedent: Grand Jury Law Still in Force**

R. v. Coote (1938), 70 C.C.C. 113 (Alta. S.C. App. Div.)

This Alberta Court of Appeal case confirmed:

- The grand jury process is federally protected, not a provincial matter.
- Provinces may not extinguish it through silence, omission, or administrative changes.
- It remains part of binding criminal procedure law, unless expressly repealed by federal legislation, which has never occurred.

This decision stands as precedent—not overturned—and applies nationwide under the shared criminal jurisdiction of federal law.

**D.**

**Ontario: Grand Jury Law Was Removed, Not Repealed**

The Juries Act, R.S.O. 1990, c. J.3 previously included Sections 32–36 providing for the striking of grand juries. These were:

- Removed from consolidation around 1990
- Without debate, public notice, or a legislative vote
- No record exists in Hansard of a repeal

Under legal principles of statutory interpretation, this removal does not constitute repeal.

Interpretation Act, R.S.C. 1985, c. I-21, s. 43:

“The repeal of an enactment does not... affect any right... acquired under the enactment so repealed.”

Without formal repeal, the law still stands. The right to a grand jury in Ontario exists in abeyance, not extinction, and may be invoked by right under the valid, unrepealed framework of federal criminal procedure.

**E.**

## **Supreme Court Confirmation of Parliamentary Supremacy**

Canada (Attorney General) v. Power, 2024 SCC 11

The Supreme Court ruled:

- Parliament is the supreme authority on law in Canada—not the courts.
- Granting courts the power to nullify constitutional principles or criminal procedures would have a “chilling effect on democracy.”
- Section 24 of the Charter does not confer supremacy to the courts.

This decision reaffirms that if a right like the grand jury exists in law and was never lawfully repealed by Parliament, it continues to exist.

**F.**

### **Case Law Confirming Federal Supremacy in Criminal Procedure**

1. R. v. Thomas (1990), 59 C.C.C. (3d) 257 (Ont. C.A.)

Confirms criminal procedure is a matter of exclusive federal jurisdiction.

2. Roncarelli v. Duplessis [1959] S.C.R. 121

Establishes that government officials can be held personally liable for violating rights and abusing discretionary power—relevant if officials refuse to strike grand juries when properly requested.

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## **Conclusion: The Right to a Grand Jury Still Exists in Law**

- It is constitutionally rooted in British legal tradition under the 1867 Preamble.
- It falls under exclusive federal jurisdiction via s. 91(27) of the Constitution Act, 1867.
- It is protected as a civil liberty under the Canadian Bill of Rights.
- It was confirmed in binding Alberta case law (1938) and never overturned.

- Ontario's quiet bureaucratic erasure of its procedures was not a repeal and thus unlawful.
- The Supreme Court (2024) has reaffirmed that only Parliament can remove such rights.

Therefore, grand juries still exist in law and remain legally available to the Canadian people as a vital tool of democratic justice.

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## **V. Grand Juries in Action (with Detailed Historical Cases)**

Grand juries have historically exposed institutional failures, corruption, and abuse. Here is a record of their actions across Canada:

### **7.1 Ontario Jail Inspection (1849)**

- Finding: Don Jail overcrowded and unsanitary.
- Result: Mandated reforms.

### **7.2 Upper Canada Corrupt Sheriffs (1826, 1840s)**

- Finding: Extortion, false imprisonment.
- Result: New standards for sheriffs.

### **7.3 Toronto General Hospital Grand Jury (1956)**

- Finding: Financial mismanagement.
- Result: Stricter oversight.

### **7.4 Sudbury Corruption Grand Jury (1957)**

- Finding: Bribery in contracts.

- Result: Convictions, reforms.

### **7.5 River Street Fire Inquiry (1959)**

- Finding: Failure of municipal fire code enforcement.
- Result: Toronto inspection reform.

### **7.6 Ottawa Civic Hospital Grand Jury (1963)**

- Finding: Negligent care, preventable deaths.
- Result: Hospital safety reforms.

### **7.7 Toronto Jail Grand Jury (1977)**

- Finding: Overcrowding, poor medical care, inhumane treatment.
- Result: Inquiry, infrastructure upgrades, inmate rights protections.

### **7.8 Ottawa-Carleton Detention Centre (Late 1970s)**

- Finding: Inadequate healthcare, food, sanitation.
- Result: Independent inspection recommendations.

### **7.9 Montreal Civic Corruption (1943)**

- Finding: Organized crime in city hall.
- Result: Crackdowns, resignations.

### **7.10 Winnipeg General Strike (1919)**

- Finding: Seditious conspiracy among labour leaders.
- Result: Convictions; shaped labour law.

### **7.11 Upper Canada Rebellion Grand Juries (1837–1838)**

- Finding: Treason charges.
- Result: Trials, executions, colonial reforms.

### **7.12 Quebec Civic Corruption Grand Jury (1876)**

- Finding: Municipal embezzlement.
- Result: Municipal finance overhaul.

### **7.13 Newfoundland Railway Corruption (1890s)**

- Finding: Bribery, public fund theft.
- Result: Prosecutions and infrastructure reform.

### **7.14 Nova Scotia Patronage Abuse (1860s)**

- Finding: Patronage in government hiring.
- Result: Reforms leading into Confederation.

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## **VI. Traditional Role and Operation**

- Indictment (True Bills)
  - Presentments (unsolicited reports)
  - Inspections of jails, hospitals, institutions
  - Independent investigations of government wrongdoing
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## **VII. Suppression Without Law**

- Ontario: 1974 Jury Act revision removed grand jury language (Bill 105) without debate.
  - Grand juries continued until at least 1977.
  - Common law authority never repealed.
  - Other provinces attempted quiet suppression—but lacked constitutional authority under s. 91(27).
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## **VIII. Trudeau & Mulroney's Role**

### **Pierre Trudeau (1970s–1980s)**

- Centralized criminal procedure.
- The 1982 Charter omitted grand juries.

### **Brian Mulroney (1985)**

- Repealed s. 472 of the Criminal Code referencing grand juries.
  - Did not repeal the common law right.
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## **IX. Legal Authority for Revival**

- Common law origin
- Constitution Act, 1867, s. 91(27)
- Canadian Bill of Rights, s. 1(d), 2(e), 2(f)
- Ontario Juries Act, ss. 32–36

- Bushell's Case (1670): Jury independence guaranteed
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## **X. How to Reactivate a Grand Jury**

1. File petition to Superior Court of Justice
  2. Request writ of precept from judge
  3. Sheriff summons 12–23 jurors
  4. Grand jury hears evidence, makes presentments or indictments
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## **XI. Criteria to Qualify**

- Credible evidence of a public offense
  - Failure of authorities to act
  - Broad community impact
  - Detailed sworn affidavit
  - Filed in proper jurisdiction (e.g. Ontario Superior Court)
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## **XII. Presentment Template (1977)**

- Jail conditions
- Overcrowding, unsanitary
- Negligence
- Called for inquiry and reforms

- Delivered to Attorney General and other officials
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### **XIII. Court and Clerk Follow-Up**

- Judge receives presentment
  - Orders copies sent to officials
  - Clerk transmits with covering letter
  - Recommendation for public inquiry
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### **XIV. Conclusion: The People's Court Still Exists**

- Grand juries are not abolished—they are active under common law.
  - Ontario law explicitly still allows them.
  - Citizens can invoke them through Superior Court.
  - In a time of rising state abuse, they are the lawful remedy.
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### **XV. Modern Application: 2025 Election**

- Sample application by Vee Gandhi
- Allegations:
  - Election obstruction
  - MAID targeting poor
  - Ballot manipulation

- Delegate vote suppression
  - Pierre Poilievre's Bill C-23
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## **XVI. Petitions and Campaigns**

- [change.org/GrandJuryPetition](https://change.org/GrandJuryPetition)
  - [Backstory Folder](#)
  - [History of Grand Juries](#)
  - [Election Petition](#)
  - [Stand with Police](#)
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## **XVII. Appendix**

- Grand Jury Handbook (PDF)  
[Grand Jury Handbook – National Liberty Alliance](#)
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