

Cracking the Code

Third Edition

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Handling Presentments – Instructions

I. Introduction.

A. Understanding presentments. The dictionary definition of *presentment* concerns both criminal matters and financial matters, and the descriptive terms within the definition of each type are interchangeable. A presentment is either a *demand for acceptance* or a *demand for payment*, and is defined as follows:

- “A formal written accusation returned by a grand jury on its own initiative, without a prosecutor’s previous indictment request.

“A grand jury has only two functions, either to indict or to return a ‘no bill.’ The Constitution speaks also of a ‘**presentment**,’ but this is a term with a distinct historical meaning now not well understood. Historically **presentment** was the process by which a grand jury initiated an independent investigation and asked that a charge be drawn to cover the facts should they constitute a crime. With United States attorneys now always available to advise grand juries, proceeding by **presentment** is now an outmoded practice. Charles Alan Wright, *Federal Practice and Procedure* § 110, at 459 (3rd ed. 1999).” Black’s 7th. (Bold emphasis added)

- “The formal production of a negotiable instrument for acceptance or payment.

“**Presentment** and dishonor occur, for instance, when the holder of a check attempts to cash it at the drawee¹ bank but payment is refused because the drawer lacks sufficient funds on deposit. The demand for payment is the **presentment**. The bank’s refusal to pay is dishonor. James J. White & Robert S. Summers, *Uniform Commercial Code*, § 16-8, at 100 (4th ed. 1995).” Black’s 7th. (Bold emphasis added)

- “**Presentment** is a demand for acceptance or payment made upon the maker, acceptor, drawee or other payor by or on behalf of the holder. U.C.C. § 3-504(1). Black’s 6th. (Bold emphasis added)

In criminal matters, a *bill*, *i.e.* charges (like financial charges), in the form of a formal written accusation of a crime called an indictment (presentment), is presented to a court (by the prosecutor) for prosecution. A *true bill* is a list of charges that is sworn “true, correct, and complete” (affidavit). Based on the sworn charges of the grand jury, the prosecutor is indemnified for whatever action he takes based thereon. The prosecutor then draws up his own presentment, called a criminal complaint, based on the indictment (true bill) and demands that the named party accept responsibility for the charges.

¹ Drawee: One to whom a bill of exchange or a check directs a request to pay a certain sum of money specified therein. In the typical checking account situation, the bank is the drawee, the person writing the check is the maker or drawer, and the person to whom the check is written is the payee. Barron’s Law Dictionary, Third Edition, 1991.

Because of the U.S. bankruptcy and the institutionalization of fiat (by decree) money called *Federal Reserve Notes*, “FRNs,” there have been commensurate changes in the realm of jurisprudence. American tribunals are now “Federal-Reserve-Note tribunals,” dealing exclusively in FRNs and enforcing the private, copyrighted, corporate policy of the owners of the FRNs, known as “Code” (all U.S. code/law is copyrighted by British corporations—see Footnote 13 at the bottom of page 41 for details).

Notice in the quoted case under the first definition above that because of the influence of United States attorneys, “proceeding by presentment [of the grand jury] is now an outmoded practice.” We now operate in “summary proceeding” in the vast majority of legal undertakings in America, traffic court being the most common:

“Summary proceeding. Any proceeding by which a controversy is settled, case disposed of, or trial conducted, in a prompt and simple manner, without the aid of a jury, without presentment of indictment, or in other aspects out of the regular course of the common law. Black’s 1st.”

A “demand for *acceptance*” is a demand for acceptance of *responsibility* (for payment, or for performance of some act, and may also entail payment of some kind at a later date). A traffic ticket is a combination criminal/commercial instrument. The traffic cop makes a *demand* and the motorist makes a *promise*. Traffic tickets are negotiable instruments, and negotiable instruments consist strictly of *orders to pay* and *promises to pay*. The cop issues an order for acceptance (of responsibility to pay) against the credit of the TRADE NAME, and the motorist signs a promise to (accept responsibility for the charge, and) appear (and, if necessary, *pay the ticket*). If the motorist fails to accept responsibility for the ultimate payment of the ticket at any point in the process, he is arrested and jailed. When anyone in government demands that you accept responsibility to perform some act, he is issuing a presentment, concerning which there are monetary charges associated with a failure to perform. Presentments come in oral, written, and electronic form; acceptance of any presentment executes a contract.

In the private sector, presentments usually come from attorneys, but since all attorneys are officers of the state,² we are faced with essentially the same situation. Courts could not function without attorneys, who are endowed with a special “property right” (*right to practice law*), granted a title of nobility (esquire) via letters patent,³ and elevated above “common men” (fees enforced by judicial decree, win or lose).

In order to issue a presentment, a prospective issuer must have an *account*, where a charge can be lodged. For example, if police cannot determine the TRADE NAME of a detainee (held for questioning) within a brief period of time they must release him. The TRADE NAME is the account name under which a sovereign conducts

² “An attorney is an officer of the court, and as such, an officer and arm of the state.” 7 *Corpus Juris Secundum* 4, *Virgin Islands Bar Association v. Dench*, D.C. Virgin Islands, 124 F. Supp. 257.

³ “*Letters patent*, an open document under seal of the government, granting some special right, authority, privilege, or property, or conferring some title...” A Standard Dictionary of the English Language, Funk & Wagnalls Company, 1903.