

grand juries should, or should not, be abolished. Of late years the practical usefulness of grand juries has been much discussed, and many opinions pro and con have been given. The recent action of the Minister of Justice is likely to result in the gathering together of the opinions of those, who, being intimately concerned in the administration of justice, are perhaps best qualified to speak upon the question, and whose position will naturally entitle their opinions to the most respectful consideration.

Whatever may be the result of the answers sent in to the Minister of Justice, as to the desirability of abolishing or continuing grand juries, there can be no doubt that they have formed an important element in the criminal procedure of the mother country from a remote antiquity. Blackstone even finds in the institutions of Ethelred regulations concerning them. They have sprung from that sensitive regard which the laws of England have for so many generations had for the liberty of the subject, and which indeed is the foundation of all true liberty. Such an institution, hallowed by so hoary an antiquity, is not likely to be cast aside, unless it is made very manifest that it is to give place to a better system. That the grand jury has proved a wholesome barrier against frivolous and malignant accusations, there can be little doubt. And yet, like most institutions which have a wise and laudable reason for being called into existence, it is possible they may outlive their usefulness, and we would be in a sad state if the administration of the law had not from time to time undergone change.

Before a man can be punished for any serious crime, he may, if he insist on it, require the judgment of no less than twenty-four men, of whom twelve at least (the grand jury) are required to say whether a case is made out for putting him on his trial at all; and before he can be convicted, twelve others (the petit jury) must unanimously find him guilty of the offence with which he is charged. By this means it is sought to provide as far as possible a safeguard against unjust and malicious accusations for men of every degree. Such a protection is not to be lightly cast aside by any one who rightly values the life, liberty, and reputation of himself and his fellow-subjects.

It has been very strongly urged of late in some quarters that grand juries have outlived their usefulness; that they delay public business to suit their own convenience; that they are apt to overstep their province and to assume to try cases, instead of confining themselves to the simple question whether a *prima facie* case is made out; that they are liable to suffer themselves to be influenced by improper considerations, or the importunities or representations of the friends of accused persons; and that by this means legitimate subjects for trial and investigation before a petit jury are smothered in the grand jury room, and, in short, that instead of advancing the cause of justice, the grand jury, not infrequently, obstructs it. In addition to this, there is great force in the objection that there is no individual responsibility on members of the grand jury, and that this secret tribunal is as often used to gratify malevolent purposes as it is to choke off proper prosecutions. A man's best friends or his worst enemies may be on a grand jury, and there is no challenge, as in the petit jury, to secure a fair, impartial hearing. Then there is the absurdity of ignorant or a majority of