

manner as law officers of the Crown, institute and conduct similar proceedings at the Assizes. To watch over the conduct of cases at the Sessions, and without unnecessarily interfering with private individuals who wish to prosecute, to assume wholly the conduct of a case where justice towards the accused seems to demand his interposition.

It also is made his duty to assist the Crown officer in the criminal business at the Assizes, and in his absence to represent the Crown at such court.

If required by general regulations touching his office, he is to institute proceedings before justices of the peace in a variety of matters made punishable on summary conviction, and is empowered to institute such proceedings on a complaint in writing, or as public prosecutor, in cases wherein the public interests require the exercise of such office.

He is required also to advise magistrates and instruct them in respect to criminal offences brought before the magistrate for preliminary investigation or for adjudication, and a general provision requires the County Crown Attorney to perform such duties as may be assigned to him under general regulations by the Governor-in-Council. Before he is qualified to act he must take the oath prescribed for the faithful performance of his duty. These are the chief provisions respecting the County Crown Attorney system in Ontario, faintly outlined.

Before leaving the subject of the County Crown Attorney system and public prosecutors I should like to quote the opinion of the celebrated Lord Brougham, expressed in a letter to his friend the Procureur-General of France.

After speaking of the excellent organization of the French High Courts of Cassation: "I confine myself for the present," he adds, "to the office of public accuser, a necessary institution in every state, which we entirely want in England." * * *

"It seems incredible that in a civilized country in which the principles of jurisprudence have been so profoundly examined, an anomaly as glaring in the machinery of our jurisprudence as leaving to chance the execution of the criminal law should have continued down to the present day. You will scarcely believe that when a man with us has been the victim, either in his person or his property, of any crime or misdemeanor, the prosecution, the preferring of the accusation, should not be the duty of any public functionary.

The individual, who has already suffered from the consequence of the offence, is bound by the magistrate to become the public accuser. He has already suffered much; it is not sufficient; he must bring to justice those who have inflicted this suffering upon him. Hence springs a host of inconveniences too long to enumerate, of which I shall cite but one, and that will be enough. Nothing is more frequent than the tampering with the prosecutor by the guilty person, when he chances to be rich. I have known, at the time when forgery was punishable by death, many persons acquitted because they had bought off those who had been obliged to enter into recognizances to prosecute. When the trial began the witness did not appear; and one of the strongest reasons in favor of the abolition of capital punishment has been found in the great difficulty of compelling the injured persons to prosecute the guilty. This capital defect does not exist in Scotland nor in France. Thus, in Scotland it never happens, as with us, that on the one hand the guilty escape and on the other that, from time to time, prosecutions are inspired by unworthy motives. The Grand Jury affords no remedy for this evil; on the contrary, it is a body acting without the least responsibility, and frequently commencing a prosecution against justice. For as the majority out of twenty-three jurors decides, we can never tell whether such or such a jurymen was one of the twelve who voted for the prosecution, or of the eleven who were of the other opinion."

I have noticed somewhat in detail the County Crown Attorney system of Ontario, for I desire to bring its excellent features under the notice of hon. gentlemen from Provinces where the system does not exist, and I can bear testimony to its value and admirable working. It is only right I should add that without some such system to take the place of the Grand Jury institution I dare not say it would be safe to abolish that institution, but with the erection of some such system throughout Canada a great and needed reform would be accomplished, a more perfect criminal procedure provided; and the subject is one expressly reserved under the British North America Act to the Parliament of Canada. On the grounds I have referred to I maintain it would be in the interests of justice, secure more certainty in punishment and be a wise and economical reform, one not difficult to accomplish. How and under what tenure Crown prosecutors should be appointed, the limits of their duties, and other matters of necessary detail, it would now be premature to enter upon, as it is outside my purpose now to discuss the appointments required, and whether made by the General Government or otherwise arranged, these considerations properly belonging to a matured measure.

I may remark that under the law in Ontario the offices of Clerk of the Peace