

licated, or something similar, to prevent vexatious trials at law.

MR. JUSTICE CROSS.

I am disposed to give my advice strongly against the abolition of grand juries, not for any new reasons or anything that I could add to what has been recognized for ages as to the institution being one highly venerated, it being a bulwark of liberty, a safeguard against oppression and a highly prized constitutional channel for the denunciation of abuses. Its composition inspires confidence, and its mistakes are for the most part easily remedied. It assures to the accused the same justice he might be called upon himself to deal out to his peers if acting as a grand juror. Like other human institutions, it has defects, among others, it is expensive and cumbrous and its conclusions are not always satisfactory; probably on that account it is too readily condemned by many who do not think deeply of its value as a whole, not reflecting that it is easier to pull down and destroy than it is to build up and restore. It is fair to enquire of these, what better substitute they would suggest to replace it. Were presentations made at the instance of a public officer only, his responsibility would be great, he would run the risk of becoming very unpopular and of incurring the hatred of the friends of every one denounced to the public tribunals. The presentations would naturally take the leaning of the temper of the accuser; if mildly disposed they might be weak, if severe the reverse, but this, if an evil at all, would be the least of evils. In the possession of a fixed or permanent power it is the tendency of the human mind to become arbitrary. In the hands of an unscrupulous official how readily might not such power become an instrument of tyranny and oppression which could be used to screen guilty favourites and with harshness to those who might have incurred his displeasure. Imagine the case of the executive power of the government desiring to harass its political opponents; no better machinery could be devised for the purpose than to invest their agents with the powers of a grand jury; in such a case the safeguard of the institution is invaluable.

I do not deny that the system may be

susceptible of improvement, but I think those having the power would do well to reflect carefully before decreeing the abolition of the institution.

JUDGE CIMON.

It would be very extraordinary if the secular institution of grand juries did not meet with, especially in modern times when there is every tendency towards innovation, critics who would pray for its abolition.

I do not believe that the grand jurors are reproached with bringing useless or ill-founded charges; this is so much in their favour. The reproaches come rather from a contrary cause, that is to say, that the grand jurors favour the prisoners. I admit that I have seen sometimes, but rarely, grand jurors allowing themselves to be easily approached by the friends of the accused persons, and in consequence I have known them returning indictments as not true when the proof of guilt was doubtful. I saw, during the course of my practice as a lawyer, very near relatives of the prisoners form part of the grand jury; I have even seen the father of the accused on the grand jury deliberating on the fate of his son. It need not be stated that the indictment in this case was returned as not a true bill. But let us not forget that in all these cases the evil is remediable. For the fact that the grand jury have returned the indictment as not a true bill, does not discharge the offender, and one can always submit anew the charge to other grand juries, and the crown may, if the course is preferable to attain the ends of justice, even obtain a change of venue. And it is evident that it is very certain that the crown, in these rare and extreme cases, will always conclude by obtaining a true bill if the evidence demands it.

So it happens that the reproaches cast upon this institution, although they may be serious, only are deserved in cases of great rarity, and do not entail an irreparable evil. And if provisions of law were adopted for better defining the causes for challenge of the grand jurors, and an effective procedure was laid down for this purpose, there would be avoided for the future anything to give cause to these unusual reproaches.

Now, if as a counterpoise to these unusual