

*GRAND JURIES.*

Considerable discussion has taken place from time to time with regard to the question whether grand juries should be retained or abolished. At nearly all of our courts of Oyer and Terminer, the presiding judges have addressed the Grand Inquest upon this point, and in many cases have asked that body for an expression of opinion on the subject. Generally, the answer has been favorable to the retention of the system, and this fact is urged as an argument in furtherance of the views of those who do not desire to see any change made in the trial of criminal cases. A moment's reflection, however, will show that the opinion of grand juries on the question of their own continuance is not entitled to any great weight. As a rule, the jurors are not men accustomed to legal procedure. They have no special knowledge on the subject. Their training and modes of thought are not such as to enable them to give any very valuable suggestions with reference to the functions of a grand jury as part of our criminal procedure, and their information on this head must necessarily be very limited indeed. Add to this that, in most instances, their presentment is prepared by the foreman at the last moment, and we can readily judge of the importance of any opinion professedly given by the jurors, as a body, on a matter involving, for the purpose of a thorough knowledge of it, great experience, much research, and careful, serious reflection.

The views of many of our judges are, we are aware, in favor of the system, but one must not conclude that because the judges express themselves against the abolition of the grand jury therefore it ought not to be abolished. We have the greatest respect at all times and under all circumstances for the opinions of our judiciary, but this is a question which those who, as Crown prosecutors, are practically dealing with grand juries, and who know from actual experience how the system works and is worked, may be permitted with all deference to express a dissenting opinion, and to take issue with abler men, whose position removes them from the level from which the system can be best seen and judged. We are therefore inclined, from the information which we have gathered from various reliable sources, to take a position adverse to that generally taken by the Bench on this point; and whilst we approach the subject with much diffidence, we hope to satisfy our readers that the grand jury is not all that it is claimed to be, and that the administration of criminal justice would not suffer if the venerable institution were abolished.

So far as the origin of the grand jury is concerned, the causes which led to its inception no longer exist, and consequently cannot be urged as a reason for its continuance, nor does a historical review of this venerable system supply us with any arguments in its favor. With regard to the information which can be gained from the writers on this subject, there appears to be considerable obscurity concerning the early history of juries. The grand jury was originally a creature of necessity. There does not appear to have been any regularly constituted tribunal for the trial of criminals, nor was there any provision for the attendance of witnesses, their examination on oath, or any other of the ordinary means now used