

the *procureur de la république*, as well as the answers given by the accused in his private examinations by the *juge instructeur* and any written defense that the accused may choose to offer. These judges are competent men, and exercise these functions alternately with the other members of the court of appeals. If this system, which was adopted in 1808, as a substitute to grand juries, and strongly favoured by Napoleon, and which is now pretty universally adopted all through Europe, were possible here, I would favour its adoption with some modification as to details.

A bill is now before the Quebec legislature, and will likely pass, for the appointment of additional judges in the court of queen's bench, in order that two judges of said court may be appointed by the chief justice for holding criminal courts in all the districts of the province. Perhaps the resident judge, who by this new law is relieved of the duty of holding the criminal court in his district, could jointly with one or two of the judges of adjoining districts, constitute a court of enquiry and exercise hereafter the functions of grand juries, or some other mode equally reliable and safe could be devised out of the actual organization of our courts, such, for instance, as despatching two or three of the county judges in the Montreal division, and two or three in the Quebec division, to discharge the same duties for a year, etc. This I leave to you, sir, to say. Were all the judges of the superior court residing in three or four cities or towns, under the direction of our two chief justices, this idea might be more readily carried out than by the judges scattered all through the province as they are now.

A change of this importance deserves great consideration. Would the advantage derived from the new system be sufficient to justify its substitution to the old one? As it would have to be applied to all or nearly all the provinces, the difficulties to enforce the idea may yet be increased.

Not presuming to solve the problem, and apologizing for the length of this communication, I remain, &c.

MR. JUSTICE BROOKS.

I have always considered the duties

of the grand jury as most important, and that unless and until a most thorough and radical change in our system of administering the criminal law is made, the grand jury system should be retained not only in the interest of persons accused of crime, but of the public.

While our justices of the peace, as must necessarily be the case in a new country like this, are men who are not and who cannot be supposed to be skilled in the law, who have not in the great majority of cases even the benefit of a liberal education, and who have not the means of obtaining the services of any efficient or skilled clerks to aid them in the performance of their duties, it is exceedingly unsafe to place in their hands as a rule the power of *deciding* if a person charged before them with a crime should be placed in the dock to take his trial at a higher criminal court.

I have known in my experience of thirty years in criminal matters many cases where persons have been bound over to take their trial for alleged offences, particularly in matters involving questions of civil rights, against whom under the instruction from the judge presiding over the criminal court or on advice being sought from the representative of the attorney general, the grand jury have returned "no bills," which if returned as true bills into court would have placed innocent men upon their trial to their disgrace in the eye of the public, with great expense to the country and to no purpose.

On the other hand I have very seldom known of bills thrown out by the grand jury when there was ground for returning true bills.

The expense to the country of the grand jury not being very considerable it adds to the dignity and importance of the criminal court.

They have from the presiding judge an exposition of the criminal law defining their duties and functions which ought to be instructive and of value.

The members of the grand jury, some of whom are usually justices of the peace, are instructed in their duties as such; and in cases which are to be brought before them involving questions of any difficulty they have the benefit of instruction from the court