

and quick trial to get rid of the trouble. They are themselves the arbiters of that question, whether their cases will go to a Grand Jury or be tried summarily before a judge. I fear that at present very little progress will be made towards the abolition of the grand jury system, but I think it would be a matter of very great interest, and it will help us, no doubt, when this case is further discussed, to know what the opinions of the Grand Jury and the opinions of the judges are, if they are on record.

HON. MR. KAULBACH—I will not occupy the time of the House by making any extensive remarks, but I am sure we must be all thankful to my learned friend from Barrie for having brought this matter before us in the elaborate way he has done. He has shown us that there is great laxity in the prosecutions for the Crown before grand juries, and miscarriage of justice in consequence. Had my experience in Nova Scotia been of a like nature I would probably have been more prejudiced against the Grand Jury system than I am. The jury system in Nova Scotia, and I have had large experience as Crown counsel there, is a respectable and respected institution, not only for its antiquity but for its efficiency; but I admit it has largely outgrown its influence and that its influence has to a large extent gone. However, until the Government can suggest some better system I should be disposed to hold to what we at present enjoy. There is a safeguard under the Grand Jury system which, with proper care, is in the public interest. My hon. friend from Barrie has shown cases of miscarriage of justice under the jury system. I cannot, however, see how any twelve men can bring in a presentment without some evidence to go upon. The judge in charge of the Assizes charges the jury with the evidence, and there are other checks and safeguards—the witness for the Crown is sworn before the whole court and before the judge. The Clerk of the Crown gives him a certificate and he goes before the Grand Jury. If all those cautions and guards are observed I cannot see how possibly there should be such a miscarriage of justice under the jury system as my hon. friend has represented to the House. Notwithstanding that, I

am under the impression, and I think public opinion is going that way, and the judges in Nova Scotia are beginning to believe that a better system might be provided, notwithstanding the great respect that they have for that ancient institution, the Grand Jury.

HON. MR. GOWAN—I should like to say that I did not propose to bring in any measure just now, nor did I propose any reference to a committee in this matter, because I think that the Government of the country should not, in so important a matter, anticipate well-considered public opinion. The Government has means of ascertaining public opinion which a private individual does not possess. It is quite competent, and not unusual, for the Government to ask questions of different public officers—of the judges, members of the profession, and others who are capable (because it is not everyone who is capable) of forming a correct opinion with a full knowledge of the subject. I candidly stated that I was not aware how the balance of opinion was with the superior Ministers of Justice—with the judges of the country; but I do not think, and do not agree with my hon. friend from Ottawa, that there is such a very large preponderance on the Bench in favor of the Grand Jury.

HON. MR. SCOTT—I was only speaking from memory.

HON. MR. GOWAN—I know of several judges who are in favor of the abolition of the Grand Jury. The Government can always ascertain, in the usual way, what the opinion of such men is. With regard to moving for addresses from grand juries, I am not prepared to do that, because I would not value the evidence of the presentation of a Grand Jury at anything. They invariably re-echo the sentiments expressed by the Bench. In nine cases out of ten they will do so. If the judge urges the necessity of the abolition of a Grand Jury the body will express favorable views. If he urges that it should be retained they will do the same thing; and besides that, I do not think they are men as capable of forming an opinion as the judges and the profession.

HON. MR. SCOTT—Certainly not.