

MR. JUSTICE WURTELE.

If in all the judicial districts of Quebec, we had able judges of the sessions and district magistrates, such as Messrs. Desnoyers and Dugas in Montreal, Mr. Rioux in Sherbrooke and Mr. St. Julien in Aylmer, and that the law required all cases to be referred to them for committal for trial, then I think that grand juries might be abolished in this province, but without such a safeguard I do not believe that their abolition would be in the public interest.

MR. JUSTICE PAGNUELO.

The inconveniences resulting from the system of grand juries are manifold, and the manner it is enforced adds to its inherent defects. Jurors lack that practical knowledge which a trained judicial officer or a judge possesses for the discovery of crimes, they are liable to surprises, and their feelings will often be appealed to and abused; in political, religious and racial trials, a condemnation is often next to impossible against a partisan, a co-religionist or a countryman, and criminals escape.

The one good feature of this system consists in this, that it gives to the accused as judges not adversaries or hardened officials exercising a daily routine business, but persons interested in his fate by a community of interest and of social position.

It is for this reason that juries are as a rule, found fault with, as giving criminals too many chances to escape; but it is of very rare occurrence that they be suspected of condemning innocent persons.

These considerations are true of petit as well as grand juries, but the secret and *ex parte* proceedings before grand juries add considerably to the inconveniences of the jury system, especially where the standard of the jurors is low as it is in this province.

My impression is that cases are not sufficiently considered by grand jurors, and that the latter are too easily approached. Challenges being unknown and impossible, opinions are often formed before grand jurors meet together in their room.

Suspensions of that kind are by themselves a great drawback on this mode of administering justice.

One must also bear in mind that juries

owe their existence in England to the desire of providing a guarantee against the undue influence which the then organization of society and of the government, and former abuses by persons high in authority justified the people to fear from permanent judges or officers appointed by the crown; they were more of the nature of a political safeguard against government officials than against the errors to which mankind is heir.

Jurors are nowadays no longer a bulwark of personal or political liberty, and they are generally dispensed with, in political trials, at times of great political agitation, but jurors are considered rather a safeguard against the indifference, negligence or partiality of officials.

The main office of grand jurors, as I view it, is now to control the decision of the magistrate, when a preliminary investigation has been held, or that of the judge or attorney general or his substitute when it is dispensed with, and to guard against prosecutions from motives of revenge, bias or interest.

Such a check is necessary in this country; I hold very strong opinions on this head, and should grand jurors be abolished, a substitute for them will have to be provided.

It is not possible to leave it to any one of our justices of the peace, now counted by hundreds in this province, to say that any citizen will be submitted to the trouble, anxiety, expense and shame of a criminal trial, perhaps on the most trivial pretexts, or to allow a man to escape trial, in the face of the most positive evidence, either through partisanship, favour or interest. Both of these contingencies must be carefully guarded against, as equally detrimental to society and personal security.

Therefore, I again ask, what substitute is suggested for grand juries? I am decidedly against officials appointed by local governments, as they would not be above the ordinary substitutes of the attorney general, and it would be most unsafe to leave it in their hands.

In France, five judges of the court of appeal constitute a court of enquiry or *mise en accusation*, to whom the clerk of the court reads all the depositions taken by the *juge instructeur*, with the help of the substitute of