

be rectified. The affidavits or statements of grand jurors are not, as a rule, allowable to correct the simplest error or remedy the gravest miscarriage of justice, and the court that tries the case cannot assist by way of amendment, except in matters of mere form. The *prima facie* evidence of a man's guilt is weighed by laymen in secret conclave, the examinations are conducted no one knows how, and the finding is arrived at almost necessarily on facts which are perhaps only a small part of the truth, and all this without the assistance of the court or counsel, because the general directions given by the court, useful as they always must be, manifestly fall far short of any practical service in hearing and considering the evidence in detail. There is no public sitting in judgment on their actions. That guardian of private rights and public interests—the press—is helpless. There is no fierce "white light" to terrify and hold in check any juror concerned in wrong-doing. All the restrictions and safeguards which the law has thrown around criminal prosecutions are wanting. And worse perhaps than all, a man may be put in peril of his life upon *hearsay* testimony, the mere rumors of the neighborhood, the idle gossip of his friends, or the vindictive insinuations of his enemies, for no wise judicial hand is raised to prevent the admission of this evidence, which the law says shall not be evidence at all.

The accused is not allowed to be represented. That a person charged with an offence shall have the benefit of counsel, is one of the fundamental principles of our modern practice. A preliminary examination before a magistrate may be, it is true, a secret enquiry, and is such in theory. But what magistrate would dare to exclude prisoner's counsel? And even if he did, the accused is himself present and may ask such questions as he thinks proper, questions which often tend to throw a very different light on the evidence already given. The result is that the finding of a magistrate is really a far greater protection to the public and the accused than are the proceedings before a grand jury. The magistrate is generally a man having more or less experience in dealing with criminal cases, and in this respect he has a great advantage over the jurors. His committals often end in acquittals, but at least there is something apparent on which they are based. We have only to look at the cases which are presented to the Court at the Toronto sittings of Oyer and Terminer to see how little ground there could have been in many instances for finding a bill. Case after case has been thrown out by the trial Judge before it reached the petit jury, and men have been put upon their trial, and have undergone the humiliation of being placed in the dock as felons, without the slightest particle of legal evidence against them. In fact, we doubt if a single case can be named where a grand jury has protected either the interests of the Crown or the legal rights of a prisoner by its finding; and further, we do not believe that there is any instance where a better result has been accomplished by reason of the intervention of a grand jury than would have been gained by the magisterial enquiry alone.

Perhaps the strongest evidence that the system of grand juries has outlived its usefulness, if it ever had any, is shown by the fact that the great majority of cases are now tried before the county judges or police magistrates, and no injus-