

## GRAND JURIES.

Mr. Justice Ramsay, at the opening of the Term of the Court of Queen's Bench, Crown side, at Montreal, referred in the following terms to the subject of the abolition of Grand Juries. The observations possibly were elicited by the introduction of the bill noticed in last issue:—

“On more than one occasion I have taken the opportunity to allude in my address to the Grand Jury to the importance of the functions you have to perform. There is, I am aware, a popular opinion, and one, I venture to say, based on a very superficial view of the matter, that the introduction of bills of indictment through the medium of the Grand Jury should be abolished. It is not very clearly said what is the objection to the Grand Jury, nor, so far as I know, has it been even attempted to show by statistics that it has failed to perform or that it performs imperfectly its duties. The sharpest criticism to which it has been exposed is that it is expensive, and that it, to a very small extent, increases the services of the jury class. The former of these arguments is an appeal to the cupidity of the Government, the latter to the lack of public spirit of the jurors. I am very far from under-rating the question of economy in public matters. It is unquestionably the duty of those entrusted with the administration of public affairs to be constantly solicitous to keep down and to curtail, where it is possible, the public expenditure. But there is another duty still greater, and that is to be watchful as to the efficiency of the public service. It will scarcely be denied that those who stand in the defence of an existing institution have a right to challenge the innovator to show clearly that the institution sought to be demolished is bad, or, at all events, that he has something unmistakeably better to put in its stead. It has just been observed that there has been no attempt to establish the former, and if I may add the testimony of my, comparatively speaking, limited experience, I would say that such an attempt would signally fail, and if it were necessary or proper to enter into details, I could point out special cases in which the Grand Jury rendered signal services. Next, let us enquire what is to be substituted for the Grand Jury? Is everyone to be indicted and tried who is committed by a magistrate? Or,

is no one to be tried except on information by the Attorney-General? Whichever of these methods is adopted it removes the popular check on the administration of the criminal law, and hands it over bodily to official control. I can hardly be accused of any strong personal prejudice against officials; many years of my life have been passed in office, or in intimate connection with persons in office, and my opinions don't run much in what are generally considered as popular channels; but I consider that the abolition of the Grand Jury would be a most dangerous innovation and the destruction of a great safeguard of our public liberties. It may be said that these safeguards are no longer necessary, and that there can be now no question of political rights in the trial of 999 out of 1,000 malefactors who come before the Courts. This is very true, but with all due deference to the powers that be, it appears to me that the dangers of the past have not ceased to exist, although their form is changed. The excellence of our system does not depend on its symmetry, but on a succession of checks and counterchecks which prevent any influence from becoming omnipotent.”

## NOTES OF CASES.

## COURT OF QUEEN'S BENCH.

MONTREAL, March 22, 1880.

SIR A. A. DORION, C.J., MONK, RAMSAY, TESSIER,  
CROSS, JJ.

Ex parte McCaffrey, petr. for habeas corpus.

*Guardian—Liability for goods—Habeas Corpus  
where imprisonment is under civil process.*

Sir A. A. DORION, C.J. The petition is by a guardian who was condemned to go to jail in default of producing the effects placed under his guardianship. The petitioner urges three grounds, first, that the option of paying the value of the goods was not given him. This question has already been decided in *Leverson v Boston*, (2 L. C. J. 297) where the Court of Appeal held that it was for the guardian to prove the value of the goods, and to ask that he should only have to pay the value. The second reason is that more than two months have elapsed since he was appointed. But the two months' rule never applied to the time of the guardian's appointment, but only to the time when the opposition ceased, and I do