

## The Legal News.

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### THE GRAND JURY SYSTEM IN CANADA.

The following circular was addressed by the Minister of Justice to judges and others in Canada :—

"Department of Justice, Ottawa, 29 Oct. 1890. Sir,—The question of the expediency of abolishing the functions of grand juries in relation to the administration of criminal justice has on several occasions been brought to the attention of parliament, and intimations have from time to time been made to the government by municipal bodies, judges and others interested in criminal jurisprudence, that the abolition would be in the public interest.

It is my intention to lay before parliament in the near future a bill codifying the criminal law of Canada, both as regards substantive law and procedure. Before submitting it, however, I would be very glad to be favoured with your views upon the question above mentioned.

I have taken the liberty of addressing this circular to all the judges in Canada who are charged with judicial functions in criminal matters as well as to the attorney general of each province."

The replies from the province of Quebec, which in the main are strongly in favor of the retention of the system, are as follows :—

CHIEF JUSTICE JOHNSON.

I have no difficulty in saying at once, that where there is a system of paid, professionally trained and competent police magistrates, the abolition of grand juries appears to me desirable, as respects ordinary felonies and misdemeanors; but I doubt whether in cases of a more or less political complexion such as seditious libels—the intervention of an entirely independent body could cease without impairing the confidence of the people in the impartiality of the administration of the law.

I do not know, and am not called upon to give any opinion upon what might be pro-

posed as a substitute for the grand jury; but if I may assume it to be the complaint and information after examination of the accused, as now practised in Montreal, I should feel satisfied if the system were restricted to the cities, and within the limit of non-political cases.

It occurs to me, however, that even in such cases, the substitution of the police magistrate for the grand jury beyond the limits of the cities would be undesirable, if not wholly impracticable, as the power of the federal parliament to regulate criminal procedure could not extend to the appointment of local magistrates, and those offices would therefore certainly be held by partizans, to the great danger and detriment of justice as well in public opinion as in its actual administration which is already beset with great difficulty and expense arising from the two languages in use in the province.

MR. JUSTICE JETTÉ.

Although the judges of the superior court, in the province of Quebec, have criminal jurisdiction, the law (Sec. 2452, 2453, R.S.Q.) enacts that in the cities of Montreal and Quebec, when a judge of the court of Queen's bench is present and able to sit, the superior court judges are not bound to attend to that duty. In consequence of this disposition, I have never been called to sit in criminal cases, and therefore I do not feel warranted in offering any opinion on the question submitted.

MR. JUSTICE PELLETIER.

In my opinion, the grand jury is, in our districts, a great protection for the repose of the individual and a guarantee for peace among neighbours. I do not hesitate to declare that without the grand jury many vexatious suits would be instituted, especially in matters which would touch more or less closely political partizanship. To my own knowledge many frivolous accusations have been stopped by the grand jury. It is true that the keeping up of this body is costly; but until another institution is substituted for it,—some mode of preliminary trial which offers the same guarantees for the security of the person as for the property of Her Majesty's subjects,—it would be dangerous, in my opinion, to abolish it.