

ignorant men (for selection is now a matter of chance) passing *privately* upon a case. If they are advised by the Crown prosecutor, and he is honest, they may do what is right, but they may take their own prejudiced views. If they do, who is to be held responsible? Everything connected with the administration of justice should be not only honest, but open as the day, and with appropriate responsibility. Strange as it may seem, the class of men on grand juries in Ontario are, as a rule, inferior even to those on the petit juries; and one or two bad men on the former may work great evil, and the want of challenge intensifies the evil. The liberal challenge allowed in serious cases helps to purify a petit jury.

All these considerations are, no doubt, important to be borne in mind in determining the value of the grand jury as an element in our criminal procedure; but it is also necessary to consider whether these evils of the grand jury system outweigh any advantages which attend it; and whether or not they can be corrected by a less drastic process than the total abolition of the grand jury. Certain it is, that if the grand jury system were abolished, some other means would have to be devised whereby the wholesome restraint it is intended to exercise over criminal prosecutions may still be retained. We may hereafter have something to say as to what would be the best way of meeting this need.

The recalcitrancy of grand juries is not any newly-discovered fault. It may be that in some parts of the country there is not a sufficiency of the class of educated and independent men from which grand juries ought to be drawn, and it may be necessary in the future, as it has been in the past, to supply some remedy for their backslidings. In England such remedies have practically now fallen into disuetude: the class which compose grand juries there, we presume, are sufficiently alive to their duty as citizens, and sufficiently independent fearlessly to perform it, to make it no longer necessary to resort to penal measures for their correction. But there was a time, even in England, when a grand jury which failed to do its duty could, upon the presentment of a new grand jury, impanelled for the purpose, be fined for their default. But it may be said that such a procedure as would dispense with grand juries has passed out of the region of general reasoning, for we have the fact that the experience of centuries of actual working has, in Scotland, established that justice can well be administered without the use of this venerable institution.

Truth fears nothing but to be concealed. The fullest enquiries should be made from well-informed quarters. When these enquiries are made, the Government will no doubt have sufficient light to see what change is necessary and can properly be made. A scheme will then doubtless be formulated. When that is done, ample time should be given for the fullest consideration. It has never been the province of this journal to prejudge or throw cold water on any attempt to obtain light with a view to improvement, and many of the most valuable changes that have taken place in the administration of justice in this country have first been suggested in the pages of this journal.

The learned Senator from Barrie (than whom no one is more competent to form an opinion on this subject) has directed the attention of the Government