

that by virtue of the exemptions and exclusions permitted under the law he may get a jury that will acquit him or disagree upon the verdict. When it is considered to what a great extent service upon juries is evaded by leading citizens, it is a remarkable tribute to the uprightness, common sense and courage of the men who serve as jurors that so comparatively few criminal trials by jury result in a miscarriage of justice. The action of those citizens who deliberately evade the performance of such a duty does not reflect credit upon their public spirit or far sightedness, and sometimes tends to nullify or weaken the operation of a most important division of criminal procedure.

This weakness, however, in the jury system as at present existing in some sections of Canada does not justify the abolition of the system, but rather its reform. The statutes creating these exemptions should be amended so that many intelligent citizens now avoiding jury service should be hereafter compelled to perform when called upon one of the highest duties of citizenship.

On the other hand, in regard to the grand jury it seems like a superfluous duty which they are required to perform in holding investigations to decide whether or not there is sufficient evidence against certain accused persons to put them upon their trial after such duty has already been discharged by a competent magistrate. Mr. J. A. Kains, in his able articles, advocating the abolition of the grand jury, has enumerated many reasons to justify his view. Nothing additional can be contributed on that question.

Perhaps the strongest reason which can be advanced for the abolition of the grand jury is that a large number of most intelligent citizens would thereafter be available for petty jury service. There is one instance in which a grand jury still performs a useful function and that is in the very rare case of a person being committed for trial on insufficient evidence. But in substitution of the grand jury a Crown prosecutor might be appointed who would, in dealing with such a case, at a reasonable period before each criminal sittings, file a report equivalent in effect to the "no bill" of the grand jury. Upon the filing of this report and the authorization of the Court the accused might be discharged. Under such a system it would be desirable that the Crown prosecutors should be officials of high standing and should not be paid by fees.