

respectability and trustworthiness in a community differently constituted, but wholly fails in a community like this, lacking honesty, but abounding in property. In consequence of this qualification being requisite, many honest and respectable persons in the community, very proper to serve on juries, are excluded.

“Within this range are included a class of persons in the colony who have been transported hither for offences committed out of the colony. They are qualified to act as jurymen under the Local Act, without any proof being required that they had regained that good repute which they once lost, and the mere circumstance of their having served the period of their several sentences, does not establish that fact.

“There are others who, possessing the qualifications in property, have arrived in the colony as free emigrants, the near relatives of transported persons, under such circumstances as justly to lead to the suspicion of an undue bias existing in any case affecting them, and who have connexions in England, not unlikely to follow them to the colonies, possessing ready means of importing into this country property dishonestly acquired, and who speedily accumulate wealth by that and other dishonest means. There is no provision for guarding the administration of justice against the predominance of such persons upon the jury-list. The effect of the colonial law in practice has been, that juries actually empannelled under it have been frequently formed of very improper persons.”

From the data submitted with Judge Burton's report, he says, “It appears that a party accused, inclined to exercise his right of peremptory challenge, might insure a large predominance of convicted persons on the jury, inasmuch as the law allows in cases of felony the peremptory challenge of twenty in number, and if a prisoner has professional assistance in his defence, this right of challenge is fully exercised. In one instance I knew gentlemen of high character and respectability thus peremptorily rejected on the part of the prisoner. I took the liberty of asking some of them afterwards if the prisoner was known to them, and was answered that he was not. The conclusion in my own mind was, that they were challenged on account of their respectability. In another case before me, every person of apparent respectability who was called, was peremptorily challenged on the part of the prisoner, which the crown officer observing, challenged all the others, and the case remained over in default of jurors. In both cases the accused had professional assistance.

“Again, the jurors are placed alphabetically on the list, and are summoned in that order; the relatives of convicted persons, qualified, and bearing the same name, are sure to be on the same panel with