

The clerk of the Court then proceeded with the calling of the jurors. At my request the clerk asked to stand aside several of the jurymen who had served on a jury the previous day, and counsel for the defendant challenged some five jurors peremptorily. The jury was impaneled and sworn. The following conversation then took place between counsel for the defendant and myself:—

“Mr. Cameron: Would your Honour see if any of the jury are interested in the Halton Mutual Fire Insurance Company.

His Honour: It is too late, Mr. Cameron; I was waiting for it; that would be a good challenge for cause.”

Exhibit 8 shews that the Halton Mutual Fire Insurance Company was actively engaged in prosecuting the fire inquest in connection with the burning of buildings for the burning of which the charge of arson was laid herein, and the affidavit of John Wilson Elliott shews that some of the jurymen who tried the defendant were interested in the Halton Mutual Fire Insurance Company.

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I have reserved for the opinion of this Honourable Court the following questions:—

1. Was the request of the defendant's counsel to examine the men called to serve on the jury, which was to try the defendant made at the proper time, and at the time when the question of their interest in the Halton Mutual Fire Insurance Company arose?

2. Did what took place between counsel for the defendant and myself and prior to the impaneling of the jury which tried the defendant amount to a refusal of the defendant's right of challenge for cause?”

The appeal to the Court of Appeal was heard by HON. MR. JUSTICE GARROW, HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MEREDITH, HON. MR. JUSTICE MAGEE, and HON. MR. JUSTICE LENNOX.

D. O. Cameron, for the prisoner.

J. R. Cartwright, K.C., for the Crown.