presumptions of the law are all to the contrary, and in the absence of any showing to that effect, he must be presumed to have participated in the finding of the indictment and to have formed an opinion as to the guilt or innocence of the defendant. It might be possible also, even if the juror had formed an unqualified belief of the defendant's guilt from the evidence submitted to the grand jury, to change that opinion, by evidence at the trial, if he were a man of candor and intelligence. But the defendant has a right to be tried by an impartial jury. A juror who, acting on his own oath as a grand juror and upon the sworn testimony of witnesses, has already formed an opinion as to the defendant's guilt and has solemnly accused him of a crime, should not be deemed an impartial or proper juror to try him. Having served on the grand jury which found the indictment, and having formed or expressed an unqualified opinion or belief that the prisoner is guilty or not guilty of the offense charged, are each a ground of challenge to a juror for implied bias (Comp. Laws, 1888, vol. 2, sec. 5,022 subdivisions 4 and 8), and where the accused properly examines the jurors concerning their qualifications, and they do not answer truly, he is thereby not only deprived of his right of challenge for cause, but may also be prevented from exercising his right of peremptory challenge. If, in such a case, a defendant, without negligence on his part, is denied a new trial, the greatest injustice might be done. In this case the names of grand jurors did not appear on the indictment, the law only requiring that the name of the former should appear, and there was nothing to notify defendant that the juror had been on the grand jury that found the indictment, nor to put him on inquiry. It is true, if he had searched the records of the Court he would have ascertained that fact and it would have been commendable prudence and diligence to have done so, but we do not think his failure to do so is such negligence as should deprive him of the right to be tried by an impartial jury, especially in view of the false answer given by the juror. The motion for a new trial was properly granted.

In support of the views above expressed see: Commonwealth vs. Hussey 13 Mass. 220; Dilwarth vs. Commonwealth 65 American Decisions, 264; Bennett vs. ——— 24 Wis. 57; Hayne on New Trials section 45 and cases cited. See also section 64. Our attention has been called to a number of cases where, upon the same state of facts as are presented here, a different ruling has been made, but we think the weight of authority as well as of reason is in accordance with the ruling now made. The ruling of the district court is affirmed."

When the reading of decisions was concluded, P. L. Williams arose and stated that he desired to file a claim for fees as counsel for the receiver in the Church case, from November, 1888. The claim is for $3,000 per annum. Mr. Williams has already received $1,500 on this account since the last allowance made to him.

The next action of Mr. Williams was in regard to Judges Zane and Rosborough. He presented the following document to the court:

In the Supreme Court of the Territory of Utah.

The United States of America, plaintiff, vs. The Late Corporation The Church of Jesus Christ of Latter-day Saints, et. al., defendants.

The undersigned attorney of the receiver in the above entitled cause, in connection with his application herewith filed, for an allowance as counsel fees, hereby objects to the Honorable Charles S. Zane, the Chief Justice of this court taking part in the consideration of the question of said allowance, for the reason that on a previous occasion he was counsel in certain matters connected with this cause, and involving the question of compensation of the undersigned as such counsel, and that as such attorney the said Charles S. Zane did, as appears by the records and files of this court, express an opinion upon the subject of such compensation, and was, as the undersigned is informed and believes, employed and paid as counsel to oppose the allowance of compensation to the undersigned herein.

P. L. WILLIAMS.

Next came these affidavits:

In the Supreme Court of the Territory of Utah.

The United States of America, plaintiff, vs. the Late Corporation The Church of Jesus Christ of Latter-day Saints et al., defendants.

TERRITORY OF UTAH, County of Salt Lake. } ss.

Frank H. Dyer, being duly sworn, deposes and says that the Honorable Charles S. Zane, Chief Justice, presiding in this court, was at one time an attorney engaged in certain matters involved in the above entitled cause, as appears by the records, proceedings and decisions of this court herein, to which reference is made for the purpose of specifying such connection. That he was, as affiant is informed and believes, paid as such counsel. That while so engaged, he did, in open court, express himself in opposition to and hostile to the management by this affiant of his said receivership, and exhibited personal hostility to affiant.

Affiant further states that he has reason to believe and does believe that the said Charles S. Zane is biased and prejudiced against him and for that reason he ought not to sit, take part in, consider or decide upon any questions in connection with the said cause involving the actions of this affiant, as such receiver.

FRANK H. DYER.

In the Supreme Court of the Territory of Utah.

The United States of America, plaintiff, vs. The Late Corporation The Church of Jesus Christ of Latter-day Saints, et. al., defendants.

TERRITORY OF UTAH, Salt Lake County. } ss.

Frank H. Dyer, being duly sworn, deposes and says: That he has reason to believe and does believe that Joseph B. Rosborough, heretofore appointed examiner by this court to inspect and report upon reports and sections of affiant as receiver in the above entitled cause, is personally unfriendly, hostile and prejudiced against the affiant. That formerly, and until about two years ago this affiant and said Rosborough were on very friendly terms, and that about that time, for some reason unknown to affiant and continually since, the said Rosborough has shown a continual hostility and unfriendliness to affiant, and since that time has not spoken to affiant or recognized him even when casually meeting.

That neither affiant nor his counsel were present in court when the said appointment was made, had no notice thereof and no opportunity to make known to the court these facts previous to this time.

That in view of the aforesaid fact affiant respectfully submits to the court whether the said Rosborough ought to be continued in said office of examiner.

FRANK H. DYER.

Both of the affidavits were sworn to before H. G. McMillan, clerk of the Third District Court.

The judges looked at each other, and a frown came over Judge Zane's countenance.

Mr. Varian said he would like to be heard on these subjects, and was informed that written suggestions would be received from him.

The court then took recess till this afternoon, when the arguments in the case of the Societie des Mines, etc., vs. R. Mackintosh were taken up.

ROSBOROUGH REMOVED.

Just at the adjournment of the Territorial Supreme Court at 5:30 on Saturday, July 12th, there was enacted another little scene in the suits for the confiscation of Church property. That there has been an antagonism between Chief Justice Zane and Receiver Dyer is a matter of public record, and when the last order was promulgated for the receiver to report, and Judge Rosborough was appointed to examine his accounts, it was generally accepted as a fact that there would be an effort to overhaul the receiver. This conclusion was arrived at from the knowledge that Judge Rosborough and Mr. Dyer were not on terms that caused them to fall on each others' necks and weep for joy at the meeting. On the contrary, "they never spoke as they passed by," though the reason for their estrangement was not made public.

When Judge Rosborough made preparations for an investigation of the receiver's account last Wednesday, it was intimated that the inquiry would be far-reaching. The order authorizing it was broad enough to cover the whole field, even to a revision of the evidence taken on a former occasion, when certain school trustees, Judge Zane,