McDOUGALL, Co. J.: The important question to be determined *in limine* is: Can the affidavits of jurors who have sat in a case, as to alleged charges of misconduct on the part of one of the parties to the litigation, and committed outside of the jury-room and court-room, be received to establish the alleged misconduct? It is well established by a number of English decisions, and also by cases in our own courts, that no testimony of a juror can be received to prove any irregularity or misconduct committed in the jury-room, or while they are deliberating as an organized body, presided over by their foreman, and performing their ordinary and usual duties. They cannot be heard to state what passed in the jury-room, or as to the reasons for their verdict, or as to their method of arriving at it: *Regina* v. *Fellowes*, 19 U.C.R. 48; *U.S. Express Co.* v. *Donahoe*, 13 P.R. 158; *Vaise* v. *Delaval*, 1 T.R. 11; *Farquhar* v. *Robertson*, 13 P.R. 156. But such affidavits have been received to correct a mistake in receiving or recording a verdict: *Jamieson* v. *Harker*, 18 U.C.R. 590. In *Coster* v. *Merest*, 7 Moore 87, affidavits of jurors were not received where they were tendered to rebut an inference that the jurors had seen certain hand-bills published by one of the parties reflecting on the character of the other. I have, however, been unable to find any case which says that the testimony of a juror is to be excluded when it speaks as to facts relating to his own conduct when separated from his fellows, or the acts or declarations of a party to or with him while he is so separated touching the question being litigated.

Supposing one of the parties to the litigation approached one of the jurors in the case, during the hour of adjournment, with an offer of a bribe; surely if that party were ultimately successful and obtained a verdict, the affidavit of the juryman would be receivable to prevent the party from holding his verdict after such attempt to corrupt. I cannot better express the principles which govern the courts upon these questions than by an extract from the judgment in an American case—*Heffron* v. *Gallupe*, 55 Maine 563: "The theory of our jury trials is that all parties and witnesses are to be heard in open court, in the presence and under the direction of the presiding judge. The law is extremely tenacious of this cardinal doctrine, and looks with distrust and aversion upon any departure in practice from its strictness. The oath of the juror is to decide according to law and the evidence given to him—given to him according to the rules of evidence in open court, and with the parties face to face. It surely cannot mean evidence given to a juryman by a party outside the court-room, to be pondered on in secret before joining his fellows in deliberation on the verdict. There are cases where the court will not stop to inquire whether the juryman is actually influenced or not, but will set aside the verdict on any evidence of any tampering or attempted tampering with members of a jury. There are cases—and we wish there were more of them—where conscientious jurors have informed the court of improper advances made directly or indirectly by interested parties, expressing their indignation at the insult and their contempt for the author. In those cases, and in others like them, the court in its discretion will deprive a party of his verdict as a punishment for the attempt to corrupt the fountain of justice. We deem it misconduct not merely when direct bribery is attempted, but when jurors are approached with the design of forestalling their judgments by statements of what are alleged facts, although