

case may look very suspicious, and enough perhaps is shown to put the man upon his trial. Hear the version of the accused, and the whole matter is, at most, an unusual, but not a criminal transaction. This is nearly always the condition of things in the case of innocence. Then take the case of guilt. Everyone who is familiar with actual practice, realizes that the most dangerous thing the accused can do is to go into the witness box. The hearing of his evidence before a magistrate assists the Crown more than anything else. In the great majority of cases, he commits and convicts himself.

We therefore gather from practical experience, the following knowledge: 1. In case of innocence, it is proper, just, and in accord with civilized ideas, that the accused and his witnesses should be heard, at least by way of explanation, if not in contradiction. 2. In case of guilt, it is no disadvantage to the Crown to have the accused or his witnesses testify.

Magistrates are not permitted to try a case on preliminary enquiry. If this is violated, then the fault lies with the magistrates and their appointment. If it is not violated, then there is no occasion for the new section. In plain words, if the magistrates are competent men, there is no necessity for the law. If they are incompetent, they ought not to hold office. It would be barbarous to adopt as a rule of criminal practice, that innocent, or merely suspected men should be sent to gaol, and put to unnecessary expense and disgrace, the country saddled with extra cost, and the courts filled with many cases originating in either spite or misapprehension, simply because there are some magistrates who cannot or will not properly perform their duty.

The proposition to constitute the Court of Appeal in Ontario as the appellate tribunal is wise and highly proper. There must be certainty in the constitution of a tribunal before there can be certainty and exact uniformity in decisions, and in no branch of the law are conflicting views more dangerous than in criminal practice and trials.

Why should sec. 748 be repealed? But for this section, which permits the Minister of Justice to order a new trial, the Crown would have put a woman to death, whom a jury, in a trial strictly legal, declared innocent. Had the same case been presented on the first trial as on the second, she would not likely have