

and seared as by hell-fire, the acquitted man stands dumbly impotent of moral redress or physical indemnity. And the public, having scourged him as a vicarious sacrifice, expects him to be thankful because it did not kill him. The State bears alone only one result of the false charge and of the bootless trial. It takes over to itself all the chagrin of its prosecuting officials at their vain effort to convict. The victim of acquittal is, however, compelled to share with the State in the money cost of his own trial. Indeed, he is, by grotesque anomaly, a party financially to both sides of the action. A man accused of murder confronts prosecutors who bring to their paid efforts an implacable purpose to build or preserve a personal reputation. So horrid is the charge and so keen is the hunt that the prisoner is driven to his utmost resource. He may no longer rely upon presumptive innocence, for innocence has been and may again be strangled by circumstantial evidence. He enters upon a defence which becomes practically a deadly trial by the accused to prove himself innocent. Along with his name, his pride, and his life, he tosses in his own fortune or pittance, and possibly the possessions of his friends. At the end a jury foreman declares him 'not guilty,' and, financially, he stands stripped. He has exhausted his resources to keep himself from being killed, and he stands alone with his rescued life. Through taxation he has borne part of the expense incurred by the State in assaulting it, and the entire cost of its defense against confessedly wrongful attack."

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*VOLENTI NON FIT INJURIA.*

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Among the many civil law maxims which have been adopted and made an integral part of our legal system, none has been subjected to keener analysis, or made the object of more adverse criticism, than the one forming the subject of this article. No doubt great diversity of opinion prevails among the profession as to the scope and applicability of the maxims we have borrowed from the Roman system. While some think them to be the very quintessence of legal wisdom, others denounce them as unmeaning and unfitted to the genius of Anglo-Saxon jurisprudence.