

of a crime can ever be used against the party making it in a prosecution of himself for the same crime, because the fact that he is under oath of itself operates upon him to tell the truth, and therefore his statements cannot be regarded as voluntary." In Alabama the confession of a witness who was not charged on examination before the Coroner was excluded, while in New York an examination before the Coroner of one under suspicion, was admitted. Benedict, J., summed up the rule now followed when he said: "To say that the administration of an oath to one under suspicion of crime, will of necessity, cause a mental disturbance that must render unreliable the sworn confession of the crime, and to raise the legal presumption that the confession is untrue is going farther than I can go, unless compelled by authority, and I see no reason which compels the holding that an arrest or a charge of crime, or being sworn, or all three combined are sufficient to exclude a confession that otherwise appears to be freely made without the influence of a threat or promise."

ALL CAPABLE OF COMMITTING A CRIME CAN CONFESS.—It is universally admitted that all persons capable of committing a crime can confess. The question in the cases of infants is not so intricate, since the "*Capax doli*" can generally be determined as a question of fact. In the case of a confession of an intoxicated man, there seems to have arisen some conflict of opinion, but it is generally held that intoxication does not *per se* render the confession inadmissible, but only goes to its sufficiency; yet it was held that the confession of one, under the influence of liquor furnished by the arresting officer, was inadmissible. Neither in the case of a conspiracy when it was over, nor when one of the co-defendants confesses, is the confession admissible against the one not confessing.

INTRODUCTION OF CONFESSION.—We have now discussed the nature and admissibility of a confession. The next question is, how is it to be introduced? The rule as to who may testify to a confession is so general and various that nothing more specific can be laid down than that any competent witness may testify.