term of the Supreme Court after the passage of the act, it may be seen, the presiding judge held that by said law the accused was made a competent witness, and the decision was concurred in by all the judges.

At the following session of the Legislature it was, that an act was passed to the effect that, "so much of the 141st section of said act (it being the feature in question) as authorizes a party to testify regarding the same, be and is hereby repealed."

The presumption of law, that an accused person is innocent until proved guilty, becomes a mere mockery when such traps are set for guilty men as the one in Connecticut, in 1848, and the one now being used in the State of Maine.

It is a shameful fact that, practically, in Massachusetts and Maine, every person arraigned for a criminal offence is presumed to be guilty until he is proven innocent, in contradistinction to the theory of the common law. If the rule advocated by Chief Justice Appleton were to become the law in Massachusetts, "it would be the last turn in the screw," says our informant, "and few men would ever after be successfully defended there." A cross-examination of a person arraigned for crime is indeed a terrible test, and the skilful trier who conducts it might well say, with Hamlet,

> "If circumstances lead me, I will find
> Where truth is hid, though it were hid indeed
> Within the centre."

We think it is abundantly shown, the trial of the rule in Connecticut proved—as doubtless will be proved in Maine—that innocent persons were more likely to be convicted thereby, than under the old common-law rule of England; for it works in contravention of the wise maxim in criminal law, that "it is better that ten guilty persons should escape, than that one innocent man should suffer." A citation or two may not be ill-timed in this connection.

The notorious trial of Eugene Aram, which took place at the York assizes in 1759, is a strong case illustrative of our theory, that more certainty of conviction follows when the prisoner is allowed to speak or testify. Readers of criminal law and history will agree, that the testimony adduced in Aram's case was entirely inadequate and insufficient to convict him.

The body of Daniel Clarke, the murdered man, was found in a cave, fourteen years after the deed was committed. Richard Houseman, who was indicted, turned "king's evidence." and Aram was named as the principal perpetrator of the crime. The skull of the murdered man was produced in court, but the only medical testimony was that of Mr. Locock, who deposed that "no such breach as that pointed out in the skull could have proceeded from natural decay; that it was not a recent fracture by the instrument with which it had been dug up, but seemed to be of many years' standing." The prosecution proved, in fact, nothing, and Aram called no witness in his defence. The sage principle in English law, that no man can be condemned for murder, unless the body of the person supposed to have been murdered be found and identified, was entirely ignored in this case; the *corpus delicti* was not proved; no satisfactory proof that the skeleton was that of Clarke. Neither the age, the sex, nor any of the many points of identity which at the present day would be required, were proved.

Trusting to his genius, eloquence, and ingenuity for defence, Aram delivered a written speech of great power, denying any knowledge of the bones exhibited, and presented weighty arguments to prove they belonged to some hermit, who had in former times dwelt in the cave, "as the holy Saint Robert was known to have done." Although Aram's argument was most powerful, the jury failed to be convinced of his innocence. It is confidently believed that the astonishing abilities he exhibited on his trial, contributed only to the clearer establishment of his guilt. The celebrated Dr. Paley, who was present at the trial, was afterward heard to say that Eugene Aram had "got himself hanged by his own ingenuity." If he had remained silent, the jury could not have convicted him upon the evidence presented.

There is little doubt, from different authorities on the subject, that he unwittingly pleaded for his own conviction. He doubtless did more to throw light (or what was considered light) upon the gossamer-threaded evidence, and prove "unknown facts of guilty acts," than a dozen witnesses. And it is conceded that the jury not only indulged in conjectures, and magnified suspicions into proof, but weighed probabilities in *gold scales*.

We have cited this case as tending to show that when a prisoner undertakes to exculpate himself, the nature of man is such, that it begins to distrust and finally rebels against his words of exculpation, even if the accused does not entangle himself in some link or chain of the evidence, as is most likely to be the case.

Other and parallel cases might be cited to show that when a party in criminal prosecution speaks in his own behalf, he usually has "a fool for his client," and that it invariably fails at least to improve his position before the court.

We conceive that, for any State to adopt the act or rule, which Connecticut found unwise and impracticable, and repealed, as working great injustice to the innocent; which Maine has adopted, and which is urged upon Massachusetts, would not only be a "perilous innovation," but be instrumental in furthering the acquittal of bold and desperately bad men, and convicting those who are timid and wholly innocent.

Our time-revered rule not only obviates the possibility of the accused criminating himself, but prevents perjury. And who can doubt, if we were to adopt the proposed rule—this unhingement of the law—in the State of New