committed every crime in the decalogue or the statute book *except* the one set forth in the indictment. He may be a veteran from what Carlyle calls the devil's regiments of the line. He may manifestly belong to the dangerous classes; he may be guilty of the great and heavy crime of rags, stupidity, and poverty,—yet he is thrown into the mill of the statute, and whirled off to the stand as a witness, where the most humane and tender of judges cannot protect him. The result is easy to foresee. He is torn to pieces by cross-examination. There are fifty things that he would keep back if he could. In a word, he breaks down; and the jury disbelieve him when he is really telling the truth, and find him guilty of the one crime of which he is really innocent. Surely, the advocates and admirers of the statute would hardly say that it is desirable to convict even a bad man, in such a way as this, of a crime of which he is not guilty.

To illustrate still further the operation of this new system in extorting evidence from the defendant himself, let us take a case which has already occurred, and which may recur at every term of the court. Let us suppose, then, a man by no means dead in trespasses and sins, but having a character to lose, and incommoded besides, with the possession of a conscience, to be indicted as a common seller of intoxicating liquors. Suppose it be proved that he is the owner and keeper of a grocery. Suppose some loafer, who has been disappointed in the hope of buying liquor on credit at his shop, should swear positively to the "three distinct and separate sales" within the period covered by the indictment, which the law says shall be sufficient proof of the charge. If he should decline to make himself a witness, the jury would convict him without leaving their seats. He takes the stand, and swears that he never in his life sold one drop to the witness whose testimony has been given in. Then comes the cross-examination; and he finds that the whole subject of the general charge against him is open to inquiry. The confession that he has made three *other* sales is forced out of him; and he is convicted on his own evidence, after he has been successful in demolishing all other evidence in favour of the prosecution.

If, in the trial of an indictment, the defendant is made a competent witness, he must stand or fall by the story which he can tell. If he is a witness at all, he will fare like every other witness, and will besides labour under the disadvantage of being an interested witness; telling his story under suspicious circumstances, and labouring under the most extreme temptation to perjury. The guilty (and, practically, they are more than half of the whole number of the accused parties at a criminal term) will add the crime of perjury to the crime set forth in the indictment. Even of the innocent, some, under the influence of terror and anxiety, may mix some falsehood with the truth, and so increase the embarrassment and aggravate the dangers of their position; some, and probably not a few, from stupidity, from unskilfulness, or from want of established good character, may tell their story badly, and fail to command belief, even when they speak the truth; others will get no further than simply to protest their innocence, which protest simply leaves the case where it stood before. In all such cases, the alleged privilege of testifying will simply be either nugatory and useless, or an engine of torture and oppression. It is to be remembered, that the statute is universal in its application, and reaches the case of the adroit and hardened culprit, the experienced felon, the green and ignorant novice, the nervous, timid, and feeble boy or woman, the foreigner, all orders and conditions of men, and almost every form of helplessness. All will be tempted to falsehood; all will be badgered on cross-examination. The experienced and self-possessed villain may possibly succeed in swearing his way through: the inexperienced and unskilful will be swallowed up.

But it is said that appearances may be so much against an innocent man that he cannot escape on unjust and wrongful conviction in any way unless he can testify in his own behalf. It certainly must be a very peculiar and extraordinary state of facts which could place an innocent man in such a position,—so peculiar and so extraordinary that it may be safely said to be of exceedingly rare and infrequent occurrence. False testimony may do it at any time; but it is not possible for mere statutes to protect the accused against perjury. It must be "the lie with circumstance" that creates the danger in such cases; and *mere* denial by the accused, even though under oath, might avail very little. But if appearances are against a defendant,—that is to say, if facts and circumstances are proved, by honest testimony, which tend strongly to prove his guilt,—he, of course, must meet and explain those facts and circumstances. If he has counsel, the defendant's explanation will at least be suggested. If he has no counsel, he will, in answer to the call of the presiding judge, make the suggestion himself. If he is really innocent, all the true and honest evidence against him will be consistent with his innocence. Truth is always consistent with itself, and requires no ingenuity or skill for its exhibition. The explanation will come out and be made known. If it meets and covers the case, it will relieve him, even if it be only laid before the jury as a theory, or as a possible state of facts, consistent with the evidence, and also consistent with the innocence of the defendant. If it do not meet and cover the case, it will avail nothing to swear to it. The presumption of innocence, and the reasonable possibility of innocence, consistently with the facts proved, constitute the real and effective defence in all such cases.

It sometimes happens undoubtedly, especially in the case of atrocious and startling