we are never skeptical about a man's story when it bears against him; it is only when he tells us something which makes for him that we hesitate, and the reason can be no other than that which we have intimated. But having discarded the theory in the one case, we must also do it in the other, if we are to be called consistent. The reason of the exclusion having ceased any longer to commend itself to our minds in the former instance, we ought no longer to allow it to prevail in the latter.

But we assert that the law has never been consistent in its *administration* of the rule as to criminals, even if it be admitted that the rule is just and expedient. There *is* one instance in which the criminal is permitted to tell his own story, and that is before the examining and committing magistrate. "Zingo" may here say why sentence should not be pronounced upon him; but he must be careful, for the privilege is two-edged and cuts both ways, and oftener, in the hands of officials, is turned against him than against his accusers. Here, then, he may *state*—not *testify*, for his testimony, of course, would be a lie—but *state* whatever he has to say in exculpation. And what he says is gravely written down, and this statement may be read in evidence, upon the trial, *against him*, if the district attorney pleases; and as it contains all that he stated, some things favourable to himself, or intended by him to be so, must necessarily come out before the jury who sit to try him, and that without the sanction of an oath. So after all, the law does permit the prisoner, in this second-hand manner, to present his exculpatory statements to the jury upon his trial, and these exculpatory statements are received without possessing, even in form, the sacred character of statements under oath. Now, if the prisoner may be heard, unsworn, before the examining magistrate, why not before the jury, after having taken the oath? If he is to be in the least credited before one judge, will the presence of twelve additional judges corrupt him? Or is it the oath itself that inspires him with deceit and falsehood? If he is to be heard at all, why not at all times and places? If his statements are receivable to influence the magistrate in holding or releasing him, why should they not be received in the form of legal testimony to influence the jury in convicting or acquitting him? Is there any objection to the jury's judging for themselves from the bearing and demeanor of the accused, under oath, of the probable credit due to his statements before the magistrate? Can it be true that the real object of the law in permitting prisoners to make their statements before the magistrate, is to set a trap to catch unwary, unadvised, ignorant, or confused defendants, by giving the district attorney the right to use the statement on the trial, and not giving the same privilege to the accused? In any view, we urge that here is a great absurdity. The law sees the injustice of striking the accused utterly dumb, and therefore tolerates an exception to its rule. Precisely so did the law make many exceptions to the rule in civil suits from the necessity of things. And a rule to which so many and such important exceptions are necessary or expedient must itself be unnecessary and inexpedient.

But this is not the only practical inconsistency of which we have to complain in this regard. Let us remember that the object of the law is to develope truth, and that the reason assigned for the exclusion of the accused is, that the accusation itself renders the accused unworthy of credit. Now there happen to be two indicted for the commission of a joint offence. The public prosecutor finds it impossible to convict either of them by extraneous evidence, and therefore offers one, that if he will confess the crime and inculpate his accomplice, he shall go free and his accomplice alone shall pay the penalty. Here is a very strong temptation for an honest man, wrongfully accused, and what rogue could withstand it? Legal grace does its work, and the scoundrel of the spiked pen is translated to the witness-box, and we send his accomplice to prison on his testimony. Here the testimony of a man is received, not only when charged with crime, but when confessedly guilty. True, here and there the books say he must be corroborated, but in practice this is more matter of form than substance, and a jury seldom fails to convict on such evidence. Is the law quite as punctilious here as in the case under consideration? The object ought to be to ascertain the truth. But suppose the prisoner appealed to for "state's evidence" should offer to give a narrative consistent only with the innocence of himself and his fellow-prisoner; would the district attorney produce him, think you? Oh, no; the depravity of human nature then suggests itself to Mr. Attorney's mind, and he declines ministering to it. It will be noticed that the witness is depraved if he claims to be innocent, but pure if he confesses his guilt. The law will not listen to either of the accused as prisoners, because they are not to be believed; but it will select one of them and offer him a premium, if he is really innocent, to become a perjurer at the expense of his companion. In the one case, it perchance refuses to hear the truth; in the other it offers inducements to men, possibly honest, to degrade themselves.

The rule of which we are speaking sometimes produces in practice very ridiculous and amusing results. Noakes and Stiles have a quarrel in the street; they come to blows; each supposes his antagonist in fault; each starts instantly for the police justice, to prefer a complaint for assault and disorderly conduct; Noakes, having longer legs or better wind, arrives first and procures a warrant against his adversary, who comes panting into court, shortly after, just in season to find himself in the custody of the constable, an infamous man, and not allowed to raise his