

practically three tribunals saying there is evidence of guilt, to say nothing of the fourth—the press—which generally manages to convict in the first instance.

With this state of affairs present in nearly every criminal case, it is perhaps not going too far to say that in most instances, the person who, in the minds of ordinary men, is guilty, stands before the court as the proper person to plead to the indictment. Putting such a man in the witness box means, therefore, that he must lie to save himself, or tell the truth and aid in his own conviction. There are many things he is confronted with, even if he is a skilful witness, which he cannot explain. If he is really guilty, his evidence, other than a direct admission of guilt, must be false, and the false witness takes terrible chances. A skilful cross-examination demolishes his story. A more moderate degree of skill on the part of Crown counsel generally demonstrates confusion, contradiction, and false reasons in incidental matters, although the main facts of his testimony may be undisturbed. In any event, there is sure to be some corroboration of the Crown case in his evidence. If then, the guilty man is on trial, it is dangerous beyond measure to call him as a witness. Counsel, however, cannot always decide these matters. The client must be heard in the determination. To take the responsibility of refusing to call him when he insists upon it, is a position counsel do not care to assume. It is a grave question whether counsel should not assume it. His judgment should govern. He, and not his client, conducts the case, and upon him should devolve its sole management and direction. In many instances I have assumed it, in some I have yielded to the pressure of the client, and my experience is that the only safe course is to take the responsibility, and keep the prisoner in the dock.

Another strong argument, and again it is more the result of experience than of theory, is that the evidence of a man on trial for a crime, however small the crime may be, is greatly weakened by reason of the existence of the powerful influence of self-preservation. Juries know this as well as lawyers do. In the case of murder, what would not most men swear