We are not now going to enter upon any enquiry as to what the law on this head, as laid down by our highest court of appeal, is; but merely to draw attention to the strong contrast between the criminal procedure in England and that prevailing amongst some of her continental neighbours. It may be that the feeling excited in the breasts of Englishmen by seeing the almost inquisitorial proceedings in the case of an accused person across the Channel has produced a possibly too strong reaction. Where the preliminary procedure there, in such a case, would tend to indicate as a maxim, that "Every accused person is presumed to be guilty till he is proved innocent," our maxim is that such a person is presumed to be innocent till he is proved guilty. But the reaction is evidently too violent; for, if this maxim is to be followed literally, keeping a man in close confinement previous to his trial is an outrage upon an innocent man, and this without regard to the fact whether he is afterwards found guilty or not.

While the records show that there have been cases (very few, indeed, in comparison with the number of the accused) where an innocent person has asserted his guilt, with the hope that the punishment awarded to such an offence will be lightened in his case by reason of his having made a confession; yet may not those who seek to guard against the possibility of such a case be in danger of, to some extent, forgetting the principle upon which these statements are received? Might it not be well to consider whether the presumption that a person will not make an untrue statement against his own interest is not, at least, as strong as that a person will accuse himself of a crime he has not committed while he believes that punishment, to some degree, will be the result?

Sometimes a curious anomaly is the result of the general rule that no admission can be given in evidence, if any inducement is held out to make it. Take, for instance, the case of a prosecutor telling the accused it will be better for him to confess, and thereupon the latter does confess, at the same time surrendering some of the stolen property, saying that it is all that is left of it. The statement must be rejected in conformity with the rule.

It might be well to consider whether, after all, it might not be proper to look equally at the advancement of justice and the protection of the accused—to permit all the *res gestæ*, as it were, to go to the jury, including all statements by the prisoner, and let these statements be commented on by counsel on both sides. As it is now, a jury, who see that the Crown proposes to give in evidence certain statements of the prisoner, and hear all the arguments, *pro* and *con*, about it, must necessarily come to the conclusion that the prisoner said *something*, but which *something* they must not hear, and this *may* have some influence with them, though unknown to themselves. It may have been something unimportant, or which could easily have been explained; but still prisoner's counsel, in ignorance of what the statement was, dare not risk its admission as evidence. Besides which, the judge could—and would, of course—always caution the jury as to the weight to be attached to such statements under certain circumstances, especially where there was nothing shown to make it probable they were true; *au contraire*, where there was corroboration, so to call it, as when (in the case above referred to) the prisoner surrendered the stolen property.