with old bottles. The truth uttered by the witness imperils the lie. Every truth he utters endangers himself. Every truth uttered by another, every true witness, increases his peril. The refusal to answer, the evasive, the false answer, the not less significant and expressive silence, are each and all circumstances of no slight force in leading the minds of those who are called upon to decide to a right conclusion.

The jury may, undoubtedly, place too great reliance upon the testimony of the prisoner, as they may upon that of any other witness. They are deemed competent to weigh and compare the various witnesses for and against the prisoner. Are they any the less competent to weigh his? Does his position add to his credibility? Are the circumstances which surround him such as to induce undue credence? Competent to weigh the testimony of parties in all civil cases, does that competency vanish when the prisoner on trial is called from the criminal bar to the witness stand? The appearance and manner of the prisoner, the probability of his statements, whether contradictory or contradicted, are all open to the consideration of the jury, and they are as competent to form a correct estimate of his testimony as of any other witness.

Hearing cases by the halves is but a bad way of getting at the truth. To receive the prosecutor and reject the prosecuted, to hear the accuser and refuse to hear the accused, would undoubtedly tend much to facilitate decision and relieve the judge of fact, of the difficulty of weighing and comparing conflicting testimony. Still greater would be the relief from labor and responsibility if no evidence was heard, and resort was had to the aleatory chances of the dice. This aleatory mode of deciding cases seems to have tickled the fancy of Rabelais, according to whom Mr. Justice BRIDLEGOOSE resorted to chance, "giving out sentence in favour of him unto whom hath befallen the best chance of the dice." But it is hardly worth the while accurately to adjust and carefully to determine the relative merits of trying cases by halves, and of deciding them by the throwing of dice.

In my judgment, the interests of justice require the admission of the party alike in criminal as in civil cases. The acquittal of innocence is thereby more probable; the conviction of guilt more assured. The prisoner, if innocent, will regard the privilege of testifying as a boon justly conceded. If guilty, it is optional with the accused to testify or not, and he cannot complain of the election he may make. If he does not avail himself of the privilege of explanation, it is his fault, if by his own act he has placed himself in such a situation that he prefers any inferences which *may* be drawn from his refusal to testify, to those which *must* be drawn from his testimony, if delivered. If he testifies, and truly, justice is done. If falsely, and justice is done, however much he may complain, the public will little heed his regrets.

I have hastily called your attention to some of the considerations bearing on this question. They will be found most elaborately examined in the masterly work of Bentham on the "Law of Evidence," where the reasons for the proposed change are stated with a cogency of argumentation unanswered and unanswerable.

I am, with great consideration,
Yours most truly,
JOHN APPLETON.

John Q. Adams, Esq.,
House of Representatives, Boston.
Chairman of the Committee on the Judiciary.

We have received the foregoing copy of Chief Justice Appleton's letter, upon the propriety of admitting defendants in criminal cases to give testimony, on their own behalf, if they so elect. The letter was addressed to the Committee on the Judiciary, at their request, and its suggestions adopted by them, and reported to the House of Representatives, in the form of a bill, which is expected to become a law of the Commonwealth of Massachusetts.

The suggestions of the learned Chief Justice was received by the profession with great interest and respect, upon all subjects, but especially in regard to evidence, which he has made a specialty for many years. The author is an acknowledged advocate of Law Reform in the department of procedure and practice, and his thorough and conservative manner of handling these important questions, has attracted deserved attention and regard, upon both sides of the Atlantic. His able letter to Mr. Sumner, in regard to the Right of Equality before the Law, for all races and classes of men, was republished in the London Review of Jurisprudence, the leading law periodical in the British Empire: and many of his other articles have attracted more attention in Europe than those of almost any other American law writer. We have thought, therefore, that we could not do the profession a more essential service, than by reproducing this letter in our own pages.—*American Law Register.*

DELINQUENT JURORS.

In the month of July, 1865,* in commenting on the laxity of the attendance of jurors in London and Middlesex, we referred to an agency existing in London for the purpose of protecting jurymen from the penalty of non-attendance. Upon payment of a guinea the juryman is guaranteed against any penalty the Court which he is summoned to attend may impose upon him. That the agency now exists we are well aware, and it will be for the benefit of jurors, and greatly to the interest of the administration of justice, that it should be broken up. How any profit could be made out of a transaction which consists in receiving a guinea and undertaking a risk of ten pounds, was more than we were able to determine, but some little light is thrown upon the matter by a recent case which was heard at the Guildhall on the 10th instant.

* 9 Sol. Jour. 822.