alty, if he declines, of the most damaging suspicion on the part of the jury, as well as of the public. It is true that the law may say, and the judge may charge, that the jury must not infer from his silence anything to the disadvantage of the prisoner; but the jury will act under the law of human nature which is in this respect a higher law than the law of the land. They will think, and say to each other, that if he was not guilty he would have sworn to his innocence, and there is no law so stringent, and no judge so august as to prevent them from so thinking and so saying. If to avoid this horn of the dilemma, he chooses to encounter the other, and enter the witness box it avails him very little, his testimony is at best, of but little value, generally absolutely worthless, for the jury, still acting under the higher law of common sense, will say that if he is guilty of crime of which he is accused he will not hesitate to add perjury to it. In any event his deliverance must come *aliunde*.

Besides this the average defendant in criminal cases is "unaccustomed to public speaking," and by no means in the habit of arranging his ideas in logical sequence, or expressing them in apt terms. Under the literally and metaphorically, "trying" circumstances of a trial for a felony, it would not be remarkable that he should "should lose his head" and say things that could easily be construed into a confession of guilt. That sort of thing has often happened. Many a man has tied a rope around his neck with his tongue. Flustered and frightened, agitated by the novel circumstances under which he is placed, awed by the solemnity of the proceeding, and anxious beyond measure as to the grave consequences of an error, it is not remarkable that in every point of view he does himself much more harm than good, and, whether innocent or guilty, gives testimony the direct tendency of which is to convict, not to acquit him. He is in a position almost identical with that of the wretches of olden times to whom the wisdom of the law denied the aid of counsel, and who, whether old or young, learned or ignorant, male or female, were obliged to defend their lives by their own eloquence.

The truth is, there are but two words which a person, accused of serious crime, should, if he is well advised, say upon the subject, from the hour of his arrest to the rendition of the verdict, and those two words are "not guilty."

All this is *apropos* of a recent case in Nevada (*State* v. *Maynard*, S. C., Nev. Feb. 8, 1886; West Coast Reporter, p. 248) in which a defendant charged with larceny essayed to testify in his own behalf, and made a mess of it. He was convicted, but luckily for him, the judge of the trial court had misdirected the jury, that: "The actions of the defendant are a safer foundation from which to draw a conclusion as to his intention at the time of the alleged taking than any subsequent declarations in his own favour." This, the Supreme Court held to be error, that the jury should have been instructed that they must draw their conclusions, as to the guilt or innocence of the prisoner, from the whole testimony taken together, his own as well as that of other persons. The Supreme Court further held, that the trial court could not instruct the jury as to the relative weight of different classes of testimony, and that, "such a charge is a decision upon a question of fact."

In commenting on the case of *Regina* v. *Jarrett*, one of the malodorous *Pall Mall Gazette* cases, the *Law Journal* of London points out another anomaly created by this line of legislation. It says: "One fact can clearly be gained from the first trial on an extended scale in which prisoners have given evidence on their own behalf, namely, that criminal trials will be much longer in the future. A most important question remains as yet undealt with, namely: Ought a prosecution for perjury to follow the trial of a case in which a prisoner has given evidence which is untrue? If, in the present state of the law, such a prosecution should take place, a curious result would follow. On the trial for perjury the same facts would be in issue as at the trial under the Criminal Law Amendment Act, but the prisoner could not give evidence. His evidence in the witness-box on the previous occasion would be good evidence against him, but not in his favour; and he cannot give fresh evidence, because the change does not yet apply to perjury. This result is one of the evils of piecemeal legislation.

The *Law Journal* thinks that further legislation on the subject is called for. Our