Chief Justice Paxson already quoted, an exhibition of sentimentalism toward criminals.

Again, the notion that confessions should be guarded against and discouraged is not a benefit to the innocent, but a detriment. A full statement of the accused person's explanations, made at the earliest moment, is often the best means for him of securing a speedy vindication.[3] The circumstances of suspicion may often be disposed of by a simple explanation, so clear and convincing that immediate release follows as a matter of course; while the clues which the innocent accused may be able to furnish will be equally serviceable in securing that evidence against the real culprit which a delay may frequently render unavailable. When the officers of justice find confessions indiscriminately discouraged and rebuked by the judge, the effect of an enforced silence on the part of accused persons is likely on the whole to be to the disadvantage of the in[illegible].

The policy of the future, then, should be to receive all well-proved confessions in evidence, and to leave them to the jury, subject to all discrediting circumstances, to receive such weight as may seem proper. The advent of a fourth stage in the history of confession-law may be thought to be indicated in the repeated protests, already quoted, against the excesses of the bygone practice.[4] The tendency they represent shows as yet a promise, rather than an achievement, of reform. But it has helped to provide the opportunity, whenever the inclination shall come; for it has emphasized, particularly in some of the later American opinions, the correct theory of exclusion; and this orthodox theory, so much departed from in the last century, is amply sufficient to readjust beneficially, without any change of legal principles, the practice of the future.

in evidence, circumstantial or direct, since by each human tribunals have been or may be misled. But the administration of justice cannot depend upon such nice possibilities. It may safely, and indeed must necessarily, proceed upon the common experience of men's motives of action and of the tests of truth. Now few things happen seldomer than that one in the possession of his understanding should of his own accord make a confession against himself which is not true. Innocence or weakness is therefore sufficiently guarded by the rule which excludes a confession unduly obtained by hope or fear." So also Scott, J., in State *v.* Lamb, 28 Mo. 231; Story, J., in U. S. *v.* Gibert, 2 Sumn. 19, 28.

[3] Compare Pollock, C. B., and Erle, J., in R. *v.* Baldry, 2 Den. Cr. C. 443, 445.

[4] Lord Campbell, C. J., in R. *v.* Baldry, 2 Den. Cr. C. 457 (1852): "If the matter were *res integra*, I should perhaps have doubted whether it might not have been advisable to allow the confession [in general] to be given in evidence, and let the jury give what weight to it they pleased."

This attitude, based on the above considerations, has expressly been taken, since the above passage was first printed, by Emery, J., in State *v.* Grover (1902), 96 Me. 363, 52 Atl. 757.

END OF VOLUME I.