which the accused in criminal trials are, at their own instance, made witnesses.

The opinions of individuals on this subject will be more or less influenced by their preconceived views as to the wisdom and expediency of the proposed change. I had no doubt that the interests of justice required that it should be made, and, so far as I had any influence, freely used it in favor of its adoption. Nothing has since occurred to change or even weaken my previous opinions. I have tried criminal cases in which the accused being innocent, owed his honorable acquittal in no slight degree to his own testimony, and the clear and frank manner in which it was delivered. In one case, notwithstanding the innocence of the prisoner, as was subsequently most abundantly established, and notwithstanding his own testimony, the jury found him guilty. So being guilty, and yet testifying to his own innocence, the jury in some cases have justly convicted, and in others have erroneously acquitted the prisoner.

But erroneous verdicts will occasionally be rendered, whether the accused are admitted to testify or not, as long as juries shall be composed of fallible men. No rules of admission or exclusion of evidence can be established which will prevent misdecision. The results may not vary in many cases, whether the prisoner is received or rejected as a witness, but in all trials there will be a greater assurance of correct decision, and a greater confidence that justice has been done, than where evidence, and that perhaps of the greatest importance, has been withheld.

But the expediency of the law in question cannot be determined by the results of particular cases. It cannot depend on the opinions of individuals. It must rest upon the general reasoning applicable to the subject. All judicial decisions should be based upon evidence. All the evidence attainable and needed for a full understanding of the case should be forthcoming, unless the evils of delay, vexation, and expense, consequent upon its procurement, should exceed those arising from possible misdecision.

The exclusion of evidence is the exclusion of the means of correct decision. The greater the mass of evidence excluded, the less the chances of such decision, until, if all evidence be excluded, resort must be had only to lot.

It is but a few years since the most strenuous opposition was made to those changes in the law of evidence by which, in civil cases, parties and those interested in the result have become admissible witnesses. Those changes when proposed, struck with horror that class of minds whose conservatism consists in the love of abuses, and in the hatred of their reformation; a love and a hatred the more intense in proportion to the atrocity of the abuses existing, of which the reform was attempted.

These changes have been made, and being made have received the general approbation of the entire judicial body in England; in this country with hardly an exception. Indeed, the wonder now is how any one ever could expect justice would be done when the very material—*pabulum justitiæ*—as Lord Bacon terms it, was withheld from those whose duty it was to decide.

The propriety of admitting parties being conceded, the question naturally occurs, Why should they not be received in criminal as in civil cases? The object in all trials is the same—the ascertainment of the truth. The greater the evils of misdecision in criminal than in civil cases, the greater the necessity of resorting to all available sources of information for the purpose of averting those evils.

The truth is wanted from any and every source. The prisoner knows it. The law presumes him innocent. If regard be had to the legal presumption applicable to each and every prisoner, he should, being presumed innocent, be received to testify. Being innocent, he would not resort to falsehood to establish such innocence. Being innocent, and no other evidence of such innocence being attainable from any source, his exclusion is the exclusion of all possible means on his part of making out his defence. Being innocent, and other proof of the fact attainable, who does not perceive the importance of his evidence to explain all doubtful circumstances, so that he may not only be acquitted, but that the acquittal shall leave no stain behind.

Of all exclusions, that of a man presumed innocent would seem to be the most monstrous. Is he innocent, and shall he not be heard to establish his own innocence? Every motive, if innocent, is averse to falsehood.

Is he guilty? His guilt is not proved. It may be that he is, but it is not to be assumed in advance, and the assumption made the ground of exclusion—an assumption at variance with legal presumptions.

If guilty, and he is a witness at his own instance, the objection will be made that receiving his testimony may lead to perjury. But the essential sin of perjury is the falsehood uttered, aggravated more or less by the occasion of its utterance.

The prisoner being guilty pleads not guilty. In so doing he utters a lie, just as much as when he makes a false answer as to any other fact about which he is interrogated. The prisoner being a witness denies in detail what before he had denied in the gross. In the one case, it is a lie without, in the other it is a lie with circumstances. It is idle to say that the falsehood in its generality is not equally a lie as when it is compounded of many particulars.

True, in the one case the prisoner is under oath, in the other he is not. But the falsehood is the essential sin, and it exists as much in the one case as the other. The superadded ceremony may affect the legal but it cannot the moral character of the falsehood.

The obligation to utter the truth is of universal application. Undoubtedly, the prisoner being guilty cannot defend without the utterance of a lie; but if he cannot it may be a