

years meekly submitted. It was found that there were many persons who objected from conscientious motives to be sworn as witnesses, but who were not entitled to the privileges conferred already on members of a few religious bodies. It was not until the year 1854 that such persons were authorised to make a solemn affirmation in civil actions. Later on the like permission was extended to those who gave evidence in the Probate and Divorce Court; but, strange as it may seem, it was not until the year 1861 that a similar enactment was passed with respect to evidence in criminal cases. Even then atheists still remained outside the category of eligible witnesses. Hence the Act passed in 1869, which provided a form of solemn promise and declaration for any person objecting, or objected to as incompetent, to take the oath "provided the presiding judge is satisfied" that the oath would have no binding effect upon the witness's conscience. The unfortunate adoption of the phrase "presiding judge" defeated to some extent the object of the Act. It was found that the whole ground was not covered by the statute, and, accordingly, an amending Act was passed in the following year.

The final step in the process of legal evolution thus briefly sketched may be said to have been attained by the passing of the Oaths Act, 1888, the provisions of which are, of course, familiar to lawyers. No less gradual and tentative has been the operation of removing in part the disqualifications which formerly attached to various persons on the ground of crime or of interest. It is needless to trace this emancipation through its various stages, which may be said to have commenced when the County Courts were established (and parties and their wives in actions for small debts were made competent witnesses in their own causes), and to have terminated, as yet, with the passing of the Criminal Law Amendment Act, 1885. The last-mentioned Act, besides making prisoners charged with the commission of specified offences eligible to give sworn testimony in their own behalf, provides that where in a case under the Act any child of tender years who is called as a witness does not, in the opinion of the Court, understand the nature of an oath, her unsworn testimony may be admitted if the child appears sufficiently intelligent to understand the duty of speaking the truth, and provided such evidence is materially corroborated. Various other Acts might be mentioned by which exceptions have been made to the general rule that accused persons shall be debarred from giving evidence in their own behalf; but the Criminal Law Amendment Act unquestionably affected a far larger class than had been touched, or has since been relieved, by other statutes of the realm. The Act of 1885 created in fact a new departure of a really bold character, and, in the opinion of most persons whose experience commands respect, the experiment has been fully justified. In such a matter there can be no such thing as going back. The result of the tests thus gradually made must have served to encourage those who contend that the prisoner, or the defendant, in every case should be allowed to be examined as a witness in his own defence; and until the law makes provision to that effect it must be regarded as anomalous and incomplete.—*Law Times*.