

point of view, an oath must be found not to possess in itself any sanction whatever for the due observance of the duty sworn to be faithfully performed.

2. Passing away from oaths of office we come prepared in some degree for an examination of judicial oaths, or that class of oaths to the breaking of which penalties are attached by law.* A witness is sworn in a Court of Justice to tell the whole truth; should he lie, a temporal punishment is imposed on his being found guilty of the offence, and further, say the clergy, he has earned punishment hereafter for having laid perjury to his soul. We shall not stop to examine the feeling of certainty or uncertainty as to this latter reward, that may be present to the mind of him who swears falsely; the question is not one of any importance to the object aimed at in this paper.

Stripped of the legal sanction, this class of oaths is very similar to that we have been considering. It is every one's real interest to speak the truth,† and should any motive induce one to swerve from it the oath has no charm to prevent if conscience be dead to the sacred character of truth itself. If motive and conscience be acting in contrary directions the repetition of no formula can give power to the latter. A lie is a lie on the street or on the latter. A lie is a lie on the street or on the latter. A lie is a lie on the street or on the latter. Change, as much as in a Court of Justice, and why should its utterance be considered more heinous in the one place than the other? As great interests depend on the honest dealing of man with man as on speaking truly before a judge and jury. But if we exalt truth in the one case by investing it with a sort of specially made garment, of necessity its position in the other case is altered, and it becomes a less crime to tell your neighbour such a lie as may enrich you and impoverish him than to swear falsely to some insignificant fact in a Court of Justice. A lie, we are in effect told, is not so bad a thing in our every day contracts, but in a Court of Justice is something awfully wicked. Yet wherein does the difference consist? A lie has been told in the presence of God as deliberately in the one case as in the other. But truth has received in a Court of Justice a fictitious importance, and the tendency outside is not to stamp a lie with the severe condemnation which it merits. In the desire to secure veracity in our tribunals the interests of truth generally have been overlooked, they have been completely lost sight of, and society suffers in all its dealings in order that a result might ensue, which deeper investigation into the subject must prove to be not obtained. In ordinary dealings, and in ordinary conversation, we frequently find individuals not only pledging their honours, but willing to give their oaths as guarantees of the

correctness of their assertions, and our common experience teaches us that when such guarantees are offered those individuals are lying most. A show of candour too frequently indicates its complete absence; and when we hear a man prefacing his statements with the phrase "to tell you the truth" as a sort of advance guard we may look out for being deceived in some way or other. Assuredly the injunction "swear not all" possesses more meaning than the heated controversies of sects have allowed us to perceive. A keen observation of human nature on the part of the Founder of Christianity, which is manifested again and again in other philosophic reflections, prompted these words; and the attempt of Paley* to show that they were inapplicable to judicial oaths entirely fails principally because he misapprehended their meaning. "Let your communications be yea and nay, for whatsoever is more than these cometh of evil," these words show the idea present to the mind of the speaker that the truth is deserved by the addition of an oath. Were truth sacred in the market place, its character would not, and could not, suffer when uttered in a Court of Justice. Rid truth in the latter case of its unwholesome surroundings, let it stand out in its own abstract greatness and importance, and we shall be sure of truth being spoken in the street, and consequently more sure than at present of securing it in our tribunals.

Supposing, however, the proposition incapable of proof that truth suffers by being considered something higher when uttered before a wig and gown than it is when spoken in other relations of life, still the taking of an oath can only be justified on grounds of expediency. It must be shown, first, that the religious sanction is of avail where simple and unaided conscience would be weak and insufficient, and, secondly, that our lives and properties are really protected by the notions which people are supposed to entertain upon being put through the oath formula. Parenthetically it may be observed that with the legal sanction we are not at present concerned; that in some shape must always be maintained. The history of the law of evidence would furnish us with curious information on this subject, but to one only of its chapters need reference now be made, namely, to that which tells of the times when men, so far mistrusting each other, feared to examine parties in a cause, or even any persons interested, however remotely, in the result; and when justice was but too often defeated from the absence of any one who could testify to the matter in dispute save the plaintiff or defendant, and neither could be a witness. "*Nemo in propria causa testis esse debet*" we borrowed from the civil law. "If the rules of exclusion," says Taylor, "had been really founded, as they purported to be, on public experience, they would have furnished a most revolting picture of the ignorance and depravity of human nature." At the commencement of the present century,

* With this class the Commission was not concerned.

† It being more easy to tell the truth than a lie, some writers speak of a natural sanction for truth, meaning that it is more natural or easy to draw upon the memory, than the imagination.

"From the mouth of the most egregious liar," says Bentham, "truth must have issued at least one hundred times for once that wilful falsehood has taken its place." (Ev 82.)