

like all others, will be best secured by a cautious vigilance in repressing its abuse, by refusal of advocates to adopt the passions and prejudices of their clients, and to injure a witness by reproaches and insinuations, that cannot reasonably be expected to influence the fair decision of the cause; and by the Court showing a marked discountenance to the adoption of a different line of conduct, calculated only to occasion an unnecessary pain and injury to the witness, without promoting the right or interests of the party.

"The situation of a witness in life is also a circumstance which frequently influences the regard that is paid to his testimony, especially with respect to matters of judgment and observation; and even with respect to mere veracity it is not wholly indifferent, for although, in the abstract, the testimony of every person is to be regarded as true, and the same obligation may be equally strong in every condition of society, the temporal disadvantages arising from the detection of falsehood or prevarication, independent of the terrors of legal punishment, will frequently depend upon, or be connected with, a person's rank and station; and therefore all considerations of credit, connected with the evidence itself, will be, and constantly are, materially influenced by this circumstance. The effect of a bias in favour of the event of a cause, resulting from the situation of a witness,

whether they have been previously convicted, and unless they admit such convictions, proof may be offered of them by certificate.

Questions as to improper conduct by the witness may also be put, even though the conduct in question has nothing to do with the matter at issue in the case; and such questions must be answered. The proper test of whether such questions should be allowed by the judge would seem to be this:—Will the answer throw any light on the credibility of the witness? If it will not, then the question ought not to be allowed, if it is otherwise immaterial to the case.

But if questions as to improper conduct apart from the case itself are put to a witness, merely for the sake of discrediting him, his answer must be taken. Evidence may not be called to contradict him. For this purpose improper conduct is different from a previous conviction; *cf. post*, pp. 64, 65.

In criminal cases, prisoners called in their own defence may in general not be asked such questions, *vide post*, pp. 65, 170.