

for the supply of goods for herself, or her husband's household, during that period. If *necessaries* are supplied, the assent of the husband may be fairly presumed, but mere proof of the husband's cohabitation with his wife would not probably be held sufficient to render him liable upon her contract for goods, not necessaries, suitable to the husband's circumstances and station in life. If a man cohabit with a woman, and allow her to pass as his wife without being married to her, he is liable for goods furnished to her even by a tradesman who knew the parties were not married.

Where the husband expressly warns the tradesman or storekeeper not to trust his wife, he cannot, unless he has wrongfully turned her out, be charged with the goods subsequently provided. If a husband and wife have parted by consent, unless the former makes her an adequate allowance, he remains liable for necessaries supplied to her.

ON THE DUTIES OF MAGISTRATES.

SKETCHES BY A. J. P.

(Continued from page 143.)

Course of Proceedings (continued.)—The right of reply is taken away from both the prosecutor and defendant—that is, each party is limited to one address to the Bench. As the whole burden of proof is considered to lie with the party prosecuting, who is to substantiate his charge, it is usual and proper for the prosecutor or his attorney, in the first instance, to state briefly the nature and subject of the complaint, and then to call his witnesses. When the prosecutor's case is closed, the defendant, or his attorney, can address the Court and afterwards call his witnesses.

Witnesses' Oath or Affirmation.—The prosecutor or complainant, if he has more than one witness, will call each in such order as may be most convenient and best calculated to present the facts in an orderly shape to the Bench—and the same with the defendant; each witness, as called, should be sworn or make affirmation before he is examined; and as the mode of administering the oath varies according to the peculiar religious belief professed by the witness, Magistrates should always satisfy themselves on this point, either by questions put to the witness or other persons. It need scarcely be observed that the object in view, in putting the witness under the solemn obligation of an oath, is not only to impress him with the moral and religious duty of speaking the truth, but to render him liable, in case he should give false testimony, to the punishment awarded by law to a person who commits *perjury*. If, therefore, a Magistrate should be

wilfully deceived by a witness as to his religious belief, and the witness should thus be improperly sworn, and so as not to bind his conscience, it will not the less prevent his being convicted of perjury, in case he should be proved to have given false testimony. [1]

The *Christian's* oath is upon the New Testament; the *Jew's* upon the Old Testament.

The form of oath is repeated by the Magistrate or Magistrate's Clerk to the witness, who, in ordinary cases, kisses the book to signify his assent; others swear with uplifted hand merely. The following forms will answer:—

Ordinary Oath.

The evidence you shall give to this Court, touching the offence charged in this information, (or complaint) shall be the truth, the whole truth, and nothing but the truth.—So help you God.

Oath with uplifted hand.

The evidence you shall give to this Court, touching the offence charged in this information, (or complaint) shall be the truth, the whole truth, and nothing but the truth, and this do you swear in the presence of the ever living God, and as you shall answer to God at the great day of Judgment.—So help you God.

Quakers, Menonists, Tunkers and Moravians are allowed to take affirmation instead of an oath, and such affirmation has all the effect, as to punishment for perjury, as an oath. [2]

Affirmation of Quaker or other person allowed by law to affirm.

I, ———, do solemnly, sincerely and truly declare, that I am one of the society of people called Quakers (or as the case may be.)

This the Clerk causes the witness to repeat after him and then administers the affirmation as follows, the witness by word or otherwise signifying his assent at the conclusion:—

The evidence you shall give to this Court, touching the offence charged in this information, (or complaint) shall be the truth, the whole truth, and nothing but the truth, and this do you solemnly, sincerely, and truly declare and affirm.

It may sometimes happen that a witness produced cannot speak the English language, and it becomes necessary to employ an interpreter;—when this happens, the interpreter should be first sworn according to the following form:—

You shall well and truly interpret between the Court, the parties in this cause, and the witnesses produced.—So help you God.

Then, when the witness is brought forward, the Magistrates, or their Clerk, repeat over slowly the form of oath to witness, which is translated by the interpreter, and the examination proceeds through him.

[1] Stone, 96.

[2] 49 Geo. III., cap. 6; 10 Geo. IV., cap. 1, (U.C.); 13 & 14 Vic., cap. 19 (C.)