

Manifestly the Imperial Parliament, which passed this enactment, and our several legislatures which have adopted it, recognized no such rule-of-thumb for determining the weight of evidence.

There might be some reason in this principle if perjury were a thing unknown in our courts. But unfortunately it is very far from being such. On the contrary, those who have experience with litigation know that it prevails to an alarming and disheartening extent. Why, then, should some judges and jurors adopt a supposed rule that gives a special virtue to the oath of the man who swears he is a liar? For as a general thing the witness in these cases has no other explanation to offer of his contradictory statements than the shameless one that he was not then on oath.

Both law and common-sense dictate that these contradictory statements—sworn and unsworn—should be weighed in the same way as other evidence. All the circumstances should be taken into consideration. The question should be, not which is the sworn statement, but which is the true statement? And the answer to the one is not by any means, in view of the general experience with witnesses, an answer to the other. Very often it is just the other way. If the witness's statements in contradiction of his own evidence were spontaneous; if no motive for falsehood upon the occasion is shown; and especially if he has no other explanation to offer than that he was not then on oath—the chances are that they, and not the sworn testimony, for which a motive can readily be assigned, are true. In this, as in all other inquiries in human affairs, the great thing to be sought for is motive. The greatest crimes are committed every day from some motive; not even the most trivial act is done without a motive. So that when a man asks a court of justice to believe that he, without any motive whatever, and for no reason that he can explain, deliberately lied to several different persons, the strong probability is that he is displaying upon oath that propensity to prevarication which he solemnly swears he possesses—but displaying it in a less degree than he gives himself credit for, inasmuch as he is now lying from a motive, whereas he swears he repeatedly lied without any motive whatever.