

WITNESSES AND WITNESSES.

Campbell once said "they come with such a bias on their minds to support the cause in which they are embarked that hardly any weight should be given to their evidence" (10 Cl. & Fin. 191), down to the humble friend and neighbour—they all endeavour instead of answering the questions fairly and directly to state something which would qualify the effect of an answer favourable to the questions if opposed to their own side. It is not the business or duty of the witness to trouble himself with explanations; these will be attended to by the opposite counsel who will adjust the latter if the facts have been distorted or insufficiently brought out.

Every counsel will have made mental notes for himself of the different classes of witnesses and their peculiarities, and of the various indications of their insincerity or credulity. Thus, for example, the late David Paul Brown, of Philadelphia, after much experience and observation at the bar, said that one most certain rule to determine that a witness was giving false testimony was when he uniformly repeated the questions put to him on cross-examination—the object being to gain time for making his answer, and to concentrate his mind upon the nature of the answer to be made. So the witness who proclaims his indifference and protests his honesty, and the witness who has no memory of facts when he can be contradicted by others, but has all the minutiae of transactions at his finger's ends where he is the sole witness, and the witness who flippantly answers before he has heard the question—all these declare their own condemnation.

So too we have all come across the timid witness who cannot be got to speak above a whisper, the stupid witness whose testimony is so contradictory or imperfect that he had better have left your questions unanswered, the eager

witness whose testimony is so exaggerated or effusive that you wish he had said more or said less, the pompous witness who generally leaves the box feeling that he is a very much aggrieved man.

With regard to the evidence of *servants* and *children*, and their tendency to colour or exaggerate, some acute observations are found in Macaulay's "Essay on History": "Children and servants are remarkably Herodotean in their style of narrative. They tell everything dramatically. Their *says he's* and *says she's* are proverbial. Every person who has had to settle their disputes knows that even when they have no intention to deceive, their reports of conversations always require to be carefully sifted. If an educated man were giving an account of the late change of administration he would say, 'Lord Goderich resigned, and the King, in consequence, sent for the Duke of Wellington.' A porter tells the story as if he had been hid behind the curtains of the royal bed at Windsor. 'So Lord Goderich says, I cannot manage this business, I must go out. So the King says, says he, well, then, I must send for the Duke of Wellington, that's all.'"

The weight of judicial opinion appears to be in favour of the grim proposition that a woman can tell a lie better than a man. Baron Huddleston in a recent trial for perjury discussed this matter before a jury. He said it was a remarkable circumstance that when a woman was determined to say that which was untrue, she did it a great deal better than a man. Whether it was that a man was more conscious of his dignity (?), was a metaphysical question he could not answer; but it was certain that a woman did tell a story much more logically and perseveringly than a man could. He was glad that it was a question for the jury to say whether the girl should be believed, for he himself admitted his in-