

III.—*Affidavits*.—By G. F. Shaw, LL.D., F.T.C.D.

[Read, Tuesday, 28th April, 1868.]

SOME time ago a Parliamentary Commission was to set to work to inquire and report on the subject of oaths. Lord Chancellors' oaths, Members of Parliament's oaths, University oaths, tide-waiters' oaths; the adjurations of all ranks and classes of men, from the Lord Lieutenant of Ireland and the Archbishop of Canterbury down to the custom's clerk and the exciseman—all were summoned to answer that question which is so formidable to many persons and institutions—What good are you? What purpose do you answer? Under what pretext do you exist? Are you worth what you cost?—and if not, are you simply nugatory and ineffectual, or are you positively mischievous and deleterious?

The nett result of the inquiries thus instituted is that a great many solemn and time-honoured oaths have been abolished, and others modified and shorn of their fair proportions. The Commission was a beautiful specimen of political tinkering. The plan on which it was commanded to work was ingeniously contrived so that its inquiries should be as useless as possible. The Commission was expressly required to abstain from inquiring into that branch of the subject which was worth all the other branches put together.—The value of oaths administered in courts of law, the utility or the mischief of our system of backing up testimony by affidavits, was not to be so much as looked at. The sacred cow of the Brahmins of the law was to be protected from the profanation even of the most modest inquiry.

Whether it is that I am sadly deficient in the bump of veneration, or that I belong to that class who, we are told, rush in where angels and Members of Parliament fear to tread, I am going to-night to intrude into this high and holy place from which the Commissioners were warned off; to raise the awful veil which shrouds the venerable mystery of legal swearing, and to ask some plain questions, and give what may be considered, no doubt, some presumptuous answers as to the operation and effect of this system. I am sorry the inquiry has not fallen into abler hands. The Parliament who ordered the subject of oaths to be investigated contained at least one hundred lawyers. These gentlemen knew well, no doubt, what they were about when they excluded affidavits taken in courts of law from the scope of the Commission. If they had thought proper to inquire into the effect of these oaths, they could have put persons on the Commission who were intimately familiar with the subject, who had daily experience of the value of oaths in the practice of their profession, and whose opinions, if supported by the slightest show of reason, would be deferentially accepted. But as our legislators have not made this inquiry for us, it only remains that we do it for ourselves; and if it shall appear that of all oaths, those taken in and for courts of justice are precisely those which are most open to

objection, it will be our business further to say a word on the question, how was it that a Parliament consisting largely of lawyers, and deferring blindly to lawyers on all questions involving legal forms and processes, should have specially excepted those oaths from the scope of the Commission, instead of specially directing the attention of the Commission thereto?

Before I enter on this inquiry, however, it will save time if I state what I suppose to be the common and prevailing opinion among the public on the subject of oaths and affidavits taken in suits at law. That opinion I take to be this—that they do no harm, and are occasionally of some little use; that they do not add to the veracity of veracious and honest people, nor diminish the unverity of the unscrupulous; but that there is an intermediate class, weak in principle and weak in moral, or perhaps I should say in immoral, courage, who would be well enough inclined to make a false declaration, but who shrink from taking a false oath. That for the sake of this intermediate class it is useful to keep up the swearing system, and to wring the truth out of them by threatening to punish them, not for the crime of bearing false witness, but for the adventitious crime of perjury. The amount of truth thus elicited, or of falsehood thus suppressed, is supposed to be worth the very trivial, or at all events unperceived, inconveniences entailed by the swearing system.

This, I believe, is a fair statement of the current opinions respecting the value of legal oaths and affidavits; and on these opinions, as a basis, the system is maintained. I believe the foundation to be entirely rotten; and the following are the points in it, to the strength or weakness of which I beg to invite your attention:—

1st What is the extent of the intermediate class—the weak-minded class—for whose sake alone the swearing system is maintained?

2nd. Is it true that the system has no positively injurious tendencies, and produces no seriously injurious effects?

With respect to the first question, I shall begin by citing the authority of Master Wm. Brooke. Mr. Brooke has been for more than a quarter of a century one of the Masters in the Irish Court of Chancery. During this time he has had the management of Irish estates yielding an annual rent of £500,000. In his examination before the Lords' Committee on Lord Clanricarde's Land Tenure Bill, last year, he stated:—

“It is distressing to speak of what may seem a national reproach, but certainly affidavits and testimony on oath are got up in Ireland for matters belonging to a certain class” (*i.e.* the tenant class) “with a painful facility. There is a very great facility for obtaining evidence in Ireland for almost anything that is the object of the tenant.”

Master Brooke limited his statement to tenants and other persons connected with the tenure of land in Ireland. Concerning other classes of the community, or concerning any other community than the Irish, he said nothing; but then he was asked nothing, nor did his official experience lie in any other direction, nor did the committee want to know the value of the affidavits of any other class. *Cuique in sua arte creditur.* Where Master Brooke's evidence was

to be relied on, that evidence proved that affidavits and oaths afford not the slightest guarantee for veracity.

From Irish tenants to Whiteboys is not an unnatural transition. I believe no Whiteboy was ever yet either hanged or transported for the want of an *alibi* of a ten or twelve oath power.*

From Irish tenants and Whiteboys let us now turn to my own profession, that of College Fellows and Tutors.

A Royal Commission of Inquiry into the state of the universities of Oxford, Cambridge, and Dublin, was issued some 17 years ago. Among other points they inquired into the oaths taken by college and public school authorities. These authorities, as a rule, were clergymen. This is what the Commissioners report of the observance of the founders' statutes of the Oxford Colleges—statutes, be it observed, sworn to by solemn and public oaths, taken mostly by clergymen. After enumerating various provisions systematically violated, the Commissioners say:—"We have shown that almost every one of the regulations which they (the founders) have most earnestly insisted on, have been disregarded, even the preferences which they enjoined have been unavoidably set aside, and when they have been adhered to, it has not been because they were invested by the statutes with any special sanctity, but because, unlike the really fundamental statutes, they are under the safeguard of personal interests and the forced protection of visitors." And again,

"Nothing could possibly be further from the founders' intentions than the present system. All that subserved private interest has been retained; all that conduced to public benefit has been given up." And again, "These and many other injunctions which are daily set at naught, are insisted on in the statutes with an earnestness evinced, not only by entreaty, but by imprecation." And again, "All this [*i.e.* convenience, change of times, &c.] is urged with truth by the holders of Fellowships when reproached with the violation of statutable obligations to which they are bound by oaths."

The Cambridge Commissioners report:—

* A still more natural transition is from Whiteboys to policemen. Here is what Mr. Arnold, the police magistrate for Westminster, says on the value of the oaths with which his daily experience brings him in contact. I quote the whole extract (*Times*, June 5th, 1868,) for the sake of the light it throws on what I say further on respecting the futility of our pretended penalties on perjury. Mr. Arnold said—"He had tried in vain to reconcile the two statements, and was forced to come to the conclusion that one side had committed wilful and deliberate perjury." He then discusses the testimony of the witnesses on each side, and remarks with respect to one witness, named Halligan, that she had deposed to a state of facts of which she *could not have been cognisant*. For this and other reasons which he gave, Mr. Arnold arrives at the conclusion that "the perjury lay on the side of the police. No one could deny the services and efficiency of the police as a body, but, however useful, *in any question which concerned themselves they do not stick at stating falsehoods, even on oath*. He thought that something more than a nominal penalty should be inflicted, and accordingly fined the sergeant fifty shillings and each constable twenty shillings." Halligan was left altogether unpunished, although the perjury in her case was particularly clear. It was not, in fact, for perjury the fines were inflicted, but for the original offence charged against the police, and which was slightly aggravated by the false defence the police set up.

"We believe there is no exception to the rule that all persons who become members of the Foundations shall swear to observe the statutes. To the continuance of this rule we think there are serious objections. We presume that few would be found willing to maintain the present system by which persons are obliged to take an oath that they will observe codes of laws, large portions of which either are not or cannot practically be enforced." (p. 152.)

The contrast between the sworn obligations of the Fellows of King's College, one of the wealthiest and greatest of the Cambridge foundations, and the discharge of those obligations by the Fellows, was so shocking, that the authorities of the college declined to furnish a copy of their statutes to the Commissioners. The latter were able, however, to obtain a copy from the Harleian collection in the British Museum, and their account of its provisions and of the open and systematic violation of almost the whole of them by the Fellows of King's College, affords some instructive reading in the Commissioners' report. (pp. 173-4.)

The case of the Dublin University was a very mitigated one. However, there is no reason to think that our statutes were better observed than those of Oxford and Cambridge, by reason of any greater sanctity attached to our oaths. One of the obligations we undertook was to resign our Fellowships on marriage. But for many years this oath was a confessed farce. Every Fellow married when it suited him, and forgot to resign his Fellowship. Upon one occasion the successful candidate for Fellowship happened to be a married man, and was so notoriously. He was asked on oath, according to the usual form, was he married. The interrogator was, I believe, the late Dr. Singer, himself a married man. The question was an awkward one, but the candidate extricated himself from the position by answering, "No more than yourself, sir."

"Eh, man," says somebody in *Redgauntlet*, "if it comes to an affidavit it's a won plea."

An eminent countryman of *Redgauntlet's* was some years ago a candidate for a professorship in a Scotch University. On his appointment he was asked, according to the usual form, to declare the orthodoxy of his beliefs. The Bible was handed to him, and the question put, "Does this book contain the articles of your religious belief?" The man of learning answered, "It does," but added *sotto voce* to those that sat nearest to him, "and a deal besides."

Fellows and Professors of English, Scotch, and Irish Colleges are pretty much on a level with Irish tenant farmers as regards their power of accommodating themselves to the difficulties of the swearing system. From these widely diverse classes, let us extend our view to the whole of her Majesty's tax-paying subjects. When the income tax was imposed by the late Sir Robert Peel, a well known Dublin character, commonly known as Johnny Ryan, expressed considerable anxiety to learn what steps the taxing officers would take to ascertain the amount of income on which he was liable to be taxed. He was informed that he would be obliged to declare the amount of it on oath. "On oath!" says he, "and will they lave it to my oath?" The honest fellow had a very just perception of the

degree of security which the oath conferred. Income is now not sworn to, but only declared. Although the Tax Commissioners complain every year of the evasions which are practised on them, it has never been suggested, I believe, that any additional check on dishonesty would be found in exacting an affidavit.

A still more numerous class than that of tax-payers is that of married persons, men and women. Marriages in England and Ireland are performed either in Church, under the sanction of the most solemn form of oath, or before the Registrar, without an oath. It is not pretended that the obligations contracted under the oath sanction are kept either more or less faithfully than those which are undertaken without it. The vast experience now accumulated in our Divorce Courts, has certainly shewn the oath to have no special effect on the subsequent behaviour of either sex.

From the tax-payer let us turn to statesmen and politicians. In common with the rest of the world, I have a great respect for Louis Napoleon, Emperor of the French, and believe that he has proved a benefactor to France, and a wise and successful governor. But I am afraid he would find it very hard to clear himself of the crime of perjury, and, what is more to the point, I believe that when he was meditating the *coup d'état* by which he put an end to the disastrous dead lock of 1851, the last thing in the world that occurred to him as a difficulty in his way was the circumstance that he had over and over again sworn solemn and public oaths to the maintenance of the Constitution as it then existed. What Louis Napoleon did in 1851, all the leading British statesmen and Whig nobles did in 1688, when they transferred their allegiance from James II. to William III. The world now and ever since their act has applauded Somers and Halifax for their conduct on that occasion. There was no moral guilt, but a high degree of public spirit and heroism in that conduct. But did their oath present any difficulties to them? No more than it did to the mind of the old woman, who was too cautious to back up her opinion by a wager, but offered to take her oath to its correctness. "Unfortunately," says Mr. Motley, "all history shews how feeble are barriers of paper or lambskin, even when hallowed with a monarch's oath." History, I think, carries us much beyond the conclusion that oaths are useless. It exhibits them as chiefly used to disarm just suspicion, and to effect by fraud and falsehood, purposes which could not be effected by main force.

From emperors and statesmen, let us again descend a peg or two. The Fenian Brotherhood protects the secrecy of its proceedings by an oath. Events have proved that the Government finds no difficulty whatever in getting possession of those secrets notwithstanding the oath. Corydon and the other hard-swearing gentry who have played so large a part in the government of this country for the last year or two, take the oath with great equanimity. Honest Michael Gallagher, on board the "Jacknell," boggles a little at first, but takes it at last, rather than incur the resentment of the crew. The moment he sets foot on shore he throws his oath to the winds and waves, and declares all he has seen and heard on board the privateer. I

have no doubt that Gallagher's sworn evidence on the trial of the "Jacknell" prisoners was true, and am equally certain he would have given just the same evidence had no oath been imposed on him. As for the evidence of Messrs. Corydon and the other informers, I attach precisely the same value to it as I do to the oaths which they took on joining the Fenian Brotherhood, and which they took probably with the intention of worming themselves into the possession of saleable secrets.

We have heard lately a good deal of the Queen's Coronation Oath with respect to the maintenance of the Established Church in Ireland. Our ancestors heard a good deal of the like talk about George III.'s oath on the maintenance of the connexion between England and her American colonies. George IV., I believe, also pleaded his oath as an objection to giving his consent to the Great Act of 1829. Does any rational human being believe that a single word of all the talk that was uttered and is at the present day uttered about any of these Royal oaths is or ever was anything else than the merest cant? Oaths are not found to make the doctor brought forward by a railway or assurance company agree in his medical evidence with the doctor feed and summoned by the friends of the deceased. Oaths do not reconcile the evidence given by two chemists on the purity of the water or the noxiousness of a gas or a pigment, or the presence of a poison in human viscera when the chemists happen to be adduced on opposite sides of the case. The oath appears to have absolutely no effect in giving value to the evidence. Scientific knowledge, self respect, the fear of an ignominious exposure, produce such a partial *consensus* as there is. The oath seems to have no tendency towards this end.

The Society of Friends, and one or two other varieties of Christians, are permitted to dispense with oaths. The dispensation has not been found to render their evidence of less value than that of other denominations of Christians. When they first sought the privilege of exemption from the Irish Parliament in 1720, precisely the same fears were entertained and objections urged as are urged and entertained at the present day respecting all other sects. The House of Lords entered on its books a protest signed by seven of its members, four of them being bishops, and the protest consisted of seven articles, just one for each protestor. As some of the most valued members of this Society belong to the Society of Friends, no doubt they will be interested in hearing what was thought of them and their demand by the Irish peers in 1720. I shall only quote the seventh and last article :—

"*Seventhly*, Because we cannot but look upon the great Honour by this bill done to the Quakers, to be in its Consequence a Dishonour done to all the rest of Mankind : their Affirmation or Declaration without an Oath, being in many Cases to be taken, where the Testimony of any other Man, and even a Member of this high Court of Parliament, is not to be admitted, except it be given upon Oath ; which we take to be in some Sort a Degrading of ourselves, as well as all other Men, below the Rank of the meanest and most contemptible Quaker."

It is time, however, to proceed to the second and the main point of my inquiry—namely, What is the positive harm of the swearing system, and especially what harm results from the maintenance of that system in connexion with suits at law?

1. The first and most general evil produced by the system is that it disparages, by comparison, the obligation of veracity in cases where the religious formula is not employed. Counsel perpetually remind a witness in solemn tones that he is speaking under the sanction of an oath. The meaning of this is:—"It would be comparatively venial for you to give false evidence against your neighbour, to rob him of his money or his character, to deny him his just redress, to help the oppressor or screen the fraudulent, if you did not accompany these offences with the crime of perjury. Lawyers are thus unwittingly but incessantly engaged in demoralizing the community, in hiding from ordinary people the real nature of the moral offence they commit in helping the wrong-doer, and in refusing their aid to the cause of truth and justice. Not only the lawyers, but what is far worse, the law itself, countenances and propagates this delusion; for the law never authorizes nor permits a prosecution for giving false evidence. It must be a prosecution for perjury. The wretched couple who endeavoured to bring in Groves guilty of the murder of the bandsman, some time ago in London, were really guilty themselves of the most shocking crime of which humanity is capable—a deliberate attempt to procure by judicial means the death of an innocent man; the motive of the perjurers being a paltry bribe. Instead of being prosecuted for this—an offence which would have appealed to the just and natural feelings of indignation of any jury in the world—they were prosecuted, I believe, or threatened with a prosecution for *perjury*, and the prosecution as usual fell through. Prosecutions for perjury are seldom resorted to, and when resorted to generally fail. The reason of this is obvious. Perjury, as distinct from false evidence, is an offence not against man but against God; and man, accordingly, feels with more or less distinctness that the punishment of it ought to be left to God. The consequence of this feeling is the second of my objections to the swearing-system, namely

2. That it directly encourages irreligious persons to give false evidence. The case of *Pearse v. Pearse* is fresh enough and made noise enough to be recollected by some present. Six years after her husband's death, and when the witnesses were dead or scattered who could have refuted the scandalous accusations with which she loaded his memory, the lady brought her suit. In England the judge of such cases is a man of as much professional and personal merit as the judges of the ordinary Superior Courts. Being forbidden to practise as a barrister, he is not obliged to seek the favour of attorneys by paltering with law and justice. The consequence was the lady failed, and the Judge told the jury that he utterly disbelieved her story. But nobody thought of prosecuting her for perjury. A conviction for perjury cannot be had on the same evidence as would convict for theft, or breach of trust, or burglary. The false oath must be borne down and disproved by two oaths,

each of these being of persons who were eye and ear witnesses to the transactions falsely deposed to. Why this peculiarity in trials for perjury? Evidently because it is supposed that there is an immense presumption in favour of the truth of a story sworn to. Fancy the immense presumption in favour of Corydon's truth, or Mrs. Pearce's, or those of the couple who tried to swear away the life of Groves, or of the young woman who lately charged the clergyman with taking absurd liberties with her, in presence of her friends and confederates, on getting out of a train of the Metropolitan Railway.

Half a dozen witnesses have just now sworn an *alibi* for the man charged with having fired the barrel of gunpowder at Clerkenwell. The jury who disbelieve this *alibi* must believe the oaths to be deliberate, cunningly devised, and determined perjury. Should the *alibi*, on the other hand, be verified by the investigation now pending, the Government must conclude that the witnesses against Barret were perjurers, suborned by the police or by their own hopes of gain. In either event, does any one suppose that a single one of the perjurers will be prosecuted? No. They will be left to a higher power. If evidence were given without swearing, not one of these impudent fabrications would have been attempted. The Attorney-General, we are told, said it had been asked whether he intended to say that the witnesses who had been called to prove the *alibi* had sworn what was false; to this he replied, that if one man was in custody, and that friends of that man could blow down a prison wall, so would there be found men who would not hesitate to swear that the man charged with a crime was far away on the day the crime was committed.

It will be remembered that in the case of Mullany, found guilty of the murder of Brett, an *alibi* was set up for the prisoner. The Judge declared it one of the most consistent and the best attested *alibis* he had ever heard. The jury disbelieved the *alibi*, and the Judge, by his silence, assented to their disbelief. Was any prosecution for perjury ever mentioned?

If the crime of perjury were erased from our statute book, and the crime of bearing false witness substituted for it, a false witness would incur some real risk of punishment. The offence would be clearly one committed against society, and one which human tribunals would be bound to take cognizance of. At present there is a division of responsibility, and such divisions are always fatal to good administration. The human tribunal does not feel bound, is almost afraid, to add its penalties to those which are supposed to be incurred from the Divine. I was present one day in the Court-house at Cork, when a ruffian was brought up to be summarily tried for biting off a man's ear. The poor victim, after the case had been established, interceded for the prisoner, and asked the magistrate to "leave him to God." "No," said the worthy magistrate, "it is too important." If the offence had been perjury instead of cruelty, the offender would almost certainly never have been put on his trial; and if he were, the magistrate would have been only too glad to "leave him to God." Now, if we are to leave the punishment of any

particular kind of offence to the Almighty, well and good. Everybody will then know that he has not, in case of such offences, human law to depend on. He will not be seduced into the folly of leaning on a rotten stick. But I object to holding out to the injured illusory promises of protection; and promises to protect us from perjury are mainly illusory, and must be so from the nature of the offence. Humanity is not easily stirred in this nineteenth century by offences of a theological character. We punish sacrilege indeed—a burglar who steals vestments or plate from a church is really punished, but that is because churchwardens or the parishioners have to replace the stolen articles; not because any one resents in the slightest degree the outrage on the Divine Majesty.

The worst mischief, however, of the swearing system, is that with an average jury or an incompetent judge, the oath has a tendency to supersede or weaken scrutiny. "You have this fact," says the barrister, "proved by Mr. So and So's oath." This is supposed to close the controversy and to impose a kind of moral obligation on counsel to admit the fact deposed to. The opposite counsel may have perhaps a very small opinion of Mr. So and So's veracity. But it is a serious thing to challenge a man's oath. "Would you accuse him of flat perjury?" is the indignant question asked. And so judges and counsel deal very gingerly with the evidence. They regard the oath as something distinct from the man himself—a corroboration of his evidence *ab extra*, or rather from the superior regions. The fact is that a man who would not dare to come into court with a falsehood, which he knew would be confronted with so naturally superior an article as a truth, will confidently come in with an oath, which, after all, can only be confronted by another oath. As the use of duelling pistols levels the natural inequality of strength between two men, so the employment of oaths levels the natural inequality of strength between truth and falsehood. Hence the question a solicitor asks when a client comes to him with a projected suit, is not what is true, or who are the witnesses, and what did they see or hear, but how much are they willing to swear to, and how much is likely to be sworn against them. An ordinary trial is a mere swearing match, in which the most hardened, clever, and the best prepared swearers carry the day. "Unto bad causes," says Shakespeare, "swear such creatures as men doubt." If all evidence was left to its natural weight, its inherent probability, and the character of those who gave it, judges would sift evidence, juries would weigh it, and there would hardly be known such a thing as a trumped up attorney's action. The institution would perish with the swearing system which serves it at once for shield and sword.

Anyone who pays attention to what occurs from day to day in our courts of law will find abundant illustrations of the truth of this position. On a single day lately, the newspapers contained accounts of three cases in which the falsehoods could not have been attempted, only for the protection afforded by an oath. One of these was a fictitious suit in the Common Pleas on a bill of exchange. The bill was held by a solicitor, who made an affidavit in the name of an imaginary person, and obtained a judgment in that

name. The solicitor afterwards became insolvent, and the transaction came to light. Judge Millar thought the false, or rather the fictitious, affidavit a matter deserving of being referred to the court of Common Pleas, and he so referred it. The solicitor was suspended from practising in the Courts for six months, but his counsel, Mr. Heron, Q.C., very judiciously challenged the other side to indict his client for perjury, and argued that as they had not ventured to do so, no perjury had been committed. He was well aware that a prosecution for perjury would have infallibly ended in an acquittal, and the judge in passing sentence explicitly admitted it.

Same day, in the case of *Fielding v. Cunningham*, the Vice-Chancellor threatened to suspend a solicitor from practising in his court, for a fictitious affidavit. But the threat was, of course, a *brutum fulmen*.

Same day, in the case of *Hendrick v. Hendrick*, in the Landed Estates' Court, it turned out that certain affidavits were sworn to by midwives, which affidavits they had never read; and when they heard them read by Sergeant Armstrong they declared them false: the perjury was never punished.

The last objection I shall advance against the swearing system is that feature in it which constitutes the sole principle of its vitality—the only difficulty which stands in the way of its abolition—namely, the trouble and cost it adds to law proceedings. It is because affidavits do enhance the cost and trouble of a law suit, because they do encumber it with one technicality the more, and help to make the simple act of self defence against the plainest wrong a difficulty not to be accomplished without professional aid, that the swearing system finds such favour with lawyers, and it was for this reason that our lawyer legislators excluded oaths taken in the courts of law from the scope of the recent Commission. Take, for example, the steps of a suit in the Provincial Court of Dublin. The first step is to file a petition, in this document the petitioner sets forth the facts on which he or she founds a claim for redress. This is done in the third person. Along with the petition must be set forth an affidavit which is a literal copy of the petition, with the exception that it is written in the first person instead of the third. There is a fee for the affidavit as well as for the petition. The attorney must be paid for drawing up both documents, for the scrivenery of both documents, and for attending with the petitioner at the swearing of the affidavit. Then comes the answer of the respondent. This is in the third person, and must be verified, as the phrase is, by an affidavit in the first person. Save the change of grammatical person, the answer and the affidavit are identical documents. The judge certainly only reads one of them. In point of fact he probably reads neither. And so on with the petitioner's replication and respondent's rejoinder, and with any pretended amendment the petitioner may be pleased to make when he sees the case is really coming to trial, and with the respondent's answer to the amendment. As every document must be copied in triplicate, one copy for the court, one for the petitioner's solicitor, and one for the respondent's solicitor, the extra scrivenery and other impediments caused by the affidavit swell

into a handsome total—handsome for those who have to receive the fees or inflict the persecution, not so pleasant for those who have to pay the one and bear the other.

To sum up my objections to the swearing system. Over and above its mere inutility :—

1st. It establishes a double standard of veracity, and thereby weakens the general sense of the sacredness of this virtue in ordinary cases, *i.e.*, where no oath is taken, and thus by demoralizing society, acts prejudicially even on the evidence which is given in courts of law.

2nd. It creates a practical impunity for false witnesses, by throwing off the responsibility of punishing them from a human to a divine tribunal. Thereby it calls into existence a vast amount of false evidence and trumped up actions and defences, that otherwise would not be attempted.

3rd. It diminishes with the average run of jurymen and with imbecile or careless judges, the sense of the necessity or vigilance as to the value and intrinsic probability of the evidence adduced. If an allegation be sworn to, the timid feel they have no right to question it. The lazy or incompetent shelter themselves behind the oath from the obligation of tracking home the falsehoods. It helps a corrupt judge to pretend a belief in what he knows to be false.

4th. It aggravates the expense, and delay, and difficulty of law-suits, thereby making justice in many cases unattainable, and inducing men to submit to the most flagrant wrongs rather than run the risk of looking for their rights, or defending themselves from unscrupulous, malicious, or mercenary attacks.

For these reasons I think this sacred cow of the legal Brahmins ought to be led to the shambles at the first opportunity.

IV.—*Consolidation of Sanitary and Medico-legal Offices, and Abolition of Coroners' Courts.* By E. D. Mapother, M.D.

[Read, Tuesday, 12th May, 1868]

I PROPOSE to comment very briefly on the provisions made by the State for the prevention of disease, the collection of mortuary statistics, and for the conduct of medico-legal enquiries. They seem to me to be less perfectly organized and less successful than those of many continental and American states.

The local officer to whom sanitary inspection is entrusted is the officer of health under the Towns Act, 1847. In England there are 92 such officers in the provinces, and 48 in the metropolis under a special act. The areas and populations vary from over half-a-million at Liverpool to a village of 214 people, and the salaries from £1,000 at that great town to *nil* in many districts. It is, however, the central department which is of real advantage in England. There is a medical officer of the Privy Council to advise that body, over which at present presides so earnest and well-informed a sanitarian as