

THE OATH

A DIVINE ORDINANCE,

AND AN

ELEMENT OF THE SOCIAL CONSTITUTION:

ITS ORIGIN, NATURE, ENDS,
EFFICACY, LAWFULNESS, OBLIGATIONS, INTERPRE-
TATION, FORM AND ABUSES.

✓
BY

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TO THE
HONOURABLE THEODORE FRELINGHUYSEN, LL.D.,
WHO COMBINES IN HIS PERSON,
AND HAS ILLUSTRATED IN HIS LIFE,
THE CHARACTERS OF
SCHOLAR, JURIST, STATESMAN, PATRIOT,
AND PHILANTHROPIST,
ADORNING ALL WITH THAT OF
CHRISTIAN,
THIS HUMBLE VOLUME,
UPON A SUBJECT PERTAINING
BOTH TO
RELIGION AND JURISPRUDENCE,
IS MOST RESPECTFULLY INSCRIBED BY
THE AUTHOR.

Manse of Greenwich, }
October 5, 1845. }

P R E F A C E.

THE writer of the following pages, in common with many of his fellow-citizens, has long deplored the evils that spring from the abuse of the ordinance of the oath. That such evils do exist, and that they appear to be upon the increase in our country, few, if any, will deny. Deplorable ignorance of the true nature, design, and obligations of the ordinance prevails. Many deny that it is lawful in the sight of God to take an oath; whilst thousands who do not scruple to be sworn, are ignorant or regardless of the awful obligations they assume, and swear with rashness and frivolity, without a proper sense of the criminality of such conduct.

And even where there exists in the mind of the juror some good degree of reverence for the oath, there is, in many cases, lamentable want of knowledge in regard to the *interpretation* of it, and in regard to the extent to which the witness is bound to tell the truth.

So grievously is this ordinance prostituted, and so much is its form distorted, in our courts of justice, that it fails, to a lamentable degree, to subserve the ends for which it was instituted. The unnecessary multiplication of oaths; their use upon frivolous occasions; the superstition that too generally accompanies the form of administration; and the careless and irreverent manner in which oaths are tendered and taken, have gone far to

nullify the efficacy of the institution. And none can doubt that, on this account, perjuries are of more frequent occurrence, and that the ends of justice are often defeated.

The American patriot cannot look but with alarm upon such a state of things; and every friend of truth and righteousness will doubtless look with favour upon any effort, however humble, that is designed to diminish or remove such evils. Such is the aim of the following treatise; and the writer hopes that the goodness of his intention will prepare the reader for scanning, with a more lenient eye, any defects that may appear in the execution. The origin of the little work is as follows. In a course of systematic instruction from his own pulpit, the writer delivered a discourse upon the oath as a religious and civil institution. This discourse was subsequently repeated in other places; and a number of those who heard it, and whose opinions are entitled to respect, expressed to the author their approbation of his views, and gave the opinion, that the publication of the discourse, in the shape of a tract or small volume, would be productive of good. This encouragement originated the purpose of preparing such a treatise; but on account of numerous professional and other engagements, the writer could not, until recently, command time to execute this purpose. It has at length been done, amid many interruptions and perplexities incident to a large pastoral charge; and it is submitted to the candour of those who may read.

The subject has grown upon the writer, as his investigations progressed. Inquiry, in regard to the history and particular forms of oaths, has led to the discovery of many curious facts: and the influence which the apostate Church of Rome has exerted, in the distortion and

perversion of this ordinance, seemed to demand an inquiry into the subject of popish oaths, in order to illustrate the tendency of papal principles to destroy this and other safeguards of society. This has added to the number of pages originally contemplated ; but it is hoped that it will also add to the interest and value of the work.

In order to render the little volume useful to all classes of readers, plainness of style has been studied. With the blessing of God it may do good ; may his blessing attend it.

Manse of Greenwich, N. J., }
Sept. 1, 1845. }

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T H E O A T H

C H A P T E R I.

INTRODUCTION.

THE IMPORTANCE OF THE SUBJECT.

THE theme is one of vast importance. It more deeply affects the welfare of human society than the superficial observer would at all suppose. There is not an interest in life: there is not a right or privilege worth preserving, that may not owe its preservation to the sanctions of the oath. If, as will be shown, the oath is an ordinance of God, and the means He has appointed for securing truth in witness bearing, and righteousness in judgments for the furtherance of justice between man and man: If it be a means of divine appointment for securing faithfulness in official station: If it be the ordinance which God has adapted to a world of lies, to restrain its falsehood: If, in the present constitution of our world, it be an essential element of government—an element without which the other provisions of government may prove powerless; and if its awful sanctions may affect the eternal condition of the man upon whom they rest; it is surely a matter of no trifling moment.

And if to any portion of the human family the institution of the oath is important, it is to those who enjoy the forms of republican government. Men destitute of moral principles, and regardless of moral sanctions, may be governed by *force*; they cannot be governed upon principles of freedom. They are incapable of self-government, because they lack both a proper perception of what is right, and the motives that prompt to perform it. Indeed, as will more fully appear in the following treatise, the principles of sound Christian morals are the only true principles of freedom. A government attempted under a republican form, in the absence of sound moral principles and of moral sanctions could not secure the ends of government, and failing therein, would not be tolerated by the people. The ends of government are the protection of the citizen in the enjoyment of all his individual and social rights, the securing of the performance of the social duties, in order to the general prosperity, and the administration of equal and exact justice to all. When a government defeats, or fails to secure these ends, the people will reject it; and will welcome any master whose talents and firmness may secure a better order of things. This is not mere theory. The modern history of the French nation affords a practical demonstration of its truth; and the voice of all history confirms it.

Now it can be shown that the oath, intelligently and rightly employed, is useful and necessary in eliciting truth for ends of justice, and in securing faithfulness in the agents of society for administering government. It can be shown, that where the

oath is desecrated, and its solemn sanctions disregarded, paralysis must fall upon all the functions of government, and the ends thereof must be defeated. And if this be so, no one can fail to see that immense interests are involved in the subject we propose to discuss. It involves the question of the perpetuity of our freedom. If our free institutions shall continue to secure the ends of justice, to protect the citizen, and to promote the common prosperity, they will *endure*. But if they fail to secure these ends, they will *perish*. Let the OATH then be rightly understood, properly administered, and solemnly taken and regarded, and truth, order, justice, peace, and prosperity will be secured. Let the ordinance of the oath be disused or prostituted, and farewell truth, justice, order, peace, prosperity—farewell all! Life, limb, liberty, good-name, safety, property; every thing dear will be in jeopardy, and the brightest hopes of the land we love will be extinguished in the turbid billows of anarchy.

The consideration that the awful crime of perjury is of very frequent occurrence, and that its frequency may be traced to the prevailing ignorance of the nature of an oath, should add interest to the proposed discussion. If the reader will give himself the trouble of inquiring of the judges or counselors of our courts, he will be startled to learn the extent to which this crime prevails; and he will agree with us in the belief that some efforts ought to be made to throw light upon this subject.

It is to be deplored that this ordinance of our blessed religion, is so seldom explained, and reverence for it so seldom enforced from the pulpit. It

is rarely that the ministers of religion allude to it. Even the ministers of those churches whose standards recognize the oath as an act of religious worship,* seldom, if ever, call the attention of their hearers to this ordinance of God—an ordinance to which such importance is attached in his word, and upon which is so much dependent the welfare of society. Strange! that a theme, so prominent upon the pages of the Bible, should be so entirely neglected by the sworn expounders of the Bible! This remarkable neglect, on the part of the ministers of the Gospel in our country, is perhaps to be ascribed to the fact, that the popular voice has decreed, that the Church shall be widely divorced from the State. The strong and just repugnance, which our people cherish, against any union of church and state, has in some instances degenerated into a morbid jealousy, and has denied to the church the exercise of functions that rightly belong to her. The popular sentiment discourages any mingling of religion and politics, and hence has arisen a prejudice against the discussion, in the pulpit, even of religious topics, if they relate to civil duties and the welfare of human government. Forgetting that the church and state, like sister planets, revolve, each in her appropriate sphere, around the same glorious sun of divine truth, that their light and authority are derived from a common source, and that it is for the safety of both that each unmolested shall complete her cycle, we have shown

* Most Protestant churches do: (See Art. Rel. xxxix. Prot. Epis. Ch.; also Confession of Faith of Presb. Church, chap. xxii.; Heidelberg Catechism, ques. 101, &c.)

too much apprehension at the near approach of their orbits, and have been disposed to arrest the church in her progress, or repel her from her course. To this prejudice the public servants of the church have too readily yielded, and have shrunk from the discussion of important topics, because they have a bearing upon civil government. Thus has the freedom of the American pulpit been, to some extent, trammelled. Thus has it been frowned into silence, in regard to some subjects, by the arrogant brow of political bigotry; and thus have both church and state been sufferers. Let them ever be preserved from any unhallowed union: but let it not be forgotten that it is the province of the church to prove the benefactress of the state by training for her upright and faithful magistrates; virtuous, honest, and law-abiding citizens. It is devoutly to be wished that the pulpit will speak out, and pour the light of the Bible upon *all* the interests of man, civil and religious, temporal and eternal. Then shall the ordinance of the oath be better understood and more reverently regarded; and society will reap the happy fruits.

The opinions expressed in the following pages have been chiefly drawn from the Holy Scriptures. Comparatively little has been written in other books upon the subject, and that little not very satisfactory. Some of the views expressed will doubtless be found to differ from those commonly received, and to strike at time-cherished prejudices and superstitions; but all the author asks for them is a candid consideration in the light of reason and the Word of God.

CHAPTER II.

IN THE HOLY SCRIPTURES ONLY ARE FOUND THE ELEMENTARY PRINCIPLES OF LAW, AND OF RIGHT SOCIAL ORGANIZATION.—THE PROVISIONS MADE IN THE BIBLE FOR SOCIAL GOVERNMENT.

“THY word,” said one of the most illustrious of monarchs, “is a lamp unto my feet, and a light unto my path.” (Ps. 119. 115.) And this he spake, not only as a pious individual, but as the ruler of a great nation, which had been raised, under the divine blessing, by the wisdom of his counsels and the splendour of his arms, from comparative insignificance, to a high degree of prosperity and renown. And if we are to judge of the value of the social principles which he derived from the word of God, by the brilliance of his success and the excellence of his administration, we will place a high estimate upon the divine source of his political wisdom.

The great truth which David so frankly and piously confesses, has been confirmed by the experience of more than twenty centuries that have since elapsed. History, with the accumulated testimony of all past ages, confirms it; and a glance at the present aspect of the world will farther corroborate the position. Man can never, in an eminent degree, enjoy social safety, freedom and prosperity, except under the influence of the word of

God. Progress in social happiness must always be guided by the lamp of Revelation.

The day, indeed, is by-gone, when the infidel philosopher, after having lighted his taper at the lamp of divine truth, can turn impudently round, and claim as his own the light which he had borrowed, and then attempt to extinguish the flame at which it was kindled. The intelligence of the age represses such effrontery. The moral demonstrations, furnished by the history of the past, have conclusively shown, that the light of nature and of reason is entirely insufficient to conduct man to a condition of social happiness; and that the Bible of God, and that only, can furnish the true principles of social order upon which society may safely rest.

The progress of human freedom, and of social improvement, has been identical with the progress of the knowledge of the Scriptures. A *free Bible* has ever made, and will ever make, a free, prosperous, and happy people. And just as you recede from those portions of the world where beams the light of God's word; in direct proportion do you penetrate those lands where, both in a civil and religious sense, "darkness covers the earth, and gross darkness the people,"—and in direct proportion do you encounter the iron grasp of despotism, or the more appalling storms of anarchy. It matters not in what period of the world's history your excursion be made. Take any of the thousand generations past, or the generation that this moment rolls its mighty and agitated wave across the ocean of time, and you will find that the history of man ever teach-

es this great, humiliating, moral lesson—that the *tendency* of the race, *without* revelation, is to moral and social *retrogression*; under its influence, to moral and social *advancement*.

True, without its direct influence great advances have been made, and may be made in material sciences. Without it a nation may be splendid in arts and terrible in arms. Her gorgeous palaces and fanes—her breathing marble, and her living canvass—her thrilling music and enchanting poesy—her brilliant conquests and her spreading commerce—her Academic groves and proud philosophers: all may combine to throw a lustre around her. But the light of her sciences and arts will only avail to make visible the *moral* darkness with which it is contrasted; and to reveal, in all its loathsomeness, the social degradation that lurks beneath all this splendour. Such was classic Greece—such was imperial Rome! A fact that at once proves, and sadly illustrates this statement, is, that when the most renowned of Grecian philosophers, the man who, by the Delphic oracle, was pronounced the wisest of mortals, had groped his way (by the aid, doubtless, of the rays of Hebrew Theology) to the doctrines of the immortality of the soul, and the unity of the Godhead; his infatuated countrymen condemned him to death as an atheist. And when we remember that this proof of moral and social degradation was given in the palmiest days of Athenian splendour, it affords sad evidence that “the world by wisdom knew not God,” and that without the knowledge of him, man must be a stranger to social blessedness.

Revelation is a restoration to man of the knowledge which he lost by the fall, and a communication of such other knowledge as the exigencies of his fallen condition demand. If the maker of a machine may be presumed to understand its nature, its mode of operation, and the end for which it is designed ; it must be conceded, that the Framers of man's body, and the Father of his spirit, best understands the human constitution, best knows the ends for which man was created, and can best prescribe plans and means for the attainment of those ends. Reason, then, would lead us to look to our Maker for directions in regard to the attainment of the great ends of our being. *A priori* we might expect some revelation upon the subject. And the expectations which reason awakens, a compassionate and condescending God has not disappointed. His holy Bible contains a *perfect rule* of faith and life, both for man as an individual, and for man in society. It indicates and appoints the *means* by which the details of that rule are to be applied : and it furnishes *motives* to prompt to right and diligent action. The Bible is a perfect law book. It contains a perfect code of elementary laws for the government of the individual—the family—the neighbourhood—the nation—the world ! The wonderful law of the decalogue embraces, in ten brief precepts, which a child may memorize in an hour, the sum and substance of all human duty. And the abridgment of that law, by him who spake as mere man never spake, sums up the essence of all ethics and all jurisprudence in the brief, but sublime injunction, "Thou shalt love the Lord thy God

with all thy heart, and with all thy soul, and with all thy strength, and with all thy mind, and thy neighbour as thyself." And what is thus summarily stated is amplified and explained, throughout the sacred volume, both by general enactments, and by special judicial decisions.

Nor does the Bible furnish mere abstract doctrines and naked precepts only. It teaches both by precept and example. It is not only a *statute book*, in which the general laws are recorded; but is a book of *precedents*, in which is recorded the history of a *Divine* administration, and in which are reported the infallible *decisions* of the SUPREME COURT OF THE UNIVERSE.

In sacred biography, individual conduct is recorded with censure or approbation, and there are thus furnished precedents to illustrate the application of the law in every variety of case. In the history of families and nations, the principles of social law, in their application to all possible cases, are exemplified. And in the history of God's dealings with men; especially in the history of the Hebrew Theocracy, we have the record of a divine administration; in which the *spirit* of moral and municipal law is so exhibited as to make it easy of comprehension, and simple of application to every exigence of social life.

But the most perfect laws are inefficient without *sanctions*: that is—without some reward, penalty, or other condition affixed, as a *motive* to obedience. Even perfect man in Eden was placed under a constitution and laws to which a penal sanction was affixed:—"In the day thou eatest thereof thou shalt

surely die." And if Adam in Paradise needed motives to obedience—much more do his fallen descendants. Indeed, the necessity for adequate sanctions to law, arises from the very nature of all subjects of law. None are proper subjects of law except voluntary agents. A being who has no *will*, is not an accountable being, and is not a proper subject of moral law. But the will is determined by *motives*; and the motive gives character to the action. He that acts, from *good* motives, in a right way, acts *well*. He that acts from bad motives, in any way, does *wrong*. Man will not act at all without motive; such is his constitution. And if the law presents no motive to obedience, it cannot secure obedience from voluntary agents.

Reward and *punishment* are *relative* ideas. Each indicates the *possibility* of the other. Nothing can be a reward that does not augment the happiness of him upon whom it is bestowed. If, then, the reward be withheld, he is less happy than he would be with it: *i. e.* he is punished. To *punish* is to make *less happy*—to *reward* is to make *more happy*. The ideas are correlative; and by consequence, where reward of obedience is affixed as the sanction of law, punishment of disobedience is implied; and *vice versâ*.

Now, that these two ideas are not only promulgated, but that they are often reiterated in the word of God, no reader of that volume can fail to perceive. It reveals a system of rewards and punishments, addressing the hopes and fears of men, in relation both to time and eternity. It authorizes the employment of rewards and punishments by the civi

magistrate. It promises that in some cases rewards or punishments shall be administered *in this life*, in the providential dispensations of God. But it appeals, with the most efficient power, to human hopes and fears, by bringing "*immortality to light*,"—by pointing to "*a judgment to come*,"—and by disclosing the glories of a Heaven, and the horrors of a hell! It thus teaches, with an eloquence only less terrible than the dread reality, that "*the wages of sin is death*." Thus it appears that the Bible furnishes both *laws* and *sanctions*. It supplies the *only efficient motives* to obedience.

But still there would be a deficiency in the provisions made in the Scriptures for the constitution and government of society, if some adequate means had not been provided for securing *faithfulness* in the agents of society, *full and truthful testimony* on the part of *witnesses*, and *righteous judgments* in regard to those accused of crime, and in regard to what is right and equal between man and man. It is reasonable that magistrates, and other agents of society, should be held to the faithful discharge of their duties, under peculiarly solemn sanctions. In order to righteous verdicts and judgments, the *whole truth* must be known—the *facts* of the case must be elicited. And as it often happens that they, who know the facts, are unwilling to testify; society needs both the *authority* to constrain them, and the *means* of constraining them to speak the whole truth. To accomplish these and similar ends, God has in his word furnished a very efficient means, and authorized society to employ it.

This important desideratum is found in the ordinance of the OATH.

Such are the provisions made in the Bible, and in the Bible *originally* and *only*, for promoting the ends of human government—viz. LAWS—PRECEDENTS—SANCTIONS—and the ORDINANCE of the OATH, by which these sanctions are brought most solemnly to bear upon the human conscience and the will; so as to secure the ends of justice, by the faithfulness of the agents of society, (magistrates, jurors, and other officers) and the veracity of witnesses. The enumeration of these several elements of social organization may seem irrelevant, but, it is hoped, the reader can now perceive the *design* of this enumeration, and of the remarks that have been made upon each. It is to exhibit the *connexion* that exists between the other elements of social government, and the oath; the element that is designed to secure the proper operation of all the rest. If this design has been accomplished, and the reader perceives this connexion, he will be convinced that the oath is a most important part of the social machinery: the part that is designed to hold the other parts to their places, and make them true and regular in their motions: the part that brings the most awful sanctions to produce a direct and peculiar influence where they are most needed: the part, indeed, which, as shall more fully appear, binds all human government, and its agents, in bonds of awful responsibility to the throne of the ETERNAL.

As the preceding statements involve several questions that have long been disputed, the reader may be ready to demand proofs of the positions assumed.

These will appear, it is hoped, in due time ; but inasmuch as these questions will be all separately discussed, it is needless to cumber this chapter with proofs that must necessarily be cited in other places. Truth is the only object sought ; and we have no wish to beg any question.

CHAPTER III.

THE ORIGIN OF OATHS—IS IT DIVINE OR HUMAN?

IN the preceding chapter it was our design to exhibit the *position* of the oath in the social constitution, and its *connexion* with the other elements of government. In this it is proposed to inquire in regard to the *origin* of oaths—are they of Divine appointment or of human devising?

The fact that the use of the oath obtains, in some form, in almost every tribe and nation upon earth, goes far to prove that an idea of the *necessity* of it pervades the *race*; and that this institution must have been derived by them from some common origin. All civilized nations, and most barbarous tribes, have forms of adjuration, in which they swear, either by the Deity which they worship, or by some object of reverence, love, or fear. That this is the fact, none who are acquainted with the past history or the present condition of our world will deny; nor that “an oath for confirmation is to them an end of all strife.” Does not its *universality* go far to prove its early institution and its Divine origin? It is a religio-civil institution—it is peculiar in its nature, and unlike a human device—nay, it is, as we shall see, such a device as could not originate in a human mind independently of a revelation. Is it likely that so many different na-

tions, inhabiting parts of the earth remote from each other, speaking so many different languages, and influenced by such diverse manners and customs, would *happen upon* so peculiar a device for influencing men to tell the truth? Or supposing it to be the invention of one nation, how could it possibly be so universally propagated? There is no satisfactory method of explaining the facts, but by admitting that oaths were in use, in the infancy of our world, before the dispersion of the human family; and that then this institution was appointed by the One to whom all men bowed. Indeed, it is unphilosophical to suppose that the *universal mind* could have received, and so long retained such an institution, unless regard for it had been enstamped and perpetuated by the Maker of the mind: For such a supposition ascribes an effect to an inadequate cause.

In the earliest ages of the world the use of the oath obtained. The earliest history records it. The first account upon record of a solemn oath having been taken was in the year of the world 2092, and before Christ 1907, according to the most generally received chronology.* “And Abram said unto the king of Sodom, I have lifted up my hand unto the LORD, the most high God, the possessor of Heaven and earth, that I will not take any thing that is thine.” The next instance is mentioned in Gen. xxi. 22—24, where Abimeleck, a heathen prince, requested Abraham, upon the occasion of their making a treaty, to ratify it with an oath. “Now therefore swear unto me here by God, that thou

* Gen. xiv. 22, 23.

wilt not deal falsely with me. * * * * * And Abraham said, I will swear." In both cases above cited, the practice of solemnly swearing upon important occasions is mentioned as one that *was then*, and *had been* in use, both amongst the people of God and those who had lapsed into idolatry : and it is recorded in the only history that sheds light upon the morning of the world. Now let it be considered that Abraham was born but two years after the death of Noah ; and that Terah, the father of Abraham, had been 128 years contemporary with the survivor of the deluge ; and Haran, Abraham's elder brother, about 60 years ; and we have proof perfectly conclusive of the existence of the oath in the days of Noah. And, with those who receive the Scriptures as the inspired word of God, this will go far to prove its divine origin. For Noah received direct communications from the Almighty, both before and after the deluge ; and there is a strong presumption, either that he, as the restorer of the race, transmitted to his descendants this institution, as an ordinance of God that had been practised in the ante-diluvian world ; or that he, as the prophet of God, communicated it to them. The former supposition appears altogether the most probable. Be this as it may ; we have, in this early record of the use of the oath, enough that is clear and certain to satisfy any candid believer of the Bible, in regard to the origin of that institution.

This will be manifest if it be considered : 1st. That this historical account of the use of the oath is more than a thousand years earlier than any authentic portion of profane history. It carries us to

a remoter period of antiquity than ever the fanciful wing of pagan fable has dared to fly. It assures us of the existence of this institution centuries before the period at which, according to Grecian fable, Chiron the Centaur is said to have invented oaths. 2nd. It proves that the institution was in existence at a period when it must have been known to the whole human race ; even when that race was comprised in a single family ; and this enables us to account for its *universality*. And 3rd. We are also here informed that the oath was an institution understood and employed alike by the worshippers of the true God, and by those who "served other gods."*

Still it may be objected that all this does not settle the question of the origin of the oath. We think it does, for 1st. If it had been of merely human origin, Abraham, "the friend of God," would not have taken an oath : for the very object of calling him out from his kindred, and his father's house, was to separate him from all idolatrous practices, and from the use of all religious ordinances not appointed by God. If the oath is not of divine appointment, then was Abraham guilty of repeatedly conforming to a religious observance that was unauthorized ; his conduct tended to defeat the very purpose for which he was separated from his idolatrous kindred ; and we cannot suppose that such conduct would be recorded upon the inspired page, without censure. But there is not the shadow of censure in the sacred narrative. So far from it, in the very next chapter we are told that Abraham

* Josh. xxiv. 2.

was confirmed in the propriety of the lawful use of the oath by the *example* of God himself.*

2nd. It proves the existence of the institution many centuries beyond the period in which it is asserted to have been invented by man, or by a fabulous monster. If men have ascribed it to an earthly source, and we have traced it far beyond that source, there is, at least, a presumption created, that such is not its origin ; but that it comes from above.

In view of the early existence and universal prevalence of the oath, we have another argument to prove its divine origin. It is, that the oath involves ideas that fallen man *could* not of himself conceive : ideas that are not found in any system of heathen mythology, and which natural religion, independent of revelation, never *has*, nor ever *could* have suggested.

The oath involves the ideas of the *omnipresence*, and *omniscience*, and perfect *truth* of God. It embraces the doctrines of man's accountability—a future judgment, and future rewards and punishments, in which God will avenge all unrighteousness. To these ideas the human mind, unvisited by revelation, would ever be a stranger. For although some of them are dimly traced in heathen mythology, of others of them we there find no trace. The idea of future punishment is found in some heathen systems ; but even this, as can be shown, is a reflection of the scattered rays of early revelation : whilst correct ideas of the character and attributes of God are sought in vain.

* Gen. xxii. 16.

If the moral history of the human race, and recent researches into its present condition, teach any thing, they clearly demonstrate that, so far from being able to *discover* these great ideas, by the unaided powers of his own mind, in the light of nature, man is prone to forget them, even when communicated to him : they demonstrate that, so far from being able to discover God, and the knowledge of his character and government, men “do not like to *retain* God in their knowledge, but become vain in their imaginations, and their foolish heart is darkened.” [Rom. i. 21—28.]

Take one or two great facts, in corroboration of this view—facts in what might be called moral ethnology—facts which history and recent researches have abundantly established. (*a*) The purest theology has always been found amongst those portions of our race that claim to have received a revelation from God. Infidels themselves being judges, the most correct ideas of God and the purest and wisest morality are found with those who ascribe these ideas to a divine origin. (*b*) A branch of the race of Shem claims to have received “the oracles of God,” and in those oracles is recorded an early prediction, that the descendants of Shem would be peculiarly blessed with the knowledge and favour of God : and that, of the other divisions of the human family, those which had most intercourse with Shem, would be most enlightened and enlarged : whilst those nations that had less frequent intercourse with the race of Shem, or were entirely separated from it, would sink into deplorable darkness and degradation. “Blessed be the Lord God of

Shem, and Canaan shall be his servant—God shall enlarge Japheth, (or persuade Japheth) and he shall dwell in the tents of Shem, and Canaan shall be his servant.” [Gen. ix. 26, 27.] Now both past history and present facts prove the fulfilment of this prediction. The descendants of Shem, in the line of Abraham, Isaac, and Jacob, have always possessed more correct knowledge of God, even infidels being judges, than was possessed by other nations. And this continued to be the fact, until the period when God began to “persuade Japheth,” and bring his descendants to “dwell in the tents of Shem.” Thenceforth the descendants of Japheth enjoyed a correct theology; whilst true religious knowledge waned, in other branches of the race, just in proportion as they were separated from those to whom “were committed the oracles of God.” This was peculiarly the case with the descendants of Ham. And recent researches in Africa have brought to the knowledge of the civilized world, several tribes of that branch of the race, who were *totally destitute* of any idea either of a Supreme Being or of any spiritual beings whatever; and of course entirely destitute of all religious ideas.*

The limits of this little work will not permit an amplification of the argument based upon the above, and similar facts. Two or three remarks must suffice for our purpose; and 1st. If the nations, that have confessedly possessed the purest ideas of God and religion, ascribe them to a revelation, this fact is *prima facie* proof of their divine origin.

2nd. If those nations that have had most inter-

* See Moffat's Southern Africa, chapters xvi. xvii.

course with the people who claim to have received the oracles of God, have always possessed more true light, than those whose intercourse was less frequent ; it is a sure indication of the source whence that light was derived—the alleged revelation.

3rd. If those tribes, that have been most completely shut out from the rays of this revelation, are found totally destitute of any ideas of God and religion ; it is proof, both that a revelation is *needed*, and that without it “darkness will cover the earth and gross darkness the people.”

4th. If there be such a thing as *natural religion* independent of revelation, we might expect to find it amongst those *children of nature*, upon whom the beams of revelation never shone. Such were the long-forsaken and far-secluded descendants of Ham, to whom the devoted Moffat and his co-labourers carried the Gospel. They, if any portion of our race, were in a *state of nature*, as regarded religious knowledge. And what was the amount of that knowledge ? Let a single fact answer. Their language did not contain any words that could be employed to express the idea of a spirit—much less the idea of a God, or of immortality. Now sound and candid philosophy cannot fail to deduce from such facts as these : (a) That whatever correct ideas of God and religion are found in heathen systems must be traced to revelation, of which they are the scattered and refracted rays. (b) That there is really *no such thing as natural religion*, independent of revelation : but that man, totally shut out from all the direct or reflected beams

of revealed truth, will be without any religious ideas.

From the preceding view we think the inference is inevitable, that man *could* not have originated the ordinance of the oath. If he could not, without a revelation, come to a knowledge of ideas that are elements of the oath: if he could not, by his unaided reason, originate the conception of an omnipresent—an omniscient—a true—a righteous and sin-avenging God: and if it seem impossible that he could originate the scheme of calling upon such a God to witness the truth of testimony, and to punish perjury, it is obvious that the oath must be ascribed to a *divine origin*.

From the fact that it was used in the earliest ages, even in patriarchal society, we cannot but infer that the oath is one of the earliest social institutions; and that it was *probably* given to man so soon as he *needed* such an ordinance, i. e. just after the fall, and so soon as our world became a world of lies. And if it be considered that it is authorized, and even commanded in the Scriptures, as we shall elsewhere fully prove—and if it be noticed that it is commanded not as a new institution, but as the enforcing of an ordinance that had been in use previous to any recorded revelation, the conclusion cannot be avoided, that it is an ordinance of *Divine appointment*.

CHAPTER IV.

NATURE, END, AND EFFICACY OF OATHS.

THESE we shall treat conjointly ; because, in describing the *nature* of an institution, we can only do it by exhibiting its *end*, and the manner in which it is adapted to its accomplishment. In order, therefore, to avoid repetition, we shall treat of them in connexion, since they are so involved as scarcely to admit of a separate discussion.

The oath, as we have seen, is a social institution ; and in order rightly to understand the various questions that relate to its nature, its ends, its efficacy, its obligations, and its lawfulness, it is necessary to have correct views of the origin of society, and of the nature of the social compact. Some of the notions that have obtained in regard to these, even amongst the learned, are erroneous and absurd ; and they have led to false theories, in regard even to elementary principles of government. A succinct statement of the true doctrine of the social constitution will facilitate our inquiries in regard to the several topics pertaining to the subject of oaths.

God constituted society. The social constitution is a divine ordinance. 'This the word of God explicitly asserts, and nature and reason corroborate the doctrine. "There is no power but of God ; the

powers that be are ordained of God; whosoever, therefore, resisteth the power, resisteth the ordinance of God." [Rom. xiii. 1, 2.] "The Most High ruleth in the kingdom of men, and giveth it to whomsoever he will." [Dan. iv. 32.] Such is the doctrine of the Bible; and such, too, is the voice of nature. The very constitution of man is social. He yearns for society, and shrinks from solitude. "It is not good for man to be alone." Every impulse and necessity of his nature and condition constrains him to society; and for society every attribute of his nature fits him. Now the bestowment of a faculty, by the Creator, lays the creature under obligations rightly to exercise that faculty: and if God has endowed man with propensities and powers adapted to the social state, the very endowment constitutes an obligation to employ the social faculties for the good of society.

Every man is, therefore, *born* under a social covenant, which *God in nature* hath ordained; and is held by the constitution of his nature and the circumstances of his existence, to the performance of certain duties; and upon the same grounds is entitled to certain advantages as a member of society. The notion of a social compact of human framing; in which individuals *agree* to be members of society, and to surrender certain of their natural rights, in consideration of having the rest protected, is a figment of the schools that has no real foundation. It is "*God setteth the solitary in families:*" [Ps. lxxviii. 6.] It was he that framed the social compact; and neither individuals nor society have any rights except what God has bestowed

upon them. The idea of a voluntary surrender of rights is preposterous. Voluntarily to surrender a *right* would be a *wrong*. Man cannot do it without sinning against God and nature. The rights which God has conferred upon me as an individual, I am bound to maintain, and dare not surrender. The rights which God has conferred upon society I *dare not usurp*. Society may claim of me certain things—I may claim of society certain things: and these *reciprocal rights* are not the result of an *agreement* between society and myself, but are the result of a *divine constitution*. For illustration—I have a right of self-defence. When assaulted, I am bound to defend myself, and may employ force for that purpose, up to the moment that society can come to my help.

That moment my right to defend myself by force ceases. Society is bound to come to my defence as speedily as possible; and so soon as the civil power can interpose for my protection, my right ceases, and the authority of society commences: and if, after that, I use violence, I usurp a right which never belonged to me. The Supreme Ruler deposited with society, *originally*, the right to restrain and punish offenders: that right is not the result of the private right of self-defence. So far as the individual ever had a right to defend himself he has it yet. He never had a right to usurp the prerogative of society and inflict punishment. The civil magistrate, and he only, is the agent of society and “the minister of God, a revenger, to execute wrath upon him that doeth evil.” [Rom. xiii. 14.]

It should be specially observed, too, that to the

Supreme Being, as the fountain of all power and the author of society, is *ultimately* owed that obedience, which is immediately due to society. Human government is but the agent of the Supreme Ruler—"the minister of God"—and it is to *him*, *through* the constituted authorities, that our allegiance is due. This is the doctrine of the Scriptures, as will appear from the passages already quoted, and many others, such as Ecc. viii. 2. "I counsel thee to keep the king's commandment, and that in regard to the oath of God:" in which it is intimated that the authority of the civil magistrate is derived from God, and that the *oath of allegiance* is made to God.*

Let it be also noticed that the individual is not at liberty to be a member of society or not as he chooses: He is *born* in society, and is placed by the God of nature under its protection and its laws; and the duties and rights of society, and of each individual member thereof, grow out of this divine and natural constitution.† No man is at liberty to withdraw from society altogether, to relinquish its advantages, renounce its authority and deny its

* Since the foregoing was written, the writer was happy to notice that the eloquent Mr. Choate takes much the same view of the constitution of society, in a speech delivered before a Law Seminary, extracts of which have appeared in the newspapers.

† This constitution limits the powers of civil government, and defines the rights of individuals. The civil authorities have no right to transcend the powers granted, nor the individual to usurp them. See Acts iv. 19, where the Apostles said to the "rulers of the people," "Whether it be right in the sight of God to hearken unto you more than unto God, judge ye." The BIBLE is the law paramount—the written constitution of the world.

claims upon^o him. So far from this, it is manifest from the view we have taken, that each individual is placed by God under social obligations, and is bound by the law of nature to perform such social duties as may be necessary to secure the common welfare. Amongst those duties is that of furthering the ends of public justice and safety : and hence he is bound, when he accepts a call to be the agent of society in promoting these ends, to assume the obligations to faithfulness, which society has a right to impose ; and he is also bound to appear, when lawfully called, as a witness, and to aid in the administration of justice, by testifying to facts.

With this view of the nature of the social constitution, and of social obligations before us, we will be able more clearly to perceive the nature of the oath : For as has been already intimated, this ordinance is designed to facilitate the application of law, and to promote the ends of justice, by securing *faithfulness* in the agents of society, and *truth* in witnesses.

This it does by bringing the most solemn sanctions to bear upon the conscience and will of those who are placed in these situations. As the agents of society (*i. e.* those who occupy official stations, such as legislators, magistrates, and jurors) are entrusted with grave and important interests ; it seems reasonable that they should give to society some special pledge, that they will be faithful in the discharge of their respective duties. This pledge is given in the official oaths which they severally take ; in which they bind themselves, under penalties peculiarly solemn and awful, to perform their duty.

The oath of office is a promissory oath, in which the person swearing solemnly engages, in the presence of God, faithfully to perform the duties of the office which he assumes, calling God to witness the truth and sincerity of his promise, and the faithfulness with which it shall be performed, and to avenge the wrong, if the engagement be violated.

Again. It is often of great importance to society, and necessary to the administration of justice, that *facts*, in particular cases, be fully elicited; and in order to this, that those who know the facts shall be called to testify, and placed in such circumstances as will induce them to disclose the truth, the whole truth, and nothing but the truth. Few cases occur under the providence of God, in which the facts necessary to be known, in order to the administration of justice, are not within the knowledge of some persons, who could, if they would, disclose them. Now, since courts and juries cannot search the heart, so as to gain possession of the knowledge of the witness, the ends of justice require that some means be adopted and employed to make the witness feel it to be his *duty* and his interest to speak the *whole truth*. If magistrates and juries can be placed in such circumstances, as that they shall feel it to be both their duty and their interest to decide and do righteously, according to law and evidence: and if witnesses can be found, and placed in such circumstances, as to make them feel it to be their *duty* and their *interest* to disclose the *truth*, justice can be done. Otherwise justice will be defeated.

The necessity of some special means of securing *faithfulness* in official station, and of eliciting

truth from witnesses, arises from human ignorance. The range of human observation is so limited, that society cannot extend her vigilance to all the acts of her agents. Many of the actions of men in official stations can only be known to themselves and to God. No eye but that of the Omniscient can be always upon them. And in the case of witnesses, none but the heart Searcher can know whether their testimony is according to truth. Is it not presumable, *a priori*, that the Omniscient Searcher of hearts would furnish to society some means of remedying these defects of human scrutiny? Might we not expect, that he, by whom society was constituted, who is the Fountain of all authority, and by whom "kings reign and princes decree justice," *would* extend his hand to further the cause of truth and equity, in cases where the hand of man so entirely fails? Can we suppose that, after furnishing in his word all the other elementary principles of social order, he would suffer the whole to fail, for want of a means of securing faithfulness in official station, and truth in witnesses? Reasoning upon the attributes of the Most High, and from what we know of his dispensations, we would be led to *expect* some means of divine appointment for the accomplishment of these ends. And what reason thus leads us to expect, Scripture and facts assure us has been furnished. God, whose "eye is in every place beholding the evil and the good," has condescended to offer himself to society, as the OMNISCIENT WITNESS of those things which none but he can know. This he does, in the ordinance of the oath, in which he reminds the consciences of men, of his own Om-

nipresence—his Omniscience, and avenging justice, and thus constrains them to truth and faithfulness. And the efficacy of an oath, as we shall see, in a good degree depends upon the solemn sense of the presence of God and of accountability to him that is thus awakened in the mind of him who is sworn.

But to secure faithfulness, and elicit truthful testimony, is not the only design of the oath. It is also intended to produce *confidence* in regard to the thing sworn to. It is designed to produce an effect, not only upon the person sworn, but also upon those to whom the oath is made. *Confidence* amongst the members of society is indispensable to social comfort. Suspicion, and doubt, and distrust, are the bane of social peace. Society must have *confidence* in its agents, or its members will live in continual dread of evil. Parties at variance must have confidence in the truth of witnesses, and in the uprightness of those who adjudicate between them, or they will never be satisfied with the award. Hence the oath is employed to establish confidence. "Men verily swear by the greater, and an oath for *confirmation* is to them an end of all strife." [Heb. vi. 16.]

That it is the nature of an oath to impart confidence, and that such is one of its objects, is obvious from the fact that the Supreme Being, on various occasions, confirmed his declaration by oath. Numerous instances of this are mentioned in the Scriptures. Now why did the God of truth condescend to swear by himself to his declarations? But two reasons can be assigned for it. 1st. To set before men a solemn example of appealing to the di-

vine perfections and recognizing the divine presence when they swear to their statements : and 2nd. To establish the confidence of men in his own declarations. He needed not the oath to render him more true and faithful than he is. But knowing the unbelief of the human heart, its proneness to doubt the truth of the divine promises and threatenings, and its need of every influence that might banish doubt and confirm faith ; and knowing that the minds of men, accustomed to the oath as a test of truth, reposed confidence in that which was declared under oath, the Lord, in wondrous condescension, confirms his own declarations by an oath. That the chief design of the oath, as employed by Jehovah himself, is to establish confidence, we are explicitly informed in the holy Scripture. “ Wherein God willing more abundantly to show unto the heirs of promise the immutability of his counsel, *confirmed* it by an oath.” Heb. vi. 7. ✕

The Hebrew verb to swear (or one of them, for there are two) is derived from the word *seven* : and in the holy Scriptures the number seven is used as a number of *perfection* ; and as a kind of *superlative*. This, perhaps, owes its origin to the fact that the Creation was completed by the seventh day, and that, on this account, the week was composed of seven days. Whatever be its origin, such is the Scripture use of this number. “ *Sevenfold*” [Gen. iv. 15 and 24.] denotes *fully—completely*—and “ *seventy and seven-fold*,” a still higher superlative. (See also Matt. xviii. 21. “ *seventy times seven*.”) The Jews had a *seventh day* sabbath—a *seventh year* sabbath, and every seven times seventh year

was a jubilee. Two of their feasts were held seven days. The number of animals in several of their sacrifices was *seven*. The golden candlestick had seven branches—*seven* priests with *seven* trumpets went around Jericho for seven days, and seven times seven on the seventh day. And in the Apocalypse of John we find *seven* candlesticks—*seven* spirits—*seven* stars—*seven* seals—*seven* trumpets—*seven* thunders—*seven* vials—*seven* plagues, and *seven* angels to pour them out. Many other cases of the emphatic use of this number might be cited, but these will show that the idea attached to this number seems to be that of *fulness—completeness—perfectness*. And accordingly, one of the verbal forms of the word signifies—*made sufficient—satisfied*. Does not the employment of a word, derived from such a root, to express the act of swearing, point at the *end* of the oath last mentioned? Does it not denote that the appeal to God, in the solemn oath, is the most *perfect confirmation* of the thing sworn to?—that no more perfect basis of *confidence* in a man's statement can be furnished, than his willingness to declare it in the presence of God?

As we have mentioned the oath of God, it may be well, in this connexion, to consider the nature of the oath as taken by him. "Men verily swear by the greater," but "God—because he could swear by no greater, sware by himself." Heb. vi. 13. It is of the nature of an oath, when taken by men, to invoke a superior, in whose power the juror* is supposed to be. In this invocation the superior being

* In this treatise the word *juror* is often used in its general sense equivalent to *swearer*.

is called upon to witness the truth of what is asserted, and to take vengeance if the truth be not spoken. There is evidently, in every such invocation, two things ascribed to the being invoked, viz. 1st. Absolute omniscience or infallible knowledge of the truth or falsehood of what is spoken: 2nd. Sovereign authority and power to protect in case truth is spoken, and to punish in case of falsehood.

But God could invoke no superior. He could appeal to no omniscient and supreme Being beside himself; and he therefore appeals to his own infinite and immutable being and perfections, as the pledge of his faithfulness and truth. Thus on some occasions the form of the oath, as used by him, is, "By myself have I sworn." [Gen. xxii. 16. Isai. xlv. 23. Jer. xxiii. 5, and xlix. 13.] Sometimes he appeals to the *aggregate* of his perfections, which is expressed by the word "holiness," "I have sworn by my holiness." [Ps. lxxix. 35; Amos iv. 2.] Elsewhere he appeals to one or more of his attributes, which of course involves all the rest, for God is one. Thus in Isai. lxii. 8. "The Lord hath sworn by his right hand, and by the arm of his strength." This means either (*a*) by his *almighty power*, of which the right arm or hand is the symbol: or (*b*) by the second person of the Godhead, who is in Scripture called "arm of the Lord" [Isai. li. 9, and liii. 1.], and to whom "all judgment is committed." [Jno. v. 22.] Again: in Jer. xlv. 26. "I have sworn by my *great name*," which denotes either the name of God as representing all his perfections; or the eternal "WORD or name of God, which is in the bosom of

the Father, and who hath declared him." [Jno. i. 1; 18.]

In each case the appeal is to his own being and attributes, as constituting an immutable and infallible pledge of the truth of his declarations. The difference between the oath as taken by God, and the oath as taken by creatures, is—that God could not invoke a superior, nor contemplate a penalty as the consequence of failure; since failure with him is impossible: whereas when a creature swears, it is by some superior being, and in view of a penalty affixed to the violation of the oath.

The use which the apostle Paul made of the oath, in his official capacity, when addressing the churches, is proof that one end of the oath is to produce *confidence*. The great prominent function of the apostolic office was to *bear witness*—to bear witness to the great fact of our Lord's resurrection, and the doctrines connected with that fact. Hence none could be an apostle who had not *seen the Lord* after his resurrection. [1 Cor. ix. 1; xv. 8.] In writing to the churches as an *official witness* of Jesus, Paul repeatedly employs the oath, for the purpose of confirming his declarations, and thus securing the stronger *confidence* of his readers. Rom. i. 9, et al.

From the preceding statements, it will appear that oaths are designed to accomplish three objects. 1st. To secure faithfulness on the part of the agents of society. 2nd. To secure truth in witness-bearing: and 3rd, as the result of the other two, to establish confidence between man and man, in order to social comfort and the ending of strife. The first

two are, however, resolvable into one; for the end to be secured in both cases is *truth*: so that it may be said that the chief ends of the oath are *truth* and *confidence*.

The oaths taken in confirmation of covenants, and all official oaths, are called *promissory*; because in them the jurors solemnly promise to perform certain duties or stipulations. The oaths of witnesses, and of parties in purgation and their compurgators, are called *assertory* oaths, because in them they assert the truth of their statements. But in both kinds of oaths, *truth* is the thing to be established. In the one case, God is called to witness the truth of a promise and of its fulfilment; in the other, the truth of an affirmation. In farther enlarging upon the nature of this ordinance, it will not be necessary, therefore, constantly to maintain the distinction between promissory and assertory oaths.

Having now endeavoured to point out the design or *end*, and to some extent the *nature* of an oath; we will proceed to exhibit the theory of this ordinance in regard to its *efficacy*, and in so doing will farther illustrate its nature. The question now before us is—in what way does an oath accomplish its ends? or wherein consists its power to make men speak truth, and to establish confidence between man and man? This question opens a wide field; and in order to an accurate and satisfactory survey thereof, we must first obtain a distinct conception of *what an oath is*, and then inquire into the nature of its influence, and mode of its operation in producing that influence.

What, then, is an oath? It is, says Dr. Paley,

“the calling upon God to witness, *i. e.* to take notice of what we say, and invoking his vengeance, or renouncing his favour, if what we say be false, or what we promise be not performed.” Says another, “It is a religious assertion, or asseveration, wherein a person invokes the Almighty, renounces all claim to his mercy, or even calls for the divine vengeance upon himself, if he speak falsely.”* According to another authority it is defined as follows: “Oath; Saxon Eoth—Lat. juramentum—an affirmation or denial of anything, before one or more persons, who have authority to administer the same, for the discovery and advancement of truth and right: calling God to witness that the testimony is true.”† According to another very respectable authority, “a lawful oath is a part of religious worship, wherein, upon just occasion, the person swearing solemnly calls God to witness what he asserteth or promiseth; and to judge him according to the truth or falsehood of what he sweareth.”‡ “It consists,” said Calvin, “in calling upon God as a witness to confirm the truth of any declaration that we make.”§ “An oath (*ὄρκος*) is an appeal to some superior being, calling upon him to bear witness that the swearer speaks the truth, or intends to perform the promise which he makes.”||

In these several definitions of the oath, and in others that might be quoted, there is a substantial agreement; which is rather remarkable when it is remembered that they were given by men of differ-

* Reese's Ency. art. Oath.

† Law Dictionary by Jacobs.

‡ Westminster Con. Faith, chap. 22.

§ Inst. Book ii. ch. 8.

|| Smith's Dic. Gr. and Rom. Antiq.

ent religious sentiments, and of diverse modes of thinking. And this proves that, in regard to this ordinance, more perhaps than any other, a degree of uniformity of opinion prevails. The above definitions are in the main correct so far as they go: but none of them, as we suppose, presents a full description of the thing defined. We shall therefore attempt a definition of our own, for which, it is hoped, the reader's mind will have been prepared, by the views expressed in the previous part of this chapter.

A lawful oath is an act of religious worship, appointed by God, as a means of promoting truth and confidence; in which act of worship the presence of God is solemnly recognized, his omniscience, justice, and supreme authority are acknowledged; and in which the juror enters into a special covenant with God and with society to speak or act truthfully—calling upon God to witness what he affirms or promises, and to inflict the temporal and eternal penalties of perjury, if the truth be not spoken.

That this definition embodies the true theory of the oath, is manifest from the terms in which oaths are usually administered, as will fully appear in the chapter upon the *form* of oaths. And having, in this definition, stated what an oath is, we shall proceed to explain the several parts of this definition in detail, and in so doing shall unfold the true theory of the efficacy of the ordinance. But this will be sufficient for another chapter.

CHAPTER V.

THE EFFICACY OF THE OATH, OR HOW DOES IT ACCOMPLISH ITS ENDS ?

LET the reader keep before his mind the definition of a lawful oath, as given in the conclusion of the last chapter ; and as we proceed to explain the several parts of that definition, it is hoped the question in regard to the efficacy of the oath will be solved ; so far as we are able to solve it : whilst a more comprehensive view of the nature of this institution will be imparted. To begin then with the first proposition contained in our definition, we say,

I. *A lawful oath is an act of religious worship.* This will appear from the very nature of the act. It is a solemn invocation of God—a recognition of his *presence*, his *omniscience*, and other attributes—an appeal to him as the Searcher of hearts, and the Judge of all, and an acknowledgment of his *power* and *right* to avenge sins committed against him.

There is no permission for man to address or call upon God, except in acts of reverential worship. We may never approach him but with reverential feelings and expressions. What is worship ? It is the cherishing in the heart due respect, love, and veneration for the Divine Being ; and the proper

expression of these sentiments by outward acts. It is a reverential calling upon God's name, with acknowledgment of his infinite perfection, and of our subjection and accountability to him. And when the oath is properly administered all this is done. •

But the fact that the oath is enjoined, in the Word of God, along with other ordinances confessedly pertaining to the worship he requires, conclusively proves that it is a religious act. "Thou shalt fear the Lord thy God, and serve him, and *shalt swear by his name.*" Deut. vi. 13. "Thou shalt fear the LORD thy God ; him shalt thou serve, and to him shalt thou cleave and *swear by his name.*" x. 20. In these and other passages the oath is mentioned as a part of the service which, upon proper occasion, the people were required to render to Jehovah. And it was repeatedly charged upon the Israelites, in times of religious declension, that they had been guilty of *idolatry*, in swearing by them that were no gods. "How shall I pardon thee for this? Thy children have forsaken me, and sworn by them that are no gods." Jer. v. 7, and xii. 16, and Amos viii. 14. There was, too, a special charge given to them by Joshua, after they entered the land of Canaan, to avoid this species of idolatry. "Come ye not among these nations, these that remain among you ; neither make mention of their gods, nor *cause to swear by them* ; neither serve them nor bow down yourselves to them." Josh. xxiii. 7. And when the Israelites were called to repentance, and urged to return to the performance of the duties of the true religion, the *right use of the oath* was included amongst those duties.

“If thou wilt return, O Israel, saith the LORD, return unto me: and if thou wilt put away thine abominations out of my sight, then shalt thou not remove; and thou shalt swear the LORD liveth, in truth, in judgment, and in righteousness.” Jer. iv. 1, 2.

If, then, it be idolatry to swear by them that are no gods; it must be an act of true worship, properly to swear by the *true God*. And if the pure and lawful use of the oath is a test of a people’s sincerity in returning from idolatry, to the practice of the true worship, the oath itself most certainly constitutes a part of that true worship.

In this act of worship, the person swearing acknowledges the existence of the true God, and appeals to him as God omnipresent and omniscient—as a God of truth and righteousness, as God the judge—as God the avenger—and as the *Supreme Governor*, having a right to demand, of him who takes the oath, *truth* and *faithfulness*.

In this appeal to Jehovah, the intelligent juror confesses that falsehood is a direct insult to the God of truth—he recognizes and acknowledges his own obligations to speak truth—and he enters into a solemn covenant to adhere to truth and faithfulness, consenting that if he violate this covenant, God may visit him with the awful penalties of perjury. But, besides this, the oath involves an act of supplication—and prayer is a part of religious worship. The juror should consider himself as invoking divine assistance in the performance of that to which he is sworn. This is evident from the phraseology often employed in the administration of an oath.

The old English oath ends "so help me God," which contains a prayer that God will assist in speaking truth; and avenge, if falsehood be uttered. And even amongst the heathen, the oath was considered as a kind of prayer. "Anciently, the person who took an oath stood up, and lifted his hands to Heaven, as he would in prayer; for an oath was a species of prayer, and required the same sort of ceremony."*

Can any act of religious worship be more solemn than the oath? Can any act of worship be more awful in its effects upon the worshipper, or more important in its influence upon the welfare of society? It is the part of divine worship which, perhaps, most directly affects the interests of social man. It is the ordinance by which all the other principles and sanctions of religion are brought directly to bear upon civil society. It is the only ordinance of religion which the civil magistrate may, in his official capacity, administer. It is the only point of *direct* and *immediate* contact between religion and the state. It is the religious ordinance by which the Governor of the world most *directly* extends his arm into the affairs of civil government, to exercise power over the consciences and conduct of men.

II. This act of worship is "*appointed by God, as a means of promoting truth and confidence.*" This is the second proposition contained in our definition of the oath. That it is appointed by God has already, in part, been shown: and this will more fully appear, when we come to treat of the

* Smith's Dic. Gr. Antiq. vo. oath.

lawfulness of the oath. We shall therefore omit the consideration of this topic here ; and proceed to show that the oath is a *means of promoting truth and confidence*.

The Divine Being ordinarily employs means for the accomplishment of his purposes. Both in the mental and material worlds, he uses instrumentalities or second causes, adapted to the ends to be attained. It is no objection to the doctrine of means, nor to the efficacy of their operation, that we cannot understand the *mode* of their operation. Our ignorance of the mode, by which the mysterious, but mighty and steadfast principle of gravitation operates, will neither destroy the power of gravitation, nor shake our belief in its existence. With silent—invisible—impalpable energy it performs its appointed agency, in the physical world, just as it did during the first revolutions of the planetary bodies : and so it will continue to operate until the worlds shall be no more. Thus also in the spiritual world the universal Governor works by means ; and our ignorance of the *mode* should not shake our belief of the fact : whilst if we can, in any degree, understand the mode of operation, it may prove an additional encouragement to use the means.

It were folly to say, “ I do not know *how* matter acts upon matter, so as to produce the phenomena of the material world—I do not know how God employs gravitation, as a means of preserving the balance and perpetuating the motions of the heavenly bodies, and therefore I will not believe that he does it.” And would it not be equal folly to say, “ I do not know *how* moral means can produce their effect

—I do not know *how* spirit can operate upon spirit through such means—I do not know *how* God can employ an oath as a means of making a man speak truth, and therefore I will not believe such things possible?”

If, then, we could perceive, in the nature of an oath, no peculiar adaptedness to accomplish the end for which it is designed; this would be no sufficient grounds for doubting its efficacy. From the fact that God has ordained it, we are bound to believe that he will bless and make it efficacious. And since it is not only an ordinance of the God of means, but is also admirably adapted to the accomplishment of its end; we ought not to doubt that, in the hand of God's Spirit, it is a powerful means of promoting truth and confidence.

It is a means of *constraining* and *restraining* grace. The term *grace*, generally denotes favour shown to the undeserving. But it has also been employed to denote that moral influence, exerted by the Spirit of God upon the spirit of men, which restrains them from evil, or “worketh in them both to will and to do of his good pleasure.”

That such an influence is exerted, no believer in revelation will deny; and as it is for such we write, it is unnecessary here to array the proofs. We will only say that to deny that such an influence is exerted, is as unphilosophical as it is infidel: for such denial is in the face of facts, and is opposed to the entire analogy of nature. That spirit does influence spirit, is a matter of which we are every day both *conscious* and *observant*. We are conscious of influences exerted by the minds of other persons

upon our own : and we observe the influence which our own minds exert upon the minds of others. These influences are sometimes very powerful. The effects of eloquence, poetry, and song, are but the results of mind acting upon mind. The eloquence—the poetry—the song—are but *means* : mind—*spirit*, is the efficient agent. And if one *created* spirit can thus influence another ; is it not absurd to deny that the uncreated “Father of Spirits” is able to influence the spirits he has made ? Is it not irrational to suppose that He *would* withdraw all influence from created minds and cease to control them ?

This grace, or efficacious influence of the Spirit of God, is twofold. It is either sanctifying and saving—or merely *constraining* and *restraining*. The first mentioned is the gracious energy by which a man is “created anew in Christ Jesus unto good works,” regenerated—sanctified and perfected in holiness. The other is an influence exerted by the Spirit of God upon the spirit of man, whereby the moral sense is to some extent quickened—conscience kept awake—the hopes and fears aroused, and the will partially or wholly held back from evil, and prompted to good : but which does not necessarily result in a saving spiritual change.

Saving grace includes restraining grace : but the former is bestowed only upon those who become the true children of God ; whilst the latter is often exercised over minds that are still unregenerate. It is not impossible that restraining grace extends, in some degree, to the whole human family. It is this kind of spiritual influence that is mentioned in such

passages of Scripture as Gen. xx. 6, "I also *withheld* thee (Abimelech) from sinning against me." Ps. xix. 13, "Keep back thy servant from presumptuous sins." Ps. lxxvi. 10, "Surely the wrath of man shall praise thee, and the remainder of wrath shalt thou *restrain*." And Prov. xxi. 1, "The king's heart is in the hand of the LORD, as the rivers of water: he turneth it whithersoever he will."

This influence of the Divine Spirit, upon the minds of men, may be exerted in prompting to any duty, or restraining from any sin, and is ordinarily exerted in the use of means. When falsehood is to be restrained, and truth and confidence promoted, in the details of social government, the appointed means is the oath. And we have shown that from the *necessity* of such a means it was to be expected that God would appoint it. But the same inference may be drawn from the analogy of divine legislation. Indeed, the proof drawn from this quarter is positive. We state it thus.

The Spirit of God is in Scripture called "the Spirit of truth:" it is his prerogative to "lead into *all truth*," and we cannot but suppose that the *true* meaning, extent, and obligation of the moral law is embraced in the *totality* of truth into which he leads the minds of men. Now no less than two of the ten precepts, in which that law is summarily comprehended, relate to the objects which it is the design of an oath to secure. The ninth commandment is, "Thou shalt not bear false witness against thy neighbour,"—and the third is, "Thou shalt not take the name of the LORD thy God in vain," or in falsehood. This last mentioned precept forbids the

false appeal to the name of God, and requires the reverent use of that name in the oath and every other act of religious worship. Is not the maintaining and promoting of truth between man and man, especially in the important matter of witness bearing, an object worthy the intervention of "the Spirit of truth?" And is it likely that he would appoint means of securing the ends contemplated in the other precepts of the decalogue, and yet appoint no means for securing the observance of the ninth? *Means* are appointed, in the word of God, for kindling and fostering every other grace that should adorn the Christian and the citizen—and is there no special means for promoting truth and social confidence? The supposition is unreasonable, and contrary to the whole analogy of Scripture. Indeed, such a supposition is directly opposed to an explicit declaration of God himself. In one of the commands just cited, (the third) we have the express assurance, "the LORD will not hold him guiltless that taketh his name in vain," or in *falsehood*, as the original term means. Is there appended to any other command of the decalogue so explicit an assurance of *divine interposition*, to enforce obedience and punish dereliction? None: and in these words, the God of truth pledges himself to pay special regard to the enforcement of the law of truth, and assures us that he will be the avenger of falsehood and perjury. He thus gives a special and solemn warning to the consciences of men, that, however the violaters of the oath may escape punishment from *men*, yet "*Jehovah* will not hold him guiltless that taketh his name in lying:" and this assu-

rance was designed to make men "fear an oath," and to give efficacy to the ordinance. Can we doubt, then, that God will bless this ordinance, when rightly administered, as a means of restraining men from falsehood, and constraining them to truth? He *does*, through its instrumentality, awe the consciences, even of the most depraved, so that they will "fear before him."

If, then, the oath is a means through which the Spirit of God has *promised* to operate upon the spirit of man, in leading into truth; it would be wrong to doubt its efficacy, even if in its nature and mode of operation we could perceive no adaptation to this end. But when we discover that the means is, in its nature, wisely and wonderfully adapted to its end; and when we can, in a good degree, understand the mode of operation, our confidence in its efficacy should be strengthened.

Let us then briefly inspect the theory of the oath, as regards its *mode of operation*. In this investigation two questions are before us, the one relating to the mode of its influence in eliciting truth—the other to the manner in which it promotes confidence.

1st. The mode of its influence in *eliciting truth*. Upon a preceding page (36) we stated, that in both promissory and assertatory oaths, truth is the object aimed at. In promissory oaths, the truth of a promise and of its fulfilment is to be established: In assertatory oaths the truth of an affirmation. *How*, then, does an oath, operating as a means upon the mind of a man, influence him to be *faithful* to his promise or truthful in his statements? We answer

—It places him in such a situation, and gathers around his mind such motives and considerations as make him *feel* it to be both his *duty* and for his *interest* to do *righteously* and affirm *truthfully*.

Men do not love falsehood for its own sake. When they know that the truth is expected of them, it is only when they have some external inducement to violate truth, that they will do it. Bad as human nature is in its fallen condition, a man will not deliberately falsify without a motive. Yet, if some immediate benefit can be gained, or some evil avoided, either for himself or for others whom he desires to favour, a man may be *tempted* to withhold the truth or to speak falsehood. Now how is this temptation to be counterbalanced or overcome? By swallowing up the evil motive, in a better and more powerful one. If you can place the man in a situation, in which he will feel that it is for his *interest* as well as his *duty* to adhere to truth—if you make him feel that a greater good will be lost, and a greater evil incurred by using falsehood—you gain the point. And it is the object of the oath to place the juror in that situation. It brings the person who swears to feel himself in the presence of God, and to make a close and direct comparison between the immediate advantage to be gained by perjury, and the perhaps remoter, but immensely greater advantage to be gained by truth. When the oath is properly administered and intelligently taken, the mind of the juror is led to weigh the conflicting motives to truth and to falsehood severally; as in the presence of the Omniscient and righteous Judge, to whom he must at last give ac-

count: and the very solemnity of the circumstances, and the awful nature of such a comparison, are well calculated to impress his mind with the belief and the *feeling*, that falsehood would not only be *wrong*, but also immensely prejudicial to his own happiness. No temporal advantage that could possibly be gained by perjury, can compare in value with the favour of God, and the rewards, temporal and eternal, that result from that favour: and no temporal calamity or suffering can at all compare, in horror, with the curse of God, and the “everlasting punishment” that follows its infliction.

Now, if you place a man in the situation, in which he is made to feel or fear that, by withholding the truth or speaking falsely, he both forfeits the favour of God in time and eternity, and becomes liable, by his own agreement, to God’s just displeasure in endless punishment; you place him under the influence of the strongest inducements to avoid falsehood and speak the whole truth—you present a motive to truth which, if rightly apprehended, will counterbalance all the motives to falsehood which the world can present. And such is the situation in which a man under oath is placed.

We repose confidence in the declarations of a man upon his death-bed, whilst he is momentarily expecting his dissolution. Why? Because we believe that a man will not wilfully falsify in the hour of death. But what is the influence that banishes falsehood from the lips of the dying? It is the *sense of the presence of God*, and the expectation of *soon appearing* before him who is our Judge. And such is the influence of the oath, when sol-

emply and intelligently taken. It brings the soul *near* to the Judge, and causes it to realize the certainty of a judgment to come. That such is the *modus operandi* of this means of eliciting truth is manifest from the very forms in which oaths are administered. (See chapter on the forms of oaths.) In every oath there is, or ought to be, a solemn recognition of the presence of God, an acknowledgment of his omniscience, justice, truth, and supreme authority—a confession of our accountability to him, and of our obligation to speak truthfully and act faithfully, together with an agreement to abide his righteous judgment, as the avenger of wrong in case we wilfully fail therein.

Who can fail to see that, a mind which intelligently and seriously takes in the solemn ideas involved in such an appeal, must be powerfully swayed to the right, and deterred from the wrong! And it is this *recognition* of the solemn *facts* and doctrines involved in the oath, and the *weighing* of the *motives* which these facts and doctrines present, that constitute the *vis operandi*—the *natural efficiency* of this ordinance. If there be any such thing as natural adaptedness of means to an end, we can surely discover it here.

For the sake of increasing the motive to speak truthfully under oath; and for the special purpose of meeting the case of those, whose practical belief of the existence and attributes of a God, and of future rewards and punishments, is weak or perverted; and who, consequently, are more influenced by *immediate* than by *remote* motives, temporal penalties have almost always been affixed to the crime

of perjury. Under the Mosaic code, the perjurer was made to suffer exactly the same injury or loss, which it was the tendency of his perjury to inflict upon the injured party. [Deut. xix. 16—21.] By the common law of England, perjury is a high misdemeanor, and by several statutes made punishable by fine, imprisonment, and by transportation. The American governments punish it by heavy penalties: and in all ages most civilized countries have affixed severe penalties to this dreadful crime. The Romans are an exception. Swearing with them was considered a matter of conscience, and hence the perjurer was considered responsible to the Deity alone. But the general usage of the world has been to punish the false swearer with civil penalties: and, what is more important to notice, the holy Scriptures expressly and repeatedly enjoin upon human governments to punish this crime. [See Prov. xix. 5, et al.]

Now, when to the solemn and awful consideration that "JEHOVAH will not hold him guiltless that taketh his name in falsehood," is added the fear of the civil penalties of perjury, we have gathered, around the mind of the juror, the most powerful influences that can be employed to sway the human mind: and it must be very strong prejudice, indeed, that can persist in denying, that the oath is a means, in its nature, well adapted to its end.

In this connexion it may be proper to state, that the motives, by which the Supreme Governor influences the minds of his intelligent creatures, may all be reduced to *two classes*. Indeed, they are thus classified in the Scriptures, and denominated accord-

ing to their characteristics. The one class of motives is sometimes denominated "*love*,"*—sometimes the "*spirit of adoption*;"† the other class is denominated "*fear*,"‡ and "the spirit of bondage to fear."† This classification of the motives by which moral agents are influenced, has regard to the two grand divisions, into which the intellectual universe is separated—the holy and the unholy—the obedient children of God, and those who have assumed and who maintain an attitude of rebellion. Into these two classes the human family is divided. The individuals of the one class have been reconciled to God§—born again by his Spirit||—into his spiritual family—have received the adoption of sons¶—are the children of God**—and have "received the Spirit of adoption, whereby they cry Abba Father."†† That is—they look upon God with a filial feeling—they love him as affectionate children love a parent: and this feeling of *love*, accompanied as it is by reverence, confidence, gratitude, and every right sentiment, prompts them to obey. "The love of Christ constraineth them." They render obedience not from slavish *dread* of their Father, but from motives of love to his person and perfections, and delight in his will.

The individuals of the other class have no love to God, nor reverence for his character or his law. Their "carnal mind is enmity against God—not subject to his law:" Rom. viii. 7. and the only feel-

* Rom. xiii. 10 ; Jno. xiv. 15 ; 1 Cor. xiii. ; 1 Jno. iv. 18.

† Rom. viii. 15.

‡ 1 Tim. i. 7, and 1 Jno. iv. 18.

§ 2 Cor. v. 18, and Col. i. 21.

|| Jno. iii. 5.

¶ Gal. iv. 5.

** Rom. ix. 26 ; Gal. iii. 26, et al.

†† Rom. viii. 15.

ing that can prompt them to render outward obedience, is *fear*—dread of his displeasure, and its consequences. Fallen *from* God and *into* self—selfishness is their one great swaying impulse: and not any desire to glorify their Maker. “Devils believe and *tremble*.” (Jas. ii. 19.) And so is it with men who have not received “the Spirit of adoption,” but who are still held by “the Spirit of bondage to fear.” They may be forced to *believe* “that God *is*, and that he is a *rewarder*,” and an avenger; but their faith doth not “work by *love*.”—They tremble—they fear to *offend* God, though they do not love to obey him.

Now, upon these two classes of men severally, the ordinance of the oath operates through the class of motives that is adapted to each. When the man who hath “received the Spirit of adoption, whereby he cries Abba, Father,” takes an oath, he is reminded that a Father’s eye is upon him.—His appeal is to one whom he loves.—He feels himself called upon, by a heavenly Parent, in an ordinance of his own appointment, to exercise care, diligence, and sincerity in remembering and stating the whole truth, and nothing but the truth: and he is prompted to the performance of this social duty, by the love and reverence he cherishes for the God whose name he has invoked, and by the pleasure which obedience to the divine will affords him. On the other hand, when the man, who is held by “the Spirit of bondage to fear,” is sworn, he feels himself summoned into the presence of the God who made him—the God who will judge him—the God who is essential truth and holiness—the God who hath said

that he “will not hold him guiltless that taketh his name in vain,”—the God who has authorized society to punish perjury, and who will certainly punish it himself. Standing in such a presence, he feels himself called upon *by that awful God*, to speak the whole truth at the peril of his soul; and, if no better motive can sway his mind, “the Spirit of bondage to fear” will constrain him to speak truth. And although this is not the motive from which obedience *ought* to spring, yet it is better that men should speak truth from *fear* of God, than falsehood from disregard of him.

2nd. The second point of inquiry, in considering the *modus operandi* of the oath, is in what way does it promote *confidence*. We have seen that it has been universally considered one of the best *tests* of truth—that as a means it is naturally adapted to elicit truth—that it was instituted by God for that purpose, and consequently that, when it is properly employed, his efficient blessing may be expected to accompany it: and it is because men *believe in its efficacy*, as a test of truth, that they repose confidence in what is asserted or done under oath.

There are certain laws of human conduct so general in their operation, that we repose confidence in the uniformity of their results. We believe, for example, that men will not knowingly act contrary to their own interests. And we believe that men will not act contrary to their own principles and inclinations, unless under the influence of powerful motives. On this account we feel assured that a *good* man, who has “received the Spirit of adoption,” *would* not perjure himself, because it is contrary to his princi-

ples and inclinations : and we have a good degree of assurance, that even a man, who does not love truth for its own sake, will be held by “the Spirit of bondage to fear,” so that he dare not—will not perjure himself, because it is contrary to his interests—no temporal advantage being adequate to compensate for the risk he incurs of temporal punishment and everlasting woe.

All men have so strong a conviction of the controlling influence of these principles of human conduct, that they believe submission to them to be the *general rule*, departure from them *the exception*. On this account we can with difficulty be persuaded, that any man would be so lost to right principle, and to his own happiness, as to commit the awful crime of perjury, and to incur its dread penalties. Hence, when a man promises, under the solemnities of an oath, to perform certain duties, we have *confidence* that he will prove faithful to his promise : and when a man solemnly swears to speak the truth, the whole truth, and nothing but the truth, we have *confidence* that he will do so.

And this *confidence* is an important element in the social economy. A community must have *confidence* in the faithfulness of their public agents, or they cannot enjoy that security which is so essential to social comfort and prosperity. Parties at variance must have confidence in the uprightness of those who decide between them, and in the truth of the witnesses who attest the facts of their case, or they cannot rest satisfied with the award. Murmuring and contention will continue, or cease but to be renewed, unless confidence in the justice of legal de-

eisions be secured: and hence Jehovah hath appointed and men employ—"the oath for *confirmation*, to them an end of all strife." [Heb. vi. 16.]

III. A third proposition embraced in our definition of the oath is, that in it "the juror enters into a special covenant with God and with society, to speak or act truthfully." This view of the nature of an oath is necessary to complete the exhibition of its adaptation and efficacy; but it could not be introduced at an earlier stage of the discussion, without endangering the perspicuity of our statements: and it is worthy of a separate consideration.

The oath partakes the nature of a *covenant*. Viewed in this light it is two-fold: 1st. A covenant between the person sworn and society: 2nd. A covenant between him and his God.

1st. It is a special covenant with society, as the agent of the Supreme Ruler. Or rather it is a recognition of the obligations of the social covenant under which the juror was born, and a renewal of that covenant in regard to a special social duty, to which he is lawfully called.

The reader will please here to remember the principles laid down, in chapter IV., concerning the social compact. We there showed that every man is born under a social covenant, which God in nature hath ordained, and is held by the constitution of his nature, the circumstances of his existence, and the authority of his Creator, to the performance of certain duties as a member of society. We showed that no man is at liberty to withdraw from society at pleasure—to renounce its authority, relinquish its advantages, and to refuse to perform his social du-

ties: but that every man is placed by his Maker under social obligations, and is bound to perform such social duties as are necessary to secure the common welfare. Amongst the duties that are thus obligatory, is that of doing his share in promoting public justice, peace, and safety, in whatever station he may be lawfully called to occupy. If lawfully called to serve God and society, in the station of legislator—magistrate—juror, or any civil office, it is his duty, unless he can assign good cause to the contrary, to serve, and to serve faithfully. If lawfully called to serve God and society as a *witness*, he is not at liberty to decline: He is bound to meet the call, and, except in case it would criminate himself, he is bound to tell the truth—the whole truth, and nothing but the truth. This obligation rests continually upon every member of society. It is an element of the social constitution. And when a man is lawfully called to office, or summoned as a juror or witness, he is bound, unless excused for cause, to answer the call, to perform the duties required of him, and to perform them under such sanctions as society has a right to impose. This duty is made obligatory upon every man, by the law of nature and the constitution of society: and in virtue of this society has a right to *require* it, and if need be to require it *sub pœna*—under penalty for refusal.

This power in society, to demand the performance of such duties *sub pœna*, is recognized by the laws of all civilized nations; and, indeed, it is an essential power inherent in society. Deprived of this right to constrain its members to perform their social

duties, no community could long exist, for it might be dissolved in detail, by one after another renouncing its authority, and withholding the social duties. And if society has a right to require a man to testify or act as juryman, she has a right to place him under such sanctions as will most surely elicit the truth, or secure a righteous verdict—that is, society *has a right to impose the oath*, and the individual has *no right* to refuse it: for that would imply a right to decline his social duties, at pleasure; which right neither God nor nature ever gave him.

Society, then, has authority to require the citizen to testify, and has a right to impose the oath—that is, to require him, in a solemn manner, to recognize and acknowledge his social obligations, in the presence of God who imposed them; and to enter into a special covenant, in regard to the duty required of him in the case in which he is sworn, that he will perform that duty *truthfully*. And when a man is sworn, he does solemnly recognize the social covenant, and acknowledge his obligations under it to testify truly or act faithfully, as the case may be; and he enters into a *special covenant* with society that in the given case he will do so; consenting that if he fulfil not the engagement to the best of his knowledge and ability, the penalties of perjury may be inflicted.

2nd. But we remark in the second place—the man who takes an oath enters into a covenant with God, that he will act faithfully, or testify truly, in the case in which he is sworn. In this aspect of the oath, likewise, the special covenant has respect to the general social covenant under which God ha

placed every member of society. The juror, in taking the oath, acknowledges that, when lawfully called thereto, he is *bound* to speak truth, in virtue of the social constitution under which he was placed originally, when born into a social world. He acknowledges that the duty of truth is owed to God—and thus acknowledging the general obligation to speak truth, he makes a special promise, upon the solemn conditions contained in the oath, that he will adhere to truth in the particular case in which he is sworn: and a covenant is a promise with conditions.

The reader will remember that upon a preceding page we showed (p. 23) that, strictly speaking, the original parties in the social covenant are the Supreme Being on the one hand, and the individual citizen on the other: and that society is a party only as it is the depository of divine authority. The covenant implied in the oath, then, although made with society in the first instance, ultimately contemplates God, whose name is invoked, as the original proposer of the covenant, and the highest party to it.

That all the elements of a covenant enter into an oath, is manifest from the very terms in which oaths are usually administered: for in every form there is a promise of truthfulness, and an agreement to abide the conditions annexed to failure. It is, indeed, a solemn covenant, and dreadful is the crime and terrible the doom of him who breaks it. The man who wilfully gives false testimony under oath, *agrees* that God may damn him—he makes a covenant with eternal death!

CHAPTER VI.

LAWFULNESS AND EXPEDIENCY OF OATHS.

THESE we place together ; because if it be *lawful* in the sight of God to employ, upon proper occasions, “the oath for confirmation,” we are not at liberty to question its expediency : and because the same objections that are made to the *lawfulness* of oaths, are brought also against the *expediency* of using them. It would be difficult, therefore, without repetition, to discuss these topics separately.

Two questions embrace the proposed subject of this chapter. 1st. Is it *lawful*, in the sight of God, to swear upon any occasion ?—2nd. Is it *expedient* ? The great mass of mankind, in all ages, have answered these questions affirmatively : and accordingly, judicial oaths, civil and ecclesiastical, have been employed in almost all nations. The testimony of the great body of the Christian Church, even not accounting the Papal apostacy as a part of the Church, has been in favour of their use, as being ordained of God, and for the safety of society. But a small number of professing Christians deny the lawfulness and expediency of oaths ; and their objections are entitled to be treated with respect, and weighed with candour : For, although their number be comparatively small, yet they have given good evidence of their sincerity, and they have been,

for the most part, intelligent and considerate persons.

In this argument the *onus probandi*—the burden of proof lies upon those who deny the lawfulness of oaths; for the state of the question places them in the position of affirmants. The person who assails existing institutions, and who would overthrow ordinances which have been, from the morning of the world, interwoven with the very texture of society, is bound to prove that the change he demands is lawful and expedient. The oath has been employed as an element of social government, since the first organization of society amongst fallen men. It formed an element of social organization even in the simple forms of patriarchal government. It was used alike amongst the unsophisticated nomadic tribes, amid their tents and pastures, and the more refined inhabitants of cities, and the vaster aggregations of population formed into states and empires. It has been an element of government in all lands, and in all time. The wisdom of ages has approved its use; and God himself has placed upon it the seal of his own approval, by enjoining it upon men, and using it himself. The men, therefore, who undertake to abrogate this act of worship—to expunge this element of government, and to bring about so vast a change in the jurisprudence of the world, are surely bound to bring good and substantial proofs that the revolution is lawful and expedient—and the burden of proof rests with the *assailants* of existing institutions.

Nevertheless, we will proceed to present some arguments in favour of the lawfulness and expediency

of judicial oaths, and to answer some of the most forceful objections that have been brought against them. Many of the arguments for the lawfulness of oaths have been already stated, in whole or in part, in the progress of the foregoing discussions, and on this account may be more briefly presented here.

I. If our view of the nature of the social compact be correct [p. 22,]—and we think its correctness cannot be successfully disputed—then the lawfulness of judicial oaths follows as a necessary consequence. If man is *born* into society—and held by the laws of his nature and his circumstances to perform certain social duties; if amongst those duties is that of promoting the ends of justice and the public safety, by testifying to the truth of facts; and if society has, on this account, a right to require him to testify, and that even *sub pœna*; she undoubtedly has a right to *require* him—yea, to *compel* him, so far as she can by *moral* means, to testify *truly*: and in order to do this, she has authority to gather around his conscience all the moral sanctions, and place before his will all the moral motives to speak truth, which God in nature and by revelation has furnished. Indeed, in all civilized governments the right of exercising a degree of physical force has been claimed, and the witness may be punished by fine or imprisonment for contempt of government, in refusing to testify. Society has a right to know from the witness the *whole truth* (except where it would criminate himself); and as two *rights* can never come in conflict, the right of government to *know* the truth, extinguishes

the individual's right to withhold it—or rather he never had any such right. It is *wrong* for the citizen to withhold facts, which society has a *right* to know, after the constituted authorities have lawfully demanded the disclosure of them.

If, then, it be the nature of regenerate man to love and reverence God, and if, when adjured by his holy Name and authority to speak truth, they do it cheerfully, carefully, and accurately: and if men have, from the first institution of society, reposed confidence in that which was declared under oath—it is *lawful* for men to “swear by the Greater,” and to use “an oath for confirmation to them an end of all strife.” And if unregenerate men are still restrained by the fear of God, it is lawful for government, in the absence of better motives, to employ “the Spirit of bondage to fear,” in order to constrain men to truth and duty.

It is not sufficient to object to this, that a man should not be compelled to peril—nor has he a right himself to peril his salvation upon a condition which he might be *tempted* to violate, or which he might violate through imbecility. This is really the most plausible objection that has been started against the lawfulness of oaths. But it is fallacious and inconclusive, because it rests upon false assumptions. In the first place, it assumes what is not true, that a failure to speak or act truthfully through *imbecility*, would be a violation of an oath, and would peril the soul. If a man, under oath, adheres to truth as far as he *can*, it is all the obligations of an oath require. And secondly, this objection pleads *temptation* as an excuse for crime, and as a reason

for refusing the obligations of duty. This argument against oaths, if it prove any thing, proves too much. It would sweep away all accountability, and deny the propriety of all penal sanctions. Stripped of its sophistry, the objector's argument is as follows: "I will not take an oath, because I may be *tempted* to deviate from truth, and thus to incur the temporal and eternal penalties of perjury. Now, I have no *right* to bind myself under a penalty to do my duty in speaking truth, neither is it lawful for society thus to bind me—for I *may be tempted* to do wrong—to falsify and thus incur the penalty. It is not lawful for me to run such risks—nor ought the government to compel me to do so." Can any man of common penetration fail to see, that this objection strikes at *all* penalties, and would sweep away all social *restraints*? Extend this argument to other social obligations, and it will rend them all. Says the objector, "It is unlawful for me to bind myself under penalties to perform any duty, or to avoid any crime: for I may be tempted to fail in duty and to commit crime—and then come the penalties. I have no right to place myself in such peril, neither has government any right to compel me to do it.—It is unlawful for government to bind the citizen, under penalties, to perform duty and to avoid crime. I will therefore renounce the authority of society and stand aloof from its laws—I will declare independence of them, because they bind me under penalties to do right. Nor do I regard the law of God more favourably. He requires me, under penalty, to obey his law. He has promised Heaven to the obedient—and threatened Hell

to the disobedient: and I do not choose thus to be brought into peril—there is terrible hazard; for I may be tempted to sin—and indeed I dislike being *bound up* not to sin, when I choose—therefore I conclude that it is neither *lawful* nor *expedient* to be bound under penalty even by the laws of God.”

Such is the inevitable tendency of this argument against the lawfulness of oaths: and the reader will perceive that it is a two-edged sword, that would, if wielded, sunder all moral and social *obligations*, hew away the barriers against crime, achieve the triumph of anarchy upon earth, and sever the reins of eternal government, held by Jehovah’s hand. But thanks to God, no arm hath power to wield this monstrous weapon, nor even to draw it from its sheath of darkness.

It is somewhat singular that the opponents of judicial oaths, in pressing this objection, are inconsistent with their own theory upon the subject. For they also deny the efficacy of oaths. On the one hand, they deny that a man is any more bound to speak truth when under oath, than he is at all times. They insist that the oath imposes no increased obligation—has no peculiar *efficacy*, and of course exposes the swearer to no higher penalty for falsehood: and yet right in the face of this doctrine, they start the objection that it is unlawful for a man to peril his soul upon a promise to tell the truth, for fear through imbecility or temptation he might fail, and incur the awful penalty! Thus, with one breath, they deny that there *is* any increased penalty—and with the next, they hold up the increased

penalty as a bugbear to frighten people from submitting to the oath.

II. The lawfulness and expediency of oaths may be inferred from their *origin*. This we have shown to be *Divine* [chap. iii.]: and if our argument for the divine origin of this institution be conclusive—as we are encouraged to believe—then there can be no doubt of its lawfulness and expediency: for God would not give to man an ordinance that was in its nature *wrong*, or the use of which would be *futile*. We have also, in another place (p. 25), shown that *a priori* it was to be expected that the Supreme Governor would furnish some such ordinance as the oath, in order to complete the provisions he has made for human government. And if the appointment of such a means of promoting truth and confidence would seem to be demanded by the analogy of divine legislation; this, taken in connexion with the fact that the institution does exist, and is used, in some form, the world over, is sufficient proof that it is both lawful and expedient.

III. The very existence of such an institution, and its almost *universal* prevalence, is an argument for its lawfulness and expediency. Even the perversions and abuses of the original institute prove that there *was* an original institute: as counterfeit coin proves that there is a genuine currency, of which it is the counterfeit. If there were no genuine currency there could be no counterfeit—and the existence of the latter proves the previous existence of the former. So does the existence of the various perverted forms of adjuration, in different ages and countries, prove that there must have existed origin-

ally an institution of which these are the base imitations ; and it fixes the date of the original institute at an early epoch in the history of our race. Take in connexion with this view the fact that God's word prescribes a pure and dignified form, and you have a powerful argument for the lawfulness of the oath.

IV. But, waving other arguments for the lawfulness and expediency of the oath, it is enough for us to know that God, in his word, has not only permitted the ordinance, but has *enjoined its use* upon proper occasion, both by *precept* and *example*. If this can be clearly proved, we trust the candid and pious opponents of judicial oaths will at once relinquish opposition ; for we have too high an estimate of their conscientiousness to suppose that they contend for victory and not for truth.

The Scripture argument has been in some degree anticipated, in the chapter upon the origin of the oath, but it is worthy of a separate and more full statement.

There are three kinds of Scripture tests by which the moral character of any action, institution, or custom, may be determined. 1st. The positive commands of God. 2nd. His divine example. 3rd. The conduct of individuals or communities of men, recorded with approbation or with censure. And, in testing the lawfulness or expediency of any conduct, custom, or institution, three questions, corresponding to these three classes of tests, may be asked. 1. Is it enjoined in any explicit precept? 2. Has it the sanction of the Divine example? 3. Is it

mentioned in sacred history with approbation or censure ?

Let us try the oath by these tests—and,

1st. Is it enjoined or forbidden in any positive precept ? We unhesitatingly answer that it is repeatedly and explicitly enjoined, and that it is nowhere forbidden. If we could cite but one explicit command it would be sufficient, for one word of God is enough. But we will show that the proper use of the oath, upon just occasion, is very often enjoined. In proof of this, take a few out of many texts. Deut. vi. 13, "Thou shalt fear the LORD [*Jehovah*] thy God and serve him, and shalt *swear by his name.*" This is a command as explicit as can be expressed in any language ; and the same injunction is repeated in nearly similar terms in Deut. x. 20, "Thou shalt fear the LORD thy God, him shalt thou serve, and to him shalt thou cleave, and *swear by his name.*" Now we desire the reader to notice that, in each of the passages just quoted, we have an *epitome* of the *first three precepts of the decalogue*. In the decalogue and its preface, as recorded in Ex. xx. and in Deut. v., we are first reminded of the Supreme Godhead of Jehovah, "I am Jehovah thy God,"—then of our obligations to him on account of his mercies, symbolized by the deliverance from Egypt.—Then in the first commandment is pointed out the only *object* of religious worship, Jehovah alone—"Thou shalt have no other gods before me." Next in the second commandment we are forbidden to serve other gods, or to use images in the worship of the true God, *i. e.* we are required to serve God in *the way* of his appointment—to

“cleave unto him.” And then in the third we are forbidden to “take the name of the Lord our God in vanity,” or falsehood. So in the passages quoted from Deut. vi. and x., we have precisely the *same ideas*, in the same order, only stated in fewer words. “Thou shalt fear Jehovah thy God—serve him—cleave to him—and *swear by his name*,” *i. e.* not take his name in vanity or falsehood, but employ it reverently in promoting truth. The Book of Deuteronomy, as its name indicates, is a repetition of the laws given by Moses, with slight variation of phraseology, and occasionally some brief explications: and as the moral law had been repeated in the fifth chapter, its principles are farther unfolded in the following chapters, in which many cautions are given and incentives to obedience held forth. This sort of commentary on the moral law continues to the 14th chapter, in which commences a recapitulation of laws pertaining to the ceremonial system. With this view of the context before us, we cannot fail to identify the law as laid down in the sixth and tenth chapters with the *moral law* as laid down in the fifth; and thus are forced to the conclusion that the command “thou shalt swear by his name,” is a part of the moral law, and as perpetually and firmly binding as the other parts of the same verse, “Thou shalt fear the Lord thy God, and serve him.” If one is repealed, so is the other. But there is another consideration that identifies Deut. vi. 13, and x. 20, with the first part of the moral law; it is, that the same *preface* that is put to the ten commandments, is placed before these verses severally. “Beware lest thou forget the LORD that brought thee forth out

of the land of Egypt, from the house of bondage." [vi. 12.] "For ye were strangers in the land of Egypt." [x. 19.] These commands are, therefore, but interpretations of the third commandment.

But the third commandment itself would be sufficiently explicit, if this interpretation had not been given. "Thou shalt not take the name of the LORD thy God in vain, for the LORD will not hold him guiltless that taketh his name in vain." The Hebrew word here rendered "in vain" [לִשְׁוֹן] denotes, that which is *unsubstantial*—that which, having a specious appearance of reality, is yet *unreal*—*empty*, and hence also *vanity* and *falsehood*. In this place it signifies that which is *vain*—*trifling* or *false*. The "name" of God is that whereby he makes himself known—that which designates his being, or any of his attributes: and in this precept we are forbidden to employ any of the titles of God, or to appeal to himself or any of his attributes, except in matters worthy of the august association. We are forbidden to take his name in vain or false worship—in vain or false declarations. When we invoke that name, it must always be in something *truthful*—*substantial*—*important*. In the *first* commandment, the Supreme Lawgiver prescribes negatively the *object* of worship—"Thou shalt have no other gods before me." In the second he prescribes negatively the *means* of worship, *i. e.*, not by images, or any other way not appointed in his word: and in the third commandment he prescribes negatively the *manner* and *end* of worship, "Thou shalt not take the name of the

Lord thy God in vain," *i. e.*, it must not be in a *vain* or *insincere* manner, nor for a vain, trifling, or false purpose. The *manner* of invoking God's name must not be in vanity and falsehood—but in sincerity and truth: the *end* or *design* of doing it must be important, and for the promotion of truth. Now, in the interpretation of the law of the decalogue, it has always been held that, where a duty is required, the opposite sin is forbidden; and where a sin is forbidden, the opposite virtue is required. Thus the prohibition, "thou shalt have no other gods before me," implies the requirement, "thou shalt fear the Lord thy God and serve him;" and the requirement "honour thy father and thy mother," implies the prohibition of filial impiety. So also the command, "thou shalt not take the name of the Lord thy God in vain, or in falsehood," implies the requirement, "thou shalt swear truly by his name." Here, then, we have in the third precept of the moral law, a command reverently and truly to use the name of God in the oath: and in the reason annexed to this command, Jehovah pledges himself as the avenger of falsehood and perjury. To the same effect is Lev. xix. 12, "Thou shalt not swear by my name falsely, neither shalt thou profane the name of thy God."

The next passage we shall cite is Isa. lxxv. 16, "That he who blesseth himself in the earth, shall bless himself in the God of truth;—and he that sweareth in the earth, shall swear by the God of truth." This at once corroborates the position, that the oath is enjoined by direct divine precept; and proves that this ordinance is to continue under the

New Testament dispensation, and is to be co-extensive with Christianity. The sixty-fifth chapter of Isaiah contains an explicit prophetic announcement of the calling of the Gentiles—of the rejection of the unbelieving Jews—of the safety and happiness of those who should accept of Messiah—and of the happy state of society under the influence of the Gospel, when generally diffused: and in the verse we have quoted, the Spirit of prophecy declares one grand object of the rejection of the idolatrous and unbelieving Jews, and the uniting of believing Jews and Gentiles in a spiritual church. One great design of this change of dispensation, says the prophet, is, “that he who blesseth himself in the earth shall bless himself in the God of truth; and he that sweareth in the earth shall swear by the God of truth.”

It had been promised to Abraham, “In thy seed shall all the nations of the earth be blessed,” Gen. xxii. 18; and the prophets of Israel, from time to time, recalled the memory of that promise, and, by the Spirit’s directions, pointed out the time and circumstances of its fulfilment. The passage now before us is one of the many that describe the fulfilment of that promise: It declares that when it shall be fulfilled, and in the seed of Abraham, (whom Paul demonstrates to be Christ, Gal. iii. 16,) the nations shall be blessed—then “he that blesseth himself (implores, or seeks for blessedness), shall bless himself (or seek blessedness) in the God of truth: and he that sweareth in the earth, shall swear by the God of truth,” [Heb. the God *Amen*—true God.] This proves conclusively, that the ordi

nance of the oath, purified and restored from its various perversions, shall continue to be a part of divine worship, an element of government and a guardian of social rights under the Christian dispensation. And if the reader will examine the verses of this chapter subsequent to the 16th, he will be fully convinced that this will be so in the "new heavens" of the Gospel church, and the "new earth" of improved civil government under the Gospel: He will be convinced that men will, upon proper occasion, "swear by the God of truth" in that happy day, when "the wolf and the lamb shall feed together, and the lion shall eat straw like the bullock; and dust shall be the serpent's meat: when they shall not hurt nor destroy in all my holy mountain, saith the Lord," vs. 25.

Of similar force is, Isa. xlv. 23, "I have sworn by myself, the word is gone out of my mouth in righteousness, and shall not return, that unto me every knee shall bow and *every tongue shall swear.*" This not only records the divine example in confirming his declaration by oath: but being also a prediction of Gospel times, it is proof explicit and irresistible, that the oath is to be used in the Gospel dispensation. This passage is immediately preceded by the broad Gospel invitation, "Look unto me and be ye saved, all the ends of the earth, for I am God and there is none else:" and it is followed by the striking prophecy of Messiah, and of the gathering of the nations to him. "Surely shall *one* say, in the LORD have I righteousness and strength; even to him shall men come." And taking the whole connexion, no candid interpreter can fail to perceive

that, in this passage, God confirms *by oath* the truth of the prediction, that the time should come when all men shall give glory to him, by paying him solemn worship, and by swearing to him when an oath may be needful.

It is, perhaps, worthy of notice, that both in this text, and the one before quoted from Isaiah (lxv. 16), our *Lord Christ* appears to be designated as the glorious person by whom and to whom all in the earth should swear. In the first cited passage (lxv. 16), the Hebrew words which our translators have rendered "God of truth," do literally mean "the God of amen," or "the God amen." And if we compare this passage with the Saviour's peculiar and almost exclusive use of the asseveration "amen," and with Rev. iii. 14, where he is called "the amen—the faithful and true witness;" it will go far to convince us that the Spirit of prophecy had special reference to him.

In the last quoted passage (xlv. 23), it is evident that it is to "God the Saviour" that "every tongue shall swear;" for in the preceding verse he exclaims, "Look unto me and *be ye saved*, all ends of the earth, for I am God, and there is none else." Christ is the "King of kings and Lord of lords," and there is a manifest propriety that to him as "the faithful and true witness" and the Supreme Governor, regard should be had in the oath. Indeed, "all judgment is committed to him," and it is to the Judge of all that appeal is made in the oath.

The only additional text, from the Old Testament, with which we shall swell this argument, is Jer. iv. 2, "And thou shalt swear, the LORD liveth, in truth,

in judgment, and in righteousness, and *the nations* shall bless themselves in him, and in him shall they glory." This text will be expounded in a subsequent part of this treatise, and here we will only remark upon it (*a*) That it is conclusive to the point that the proper use of the oath is enjoined as a part of pure—reformed religion : (*b*) That it affords proof that the *right use* of the oath should be introduced by the example of the believing Jews, amongst the Gentiles ; and should be observed in its purity amongst them—"the nations shall bless themselves in him." Upon this passage the judicious commentator, Scott, remarks, "The constant mention of swearing, as an act and part of true religious worship, which in some cases is expressly commanded, constitutes a full proof, that they who understand certain passages in the New Testament, as indiscriminately prohibiting all oaths, lie under a mistake : for God could never have *commanded* that which is evil in its nature, as all oaths, by such an interpretation, are supposed to be."

Thus have we shown that the ordinance of the oath is enjoined by repeated and explicit precepts : that, in the moral law, it is commanded to be rightly used ; and that it was distinctly foretold, by the Spirit of prophecy, that it should continue to be a part of worship, for judicial purposes, under the new dispensation, and even in millennial times. Now it becomes those, who would reject this ordinance under the Gospel, to show that the repeated enactments, by which it was established, have been repealed. But so far from uttering a syllable of a repealing statute, Christ's language is, "Think not

that I am come to destroy the law or the prophets—I am not come to destroy, but to fulfil.” Matt. v. 17. So far from relaxing the strictness or diminishing the purity of the moral law, he clears it from false glosses, and enforces, by his own authority and example, a spiritual obedience to it.

2. The second test to which we bring the lawfulness of the oath is, “has it the sanction of the divine example?” By this test, also, the ordinance will stand. Gen. xxii. 16, “By myself have I sworn, saith Jehovah.” This was in confirmation of the covenant with Abraham; and this transaction is often referred to in Scripture as the *oath of God*. e. g. Ps. cv. 9; Luke i. 73. And in Heb. vi. 13 and 17, the inspired apostle declares that, “When God made promise to Abraham, because he could swear by no greater, he sware by himself;” and that the reason for his so doing was, that “God willing more abundantly to show unto the heirs of promise the immutability of his counsel, confirmed it by *an oath*,” or interposed himself with an oath. And in Isai. xlv. 23; Jer. xlix. 13, and li. 14; Amos vi. 8, and in many other places, it is recorded that Jehovah confirmed his declarations by oath. Now can we entertain the thought that the Most High would set an example, which it would be morally wrong for his creatures to follow? If it were morally wrong for men to “swear by the Greater,” think you that God would have sanctioned the wrong, by condescending to use a sinful expedient for confirming his own declarations? Has he not given us the injunction, “Be ye followers [*imitators* in the Greek] of God as dear children,”—Eph. v. 1.

And can his example, in confirming his word by oath, be sinful or unsafe to imitate?

To this it may be answered, "that what the Almighty may do in the exercise of his sovereign authority, is not *therefore* right for us. It would not follow that, because *he* may have sworn by *himself*, we may also swear by him."* To this objection we reply, (a) The apostle expressly declares that it was in condescension to the method of establishing confidence amongst men that the Lord swore by himself. His argument is briefly this—men are disposed to believe that which is declared upon oath; and God, "willing more abundantly to show to the heirs of promise the immutability of his counsel, confirmed it by an oath," so that they might the more firmly confide in it. But if God had never authorized men to use "the oath for confirmation;" and if it was an institution evil in itself, and tending to evil; can we believe that God would have so employed it, as inevitably to leave the impression that he approved of its use amongst men? But to this objection we answer, (b) For the proper use of the oath we have the example, not only of God the *Sovereign*, but of "God manifest in the flesh."

The objection which we are now considering seems to go upon the supposition that God, as the Supreme Lawgiver, and above all law, may do that which the *subject* of law may not do. Giving the objection its full force, we remind the objector that "Jesus Christ, who, being in the form of God, thought it not robbery to be equal with God; but

* Lewis' Treatise on Oaths.

made himself of no reputation, and took upon him the *form of a servant*, and was made in the likeness of *men*, and being found in fashion as a man, humbled himself and became *obedient*”—Phil. ii. 5—8. Jesus Christ, who “was made under the law” (Gal. iv. 5), and “fulfilled all righteousness,” has set us the example of submission to the oath lawfully administered. This is the example of God set before us *in human nature*, and we are safe in following the Lamb whithersoever he goeth—nay, are *bound* to follow him.

But is it denied that our Lord did receive the oath and answer under it? Let the candid reader examine the sacred narrative, [Mat. xxvi. 57—64,] and we think he cannot doubt that Christ did promptly respond to the demand of his testimony under oath. Upon this report of his trial before the Sanhedrim, we remark,

1. A lawful court was assembled, the high priest, according to usage, presiding. vs. 59.

2. When the High Priest, as the President of the council, made an *informal* demand, without administering the oath, our Lord made no reply. “And the High Priest arose and said unto him, Answerest thou nothing? What is this that these witness against thee? But Jesus held his peace.”

3. But the moment that the President of the court, in the usual Jewish form, administered the oath to him, our Saviour at once gave a direct and explicit reply to his question, and made a full statement of the thing demanded; although by so doing he exposed himself to death. “And the high priest answered and said, *I adjure thee by the living God*

that thou tell us whether thou be the Christ the Son of God: Jesus saith unto him, 'Thou hast said,' &c. This example is conclusive; for if it had been unlawful to submit to be sworn; or if the constituted authority has no right to impose the oath, He, who, *until sworn*, "as a sheep before her shearers is dumb, so he opened not his mouth," would not have set us the example of submission to it.

It has been attempted to avoid the force of this argument, by denying that the high priest really administered an oath upon this occasion. But the attempt only shows how far men will hazard their reputation for scholarship, for the purpose of maintaining a favourite point of argument. Schleusner's Lexicon of the Greek Testament is quoted by one writer* to prove that ἐξορκίζω, rendered "I adjure," "does not here signify to make to swear or put upon oath, but I solemnly, and in the name of God, exhort and enjoin." Now, in the first place, we beg to be told the difference between "making to swear" and "solemnly and in the name of God enjoining." If the latter does not amount to an oath, then does not "so help you, God." And in the second place, we wish to know upon what authority Mr. Schleusner, or any other competent scholar, can assert that the word "does not *here* signify to put upon oath or make to swear," when such is its uniform meaning, in classic use; and when this is the only place in which it is used in the New Testament? The word means *to swear any one—to administer an oath—to bind by oath*. In this sense the word is used by Demosthenes (Oration vs. Conon) and other

* Enoch Lewis.

Greek writers; and the phraseology used by the high priest was the usual form, at that time, of the Jewish oath. Indeed, it is the form prescribed by God himself, Jer. iv. 2. Every thing in the narrative of the circumstances goes to show that the oath was formally administered to our Lord—"The high priest *stood up* in the midst," (Mark xiv. 60,) and when Christ remained silent after the informal demand, the oath was imposed; in due form, doubtless accompanied by the lifting of the high priest's hand according to the custom—"ἑξορκίζωσθε κατα τῆ θεοῦ ζωντος," "I demand of you upon oath by the living God."

It is to no purpose that the same writer, who quotes Schleusner, adduces the passages where the simple verb ορκίζω in the New Testament—as where the evil spirit cried out, (Mark v. 7,) "I adjure thee by God that thou torment me not"—for (a) The *profanity* of an evil spirit is no proof that the oath ought not reverently to be taken on proper occasion. (b) The evil spirit had no authority to administer an oath—and (c) If the high priest had intended nothing more than a solemn exhortation to our Lord, he would have used the word ορκίζω, and not the compound and more specific word ἐξορκίζω. The New Testament use of the former is to conjure, exorcise, or solemnly enjoin, whilst the compound word means to put under oath. The very fact that the compound word is employed in this place, and in this place only, whilst the simple word is used elsewhere, is clear proof that the word was employed advisedly by the sacred historian, as being the one used by the high priest, and as clearly describing

the fact as it occurred. It was unfortunate for the opponents of the oath that they ventured upon this criticism. The writer just alluded to asks, with some air of triumph,—“Did the seven sons of Sceva administer an oath to the Demoniac?” We answer no—nor did they use the *same word* which the high priest used in adjuring our Saviour.

It cannot be denied, then, that the ordinance of the oath is approved by *divine example*. The God of glory in his infinite exaltation did repeatedly employ it, and when he became “God manifest in the flesh,” he acknowledged its obligations, and submitted to it, whilst obeying the law in the stead of sinners. This he did, too, even when the authority that imposed the oath was exerted for purposes of oppression. By this example we are taught not only that it is right to take an oath upon just occasion; but that it is *sinful* to refuse to do so, when lawfully called to the duty.

3. The third test by which we proposed to try the oath is, “Does the Scripture record the use of the ordinance with *approbation*?” Here it will be needless to go into a prolix citation of passages. We are required (Heb. vi. 12) to be “followers [imitators] of them who, through faith and patience, inherit the promises:” and it is repeatedly recorded of those whose example is commended to us, that they employed the oath. Abraham, “the friend of God,” as we have seen, did not scruple, when acting as the chief magistrate of his tribe, to take an oath, and to administer the ordinance to others; Gen. xiv. 22, xxi. 24, and xxiv. 3—37. Of Isaac a similar record is made; Gen. xxvi. 28—31. Of Jacob also;

Gen. xxv. 33, xlvii. 31, and l. 5. Moses also, the great lawgiver, scrupled not to confirm his promise by oath; Josh. xiv. 9. David, also, used the oath on many occasions, as 1 Sam. xx. 3 and 17, xxiv. 22. 2 Sam. iii. 35, and xix. 23. Nehemiah, too, declares (xiii. 25), "I made them to swear by God," &c. This he did as a magistrate. Indeed, to cite all the cases in which the use of the oath is recorded, not only without censure, but in such a way as inevitably to leave the impression that it met with the Divine approbation, would swell this argument beyond due limits. Nor is this kind of evidence confined to the Old Testament. The apostle Paul repeatedly uses the oath in confirmation of his own sincerity, and of the truth of the declarations which, in his official capacity, he made to the churches. The flippant objection, that if Paul's "God is my witness," "I call God for a record on my soul," &c. be oaths, they would be unauthorized swearing, is as futile as it is flippant; for Paul acted in *official station* at the time he employed them—the office of *Apostle*, and *inspired Recorder*, being one of the highest dignity and importance.

John, in the Revelation (x. 6), declares, that he beheld a mighty angel, standing upon the sea, and upon the earth, and "he lifted up his hand to heaven and sware by Him that liveth forever and ever." Now, if the use of the oath were unlawful, we would have no such record as this without an explicit expression of divine disapprobation. Upon the supposition that this mighty angel was a created angel, we cannot believe that a holy messenger of God would do, in the presence of men, that which it

would be wrong for men to do. But if, as many of the learned suppose, and as the description given of him would seem to intimate, this was the uncreated Angel Jehovah—Angel of the Covenant; then have we in this the recorded example of God our Saviour. Upon either supposition the lawfulness of the oath is proved, beyond a possibility of cavil: and when the cases cited under this test are taken in connexion with the example of our Lord before the Sanhedrim, it ought to put the question forever at rest.

CHAPTER VII.

OBJECTIONS TO THE LAWFULNESS OF OATHS ANSWERED.

WE shall now endeavour to answer such arguments against the lawfulness and expediency of oaths as have not yet been noticed. And,

1st. It is urged that an oath is useless, it does not generally accomplish its object. An awful amount of perjury prevails, and falsehood exists in spite of oaths. An *honest* man will speak truth without an oath—a wicked man will not regard its obligations. We have grouped these objections, because they are all but phases of the same objection, based upon the *inutility* of oaths. Let us examine the soundness of the objection, and (a) If we have fully proved that the oath is an ordinance of God, enjoined upon men for the good of society—(and we do think that this has been done)—then the objection is not only fallacious, but borders upon blasphemy, for it is treating a divine ordinance with irreverence.

(b) If we have successfully proved the *efficacy* of oaths, in the chapters upon that subject, then this objection falls to the ground. But,

(c) The objection rests upon a false assumption, namely, that every man is either *so conscientious* that he would be as careful in speaking truth without the oath, as he would when sworn; or so *destitute of conscience* that he has no fear of God before his eyes at all. The objection assumes that every

man is upon one of these two extremes—whereas the fact is far otherwise. The great majority of men are neither *perfectly conscientious*, nor absolutely *regardless* of moral obligations. They all have *some* conscience, although few have a *perfect* one. Hence the great mass of men will be influenced by the oath. But,

(d) This objection would lie equally against the ordinance of prayer. We cannot understand the mode of its efficacy. We cannot inform God of our wants, more perfectly than he always knows them—we cannot change his purposes—where, then, the use of prayer? But again—many pray hypocritically, and otherwise profane the ordinance of prayer, consequently prayer sometimes does no good—must *all* prayer be, on this account, discontinued? Again,

(e) The same objection lies against asking a man under any form to tell the truth. The form of affirmation, as a test of truth, is at least as useless as the oath; for a man of *perfect* veracity will speak truth without it—a man of lies will not with it.

2. Another argument against the use of the oath is, that it has been so much distorted in its form—and that pagans and papists have so much perverted and prostituted the ordinance, that it can no longer be employed with advantage. To all this class of objections, it is sufficient to reply, that the corruption or perversion of an institution is no argument against the institution itself. Prayer and every other ordinance of Religion is capable of perversion and abuse. But does it follow that because pagans pray to their stocks and stones—and papists to their

saints—that the true Christian should not pray to the true God? The abuse of oaths calls for a reformation in the form of administration, and in the general use of them—but not for a total rejection of the ordinance.

3. Kindred to the last mentioned is another argument against the use of oaths—namely—that on account of the great multiplication of oaths—their being used upon so many frivolous occasions—their being administered with so little reverence, it would be better to discontinue them altogether. We answer this objection as we did the last. It is based upon the false hypothesis—that nothing should be used that is capable of being abused. We deplore the facts, upon which this objection rests, as much as the objector can. We would join in an entreaty to those whose office it is to administer oaths, to do it with more reverence and solemnity. But we ask—must all men be forbidden to pray—or *excused* from prayer, because some men pray irreverently or hypocritically? Must all men cease to preach, because some men preach heresy? Must all money be disused, because some men will counterfeit the currency? Upon this principle we must abandon every thing useful.

4. But the argument upon which the opponents of judicial oaths place most reliance, is drawn from two passages of the New Testament, which they interpret to be an explicit prohibition of them. The first passage is Matt. v. 34; the other is James v. 12. These are urged as prohibitions of judicial oaths: and the sincere objector is entitled to great respect, for his regard for the authority of Christ

and his apostle is praiseworthy. But it is to be regretted that an erroneous interpretation should have led conscientious persons to array these two texts against all the other portions of the word of God that bear upon the subject. We are fully convinced that a careful examination of the context, and a true exegesis of the meaning of those passages will show that they are directed, not against lawful judicial oaths, properly administered, but against *profane swearing* in common conversation, and against unauthorized and idolatrous oaths.

Christ, in the sermon upon the mount, [Mat. v.] aims at correcting the mistakes concerning their law, into which the degenerate Jews had been led, by the traditions of the elders: and he rebukes some sins that were rife amongst his countrymen. This part of the discourse begins with the declaration, made in the 17th verse, "Think not that I am come to destroy the law and the prophets: I came not to destroy, but to fulfil"—or complete. This is the *key* to this whole branch of the discourse. He did not come to destroy the ceremonial law and the prophecies, but to accomplish the great events foreshadowed by them. He came not to abrogate the moral law, but to explain and enforce its precepts, to fulfil its requirements, and endure its penalty in behalf of his people. We know that it was the moral law he chiefly meant, for it is the precepts thereof he proceeds to expound. Hatred—uncleaness—profanity and vindictiveness, were sins rife amongst the Jews at that time; and in this discourse, he takes up and explains the commands that forbid these vices, exposing the false glosses of the

elders and scribes. “Ye have heard that it was said by them of old time—but *I* say unto you.” Such is the style in which he contrasts the glosses of the ancients with his own true and spiritual interpretation. But from this language of contrast the opponents of oaths ingeniously infer that Christ has repealed that part of the decalogue that enjoins the reverent use of God’s name in the oath.

But is this a fair deduction? By no means. It is the gloss put upon the law, “by them of old time”—not the law itself that our Lord contrasts with his own commentaries. “Ye have heard that it was said by them of old time, ‘Thou shalt not kill, and whosoever shall kill shall be in danger of the judgment:’ But *I* say unto you”—What? That the law “thou shalt not kill” is repealed? Nothing like it. “*I* say unto you” that this traditionary gloss, which would intimate, that nothing but the malicious act of overt murder is subject to judgment, is inadequate and fallacious—and “that whosoever is angry with his brother without a cause shall be in danger of the judgment,” &c. In the same manner he proceeds to contrast their understanding of the law against adultery, with his own spiritual interpretation of it: and then he comes to expose their perversion of the law against profanity.

“Again, ye have heard that it hath been said by them of old time—Thou shalt not forswear (or perjure) thyself, but shalt perform unto the Lord thine oaths.” The interpretation which the degenerate Jews put upon the third commandment and its kindred precepts was, that it forbade perjury; but that, if they only performed what they swore to, they

were at liberty to swear upon all occasions, whether lawfully called or not. And hence they had introduced a variety of profane and idolatrous oaths, in their ordinary conversation—such as “by heaven” —“by the earth”—“by Jerusalem”—“by their heads,” &c. Now it is the practice of swearing upon frivolous occasions, and in ordinary conversation, and the practice of swearing by created objects, instead of by the Creator, that our Lord here rebukes, and forbids. And a fair exegesis of the passage will *confine* his prohibition to the cases of *frequent—frivolous—extrajudicial*—and idolatrous oaths. This will appear if we notice, 1st. That even if the injunction “Swear not at all” stood by itself, disconnected from the subsequent parts of the sentence, it would not be a prohibition of judicial oaths: for the Greek adverb ὅλως does not usually signify *at all*. It is so rarely indeed that it can be thus translated, that some of the lexicographers have not given “at all” in their list of significations. Donegan does not give this meaning. He gives *wholly—entirely—in general—in fine*. Hedericus gives *prorsus—omnino—totaliter—integre*. The adverb is formed from the adjective ὅλος, which signifies *whole—entire—all*, and according to Hedericus, *totus—integer solidus—universus*. With a negative, the word might be sometimes used to express the negation *not at all*—but it is rarely, if ever, thus used. The prevailing use of the word fixes its meaning to be *in general—commonly—always—on all occasions*.

The word occurs but four times in the New Testament, viz., in Matt. v. 34; 1 Cor. v. 1, and vi. 7,

and xv. 29. In 1 Cor. v. 1, it is rendered by our translators *commonly*—"It is *commonly* reported." In chap. vi. 7, it is translated *utterly*—"there is *utterly* a fault among you:" and in the other two places it is rendered *at all*; but in both of them, it would make better sense to render the word by one of its more usual and natural significations. In 1 Cor. xv. 29, the collocation of the words indicates that ὅλως is to be understood in the sense of *generally*, or *universally*. εἰ ὅλως νεκροὶ οὐκ ἐγείρονται—i. e. if *generally* the dead rise not—if the dead be not *universally* raised. The negative οὐκ is evidently connected with the verb—not with the adverb, which last would be requisite in order to impart to it the force of *at all*. Here the adverb is placed in the beginning of the sentence. In Matt. v. 34, it is placed after the verb, in the end of that branch of the sentence, and between the verb *swear*, and the words "by heaven," &c.—both of which circumstances confirm the interpretation which we suppose to be the true one, viz.—"if *universally* the dead rise not." "But I say unto you swear not *commonly*," or *always*—upon *all occasions*. It is a safe rule in translation to adhere to the most natural and usual meaning of terms, unless good reason can be assigned for departing from it. And when we consider the fact, that in *two* of the four places in which ὅλως is used in the New Testament, it would make nonsense to render it "*at all*:" and since it makes better sense to avoid that rendering in the other two—regard to rule requires us to avoid it. It would be nonsense to say, "it is *at all* re-

ported that there is fornication among you." "There is *at all* a fault among you."

Another fact, that proves the fairness and propriety of this criticism is, that *ὄλως* is not the term usually employed, in the New Testament, to express that peculiar negation which we express by the phrase "not at all." In Jno. xix. 11; 1 Cor. xvi. 12; 1 Jno. i. 5; Rev. xviii. 21 and 22, and other places, the idea is expressed by other terms—such as *οὐδᾶμια*—*παντως οὐκ* and *οὐμη*.

We are, therefore, clearly of opinion, that our Lord Christ did not *design* to forbid the use of judicial oaths, upon proper occasion. He did not *intend* the repeal of the third precept of the decalogue, and its kindred precepts. He did not, by the prohibition in Matt. v. 34, *intend* to take away from society the important safeguard of the oath. He did not *repeal* this ordinance, but restricted its use to proper occasions; and freed it from abuses.—His precept fairly translated is, "I say unto you swear not *commonly*—*upon all occasions*—*in general*, *i. e.* in your common conversation, or upon trivial occasions."

But notice in the

2nd. We cannot grammatically separate the injunction "swear not commonly," from the particular specifications which follow—"neither by heaven—nor by the earth—nor by Jerusalem—neither shalt thou swear by thy head." It is a continuous sentence, and is not a *general* command at all, but a specific prohibition of profane and idolatrous oaths in common conversation. "I say unto you swear not *commonly*—neither by heaven, for it is God's

throne.”—If the Lord had intended to forbid legal swearing by the name of God, he would have said so. He would have said, “Swear not at all, neither by *God*, nor by Heaven, for it is God’s throne,” &c. : and the very fact that he did not *say* so, is clear proof that he did not mean so. For in the law they were expressly commanded to swear by the name of God (Deut. vi. 13, et al.) ; and if Christ had designed a repeal of that command, he certainly would have made specific mention of the name of God. Notice,

3. The *reason given* for the prohibition, is the idolatrous character of the oaths specified. The Jewish law forbade them to make oath by or to any but God himself ; for the obvious reason, that in swearing by any being, we attribute *omniscience*, *sovereignty*, and other divine perfections to him. In swearing by Heaven—earth—Jerusalem—and their heads, they *deified* these objects, and were guilty of idolatry. Heaven, though it be God’s throne, is not God himself—earth is but his footstool—Jerusalem is but the city that he favoured with his presence. And yet, these objects are so intimately associated with the name of God, that the man who swears by them is guilty of profaning that name ; and, if he break his oath, of perjury. On this account our Lord, in Matt. xxiii. 16—22, sharply reproves the scribes and pharisees as blind guides, for leading the people to believe—that it was less criminal to swear by the temple than by the gold of it—by the altar than by the gift upon it—by heaven, the throne of God, than by God himself.

These blind guides, like their successors, the po-

lish priests, led the people to believe that they could avoid the deeper criminality of perjury, by using these evasive oaths. But Christ shows that, in using them, they contracted three-fold guilt: for their perjury was as complete, no matter what the form of the oath; and they as effectually profaned the name of God, whose dwelling the temple was, and whose throne is the heavens, whilst at the same time they were guilty of idolatry in swearing by these material things. But,

4. The directions contained in the 37th verse conclusively settles the question. "But let your *communication* be yea yea, and nay nay; for whatsoever is more than these cometh of evil." The word (*λογος*) that is rendered communication, means *discourse—conversation—speech-talk*: and the reader will be convinced that it here refers, not to the giving of testimony, but to ordinary discourse or talk, when he examines the use of the same word, wherever it is rendered "communication." Luke xxiv. 17, "What manner of *communications* (*λογοι*) are these that ye have one with another?" Eph. iv. 29, "Let no corrupt *communication* (*λογος*) proceed out of your mouth." So also Col. iii. 8, et al. Now, if it had been the design of our Lord to forbid *judicial* oaths, he would have used the word *testimony* (*μαρτυρια*), which is used thirty-six times in the New Testament. But he does not say, "let your *witness-bearing*—your *μαρτυρια* be yea yea, and nay nay," it is your *λογος*—your common conversation.

"Whatsoever is more than this cometh of evil," or of the *evil One*. That is, if you swear in com-

mon intercourse, when not lawfully called to speak under the solemnities of an oath, you betray a consciousness of evil—it is proof that you feel that there is evil, either in your *character* affecting your *credibility*—or in what you affirm. Or if we render it “of the evil One,”—the meaning is, that profanity, in common parlance, is instigated by the Devil.

An inspection of the passage in James v. 12, will show that it is nearly parallel to the one we have expounded. “But above all things, my brethren, swear not, neither by heaven, neither by the earth, neither by any other oath: but let your yea be yea, and your nay be nay; lest ye fall into condemnation.” Some suppose that James’ exhortation had special reference to the oaths which the Christian Jews sometimes took in order to escape persecution. Their heathen persecutors would often propose to release them if they would pronounce some idolatrous oath, *προ πάντων*, *before all—publicly*: and the Jews, under the influence of their Pharisaic education, supposed that it was not sinful to swear, provided the name of God was not interposed. But James, who, in the preceding verses, had been encouraging them to bear up under persecution, here forbids them to swear before all, either by Heaven—or by earth, or by any other idolatrous oath. But even taking the injunction of James in its most extensive sense, neither it, nor that of our Lord, extends to judicial oaths properly administered. It is not a prohibition of lawful swearing by the name of God; but of profanely swearing by heaven, earth, and other created things.

5. Another argument for the disuse of judicial

oaths under the New Testament dispensation is, that they were a part of the Jewish polity, and to be abrogated with other parts of the ceremonial law. This argument is fallacious, for (*a*) oaths were not peculiar to the Jewish economy. They existed long before the establishment of the Jewish state, and before the framing of the Mosaic code; and they were used by other nations. And (*b*) it cannot be shown that any provisions of the Jewish code were abrogated at the coming of Christ, except those that were *typical* and had their fulfilment in Him; and such as were designed for *specific ends*, which ends have been accomplished. Every law of that code, that is of *permanent utility*, the *end* of which is as much needed in other nations, and in all time, as amongst the Jews in their age, is still binding. And it cannot be pretended that the ends to be subserved by the oath were confined to the Jews, or to a past age of the world.

6. Another argument brought against the lawfulness and expediency of oaths is, that Christianity has introduced a better righteousness, and has removed "the evil," of which, it is alleged, the oath "cometh." Says one writer, "If oaths are admitted to have come into the world in consequence of sin; then a religion, which was designed to make an end of sin, and finish transgression, may be fairly presumed unlikely to tolerate their continuance." This argument is based upon two false assumptions. (*a*) That every thing that the introduction of sin rendered necessary, must be superseded by the Christian religion; and (*b*) That Christianity has perfectly accomplished its object. In answer to it, we

remark, (c) If every thing must be abolished, which the entrance of sin rendered necessary, then *civil government* must be discontinued—for it is sin renders government necessary. If Christianity will not “tolerate the continuance” of any thing that “cometh of evil,” then will she supersede her own *atonement—repentance—confession of sin*—indeed, *all means of grace*. (d) We grant that if Christianity had fully triumphed, and removed all evil from the world, so that it were no longer a world of lies; oaths would be no longer needed. But even Christians are not perfect in this life, and until men are *perfect* in righteousness, *restraints* will be needed. Until religion has fully accomplished its object, its means must be employed; and we have shown that oaths are a part of that religion which aims to banish sin, and is *one of the means* of its banishment.

7. The opponents of the oath have attempted to strengthen their Scripture argument against the ordinance, by an appeal to the opinions of the early Christians, and the early reformers. A late ingenious and able author* has made a citation of the opinions of the Fathers and early reformers, which he supposes to make against the lawfulness of oaths. We cannot cumber this treatise with an argument, which would at best be but the opinions of men, and of men who lived in a twilight age. But a few remarks may be demanded by respect for those with whom such opinions might have weight. And,

(a) Our appeal is “to the law and to the testimo-

* Mr. Lewis.

ny" of God, and we can respect the opinions of *men*, only so far as they are drawn thence. "The traditions of the elders" do not weigh much with Protestants: and even the *writings* of the fathers are not inspired. Indeed, if we except those of the early Christians that *were* inspired, we are safe in saying that they did not, for the most part, enjoy so good opportunities as we do, of knowing the real opinions of Christ and his Apostles. Emerging as they were, either from the twilight of Judaism, or the night of paganism, their very nearness to the Sun of Righteousness but dazzled and confused their vision.

It is as contrary to historic verity, as it is to philosophical probability, to suppose that the early Christians could all at once attain to the perfect knowledge of the moral system which they had embraced. They laboured under immense disadvantages, by reason of the scarcity of perfect copies of the Scriptures—the paucity of competent teachers—the want of seminaries of learning, and the waves of persecution which raged almost perpetually around them. Nothing but the miraculous gifts of the Holy Ghost could fully compensate for these disadvantages; and these the fathers, that are usually quoted, did not enjoy more than ourselves. Indeed, as the Gospel history shows, personal attendance upon our Lord's own ministry did not prove an infallible means of removing misapprehension; and there is more romance than sober reason in the great deference that is shown to the uninspired fathers, as interpreters of the written Scriptures. We know that, even during the lives of the apostles, many errors were introduced; and we are much safer in following the

guidance of a candid, laborious, and pious exegetical scholar of the nineteenth century, than the opinions of the fathers, many of them crudely formed. Excellent men many of them were, strong in faith, and burning in zeal, and glorious in martyrdom: but all this does not prove them to be *infallible interpreters of a written document*. And the same is true of the early reformers, just emerging from the darkness of popery.

This much we have said, not because we believe the testimony of the fathers or of the early reformers to be against us, for we remark,

(*b*) That none of the citations made by the learned and respectable writer to whom we have referred, answer his purpose, and it is fair to presume that he would cite his strongest cases.

Take, for example, the very first case he introduces. "Polycarpus," says he, "who is said to have been the disciple of John the Evangelist, and who suffered martyrdom in the reign of Marcus Antoninus, about A. D. 162, has left a brief yet expressive testimony against the use of oaths. When urged by the Proconsul to take his oath and defy Christ, with a promise of release, he replied, 'Fourscore and six years have I been his servant, yet in this time hath he never offended me in anything.' The Proconsul still urging him to swear by the fortune of Cæsar, he answered, 'If thou requirest this vain-glory of me, that I protest the fortune of Cæsar, feigning not to know who I am, I make known unto thee, that *I am a Christian*; and if thou desirest to know what the doctrines of Christianity are, appoint a time, and thou shalt be informed.'"

From these quotations from the martyr's language, our author infers "that Polycarpus does not rest his refusal upon the character of that particular oath—but upon the ground of his being a Christian;" and he adds, "If the opportunity had been given, he must, to justify his refusal, have shown that the precepts of Christianity forbid swearing at all; for he certainly could not prove a specific prohibition to swear by the fortune of Cæsar." Upon this we remark,

(a) Our author must have quoted at second hand from Polycarp's first reply to the proconsul; for charity will not permit us to charge him with wilfully maiming a quotation. The *whole* reply of Polycarp is as follows:—"Fourscore and six years have I served my master Christ, and he never did me any injury; *how then shall I blaspheme my King and my Saviour?*" The words in italics are very essential to a *fair* understanding of the martyr's meaning. He would not "blaspheme his *King* and his *Saviour*," by swearing by the fortune of Cæsar, for that was a forbidden oath. The time had come, when "he that sweareth in the earth," Gentile as well as Jew, "shall swear by the God of truth," and as the oath is an act of religious worship, the conscientious martyr would not deify "the fortune of Cæsar," and blaspheme his King and Saviour, by taking that idolatrous oath.

(b) Our author has no right to infer that Polycarp "did not rest his refusal upon the character of that particular oath:" for it is admitted that he was "urged by the proconsul to take his oath and *defy Christ*,"—there was a defiance of Christ as the

“*King* and Saviour,” in swearing the proposed oath.

(c) We grant that he did rest his refusal “on the ground of his being a Christian ;” and his Christian principles forbade him to swear by any but “the God of truth.”

(d) Polycarp certainly *could* “prove a specific prohibition to swear by the fortune of Cæsar :” this is the very *point* of the command of Christ (Matt. v. 34—36,) and of James (v. 12). And,

(e) If Polycarp’s refusal to swear by the fortune of Cæsar is proof that he believed that “the precepts of Christianity forbid swearing *at all* ;” then the refusal of Concordus, who suffered about the same time, to sacrifice to Jupiter, is proof that he believed that the precepts of Christianity forbid to *sacrifice at all*, and that it is therefore unlawful to “present our bodies a *living sacrifice*, holy, acceptable unto God.” (Rom. xii. 1.) Is the refusal of a Christian martyr to worship Cæsar, or Jupiter, or any heathen god or hero, proof that he believed that his religion forbids him to worship *at all* ?

All the other citations of the opinions of the early Christians made by this writer, are equally unfortunate for his cause. They only go to prove that these pious confessors and martyrs refused to swear the *idolatrous Roman oaths*—not that they refused to swear by the true God. It is expressly recorded of Basilides (one whom our author quotes), that “he first refused to swear *as a heathen* ; next declared himself a Christian, which he maintained to the great astonishment of all ; for which he was impris-

oned, and at length beheaded.”* Our author, in citing the case of this martyr, omits to mention that his refusal was “to swear *as a heathen*.”

The citations of the opinions and practice of the early reformers are equally inconclusive. We do not doubt that the Waldenses and Albigenses refused the idolatrous oaths of papal Rome, just as the early Christians did those of pagan Rome; but that is no proof that they rejected the true ordinance of the oath.

Wicliffe maintained no more than we maintain, even according to our author’s showing, that “oaths made for any contract or *civil bargain* between *man* and *man*, are unlawful.” We do not blame Geoffrey Chaucer for his “invectives against the doctrine and practice of the Romish clergy,” nor “for indicating in his tales his disapprobation of oaths,”—probably meaning profane oaths—but this is not very explicit proof that the *Reformers* were opposed to judicial oaths.

Sir William Swinderly’s opinion proves as little. Walter Brute, his contemporary, does appear to lean towards the rejection of oaths, and yet all he says may be intended of extrajudicial oaths only. It remains to be *proved*, that John Huss, and Jerome of Prague, were opposed to “*all swearing*, in all cases;” whatever “writers in Germany and the Low Countries” may have said. Our author does not tell us who these writers are: but it would not be surprising if some writers amongst the anabaptists should quote these martyrs as favouring their renunciations of all social restraints. As for Eras-

* John Fox.

mus, he can hardly be classed with the Reformers. Luther, Calvin, Zwingle, and the great body of the reformers taught the lawfulness and expediency of oaths, and never imagined that an ordinance so fully authorized by the word of God, should be rejected.

Thus have we endeavoured to establish, by fair argument, the *lawfulness* and *expediency* of judicial oaths: and to answer the most forcible and plausible objections that are usually urged against them: with what measure of success, the candid reader must decide.

CHAPTER VIII.

OBLIGATION OF THE OATH.

By the *obligation* of an oath, we mean the *peculiar duty* or *responsibleness* it imposes upon the person sworn, to act or speak truly. This branch of the subject was, in part, necessarily involved in the question of the *efficacy* of the oath: but several questions, not discussed in that connexion, demand some notice: and in order to a lucid examination of them, it is necessary to have a clear conception of the nature of moral and social obligation.

What do we mean when we say, that a man is under moral obligation to do a thing? Says Dr. Paley, in answer to this question, "A man is said to be obliged when he is urged by a violent motive resulting from the command of another."* And he goes on to show that "the motive must be violent," *i. e.* powerfully appealing to the man's self-love, and to his regard for his own advantage—and that "it must result from the command of another:" and this he illustrates by the difference between the offer of a gratuity, for seizing an offender, by one who has no authority to *command*; and the order of a magistrate to do the same act. In the one case, the man may be *persuaded* to do the thing; in the other case, he is *obliged* to do it. And he lays

* Moral Philosophy.

down the position, "that we can be obliged to nothing, but what we ourselves are to gain or lose something by, for nothing else can be a *violent motive* to us. As we should not be bound to obey the laws, or the magistrate, unless rewards or punishments somehow depended upon our obedience; so neither should we, without the same reason, be obliged to do what is right, to practice virtue, or obey the commands of God." And, upon another page, he adds, "all obligation is nothing more than an inducement of sufficient strength:" and accordingly, in answer to the question—why am I obliged to keep my word? he answers—"because I am urged to do so, by a violent motive (namely, the expectation of being, after this life, rewarded if I do, or punished if I do not), resulting from the command of another (namely, of God)."

And again, in another chapter, he says, "So then actions are to be estimated by their *tendency*. Whatever is expedient is right. It is the *utility* of any moral rule that constitutes the obligation to it." Such is the sand-bank upon which this popular writer has laid the foundation of his moral philosophy. But this doctrine is monstrously false and impracticable; for,

(a) According to it we are not bound "to do right, practice virtue, or obey the commands of God," unless we have a sufficient inducement to do so; and, consequently, if the man is not sufficiently enlightened to appreciate the rewards and penalties of law—or if his depravity is so great, that "the pleasures of sin" present "an inducement of sufficient strength"—then there is constituted an obligation to do *wrong*;

or at least the man is perfectly justifiable in refusing to do *right*. But,

(b) Upon this principle, a man must always know, whether an act will result in advantage to himself, before he can feel obligation to do it; and he is thus constituted the *judge* of his own moral obligations, whilst his lusts are made the *pleaders*.

(c) Before we can know whether a moral rule is obligatory, we must be *assured* of its *utility*. Such a rule *could never* be applied; for none but an omniscient Being, who can see the end from the beginning, can *certainly* know what will be of ultimate utility.

(d) Another objection to this doctrine is, that "it makes the creature's happiness the supreme end of his creation, contrary to the testimonies of God upon this subject."* "Thou hast created all things, and for thy pleasure they are and were created," Rev. iv. 11; Col. i. 16.

(e) Another objection is, "that this account of moral obligation runs into absolute selfishness. The immediate tendency and remote consequences are to carry away the heart from God and concentrate its affections in self."*

Besides the doctrine of Paley, which we have thus shown to be false, there are other grounds of moral obligation proposed. Some have said that the basis of moral obligation is "the eternal fitness of things." But to this also we object, that as a moral rule it is impracticable. Who but the eternal Mind can *comprehend* the eternal fitness of things? And is a man never bound to do his duty until he

* Junkin on Justification.

can perceive that the required conduct is conformable to the fitness of things?

What, then, is the *basis* and the *rule* of moral obligation? We answer—the SOVEREIGNTY of God is the *basis*, the WILL of God made known is the *rule*. Why am I bound to do my duty? Because it is the *will* of God. But why am I bound to obey his will? Because he is my *Sovereign*. *i. e.* Because he is self-existent and infinitely perfect, and because he created—upholds—comforts and protects me: and because I am absolutely dependent upon him, he has *absolute authority* over me. The sovereign authority of my Maker binds me to obedience: a particular expression of his *will*, binds me to the performance of a particular duty. This is the only *practicable* doctrine; and it is the only doctrine that finds countenance in the Bible. The basis of moral obligation, which God himself lays down, in the preface to the decalogue, is his own *self-existence, perfection, and sovereign authority*. “I am JEHOVAH thy *God*,” Ex. xx. 2. And that his *will* is his own rule of action, and that of all his creatures, is abundantly proved in the Divine word. “He doeth according to his *will* in the army of Heaven, and amongst the inhabitants of the earth.” Dan. iv. 35—so also Rom. ix. 15; Jno. v. 30; Ps. xi. 8, &c.

Was Abraham to wait until he could discover that the sacrifice of his son Isaac was of *utility*—or conformable to the *fitness of things*, before he could *feel obliged* to obey God’s command? No: the *will* of his sovereign God, was obligation enough for him, he sought none other.

Why then am I bound to speak the truth? Because God my sovereign is a God of truth, and has required me to do it. And why am I especially obliged to speak truth under oath? Because the oath, lawfully tendered, is an expression to me of the *will* of God, that, in a particular case, I am required to disclose the whole truth. But it has been asked,

1st. *Does the oath increase the obligation to truth?* Many have doubted that it does—and they ask, “Is not a man bound at all times to tell the truth? Is not this obligation as complete as it can be made? and can its natural force be increased?” To these inquiries we reply,

(a) A man is at all times under *perfect* obligations to speak truth if he speak at all—but

(b) He is not bound to tell all he knows at all times, or when an informal request may be made by an unauthorized person. On the contrary, duty may sometimes require him to conceal the truth. Even the truth is not at all times to be told. An evil report against my neighbour may be *true*; and I may be cognizant of the facts—but it may be *sinful* for me to “take it up” and spread it (Ps. xv.)—Yet,

(c) That which it would, at one time, be sinful for me voluntarily to tell; I may, at another time, be placed under solemn obligations to disclose. We concede that if a man speaks at all, he is under *perfect* obligation to speak truth: But he is not legally bound, in any given case, to tell all he knows, until he receives a *call* from society to do so; or

rather a call from God, through the instrumentality of the *constituted authority*.

We have shown in a previous chapter (VI.) that God, as the sovereign of the universe, is the Founder of society—that “the powers that be are ordained of him”—that society is merely the representative and agent of the Supreme Governor, and that obedience is owed to *him—through* the constituted authorities. The *vox populi*—or rather the *vox civitatis*, when lawfully expressed, is to the citizen, the *vox Dei*. If the constituted agents of society call upon the citizen to testify to facts, of which he may be cognizant, and tender to him “the oath of God,” then he is *bound*—he is placed under *peculiar obligations* to tell the whole truth in the case. The oath is to him an indication of the sovereign will of God, that in *that case* the truth is to be stated. It is the *call* of God and of society, in a given case, to speak or act truthfully in discharge of social duty. How is a man to know when he is legally under obligations to disclose the facts in a given case? When he is *called* thereto by God and the government. And wherein is that call conveyed? In the summons? No: the witness may be summoned, but not sworn nor examined—the jurymen may be summoned, but not empannelled nor sworn. What then constitutes the *final call* to the performance of these civil duties? *The tender of the oath*. And when that tender is made, and received, then the individual is placed in a situation, in regard to God and the state, in which his obligations are *immediate, imperative—inviolable*. Before the tender of the oath it might have been law-

ful for him *to keep to himself* all he knows of the case—*now* he is under *obligation* to disclose them; and it would be awfully sinful for him to refuse to do so.

We have said that the oath constitutes the *final call* to the immediate duty of giving true testimony. It removes all doubt that the individual might have entertained concerning the propriety of making a full disclosure of the truth—it transfers from him to society the responsibility for the consequences of such disclosure.—It quashes all other proceedings *in foro conscientiaë*: brings him to recognize his social obligations, as in the presence of God, and clearly defines the path of duty in the case, reducing it to a simple straightforward and full disclosure of the whole truth.

We say, then, and we think our reader will concur, that an oath *does* increase a man's obligation to speak or act truthfully. It is the very ordinance by which the duty, in any given case, is *specifically defined*, and rendered immediate and imperative: and without it, or some form equivalent to it, the individual can never *certainly know*, that it is his legal duty to speak truth: nor can the court, or the parties in a suit, without the oath, ever know that the witness feels himself under obligations to disclose the whole truth; and therefore they could not repose confidence in his testimony. But,

(*d*) There is another consideration that proves that the oath increases the obligation to truth and faithfulness. It is, that responsibility increases with increase of knowledge or ability. "The servant which knew his Lord's will and did it not

shall be beaten with many stripes." Why? Because his knowledge increased his obligation.

Now, the solemn and proper tendering of an oath to a competent juror, necessarily reminds him of his natural obligation to speak truth, informs him of his duty to speak truth in the given case, apprizes him of his awful accountability to the God of truth and the Avenger of falsehood and injustice, reminds him that the eye of that God is upon him, points him to the awards of eternity, and exacts from him a promise of truthfulness. A mind, brought under the influence of such *knowledge*, and such *motives*, as the oath involves, must be, by the very process, better *capacitated* to speak the whole truth. The memory is refreshed in the knowledge of the loftiest moral principles; and the whole powers of the mind are roused to exercise, and drawn by love, or awed by fear to the conscientious discharge of the duty required. In view of this consideration, who will doubt that the oath increases the obligation to truth and faithfulness?

(e) But again. If the oath were nothing but a simple promise to tell the whole truth, or faithfully to perform certain functions; it would increase the obligation to do it in the given case. A man may bind himself by promise to do that which he would not otherwise be bound to do. And under the oath, lawfully imposed, the individual surrenders his liberty of withholding the truth (which, indeed, he has no right to retain), and enters into a solemn covenant to disclose the whole truth; and when this is done, his obligations become *absolute*, *definite*, and *increased*.

2. A second question connected with the obligation of oaths, is—*Does the strength of obligation depend upon the form of administration?* If the reader will call to mind the views we have expressed in regard to the nature of an oath, he will be able to anticipate our answer to this question. The *obligations* of an oath are not affected by, nor do they depend upon, the form of administration. The forms of administration are various in different countries; and citizens of the same country receive the ordinance in different forms; but the essential elements of the institution remain unchanged. Indeed, they *cannot be changed*, by any *authority* or *ingenuity* of man. Men may try, and have tried, to overturn this institution—to sweep away this element of social order, but their efforts have been vain. It is an element in every social constitution so absolutely *essential*, that justice cannot be administered, nor the details of government carried on, without it.

Whenever the magistrate lawfully calls upon the citizen to give testimony, the citizen is *bound* to respond to the call. This obligation we have already shown to be one under which every member of society is placed by *God in nature*: and it is an obligation from which the citizen cannot escape. Society has a right *to compel* her members to testify, and this *right* constitutes the *basis* of the oath. Now, when the witness is brought into court, and declines to take an oath in the usual form, but takes it in any other, he is as completely bound as if it had been taken in the usual mode. Or if to a witness, declining to swear at all, the proper officer should simply say—“Do you acknowledge your obli-

gations to give testimony in this case, and do you solemnly promise to declare in regard thereto the truth, the whole truth, and nothing but the truth?" and the witness should answer affirmatively, he is then placed *under oath*. Or even if he should refuse to promise under any form, and the officer should say—"By virtue of the authority intrusted to this court, I, as its officer, require you to tell, in regard to the case now pending, the whole truth, and nothing but what you know to be truth,"—the witness is thereby placed under the sanctions of the oath.* For (a) The authority that demands the truth of him, was "ordained of God," and the demand is made in God's name, even though that name be not pronounced. And (b) The witness has no right to resist the authority of God, and of the government; and if he does, he subjects himself to all the penalties annexed to such rebellion.

The solemn *demand* of the *truth*, made in *any form*, by a duly authorized officer of government, upon any competent witness, is, to all intents and purposes, *an oath*. For although the legislature, or the officer, may sinfully omit the name of God, and other terms essential to the *proper form* of an oath: and although the witness, by declining to interpose the name of God, may sinfully refuse to acknowledge his accountability to him, for the truthfulness of his testimony—still the failure of these *subordinate agents*, in the administration of justice, can by no means sunder the moral obligations

* Provided, of course, that the officer was authorized by law to put the demand of testimony in this form. The law making power in any state must prescribe the forms of oaths.

which Jehovah hath imposed. The name of God, if not *expressed*, is *understood* in every formal official demand of testimony. When a man *consents* to testify, before a lawful tribunal, no matter in what *form* his consent is expressed, he *ipso facto* places himself in the position of one under oath: and so is held in the view of God and society. The truth of this position is recognized in all our laws against perjury, in which a violation of truth, by a witness under *affirmation*, is held to be perjury, as fully as if the oath had been administered in due form.

From the foregoing view of the subject, we think the following conclusions inevitable—namely,

(a) The variation of the *formula* by which testimony is *demand*ed and *promis*ed, does not change the *obligation* to give truthful testimony.

(b) The omission of the name of God, and of other terms pointing to him as final Judge, however *criminal* such omission may be on the part of government, or the person requesting it, does not exclude from court the *Omniscient*—“*the faithful and true WITNESS*,” nor render the person testifying less accountable to him.

(c) The *criminality* of those, who perjure themselves under “affirmation,” or under any other form of the oath that differs from the Scriptural models, is *as great*, as if they had been sworn in the proper manner. Papists, who imagine that they are not really sworn unless they hold their hands upon, and kiss an *authorized popish copy* of the Gospels, having a *cross* upon the binding, are woefully misled. And they and others, who suppose that by kissing

their *thumbs* instead of the book, they avoid the oath, will find, when they stand before the final Judge, that their guilt in perjury was rather *increased* than diminished by this attempt at deception.

(*d*) Those who imagine that they do not *swear*, when they make solemn *affirmation*, are *utterly mistaken*. If they are competent witnesses, *i. e.*, if they believe in a God, and a future state of rewards and punishments, they are considered, by the authority that tenders the affirmation, as answering under all the solemn sanctions implied in such a belief: and, as we shall see elsewhere, the oath or affirmation is to be taken in the sense in which it is understood by the court. A court will not permit a man to *affirm*, whose religious creed would disqualify him to be sworn. The *affirmer* as really swears as the formal juror. The only difference is, that he refuses to acknowledge God as the omniscient witness of his truthfulness, as the supreme Magistrate to whom, and for whom, he is bound to speak truth; and as the ultimate Judge to whom he must answer. He refuses to interpose the name of God, and make appeal to him, in order to confirm the confidence of the court and of the parties in his testimony; haughtily arrogating to himself such a *character*, as is a sufficient guarantee thereof. He refuses to cast himself upon God's help—He refuses to swear by *God*—but swears by himself—by his own *character*—by his “own *head*,” although he “cannot make one hair white or black.” Indeed, we can see little difference between this kind of swearing by one's own word or character, and swearing by the

“Fortune of Cæsar.” And we have a singular illustration of the manner in which, sometimes, extremes meet, in the fact that non-jurors, who base their scruples upon our Lord’s prohibition, (Matt. v. 34—37,) are really betrayed into a direct, though unintentional, violation of that command, in its true import.

But does the affirmer, by refusing to interpose the name of God, really avoid the oath? By no means. He must annihilate the very elements of the social fabric, or, by refusing to testify altogether, become an outlaw, before he *can* avoid it. Does he gain any thing, then, by attempting to set aside this ordinance of God? Far from it: for whilst he really swears, and is as firmly bound by the one form as by the other; he incurs the guilt of dishonouring his Maker, by declining his authority in civil matters.

The view of this subject now presented applies, in its full force, only to such as refuse the oath and take the affirmation, with the avowed or implied idea that their naked word is good enough—that as *gentlemen*, an appeal to their own *honour*, as their *law*, and *judge*, is as good as an appeal to God. We by no means charge our brethren of the Friends and Moravian societies, and others who sincerely scruple to take an oath, with wilful disrespect to God and his ordinance. Although we sincerely believe them to be in great error, yet we are far from thinking them intentionally guilty of the attempt to banish God from earthly courts, or of knowingly performing an idolatrous act in “swearing by that which is no God.” We hope, however, that many

of this class of non-jurors will be convinced, by the views we have presented, that "the more excellent way" is to receive the ordinance in its *Bible sense*—and its *Bible form*.

But whilst we hold that the scruples or the perversity of the juror, or the unfaithfulness of government in distorting the form of the oath, can never relax its *obligations*: we are fully persuaded that such distortion *does impair its efficacy*. We do not believe that God will bless an ordinance so fully, and make it so efficacious, if its form be marred, as if it be used just as he appointed it. The papist is not under less obligation to worship God in spirit and in truth, because his church has distorted the scriptural *forms* of worship: but he cannot expect the blessing of God upon his mummeries. So although the juror, who swears by a distorted form of the oath, does not thereby cancel or diminish his obligation to God, to testify truly: yet the government that permits the distortion, forfeits the blessing of God upon the ordinance, and impairs its *efficacy*. We cannot repose such confidence in the *efficacy* of an institution, when it is employed in a mutilated or distorted form. Facts corroborative of this view will be furnished in a subsequent chapter.

3. A third question pertaining to the subject of the obligation of the oath, is—Is falsehood under oath more heinous than falsehood under ordinary circumstances? We cannot accurately measure the aggravations of crime. We know that every sin is an infinite evil, for it involves rebellion against the infinite God. But that some sins are more heinous in his sight than others, we are explicitly informed.

All we will say here is, that where obligation is stronger—there crime is more aggravated ; and that perjury is on this account more heinous than simple falsehood, we will have occasion to show in the chapter upon the crimes committed against the oath.

4. A fourth question is—Does the violation of the obligations of the oath incur a heavier penalty than common falsehood ? An affirmative answer necessarily follows from the preceding remarks, and will be more fully explained elsewhere.

Connected with the subject of the obligation of oaths stand the questions relating to the *extent* of obligation they impose : or in other words, the *interpretation* of oaths. To this we shall proceed in the next chapter.

CHAPTER IX.

DIFFERENT KINDS OF OATHS, AND THE INTERPRETATION
OF THEM.

ALL oaths may be divided into two classes or kinds: *assertory* and *promissory*. An assertory oath is so called because in it the juror asserts or declares something to be or to have been—in it he asserts the truth about things past or present. In a promissory oath the party sworn promiseth or engageth to do something hereafter.

It is not our purpose to enumerate and describe the various oaths that are required in the details of government: it will be sufficient for all practical purposes to show to what class they severally belong, since the same general principles of interpretation will apply to all of each class.

To the class denominated *assertory* belong the oaths of witnesses—the oaths of parties admitted to the oath of purgation and of their compurgators*—the oath called the *voire dire*, the oaths that are sometimes tendered to electors as a test of qualification, and all similar oaths. To the other class (promissory) belong the oaths taken by the various agents of society, civil or ecclesiastical—such as the coronation oath of a king—the inauguration oath of a president or governor—the oath of magistrates,

* See Blackstone's Com. vol. iii. 342. 100. 447, et al.

sheriffs, and other officers and trustees of civil functions. To this class also belong the oaths of jurors, and arbitrators; although they are in a certain sense intermediate witnesses, called to testify to the court as to the facts established by the evidence before them. Oaths of allegiance are also promissory, although sometimes there is an *assertory* declaration in regard to the renouncement of a former allegiance. *Religious vows* also are of the nature of a promissory oath, in which God is not only the *witness*, but more directly the party or promisee, Ecc. v. 4, 5, and in these may be included the solemn promises made by ministers of religion at their ordination; although in these, the Church, as well as the Church's Head, is contemplated as a party to which the vow is made.

By the *interpretation* of an oath we mean a declaration of the *sense* in which it ought to be understood by the conscience of the juror, and a defining of the *extent* to which he ought to feel bound by it: and accordingly two questions are to be asked, in interpreting an oath in any given case.—1st. In what *sense* ought the juror to understand the terms of his oath? 2nd. To what extent ought he to feel himself bound by it?

The word of God lays down three qualifications of a lawful oath—or rather three things that should be regarded in the fulfilment of its obligations—namely, *truth*, *judgment*, and *righteousness*. Jer. iv. 2, “Thou shalt swear the LORD LIVETH in truth—in judgment, and in righteousness.” The word rendered *truth*, in this place *faith—fidelity, sincerity—truth*, and involves the ideas of both *truth*

and *faithfulness*. To swear "in truth," then, is to swear under a true and proper sense of our obligations, and our accountability to the true God, and with special care that what is sworn be strictly agreeable to *truth*, if it be *assertory*, and to *fidelity* if it be *promissory*. We swear in truth when there is "an exact agreement between the sentiments of our minds, and the words of our mouth, without the least equivocation or mental reservation." And not only must the juror's words conform literally with the sentiments of his mind, but they must be such as those imposing the oath will understand in the same sense he does himself. The doctrine of Rome, admitting equivocations, and mental reservations, defeats the very end of oaths, opens a wide door for perjury, and tends to destroy all civil confidence.

The prevailing signification of the Hebrew term translated *judgment*, in the passage above quoted, is—a *trial at law*—the *result* of a trial, *i. e.* a *decision*—*verdict*—judgment or *sentence*: although some have attached to it the meaning of judgment, in the sense of *discernment* or *discretion*. The former is its prevailing sense: and we think the passage contains an injunction to swear "in judgment," *i. e.* in *judicial trials*, for the purpose of securing righteous judgments. This injunction may regard, either (a) the judge, juror, or other agent of government by whom the judgment or verdict is to be rendered, and who should swear to decide righteously: or (b) the parties or witnesses who, in furtherance of the trial, may be called to swear. If we are to take the word judgment in

the sense of *discernment*, or *discretion*, the meaning of the injunction is, that we must swear "with knowledge and deliberation, seriously pondering in our mind what it is we are about to swear, and the solemn appeal we make to God in the oath, together with the dangerous risk we run, if we swear either falsely or ignorantly."* But since all these ideas are embraced in the requirement to swear "in truth,"—and as this interpretation is not warranted by the general use of the original word, we are of opinion that the command "ye shall swear in judgment," points at the *occasion* in which oaths should be taken: namely, *in case of trial* before a magistrate or other lawful tribunal—and there *only*; and that it implies a prohibition of extra-judicial oaths.

The term *righteousness*, employed in this passage, denotes that which is *right*, according to *law*, *justice*, and *equity*; and to "swear in righteousness," is to swear according to the lawful interpretation of the oath, and in furtherance of justice and equity. We think, therefore, that the passage we have thus expounded points out *imperatively*, 1st. The *Being* by whom and to whom we should swear—viz., the *living God*—"JEHOVAH liveth." 2nd. The *manner* in which we must swear—"in truth." 3rd. The *occasion* and place in which we should swear—"in judgment," a *lawful trial*—before a *lawful tribunal*. 4th. The *end* for which we should swear "in righteousness,"—to promote *justice* and *equity*.

Another general remark concerning the interpretation of an oath is, that it must be interpreted in

* Fisher.

the sense in which the party imposing the oath intends. The old and correct rule is, "*jurare in animum imponentis*,"—"to swear agreeably to the mind of the party imposing the oath." And by his oath the witness is bound to ascertain, to the utmost of his ability, the true meaning of the questions that may be proposed to him, and to convey to the minds of the proposer and the tribunal, a true answer.

Having made these general remarks in regard to the understanding of an oath, we proceed to speak of the interpretation. 1st. Of *assertory oaths*. These are of two kinds: (a) the *voire dire*, or *veritatem dicere*; and (b) the oath in evidence, under which a witness is examined in chief. The former, "You do swear, &c. that you will true answer make to all such questions as shall be asked you," in regard to the specified object of the examination. This oath is used in such cases as the examination of an infant in regard to his non-age—the examination of a witness in regard to his competency, previous to his being sworn in chief*—the examination of voters at elections in regard to their qualifications, and in like cases. In the *voire dire*, the interpretation of the oath must be according to the witness's understanding of the true and intended meaning of the examiner's questions. The witness is bound to understand the questions in the sense in which he has reason to believe the examiner *intended*. He is not at liberty to put another construction upon them, and then answer them according to that construction. His oath binds him to give true

* This is now seldom done.

answers to the questions proposed in the sense in which he supposes the examiner wished them to be understood; and his answers must be so worded as to *convey* a true answer.—No reservation—double meaning, or deception of any kind must be employed. If such is intentionally employed, the witness is perjured.

In the *oath in evidence*, the witness swears “to speak the truth, the whole truth, and nothing but the truth,” touching the matter at issue. By this oath the witness is solemnly bound to impart to the court all the knowledge, that he of himself possesses, of the matter in regard to which he is sworn. If he knowingly conceals any fact or circumstance which relates to the matter in litigation, it is as much a violation of his oath as if he should state a positive falsehood. The witness must give a *full account* of all the facts in the case to the best of his *knowledge* and *ability*, without colouring or suppression. The notion that is so prevalent, that, unless the examination *leads* to the facts, he is not bound to disclose them, is utterly erroneous. It is not enough for the witness to say, in excuse for withholding a fact, “it was never asked me,”—he is bound to tell, whether asked or not—and if he wilfully withhold a fact, he is perjured.

There is but one exception to this. The laws of England and of this country constrain no man to be his own accuser; and hence there is this tacit exception, in administering the oath to a witness, that he is not bound to disclose anything that would impeach himself of a *legal* crime. But the exception is confined to *legal* crimes. However a fact

may make against the *honour* of a witness—and however reluctant he may be to disclose that of which he is ashamed: yet is he bound to disclose it, and is perjured if he do not. He is justifiable in concealing that only which, if confessed, would subject him to some legal penalty.

When an accomplice in crime is admitted to give evidence for the State, he agrees to waive this exception, and disclose the whole truth. *Compassion* for the accused is no just ground for withholding facts. However amiable the feeling, it must never interfere with the administration of justice, nor lead a witness to commit perjury.

When questions are asked, which the witness may deem not pertinent to the issue, and which may affect himself or some third person; the witness may appeal to the court to decide the pertinency of the question. The court being the interpreter of the law which imposes the oath, the opinion of the court shows the *animus imponentis*—the mind of the imposer, and if it release the witness from the answer, he is not bound to reply. But if the court decide that the question is pertinent, the witness must give a true answer: or if he still refuse, he assumes the responsibility of judging of the pertinency of facts, and thus makes his appeal from the court to the God in whose name he has sworn. How far the law and the courts will permit a witness thus to throw himself upon the rights of conscience, is a separate question, belonging to the lawyers.

2nd. In *promissory* oaths, in what sense is the juror to interpret his oath? We answer again, ac-

according to the intention of the imposer, as far as that intention is known. "When the terms of a promise," says Paley, "admit of more senses than one, the promise is to be performed in that sense in which the promiser apprehended, at the time, that the promisee received it. It is not the sense in which the promiser actually intended it, that always governs the interpretation of an equivocal promise. Because at that rate you might excite expectations, which you never meant, nor would be obliged to satisfy. Much less is it the sense, in which the promisee actually received the promise.—It must, therefore, be the sense in which the promiser believed that the promisee accepted his promise. This will not differ from the actual intention of the promiser, where the promise is given without collusion or reserve; but we put the rule in the above form, to exclude evasion in cases in which the popular meaning of a phrase, and the strict signification of the words differ, or, in general, wherever the promiser attempts to make his escape through some ambiguity of the expressions he used."

The necessity of this rule he illustrates by the following anecdote. "Temures promised the garrison of Sebastia, that, if they would surrender, *no blood should be shed*. The garrison surrendered, and Temures buried them all alive. Now Temures fulfilled the promise in one sense, and in the sense too in which *he* intended at the time; but not in the sense in which the garrison actually received it; nor in the sense in which he knew that they received it; which last sense, according to our rule,

was the sense in which he was in conscience bound to have performed it."

This doctrine is sound, and it applies of course to promissory oaths. The swearer is the promiser—the government imposing the oath is the promisee, and the swearer is bound in conscience to fulfil the promise made under oath, in the sense in which he, at the time, supposed the government or the court to understand it. Take, for illustration,

1st. The oath of a magistrate, such as the oath of the President of the United States. It is as follows—"I do solemnly swear that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

Here is a solemn promise under oath to perform certain duties, and the distinguished juror is bound, before God and in conscience, to perform those duties—in what sense? As he understands them? No: for he might understand certain things to pertain to the office of President, which, according to the *animus imponentis*, belongs to some other department of the government: he may suppose that a certain thing was necessary to be done by him in order to preserve the constitution, which the promisee understands to be uncalled for, and forbidden by his oath. In what sense, then, is he bound to fulfil his promise? Undoubtedly in the sense in which *he supposes* the promisee understood the promise at the time it was given. But how is he to ascertain this? Who is the promisee in this case? The people of the United States. But in what sense did they understand the promise of the

President? They have set forth their understanding of it in the constitution. But if the President understands the constitution one way, and the people another, who is to decide? There is provision in the constitution for this. The Supreme Court of the United States is made, *in the constitution*, the *interpreter* of that instrument and of the laws enacted under it. This the President knows at the time he takes the oath, and therefore he is bound to support the constitution and execute the laws—*as they are interpreted by the Supreme Court*. It is not the supposed will of a temporary majority of the people: but the decisions of the supreme judicial power that are to indicate to him the *animus imponentis*. The same doctrine applies to every inferior magistrate. He is bound to perform the functions pertaining to his office, to the best of his knowledge and ability, and that in the sense in which he believes the government to expect the performance. There is a very prevalent error in regard to the interpretation of the oath of a justice of the peace, or other magistrate or officer who is an ordinary conservator of the peace. It is, that he is not bound by his oath of office to interfere or institute process against disturbers of the peace, and transgressors of law, *except upon information or complaint* of some third person. This is a false and inadequate interpretation. Their oaths bind them to “perform all the duties of their office *faithfully* and *impartially* :” and their duties are defined in the laws which they are sworn to execute. These laws, for the most part, authorize and require them to keep the peace—and to institute process

“of their own knowledge,” as well as upon information. We are at a loss to know how the great majority of our magistrates will give account to the final Judge of the manner in which they fulfil their solemn oaths of office.

Take, for farther illustration of the rule of interpreting promissory oaths,

2. *The oath of a juror.* He promises under oath “to well and truly try the cause, and true verdict to render” in the issue joined, according to the evidence. Now, by this oath he is constituted a judge of evidence, and of that only. He is to interpret his oath according to the sense in which he understands the court to impose it; and of this sense the court may inform the jury, at any time before they retire from the box. The juror is not bound by his oath to decide what the sentence of the court ought to be. With that he has nothing to do. Neither is he to judge of the propriety of the law which may determine the ultimate award. His oath *binds* him and *confines* him to the simple duty of ascertaining doubtful facts, and rendering an answer or verdict in reference to the facts of the case, for the enlightenment of the conscience of the court. In doing this he must not be influenced by his own opinions or feelings, in regard to the sentence which may follow the verdict. If, for example, the jury be sworn to try a man upon an indictment for a capital crime, and one of the jurors is conscientiously opposed to capital punishments, he must not, for this reason, incline to render a verdict of not guilty, contrary to the evidence. He is not accountable for the consequences of his verdict. His sole business

is to declare to the court what he believes to be proved : and if, impelled by private scruples, he fail to do this, he is perjured before God.

The jury may make their verdict *general* or *special*. The verdict is *general* when they declare that certain facts are proved or not, as the case may be ; and that, in view of the law as laid down to them, they consider that the facts imply criminality or otherwise—*i. e.* they may find a verdict of *guilty* or *not guilty*.* The verdict is *special* when they simply state the facts as they find them proved by the evidence, and refer to the court to apply the law. But in either case the juror is bound simply to decide the question “what is proved by the evidence?” without any regard to consequences.

These cases will sufficiently illustrate the *sense* in which a promissory oath is to be interpreted : and we proceed to inquire,

2nd. To what *extent* are promissory oaths binding ?

Here we remark, (a) A promissory oath is not binding when the performance is *impossible*. Great criminality may have been contracted in *taking* the oath, but the performance is not required. If a man swears to perform anything, he asserts his belief that he *can* perform it : and if he knows, at the time he swears, that it will be impossible for him to perform, he is guilty, at the bar of conscience, of wilful perjury. If he *suspects* the impossibility, he is guilty of rash and presumptuous swearing. Or if, after having sworn to a promise, the juror himself creates

* In some of the States, this doctrine applies only to civil cases.

the impossibility, as when a soldier maims himself in order to get rid of his engagement, it is a direct violation of his oath—it is perjury in the sight of God.

Again. The impossibility may have been created, without the knowledge and beyond the control of the juror, after the oath was taken. Here the promise is not binding; although great guilt may have been contracted, by rashly swearing to do that which might become an impossibility. This can rarely occur; for in almost all promissory oaths, the fair interpretation includes such provisions and conditions, as render it quite safe for the conscientious man to promise *to the best of his ability*.

(b) An oath is not binding, the performance of which would be *unlawful*. The taking of the oath may be awfully sinful; but the keeping of it would be more sinful than the breach. If the juror knew, at the time the oath was taken, that the thing he was sworn to do was unlawful, his guilt was in *taking*, not in breaking the oath. For example—those Jews, that “bound themselves under a curse, saying, that they would neither eat nor drink till they had killed Paul,” (Acts xxiii.) were guilty of moral perjury and blasphemy in the use of the oath; but their guilt was contracted in *taking* the oath. They were not obliged by their oath to perpetrate the murder, even had opportunity offered; because they were under previous and stronger obligations to avoid such crime, and the mere fact of their calling upon God to witness their wicked promise, and to curse them if they did not fulfil it,

could not make it right for them to commit the murder.

Or if the unlawfulness of the thing promised did not exist or was not known to the juror, at the time he took the oath, he should not interpret his oath as binding him to do wrong. In cases where there is no proof to the contrary, it is to be presumed that the swearer supposed his engagement to be lawful; and the lawfulness, therefore, becomes a condition of the engagement; and when that condition fails, the obligation ceases. It can, however, rarely happen, that a man will be placed under a *lawful* oath to do a thing which may become unlawful. When Herod "promised with an oath" to the daughter of Herodias "to give her whatsoever she would ask," (Matt. xiv.) he could not know that she would ask that which it would be unlawful for him to grant. And although the oath was extra-judicial, *profane*, and *rash*, yet the matter of the promise was not unlawful, until the girl's wicked request made it so. If she had asked for anything which it would have been lawful for him to give, he would have been bound to fulfil his oath: but when she demanded the head of John the Baptist, the matter of the promise became unlawful, and he was not bound to fulfil it. His crime consisted in swearing a rash and profane oath: but no wickedness of this kind can constitute an *obligation* to do a farther wickedness; and Herod erred, in so interpreting his oath, as to feel bound by it to commit murder.

But although it be true that a man cannot be bound by oath to do that which is unlawful in the sight of God; yet he may be bound to do that which

is injurious to himself, provided there is no moral wrong in the thing to be done. In the fifteenth Psalm, decided approbation is expressed of faithful adherence to an oath, the matter of which is to the injury of the juror; and a blessing is promised to such conduct. "He that sweareth to his own hurt and changeth not—shall abide in the tabernacle of the LORD." This principle is illustrated by several historical incidents recorded in Scripture. The case of the Gibeonites, recorded in Joshua ix., is in point. They deceived Joshua, and the princes of Israel into the belief that they dwelt in a remote country; and under this impression "Joshua made peace with them, and made a league with them to let them live, and the princes of the congregation *swore* unto them." This oath the princes considered *binding*, although it was procured by deception, and led to a departure from the policy enjoined upon them, utterly to destroy the abominable inhabitants of Canaan. And we are assured that God approved of their conduct in adhering to their oath; for he was displeased with king Saul, when, long afterwards, he injured the Gibeonites in violation of this treaty. (See 2 Sam. xxi. 1—2.) Even in the war which, by special Divine command, Israel waged against the accursed Canaanites, they must not violate solemn treaties and oaths, even when the keeping of them was to their "own hurt." And were not these Canaanites—the accursed of God—as great heretics as ever "the church" had to deal with? Yet Rome, claiming to be the church of God, under a milder dispensation, holds that "no faith is to be kept with

heretics ;” and has herself violated the oath and authorized its violation in countless instances.

In connexion with the question, “To what *extent* are promissory oaths binding ?” it may be proper to consider the oath of *Attorneys* and *Counsellors* at law. The oath taken by attorneys, counsellors—masters and examiners, &c., in the State of New Jersey, and which is substantially the same with the forms used in other states, is in the following words—“I do solemnly promise and swear that I will faithfully and honestly demean myself in the practice of an attorney, (counsellor, etc.,) and will execute my office to the best of my ability and understanding—so help me God.” The question is—to what extent ought an attorney to feel bound by this oath ? In view of the principles already laid down, we answer,

(a) He must conscientiously interpret his oath according to the *animus imponentis* ; and this is expressed in the laws of the land, and in the rules of the court of which he is a counsellor. The *animus clientis* is not the *animus imponentis*, for a client may expect him to employ unlawful measures, to gain his cause, which the attorney is not bound to do, for (b) He is not bound to effect *impossibilities* for his client ; and (c) He is not bound by his oath to do any thing morally wrong nor civilly unlawful, in order to serve his client. On the contrary, his oath binds him to “demean himself faithfully and honestly ;” and he is as much under obligations to be *faithful* and *honest* to the court, and to the country, as to his client. The attorney’s oath binds him to make every exertion in his power to

serve his client, provided such exertion do not involve any thing unlawful or morally wrong. But his oath can never bind him to *do wrong* in order to acquit himself of his duty to his employer. It is a false interpretation of his oath, and a mistaken and blameworthy zeal, that would lead an attorney or advocate to resort to base or wrongful expedients—in order to gain a cause. He is sworn to be an honest and faithful counsellor of the court, as well as an advocate of his client; and if he wilfully attempt to deceive the court by unsound counsel or false statements, he is perjured; and as completely violates his oath of office, as if he had proved wilfully unfaithful to his client. Yet it is greatly to be feared that some of that honourable profession do thus dishonour their office, and plead, in excuse for the wrong, that they are sworn to do the best they can for their clients.

In connexion with the subject of promissory oaths, the fulfilment of which may become unlawful, there arise some curious questions concerning the extent of the obligation of oaths imposed by *voluntary societies*, distinct from, and independent of both the Church and the State.

We shall, in another place, give our reasons for considering all such oaths extra-judicial, and therefore contrary to the true intent of an oath. In this place we will only say that the interpretation of them comes under the same rules that apply to other oaths. They are binding, *in conscience*, to the full extent of their terms, provided the *matter* thereof be *possible* or *lawful*: but they cannot bind a man to violate the laws of God or of society; for

these laws he is under previous obligations to obey. If, in the oaths that are said to be taken by the members of the Masonic and other secret societies, they swear to do things that are not forbidden by the laws of God or of the commonwealth, they ought conscientiously to fulfil their oaths : but if, as has been alleged, these oaths involve a promise to do that which is, or which may become *unlawful*, they are not binding, in regard to the unlawful matter. For example—a Mason's oath to help a brother in distress can never bind him to violate his allegiance to God and the State, nor to violate his oath as a judge, a juror, or a witness, nor to do any other unlawful act in order to relieve his brother. It may be sinful—and we suppose it to be sinful, to take such oaths as *may* come in conflict with those obligations which rest upon us as creatures of God and citizens of our country : but the guilt is in *taking*, not in *breaking* them. Our obligations to obey the laws of God and of the commonwealth are paramount to all other obligations that we may assume ; and no voluntary society has a right to impose—nor have we a right to take any oath, which may bind us to violate those laws : and the moment such oaths come in conflict with *law* and *right*, that moment their obligations cease.

Such are the general principles that are applicable to the interpretation of oaths, and we deem it unnecessary to be more specific.

CHAPTER X.

THE FORM OF THE OATH.

WE have already shown that the oath is a solemn act of religious worship: and that worship is a cherishing of sentiments of love and veneration towards the Divine Being, and a proper expression of these sentiments by outward acts. It is impossible for beings, constituted as we are, with soul and body, to worship God socially without some outward forms. Thought and feeling cannot be communicated from mind to mind without some *material medium*. Language itself is a material medium: and if nothing but words were to be employed in expressing the religious emotion, still it would be an outward *form* of expression. The sentiments of the mind must be *bodied forth*, before they can fix the attention or engage the sympathies of others. Hence, from a necessity arising out of the constitution of our nature, a religion adapted to man, must be, like himself, composed of *soul* and *body*—of sentiments of the mind, and suitable *forms* by which these sentiments may be expressed.

We are not given to stickle for useless forms in religious worship; but we are of opinion that, if *form* is important in any part of worship, it is in the matter of administering oaths. Inasmuch as

this is an act of worship, that pertains not exclusively to the church, but is to be administered to many that are strangers to spiritual religion, it is important that the form of the oath convey, as far as possible, a true and solemn impression of the meaning of the ordinance, so that it may more surely accomplish its end. And it is our sober judgment, that the form indicated in the word of God, is the most solemn, simple, and expressive of the true nature of the oath; whilst the forms that have been borrowed from paganism tend to obscure and pervert it.

Preliminary to a discussion of the form of the oath, we remark,

1st. The only binding rule, in regard to forms of worship, is the will of God made known. If he has indicated his approval of any ceremony, either by direct precept, by his example, or by tacit approbation of its use, then are we bound to employ it, and are forbidden to use such as is not thus authorized. For,

2nd. If men may change the forms of religion at pleasure, or employ ceremonies of their own invention, there will be no end of such variations. But God has forbidden us to worship him in any way not appointed in his word: and *will worship* is exceedingly offensive in his sight. If men change the forms of worship which God hath appointed, or add to them, they impeach his wisdom and goodness—they declare that he was either not wise enough or not good enough to make the religion which he gave to man perfect, and that it needs to be improved by human wisdom.

Various forms and ceremonies have prevailed, in different ages and countries, in administering oaths ; and we shall proceed to point out first that which we believe to be the only proper and scriptural form, and afterwards some of those which we believe to be unauthorized, idolatrous, and absurd.

The form of an oath consists in the words in which it is administered, and the attitude and gesture of the person sworn, and of the person administering the oath.

1st. The words of the oath. It has been already demonstrated from the Bible, that it is unlawful and idolatrous to swear by any but God : and if we are bound to swear by God only, the words of the oath should clearly point out the fact, and keep the juror in remembrance of it. On this account, the language of the oaths mentioned with approbation in the Scriptures, or of those forms that most nearly resemble them, is to be preferred. Now in every scriptural form the name of the Divine Being is interposed. And farther than this, it was, as we have seen, accounted a heinous crime to refuse to swear by his name, or to swear by any thing else. “Thou shalt swear the LORD liveth,” *i. e.* by the living Jehovah—(Jer. iv. 2.) The forms most frequently found in the Bible are, “as the LORD liveth.” This is used more than twenty times, (Ruth iii. 13, et al.) “As the Lord God of Israel liveth”—this is used in 1 Kings xvii. 1 ; and xviii. 15. “As the Lord thy God liveth”—this is also used twice. “God do so to thee (or me) and more also”—this form is used in 1 Sam. iii. 17, and seven other places. This is equivalent to the English form “So help me God.” “I

adjure thee by the living God," Mat. xxvi. 63. This was the usual Jewish form. "I swear by him that liveth forever and ever, who created all things," Rev. x. 6. This is but the Jewish form, "as Jehovah liveth." "God is my witness," Rom. i. 9; 1 Thes. ii. 5. "Before God I lie not," Rom. ix. 1. And when God himself, in condescension to men, used the oath, he swore by *himself*. Jacob, it is true, "swore by the fear of his father Isaac," and this, at first sight, may seem to be an oath in which the name of God was not interposed; but the phraseology undoubtedly means, "the God whom his father Isaac feared." Laban had sworn by "the God of Abraham and the God of Nahor, the God of their fathers;" and as Abraham, Nahor, and Terah *had* worshipped other gods, (Josh. xxiv. 2,) this oath was not entirely unambiguous. Jacob, that he might leave no doubt in regard to the Being to whom he performed this act of worship, "swore by the Fear of his father Isaac," (Gen. xxxi. 53,) who had never been an idolater: and we are assured in the 42d verse, that the "fear of Isaac" is the "God of Abraham." Thus we ascertain that in every scriptural oath the name of God is interposed.

If, then, the word of God is to be our guide, it is perfectly clear that the oath is never administered in accordance with his will, except when *the name of the Supreme Being is interposed*. It is not a *Christian* oath that omits the name of "the living God:" and by such omission one chief aim of the oath is missed. We have shown that the *vis operandi*, or efficacy of the oath, chiefly consists in causing the juror to feel that he is in the *presence of*

God—that the eye which “is in every place beholding the evil and the good” is upon him, and that he is accountable to God for what he says or does. But is this effect secured when the very name of God is excluded from the form of administration? Is it not as preposterous as it is unscriptural to profess to call upon God in an act of worship, and yet to exclude his name from the terms of the call? Is it not as absurd as it is impious to pretend to swear by his name, and yet never mention that name in the oath? “He that sweareth in the earth, shall swear by the God of truth,” Isai. lxxv. 16. “Thou shalt fear the LORD thy God, and shalt swear by his name,” Deut. vi. 13. “Thus saith the Lord”—and yet professedly Christian men will, in accommodation to the bigotry of the handful of infidels, that can be found in any Christian country, violate this express law, and exclude the name of their God from their solemn oaths. The oath of the President of the United States could as well be taken by a pagan or a Mohammedan, as by the Chief Magistrate of a Christian people: it excludes the name of the Supreme Being. Indeed it is negatively *atheistical*, for no God is appealed to at all. In framing many of our public formularies, greater care seems to have been taken to adapt them to the prejudices of the INFIDEL FEW, than to the consciences of the CHRISTIAN MILLIONS. In these things the *minority*, in our country, has hitherto managed to govern the *majority*.

In every oath the name of God should, in obedience to the divine command, be interposed; and we look upon the designed omission of it, as an attempt

to exclude from civil affairs Him who is the "Governor among the nations," (Ps. xxii. 28.)

To the language of the oath most commonly in use we do not seriously object, when the name of God is interposed; but we think it capable of amendment. We would prefer some of the Scriptural forms, such as, "As the Lord liveth"—"I adjure or cause thee to swear by the living God"—or the form used in Scotland, and, with some unimportant variations, in many of the States of this Union. This form, as authorized by the General Assembly of Pennsylvania, is as follows:—"You do solemnly swear by Almighty God, the searcher of all hearts, that the testimony you shall give [in the case] shall be the truth, the whole truth, and nothing but the truth, and that as you shall answer to God at the great day." As prescribed in the laws of New Jersey it is, "You do swear by the ever living God," &c. This form is used by those who swear with the ceremony of lifting up the hand. The phraseology of the oath should be such as to convey to the mind of the juror the ideas that are involved in the oath. It should therefore include—1, The name of God—2, a reference to his presence and perfections—3, an appeal to him as the Omniscient Witness and final Judge—4, a covenant to speak truthfully or to act faithfully, as the object of the oath may require.

2nd. Another part of the form of the oath is the attitude and gesture accompanying the administration thereof.

(a) THE ATTITUDE. A decent regard to the nature of the ordinance would require that the ad-

ministrator and the juror adopt the standing posture. In tendering the oath, the one solemnly calls upon the other to recognize the presence of the Most High ; and as almost universal custom imposes the propriety of standing in the presence of a superior, common politeness, not to mention loftier considerations, would suggest that, in swearing "by the Greater," they should *stand* in his presence ; and stand uncovered.* Indeed, when we consider that the oath is a solemn act of religious worship, it would seem proper that, when it is to be performed, a solemn pause should be made, the court and all present should maintain a profound silence, all should be uncovered, and the oath should be administered with due deliberation and solemnity of tone and manner. A decent regard to our holy religion, of which the oath is a part, would demand such a demeanour : and none can doubt that, by such a course, the impression upon the person sworn would be much more favourable to the object for which the oath is tendered. The confusion and irreverence amid which this ordinance is too often administered, have gone far to nullify its influence for good.

Scripture example establishes the propriety of the standing posture. "The high priest stood up in the midst," (Mark xiv. 60,) when he administered the oath to our Lord, who was standing in the presence of the Sanhedrim. The man clothed in linen, whom Daniel beheld (xii. 7,) in vision, and who "sware by Him that liveth forever," *stood* when he took the

* Modern Jews swear with their hats on, but why we know not.

oath. And the Angel of the apocalypse “*stood* upon the sea and upon the earth” when he swore. Rev. x. 5. We would not object to any reverential or respectful posture—kneeling or standing—but the latter we deem the most Scriptural and appropriate.

(b) THE GESTURE, or ceremony with which the juror receives the oath. It is in regard to this part of the form of the oath that opinions have been most divided: but we have no hesitancy in saying, that the gesture most proper to be used, and indeed the only one which Christians ought to employ, is *the lifting up of the hand towards heaven*.

For this opinion we assign the following reasons:

1st. This mode of taking the oath is *simple, decent, solemn, appropriate* and *expressive*. It is a fit expression of the lifting up of the heart and conscience to the God of truth, in this solemn act of worship. It is a significant emblem of the appeal which the juror makes to the Most High. It is a pointing upwards to that dread tribunal, before which all must stand and give account at last; and it thus more fully and explicitly expresses the meaning of an oath than any other mode.

2nd. It is the *Scriptural mode* of taking an oath. If the word of God be our rule in regard to the forms of religion, then is this form of the oath most emphatically recommended, if not enjoined.

The lifting up of the hand was the most common gesture—indeed, so far as we know, the gesture universally used of old in taking the oath. It is the most ancient form. Even before the time of Abraham this form was so common and universal that, in speaking of an oath, the *sign* was, by a meto-

nymy, put for the *thing signified*—the form for the ordinance itself, and it was described as “a lifting up of the hand:” and to swear was “to lift up the hand.” Abraham is said (Gen. xiv. 22,) to have told the king of Sodom, “I have lifted up my hand unto the Lord, the Most High God, that I will not take anything that is thine,” *i. e.* I have *sworn* by the Lord, the Most High God. This event occurred more than nineteen centuries before the Christian era; and if Abraham’s language was intelligible to the king of Sodom, it proves that this mode of swearing had been so generally prevalent, long before this time, that the gesture had given name to the ordinance itself. Just as ordination to the ministerial office is, by metonymy, called “the laying on of hands,” so is the oath called “the lifting up of the hand.” And such a metonymy could only arise from *long* and *general* use of the gesture.

If, then, the oath is of divine origin, does not this early use of the gesture in question, and that too by “the friend of God,” prove that this form of the oath is *approved* by God? Does it not prove that it was *appointed* by God?

The descendants of the father of the faithful continued to practise this form of swearing, and to employ the same phraseology in speaking of the oath, calling it “a lifting up of the hand.” And in accommodation to this mode of speaking, when the Divine Being speaks of the oath as taken by himself, he says, “I lift up my hand to heaven, and say I live forever.” Deut. xxxii. 40. And if the reader will consult Isai. xlix. 22, and Ezek. xx. he will find that Jehovah, in speaking of the ratification by oath

of his promises to Abraham, to Israel, and to the Gentiles, employs the phrase, "lifted up my hand," as equivalent to "I have sworn," no less than seven times. Thus have we the Divine example for this form of taking the oath. The same form is recommended by the example of the heavenly messenger whom Daniel saw in vision—(Dan. xii. 7,) "the man clothed in linen,"—who "held up his right hand and his left hand unto heaven, and swore by him that liveth forever." The angel of the apocalypse too, who was probably the same that appeared to Daniel, enforces the same lesson by his example (see Rev. x. 5, 6). This glorious Being had a book in his hand, it is true; but we are not told that in swearing he laid his hand upon the book, nor that he bowed down and kissed it. Far from it: "*He lifted up his hand to heaven, and swore by him that liveth forever and ever.*" And as this was the uncreated Angel of the Covenant, we have in this again the *divine* example.

Several other Scriptural considerations go to corroborate this view. In prayer, it was customary to lift up the hands. "Hear the voice of my supplication when *I lift up my hands* towards thy holy oracle," (Ps. xxviii. 2); "I will lift up my hands in thy name" (Ps. lxiii. 4; lxviii. 4, et al.): and this attitude is recommended under the Gospel; "I will that men pray every where *lifting up holy hands*" (1 Tim. ii. 8). Now we argue that, inasmuch as prayer and the oath are kindred ordinances—since, indeed, in the oath we invoke God's help in speaking truth, and his wrath in case we wilfully perjure ourselves, there is a propriety in employing the same expres-

sive outward gesture, lifting the hands to the glorious one we supplicate.

This view is greatly strengthened by the consideration that the most *ancient* mode of swearing amongst the Heathen, as we learn from their earliest poets and other writers, was to stand up and lift the hands to heaven as in prayer. (See Homer, Il. xix. 175, 254—Pind. Ol. vii. 119.) “Anciently,” says a learned Greek archæologist, “the person who took an oath *stood up*, and lifted his hands to heaven, as in prayer, for an oath was a species of prayer, and required the same ceremony.”* Now, if this is found to be the most *ancient* form of the oath practised amongst the pagan nations, is it not proof that they received it from the same source from which Abraham and his contemporaries received it; and that the other forms which were introduced amongst the pagans at a later period, were inventions of their own?

Again. Some of the Scripture *metaphors* are manifestly taken from the scriptural form of the oath; and this is clear proof, not only that the form was used, but also that it was the *universal* custom; for metaphorical expressions never grow out of transient or local practices. Ps. cxliv. 8—“Their right hand is a right hand of falsehood,” *i. e.* they lift up their right hand in swearing to lies. Isai. xlv. 20—“Is there not a lie in my right hand?” *i. e.* am I not swearing to a falsehood?

Thus have we both Old and New Testament example for swearing with the uplifted hand—the

* Smith's Dic. Gr. and Rom. Antiq.

example of Abraham, "the friend of God," and of all the pious ancients—the example of angels—yea, the example of God himself. We have, in favour of this form, the proof furnished by the analogy of religious ceremonies: and we are assured that this was the mode universally practised of old, by the fact that the practice gave rise to proverbial and metaphorical expressions. With this light before us, can we doubt which is the *scriptural*—the *divinely* appointed form? Strong must be the prejudice that can resist such proof. Indeed, the Scriptures throw more light upon the question of the outward form or gesture of the oath, than upon the subject of any other religious ceremony.

If it be alleged that other forms were sometimes used, as when Abraham caused his servant to place his hand under his thigh (Gen. xxiv. 2); it is freely admitted that, on some occasions, oaths were taken at the same time that other ceremonies, significant of some special object of the oath, were observed. For example, when Abraham made a covenant with Abimelech, and gave him, as a witness of the chief object of their oath, seven ewe lambs, (Gen. xxi. 30.) And when Jacob and Laban ratified a treaty by oath, and erected a pillar and a heap of stones in memorial of it, (Gen. xxxi.) But will it be pretended that the giving of the ewe lambs in the one case, or the piling of the stones in the other, was part of the form of the oath? Such a supposition were preposterous: they were mere memorials that the oaths had been taken, and the covenants perfected; but were not a part of the ceremony of swearing. And in like manner it is preposterous to insist that the

placing of the servant's hand beneath Abraham's thigh was a part of the form of the oath. This ceremony had relation to the object for which the oath was administered to Eliezer, and was designed to impress this object upon his mind. The object of the oath was to secure a pious wife for Isaac, in order to a godly seed ; and the posture of the hand was expressive of this object. But the oath was a ceremony quite distinct from this ; and it is easy to conceive that the servant, with one hand under his master's thigh, could lift the other up to heaven and take the oath ; or that Abraham himself, in administering the oath, lifted his own hand, as was sometimes done. The same ceremony was observed at the time Jacob requested Joseph to swear that he would bury him in Canaan ; and the same reason may be assigned for the use of the ceremony, viz., it had regard to the promise made to Abraham and his seed.* Some suppose that this ceremony was used in administering oaths of fidelity, and that the placing the hand under the thigh was emblematic of the promise faithfully to execute the request of the person imposing the oath. This supposition would receive some strength from the consideration that the form of doing homage by putting the hands between the knees of the liege was probably derived from this ancient ceremony of putting the hand under the thigh. But whatever supposition be true, the placing the hand under the thigh was not part

* A curious illustration of the fact that, besides the oath proper, a ceremony, indicative of the *design* of it, was sometimes used, may be found in Russell's *Mod. Europe*, Vol. I. p. 113, note.

of the form of the oath, and did not interfere with the usual custom of lifting the hand to God.

We think, then, that the gesture clearly indicated in the Bible, as proper to accompany the administration of the oath, is the solemn LIFTING UP OF THE HAND TO HEAVEN. And if there is any thing *binding* in the example of the pious, whom we are required to imitate—if there is any thing binding in the example of God himself—then are we bound to follow the indications of the Bible in this matter.

And distorted as the oath was, in common with other religious rites, at a very early period in the history of the papacy, yet we have evidence that the scriptural form was sometimes used, even amongst the papists: although it seems to have been used only by laymen. In the “Dictionnaire des Sciences,” word *serment*, it is said that the form of taking the oath, for laymen, was to raise the right hand naked and without a glove. If a layman could not raise his right hand, he must raise the left. But ecclesiastics in orders laid the hand—*ad pectus*—to the breast. This probably refers to the usage in France; but as the legislation of Charlemagne had very extensive influence upon the Continent, and was itself greatly controlled by the papal priesthood and Romish superstitions, it is an index of the state of things in other countries, where the papacy had influence. And whilst we find traces of the forms of early and pure Christianity lingering amongst the *people*, we have proof that the *priesthood* had early thrown them off, and by their ghostly influence, procured for themselves exemption from civil obligations by which the laity were still bound. Nor is it diffi-

cult to account for the fact, that they were willing that the laity should continue to be restrained by the oath in its scriptural form, long after they themselves had obtained permission to use forms by which they would feel less strongly bound.*

* In England, too, we find that the ceremony of lifting up the hand was employed by the Commons as far down as A.D. 1397. In that year, Richard II. exacted of the Parliament an oath for the perpetual maintenance of their acts; and the Bishops and Lords were sworn before the King *upon the holy cross of Canterbury*, and most of the Commons affirmed *by holding up their hands*.—Cotton's Abridgment of the Records in the Tower of London, pp. 371, 372.

CHAPTER XI.

THE FORM OF THE OATH.

HAVING now shown what we believe to be the proper form of a Christian's oath, we will proceed to mention some of the unauthorized and perverted forms of the ordinance that have prevailed, and to state our objections to them. In a treatise designed to be read in this country, however, it will be unnecessary to mention the forms of oaths used in heathen or Mohammedan countries, except as they may throw light upon the history of the forms in use amongst us. Before proceeding to this part of our subject, we feel bound to remind the reader of what we have proved in a preceding chapter—that human innovations upon the forms of religion can never cancel the obligation to worship God; and that human changes upon the form of the oath can never relax the obligations of an oath, however such changes may forfeit the blessing of God upon the ordinance. In showing that the oath upon the Gospels is idolatrous and unauthorized, we are far from teaching that the man, who swears by that form, is a whit the less guilty before God, if he commit perjury. No matter in what form a man may “take the name of the Lord his God in falsehood—the *Lord* will not hold him guiltless.” A man is just as much bound to speak the truth by one form

of the oath as by another.* The obligation of an oath, as we have shown, does not depend upon the *form* thereof, but upon the immutable principles of the moral government of God.

The gesture most commonly used in the administration of oaths in England, in many of the States of this Union, and indeed throughout Christendom, is that of holding the hand upon the Bible, or the Gospels, whilst taking the oath, and afterward kissing the volume. Wherever English jurisprudence has gone, it has carried with it this form of the oath; with the exception of Scotland, New England, Western Pennsylvania, and some of the Western States, with parts of other States of the Union. In Scotland, in New England, and in some other parts of our country, the scriptural form of the oath prevails; and, if our information is correct, the corporal oath is seldom if ever used, but in most other parts of the Christian world this and other unauthorized ceremonies are employed.

To the ceremony of touching and kissing the book we have serious, and we believe scriptural objections; but as this custom has so generally prevailed, the man who attacks it is bound to show good reasons why it should be discontinued. Let us, then, candidly examine the several objections that may be brought against it.

We hold it to be of *pagan* and *popish* origin—

* The civil penalties of perjury are the same. "If a witness without objecting is sworn in the usual mode, but being of a different faith, the oath was not in a form affecting his conscience; as if, being a Jew, he was sworn upon the Gospels, he is still punishable for perjury, if he swear falsely."—Greenleaf's Law of Evidence, § 371.

idolatrous in its nature—*superstitious* in its influence—*destructive* of the ends of an oath—and as *offensive* to good sense, as it is *insulting* to God.

1. It is of *pagan* and *popish origin*. In order to be convinced of this, the reader has but to trace its history. Dr. Paley admits that the custom is borrowed from the popish ritual; and he might have added that the papal society borrowed it from their pagan predecessors of the seven-hilled city.

It has been a favourite expedient of him, who by the Son of God is called “a murderer from the beginning,” and “a liar and the father of it,” (Jno. viii. 44,) to pervert and destroy the ordinance of the oath. “He was a murderer from the beginning,” because by his agency, sin, the cause of all death, entered our world. He is the great slaughterer of the human family: and he began and prosecutes the work of their destruction by means of falsehood. “He is the father of it.” He introduced falsehood as a means of ruin—he propagates it as a means of ruin: and from the moment that he uttered, to our first mother, the lie, “ye shall not surely die,” down to the hour in which he shall be finally bound and cast into the abyss; lies—*lies*—LIES, have been, and will be, the fell instruments by which he murders individual souls—ruins social confidence and peace—defeats the ends of justice—opposes the government of God, and by which he would sunder all the bonds of moral obligation that hold men submissive to law, either human or divine. And as the oath is the ordinance which God has adapted to a world of lies to restrain its falsehood—as it is the ordinance by which men are called into the pres-

ence of the God of truth, and bound, under lawful sanctions, to speak truthfully—it was to be expected that “the father of lies” would direct all his mighty talents and untiring exertions to the perversion and destruction of this ordinance.

Knowing that “the truth shall make men free”—and that falsehood will retain them in “the bond of iniquity”—knowing that his only hope of perpetuating his reign as “god of this world” is by lies to “blind the minds of the children of disobedience,” and remove from their hearts all sense of accountability to the God of truth; no wonder if his special ingenuity has been directed against that divine institution which is designed to remind men of that accountability. Very assiduously has he, in every age of the world, prosecuted the work of perverting this ordinance. Accordingly we find that, in all those nations, which this father of lies seduced from the God of truth, and led into idolatry, the oath, along with other ordinances of religion, has been grossly perverted. Instead of swearing by the true God, they swore by their idols—imaginary deities, or deified heroes; and distorted even the form of adjuration from its primitive simplicity. This was the case in all the pagan nations, although traces of the original form of the institution are found in the earlier records of some of them.

The different nations of Greece swore by the gods and heroes that were supposed more peculiarly to preside over them severally. The Thebans swore by Hercules, Iolaus, etc.—the Lacedæmonians, by Castor and Pollux—the Corinthians, by Neptune; and the Athenians, chiefly by Jupiter, Minerva,

Apollo, Ceres, and Bacchus. The women commonly swore by Juno, Diana, or Venus; although many other oaths were at times used by them. Men generally swore by the god to whom the business in hand pertained, or the god who might be supposed to regard the object of the oath. The oath was often suggested by the character of the party, by the occasion, or by the place—*e. g.*: In the market they usually swore by Mercury: ploughmen by Ceres—horsemen, by Neptune, &c. The God that was supposed more especially to preside over oaths was Jupiter; and Solon commanded the Athenians to swear by him under three different titles, in public trials, viz., Jupiter the *protector of suppliants*—the *purifier*—and the *healer or reconciler*.*

The Romans swore by Jupiter, Apollo, Mars, and the various deities which they worshipped, according to the station or character of the juror, or the circumstances or occasion of the oath. But although the Gentile nations were thus seduced from the worship of the true God, and from swearing by his name; the great adversary of truth did not wholly succeed in eradicating, from the minds of pagans, the fear of an oath. The true God, in mercy to the nations, still exerted restraining grace, by means of this ordinance, distorted though it was: and, if we may believe their historians and poets, great dread of violating an oath was felt; and awful apprehensions were entertained by them of the punishment of perjury in a future state. This is attested by numerous passages in the writings of Homer, Æschylus,

* See Potter's *Archæologicæ Græcæ*.

and Pindar ; and we find elsewhere many proofs of a persuasion that perjurers would be punished in this world as well as the next. One of the most remarkable of these is the story of Glaucus the Spartan, related by Herodotus. A certain Milesian had deposited in the hands of Glaucus a large sum of money, for safe keeping. After some time the sons of the Milesian came to Sparta, presented the bill, and demanded the money. Glaucus pretended ignorance of the matter, and having gained some delay, took a journey to Delphi and consulted the oracle of Apollo, whether he might perjure himself thereby to secure the money. The god, indignant, returned an answer, which an old English writer (Mr. Dechair) thus quaintly translates.

“ No, Glaucus, no, I think you need not fear
 To bilk your easie creditor, and swear
 He lent you no such summ ; you’ll *gain* thereby,
 And this considered, you may death defie,
 Death of the just alike an enemy.
 But know that *Orcus** has a monster son,
 Ghastly of shape, who ever hastens on
 To o’ertake perjuries ; he’ll ne’er forget
 Your heinous crime—but with revengeful hate
 Send losses, racking pangs, destructive woe,
 Till he yourself, with your whole race, undoe.”

This prediction, as the story is told, was fully accomplished, and Glaucus and his whole family were cut off.

From all that may be gathered upon this subject, from the classic page, it is clear that, perverted as the oath was amongst the pagan nations, it was

* God of Oaths.

preserved in a greater degree of *purity* and *power* than was any other part of religion. And it evidences the wisdom and forbearance of God, that, when men had lost nearly all other vestiges of the true religion, He should still, in compassion for them, maintain, in something of its original force, that ordinance which is most essential to the well being of society.

Still it was not to be expected that, when seduced from the worship of the true God, and taught to "swear by them that are no Gods," they would retain the original form of the oath. It is true, as we have shown, that it was used amongst the earlier Greeks and Trojans: nor is it difficult to know whence they derived the practice of lifting up the hand. We have already proved that the oath, as taken in this form, was in existence as early as the time of Noah: and of course it was known to the whole human family. We have also shown that the tribes inhabiting Canaan, in the days of Abraham, still retained that form, as did the Patriarch himself: and it is not at all unlikely that the Phœnicians, the Trojans, and the Greeks, also retained it, and that the practice, as referred to by Homer and Pindar, was the original institute handed down from the age of Noah. But even without this theory, the vicinity of these nations to the territory occupied by the people of God, will enable us to account for the existence amongst them of this form of the oath.

But in the more advanced periods of Grecian and Roman history, we find that, in swearing, various ceremonies were used, analogous to the other parts

of their idolatrous systems. Oaths were often accompanied by sacrifice, or libation, or both: as in the compact with the Greeks and Trojans, Iliad iii. 276. The parties used also to *lay their hands upon the victims*, or *upon the altar*, or some other sacred thing; as if by so doing they brought before them the deity by which they swore. It was also common to *touch* the head, hand, or other part of the *body* of the person to whom the oath was made. And we suppose this to be the true reason why the oath taken by *touching* the book, or any other sacred thing, is called a *corporal* oath.* Other superstitious rites were often superadded to give greater solemnity to the ceremony. And to so great a length was this carried, that we find it ridiculed by some of their own writers.

Similar customs prevailed amongst the Romans. In confirming treaties by oath, a swine, a lamb, or other victim was sometimes sacrificed, and as the oath was pronounced the victim was struck with a flint stone. It is in reference to this custom, that Jupiter, who was sworn by, is called Jupiter Lapis (stone). They swore also *upon the altar*, and *upon the sacra*, or sacred things of their religion. And it is probable that it is on this account that an oath is called *sacramentum*: although the term *sacra-*

* Some suppose that the term *corporal* has reference to the bodily action of laying the hand upon the Gospels—others that it refers to the ancient usage of touching the *corporale* or cloth that covered the consecrated elements; but as both these customs arose from the one mentioned above, we think that we have pointed out the true origin of the term; though it has since been used to denote any oath taken *supra sacra*, i. e. with the *body* in contact with the Gospels, the cross, &c.

mentum seems to be used to denote an oath *voluntarily* taken by the juror, in contradistinction from one that was imposed by authority. Thus, when anciently the soldiers *voluntarily* swore adherence to their commanders and their standards, their oath was called *sacramentum*; whereas the oath that was *exacted* by the military tribunes was called *jusjurandum*. (See Livy, Punic War, xxii. 38.) The same distinction seems to have been made in the oaths taken before their civil tribunals. The military oath was taken upon the *signa militaria*, or military standards, which were considered sacred; and this was deemed one of the most solemn of all oaths.

In the early periods of the Christian era, the pagan emperors required their own names to be interposed in the oath; and many Christians suffered martyrdom for refusing to swear by the fortune of Cæsar; and to submit to the usual idolatrous forms of the oath, *laying the hand upon* and *kissing* the altar, the *sacra*, &c.

In other idolatrous nations of the East, the ordinance of the oath was equally perverted, both in its spirit and its form; the gestures accompanying the administration of it being various, according to the religious rites of each nation. It is not necessary to cumber these pages with a description of them. The account we have introduced of the oath, as it prevailed in pagan Greece and Rome, is chiefly designed to disclose the *source* whence *papal* Rome has derived the forms which she has succeeded in entailing upon so large a portion of the Christian

world. To the subject of popish oaths we now invite the reader's attention.

The same mighty spirit who, by our Lord Christ, is called "the father of falsehood," is, in Rev. xii. 9, called "the great dragon,—that old serpent called the Devil and Satan, which deceiveth the whole world." In the next chapter (xiii. 3, 4,) it is said that this dragon gave unto a certain beast that is described "his power and his seat and great authority." All Protestant commentators agree in supposing this beast, with his seven heads and ten horns, to be *Rome*. Upon this beast the apostle John, in vision, (Rev. xvii. 3—5,) saw a woman sitting, "having a golden cup in her hand, full of abominations and filthiness of her fornications: and upon her forehead was a name written—MYSTERY—BABYLON THE GREAT—the MOTHER of harlots and abominations of the earth." And no unprejudiced interpreter can doubt that this woman, who rode upon the beast, is the same apostate church, predicted by Paul (2 Thess. ii. 7—10), as a "*mystery of iniquity*—whose coming is after the *working of Satan*, with all power, and signs, and *lying wonders*, and with all deceivableness of unrighteousness." Now, was it not to be expected that, when the "father of lies," who "deceiveth them that dwell upon the earth," gave to the beast "his power, and his seat, and great authority," and then set this woman upon the beast to direct his motions, he would render *both* subservient to his grand design—to propagate lies? Was it not to be expected that, at his instigation, the beast and the woman would promote falsehood, and blaspheme, and be

drunken with the blood of the saints? It was not only to be expected—but it was foretold. And history has terribly redeemed the words of prophecy. *Rome pagan* was a propagator of lies and blasphemies: but when the woman was set *upon* the beast, and *Rome papal* began to control the destinies of *Rome imperial*—lies, and blasphemies, and blood were poured over the empire, and over the world, in tides that might satiate the dragon himself.

Amongst all the enormities of papal Rome, perhaps none has tended more directly to sap the foundations of social safety than her perversion and abuse of the ordinance of the oath. We shall, in another place, consider more fully the influence which this apostate church has exerted in destroying this ordinance, and thereby unsettling the foundations of civil government. It will sufficiently subserve the object of this chapter, to show that Rome has perverted the *form* of the oath; and that the *corporal oath*, by touching the Bible or the Gospels, and then kissing the volume, is a popish device, borrowed from heathen customs.

We have already seen that, in pagan Greece and Rome, the juror swore laying his hand upon the *altar*, upon a *victim*, or upon some other *sacred thing* pertaining to their idolatrous superstition: or where the hand was not laid *super sacra*, the body was in some way brought into contact with, or into the presence of the sacred things by which they swore. Now, when it is remembered that there is in the *Bible itself* no authority for such a ceremony as swearing upon the book and kissing it; the ques-

tion must arise, Whence came it? Not from those to whom "were committed the oracles of God"—for the Jews had no such form of swearing, until long after it was practised in the papal society. Christ and his apostles appointed no such ceremony. Whence, then, came it? It could only come from the pagan customs which we have described.

This supposition is corroborated by the fact, that almost every popish rite, that is not authorized by the Holy Scriptures, finds its *type* in the pagan system that prevailed at Rome, before the introduction of Christianity. Indeed, popery is little else than paganism baptized, and that after a very few external symptoms of conversion. The *Bible* or the *Evangelists*, or the *relics of saints* substituted for the *altar* or the *sacra*—and "*Sic me DEUS et hæc sancta juvent,*" for "*Sic me JUPITER et hæc SACRA juvent,*" and you have the *pagan* oath transformed into the *papal*. From the "So help me Jupiter and these holy things" of the pagan, to the "So help me God and these holy Gospels" of the papist, the transition is so natural and easy, that none can fail to identify their origin. And, indeed, the similarity between papal and pagan forms of swearing is still more extensive and striking; for, as we shall show, the Emperors, influenced by the popish clergy, introduced many other pagan and superstitious forms of swearing besides the one in question, such as by *the saints*—upon the *relics of saints*—upon *tombs*—upon the *altar*, and sometimes the juror was required to go from church to church and swear upon a number of altars.

The very *antiquity* of the oath upon the Gospels,

and of these other superstitious forms, proves that they were borrowed from those pagan rites which the apostate church found amongst the seven hills. Had they come in at a later date, we might have attributed them to the superstition of the dark ages. But as they can be traced back near to the time of the rise of the papacy, whilst paganism still lingered in the empire, and was about transferring its robes and rites to the apostatizing church, the proof becomes conclusive that they are of pagan origin.

The code of the Emperor Theodosius was adopted about A.D. 438, and there is in it some evidence, that touching the Gospels with the hand, in swearing, was a part of the formality of an oath. In the law works of Justinian, too, which carry us back to A.D. 529, we find this form, and others equally pagan or superstitious, prescribed. In the code of Justinian, lib. ii., tit. 59, law 1, *de jure jurando*, an oath is prescribed, and *touching the Gospels* is required as part of the formality. The phrase is "*tactis sacrosanctis Evangeliiis*"—"the holy Gospels being touched." In the same law occurs the following expression—" *Juramentum præstare sacrosanctis videlicet evangeliiis ante judicem positis*"—"To perform the oath the sacred (things) to wit, the Gospels being placed before the judge." In the 8th Novel* of Justinian, he prescribes the form of an oath to be taken by official persons, which affords evidence of the great degree of superstition that had then been introduced. We cannot trans-

* Novels—*novellæ constitutiones*—laws published by an emperor, supplementary to the code previously published by him.

scribe the whole of it—but the beginning of it will show that the practice of holding the Gospels was then in use, and that too in connexion with the grossest idolatry and blasphemy. “*Juro ego per Deum Omnipotentem, et filium ejus unigenitum Dominum nostrum Jesum Christum, et Spiritum Sanctum, et per sanctam gloriosam Dei genetricem et semper virginem Mariam, et per quatuor Evangelia quæ in manibus meis teneo, et per sanctos archangelos Michael et Gabrielem,*” &c. —In English—“I swear by God Almighty, and his only begotten Son our Lord Jesus Christ, and by the Holy Ghost, and by the *glorious Saint Mary, mother of God* and always a virgin, and *by the four Gospels* which I hold in my hands, and by the holy *archangels Michael and Gabriel,*” &c. Again, in the 124 Novel, chap. 1, an oath is prescribed, and the parties taking it are required “*jurare in presentia judicum tangentes sancta Evangelia*”—“to swear in presence of the judges, *touching* the holy Gospels.”

So far as we have been able to ascertain, Justinian was the first emperor that authoritatively prescribed these papal forms of the oath, although we have evidence that some of them were in use before his reign: and we are safe in trusting to the light which his code may throw upon the manner of their introduction, and the meaning attached to them. Upon the quotations just made, then, we remark,

(a) They prove the identity of the papal and pagan oaths, both as regards their spirit and their form: for (b) we have in the official oath above cited even

the *polytheism* of the pagan mythology. The pagans sometimes swore by *many gods*, and here the so-called Christian emperor *requires* his subjects to swear, not only by the Supreme Being, Father, Son, and Spirit, but by the *Virgin Mary*, by the *four Gospels*, and by *Michael* and *Gabriel*, the archangels, &c., thus raising to an *equality* with God, in this act of worship, these created* objects, and appealing to them as to gods. (c) The same gesture is here prescribed, that we have shown to be observed by the pagan Romans,—the pagan held the *lapis*—the *sacra*—or the *signa* in his hand—the papist holds the Gospels.

(d) The oath quoted from the 8th Novel demonstrates the absurdity and the fallacy of the usual apology which Protestants make for conforming to the Bible oath. They say, “We do not swear *by* the book, we merely swear *upon it*, as an emblem of the God whose word it is.” But Justinian requires that the juror swear *by* the Virgin—*by* the four Gospels—*by* the archangels, as much as *by* God. The same word *by* (“per”) denotes the relation of the oath and the juror to each of these severally. (e) It would seem that the ceremony of *kissing* the Gospels was not at that time introduced, at least that it was not expressly *required*, as was holding or touching them.

The *capitularia* of Charlemagne extend back to A.D. 800, and therein are found various formulas, from which we learn that it was customary to swear

* It is evident that they supposed that there was more than one archangel, and that they were created beings, yet they deify them!

super crucem, upon the cross—*super altare*, upon the altar—*super sancta Evangelia*, upon the holy Gospels—*super canonem ecclesiæ*, upon a canon of the church—*super sanctas reliquias et tumulos*, upon holy relics and upon tombs.* One of the constitutions of Charlemagne reads thus :—“ Omne sacramentum in Ecclesiâ aut supra reliquias juretur, &c.” We have not space for the whole of the original, but give a translation. “ Every oath should be sworn in the church or upon the relics ; and that which is sworn in the church, ought to be with six chosen (persons) or twelve, if he able to find such—so help him God, and *the saints, whose relics these are*, as he shall speak the truth.” Here again we have the saints placed upon an equality with God—“ So help me God and the saints”—and in this form, *bones* take the place of the *Bible*.†

In a capitulary of the same Emperor, made at Aix la Chapelle, those who swear upon relics are exhorted to *do it fasting*. (See Fleury, Ecc. Hist. Book 44, No. 47.) In another constitution there occurs

* These various forms were employed, either from a desire to produce peculiar solemnity in the mind, or to adapt the oath to the gravity of the occasion, or the dignity of the jurors. As an example of the latter, the reader may refer to the sacramental compact between Pope Paschal II. and the Emperor Henry V., made in 1116. The Pope divided a host or wafer (*hostia*) between them, pronouncing the following anathema—“ As this part of the vivifying body,” breaking it, “ is separated from the other, so let him of us two, who shall infringe this treaty, be separated from the kingdom of Christ.”—See Russell’s *Mod. Europ.* p. 135, and *Outlines Hist. Count. Rom.* p. 98.

† The custom of swearing at the sepulchres, and over the relics of saints, was introduced as early as the time of Augustine, about A.D. 400.—See Augustine’s *Epistles*, 137.

this passage—"Admonendi sunt omnes diligenter ut caveant perjurium, non solum in *sancto Evangelio*, vel in *altari*, seu in *sanctorum reliquias*, sed in communi loquela." These extracts clearly prove that in the reign of Charlemagne the form of swearing upon the Gospels, as well as invoking the aid of the saints, and swearing upon their relics and tombs, prevailed.*

In the Dictionnaire des Sciences, under the word "serment sur des reliques," it is said, "It was formerly the custom to swear upon the relics of saints, and over the tombs of martyrs. Some remains of this custom are observed in the Church of Paris—the licentiates of the university go to take an oath on the altar of St. Denis." In the same article it is said, "Anciently, when one wished to elude his oath, he would swear upon an empty coffer or shrine," as if the absence of the relics of the saint was enough to make his oath void in conscience. To this evasion the priests, who kept and who presented these coffers, must have been privy; and this was, with them, a fruitful expedient when they desired to accomplish their ends by perjury.

It is perhaps not possible to determine when the custom of kissing the book was first introduced. In Polydore Virgil's work "De rerum inventoribus," lib. 4, cap. 12, he says—as we translate him—"Amongst us (Christians) the apostle would thus

* In A.D. 1451, the Emperor Frederic took an oath to the Pope, in these words, "I, Frederic, king of the Romans, promise and swear by the Father, Son, and Holy Ghost, by the wood of the vivifying cross, and by these relics of saints, that &c. &c., so help me God and his holy evangelists."—Russell's Mod. Europ. Vol. I. p. 284.

swear—‘God is my witness’—but by far the most usual mode of taking a solemn oath is by the Gospel (*per Evangelium*), which the Emperor Justinian instituted : (as is made certain by his book entitled, ‘concerning the most holy Bishops.’) Afterwards it came into use, as at present, that he who swears the most solemn oath before the magistrates, shall either touch with his right hand or shall kiss the book of the Gospels, saying—*So help me God and these holy Gospels*—because, even as the Gospel, the foundation of our religion, ought on no account to be violated, so a solemn oath should on no condition be broken.” This work was published first in 1499 ; and upon the extract we have made it may be noticed, (a) It traces the oath upon the Gospels to Justinian’s law *de episcopis*, which is proof that the priesthood claimed special authority in the matter of oaths ; and that the formulas, that were legalized in the empire, were adopted by advice of the clergy. (b) In the oath upon the Gospels, as practised in this author’s day, appeal was made to the *book as fully as to God*—thus demonstrating its idolatrous character—“*ita me Deus et hæc sancta Evangelia juvent.*” (c) It would seem that, when this author wrote, it was not customary to touch the Gospel with the right hand, *and also* to kiss it—“*aut dextra manu tangat, aut osculetur*”—*either to touch or to kiss it.* (d) The ceremony had long been in use before 1499—*in usu venit.*

There is evidence that the practice of kissing the book containing the Gospels, or at least the Gospel according to John, was in use at a very early period. We have seen that Polydore Virgil refers its authori-

tative introduction into the empire, to the Emperor Justinian; and other circumstances would lead us to believe that it was coeval with some of the earliest corruptions of religion; and that, along with other rites, it was transferred from paganism to popery at an early period in the history of the apostacy. In the popish ritual it was early the practice for the priest to kiss the book containing the Gospel before reading it, and this custom was evidently borrowed from the pagan practice of expressing reverence for sacred things by the kiss (*osculum*). Servius makes a distinction between the kiss of *reverence* and the kiss of *affection*, indicating *osculum religionis esse* — *basium voluptatis*: although this distinction does not seem to be maintained in the classic writers.

To be convinced that papal Rome borrowed the custom of kissing the book from the pagan ritual, and that this ceremony is really an act of idolatrous worship, it is only necessary to weigh the following considerations:—

1st. The kiss, as an act of reverence or worship, is no where authorized or enjoined in the holy Scriptures. In the second Psalm, it is true, we have the precept “kiss the Son, lest he be angry;” but this is not capable of a literal or *corporal* obedience, and can only be understood in a figurative sense, as a command to be reconciled to, and to do homage to the Son of God. We are no where authorized to kiss any image or symbol of God or of religion. The church of Rome *could* not, then, derive the custom from the Scriptures; except as it is incidentally mentioned, and *censured* as an *idolatrous practice*.

2nd. The ceremony is purely and only a pagan practice, and from the pagan mythology only *could* papal Rome derive it. Amongst the pagan nations it was practised, both as an act of reverence to kingly station and authority, and as an act of adoration to idol gods. Of the former we have an instance recorded in Gen. xli. 40, where Pharaoh said unto Joseph, "Thou shalt be over my house, and according to thy word shall all my people be ruled" —Heb.—as in margin—"shall all my people *kiss*." This refers to a custom which then existed, and which still exists in some Eastern countries, of kissing the roll or book containing the decree or orders of a sovereign prince: and the meaning of the passage is, that Joseph's written commands should be *kissed* in token of reverence and obedience, in the same manner with those of Pharaoh himself—or, laying aside the metonymy, his orders should be implicitly obeyed. A passage in Chardin's *Coron. of Soleiman*, p. 44, shows that a similar use of the kiss was more recently observed in the East. "The letter which was to be presented to the new monarch was delivered to the general of slaves. * * * The general threw himself at his majesty's feet, bowing to the very ground; then rising upon his knees, he drew out from the bosom of his garment the bag, wherein was the letter which the assembly had sent to the new monarch—opened it—took out the letter—*kissed* it—laid it upon his forehead, presented it to his majesty, and then rose up."

That the kiss was an *act of worship* amongst different pagan nations, is proved both by the holy Scriptures, and other ancient writings. In the book

of Job, probably the most ancient writing in the world, we have proof that the kiss was used as an act of idolatrous worship, by those who worshipped the sun and moon. Job, in declaring his integrity, (chap. xxxi. 26, 27,) says, "If I beheld the sun when it shined, or the moon walking in brightness, and my heart hath been secretly enticed, or my mouth hath kissed my hand." In the pagan worship, the suppliant sometimes *kissed his hand*, and then stretched it out towards the god whom he worshipped. (Robinson's *Antiq. of Greece*, p. 225.) And this custom explains the patriarch's language. In 1 Kings xix. 18, we have proof that the worshippers of Baal gave the kiss as an act of adoration. "Yet have I left seven thousand in Israel, all the knees that have not bowed down to Baal, and every mouth that *hath not kissed him*." This was about 900 years before Christ. The prophet Hosea, about 200 years afterwards, in rebuking his countrymen for their stupid idolatry, charges them with bestowing upon the molten images they adored, this token of worship. Hos. xiii. 2, "They say of them, Let the men that sacrifice *kiss the calves*."

The worship of the calf, or ox, the Israelites probably borrowed from the Egyptians; but whether the custom of kissing the idol was derived from the Egyptians or the Phœnicians, is not certain. The rite obtained in both countries. We know that the northern tribes, living upon the borders of Phœnicia, had much intercourse with that country. And it is evident that the Baal, whose worship King Ahab established in Israel, was the Hercules of the Phœ-

nicians: for “he took to wife Jezebel, the daughter of Ethbaal, king of the Zidonians, and went and served Baal and worshipped him: and reared up an altar for Baal, in the house of Baal which he built in Samaria.” 1 Kings, xvi. 31, 32. Now Cicero tells us (in Verrem. lib. iv. 23,) that the Phœnician Hercules was worshipped *by kissing*.—He describes the statue of that god as having his mouth and chin worn smoother, by the frequency with which it was kissed by the worshippers.

In the Grecian and Roman worship, too, the suppliants were accustomed to kiss the knees, hands, chin, or cheeks of the statue, and sometimes they kissed even the feet of the god, when he was of an exalted grade. This kiss, according to Potter, the Romans called *labratum*. So generally was this custom of kissing practised by suppliants, that Eustathius thinks the Greek word *προσκυνειν*, to adore, was on this account derived from *κυνειν*, to kiss.* Indeed the word *κυνειν* classically signifies both to *kiss* and to *venerate*: and *προσκυνειν*, a compound from it, signifies to *adore*, or to salute reverently, as by prostration and kissing the earth. (See Xen. Cyrop. 1, 4, 27.)

Proofs of the same kind might be accumulated: but we think sufficient has been adduced to demonstrate, that the kissing of statues, altars, and other sacred things, was a part of the worship offered, by the heathen, to their idol deities; and that, *as an act of worship*, it was, through the influence of the clergy, transformed from the ritual of *pagan*, to

* Potter's Archæ. Græc.

that of *papal Rome*.* The pagan, in his worship or his oath, touched *or* kissed the immediate object of his adoration: the papist, at first, touched *or* kissed the Gospels, the shrine, the altar or tomb upon which he swore; although afterwards it became customary, as at present, both to *touch* and *kiss* the book.

As we in part showed in the preceding chapter, long after the popish clergy had introduced these pagan forms of the oath amongst themselves and the nobility, the scriptural form seemed to be sometimes practised amongst the commons: but at an early period the clergy began to claim exemption from these forms, and finally from all oaths; and there seems generally to have been a difference between the mode of a priest's and a layman's oath. In the *Octoviratus* of Henry Guenter Thuelemar—a treatise concerning the electors of the German em-

* It is true that some of the English canonists consider the kiss to be not so much a part of the oath, as an assent of the witness that he freely and voluntarily takes the oath, *as it is imposed*. In Oughton's *Ordo Judicorum*, Tit. lxxx., it is said that if the witnesses appear, and the defendant does not object, the judge shall say, "We admit these witnesses. Then (their hands being placed upon the book containing the holy Gospel of God) he shall say, in effect, as follows." Then follows the form of the oath—ending with, "so help you God and his holy Gospel."—He then says, "Which things being done, the witnesses are accustomed to kiss the aforesaid book, in testimony that the oath of this form is taken *freely* and *voluntarily* (*libere et voluntarie*), in manner and form as imposed upon them by the judge."

Consett, on the practice of the ecclesiastical courts, expresses a like opinion [part iii., sect. 3, § 3]. But this construction of the English law-writers does not affect the facts we have adduced, nor prove that the kiss was not originally designed to be an act of worship; nor that it is not yet so understood by the mass of jurors.

pire, there is the following passage—"Omnes et singuli jurant electores," &c. We give a translation—"The electors all and singular take an oath, as well the clergy as the laity; with this distinction, that the ecclesiastics swear in the presence of the Gospel of John, 'In the beginning was the Word,' it being placed before them, and they placing their hands upon their breast, and turning their face towards the people. But the seculars pronounce the prescribed formula of the oath, *corporally touching* the Gospel of John." (Chap. xxiv. No. 74.)*

This quotation not only illustrates the distinction that the clergy made between themselves and the laity; but does it not throw light upon the manner in which the abuses of the oath at first crept in? The above oath was taken upon the Gospel of John, open at the words, "In the beginning was the Word." Have we not in this fact a hint, that will enable us to account for the insidious introduction of the oath upon the Gospel, so as not to alarm even the pious?

The command of God, in the Old Testament, is, "Thou shalt swear the Lord liveth,"—"Thou shalt swear by his name." Now, "that wicked—whose coming is after the working of Satan,—with all deceivableness"—might argue from Rev. xix. 13, that

* Matthew Paris (A.D. 1252. reign Hen. III.) says, that Henry III., as he was about to go to Jerusalem, took an oath, both in the form used by priests, and in that used by laymen. His expression is, "Swearing this, he placed his right hand to his breast in the manner of the priests (more sacerdotum); and afterwards upon the evangelists placed before him, and he *kissed* them, in the *manner of the laity* (more laici)." This passage shows, 1st. That at that period the priests were not accustomed to take any corporal oath.—2nd. That kissing the book was a *custom (mos)* in England before 1252.

Christ's name is the Word of God ; and from Jno. i. 1, and 4, that he is the LIVING LORD, and that *therefore* it was right to swear by the *name of God* contained in that verse. But the Gospel of John being bound up with the other Gospels, and ultimately with the whole Bible, the custom would gradually be introduced, of swearing upon the whole book.*

Be this as it may, we have positive proof that this custom was introduced, along with other superstitious forms of the ordinance, that have confessedly no authority from God's word.

We have, we think, fully identified this papal form of the oath with the pagan forms that preceded it. But our quotations have heretofore referred chiefly to the Continent of Europe ; yet the same is true of the history of oaths and of their form in England. A few extracts from old writers will serve to show that Romish superstitions were as rife in England, as upon the Continent ; and that from Rome the English law has derived the form of the oath in question.

Fifty-five years before the birth of Christ, the Romans, under Julius Cæsar, invaded the British Island, and after many alternate successes and reverses, established Roman authority in what is properly called England. Their sway, 175 years

* In the Dictionnaire des Sciences, it is said that " the oath is taken by laying the hand upon the book of the Gospels, to testify that the person swearing, swears by the Word of God contained in the book : but *at present*, [1805,] the oath is not taken on the *entire book*, but only on the Gospel of *St. John*. This probably refers to the practice in France.

after the first invasion, extended as far north as the wall built by the Emperor Adrian : and the Romans did not finally withdraw from the country, until A.D. 426. Now, it cannot be supposed that they could hold the country for nearly 500 years, and that as conquerors, without introducing many of the customs of their religion and jurisprudence. Thus would the way be prepared in Britain, for the same transition from the rites of pagan Rome, to those of papal Rome, which we have seen to have taken place upon the Continent.

The Britons had received Christianity as early as the third century ; and some parts of the island even at an earlier date : but we know little of the degree of purity with which it existed amongst them. Nor is it important, in our present inquiries, for Christianity was almost entirely extinguished by the barbarian Saxon invaders, in the territories upon which they seized. And it was out of the institutions of the Anglo-Saxons, as modified by the Normans of William the Conqueror, that the British constitution, civil and ecclesiastical, arose. The hostility which existed between the ancient Britons and their conquerors, would prevent them from receiving Christianity from them : and although a pure Christianity was partially introduced amongst the Saxons, by the labours of the pious and indefatigable Culdees, it received an early check from the formidable power of Rome. The Culdees had been very successful in propagating religion, in its primitive simplicity, amongst the Northumbrian Saxons, and in the region of Lindisfarne, when the attention of Pope Gregory I. (the Great) was attracted to Brit-

ain. He, one of the most bigoted and superstitious of the pontiffs, sent into Britain Augustine, a Roman monk, and forty missionary attendants, A.D. 597. By the wiles and the artifice of these popish emissaries, and by the imposing pomp of the religious forms they brought, they soon gained an ascendancy over the warlike but superstitious Saxons, and popery, with all its follies, was introduced amongst them: and indeed there is evidence, that this rude and superstitious people soon carried these papal mummeries to an extreme, that left even Rome herself behind.

Accordingly we find that it became customary, at an early period, to swear upon extraordinary crosses, and relics, and tombs, and altars, as well as upon the Gospels, as at this day: and historians tell us that, amid these superstitions, there was a general proneness to perjury.*

In the *Mirror of Justice* (chap. 3, § 35,) there is the following form of an oath: "So help me God and his holy evangelist." Some suppose this book to have been written many years before the Conquest; though this is denied by others. It is undoubtedly a very old book. Sir Matthew Hale (*Hist. Placitorum Coronæ*) quotes from Britton what the latter alleges to be the common form of an oath of allegiance anciently used, and he refers to writers† who trace it back to the days of King Arthur. This oath ends thus, "*Si moy eyde Dieu et les seyntz*"—So help me God and the saints. If the

* Hume's Eng. vol. i. p. 190, octavo ed.

† Spelman's Glossary, Titulo Fidelitas.

Arthur, to whose times this form is traced, be the Arthur of legendary history, who is so much celebrated in the songs of Thaliessin, and other bards, its date is as early as A.D. 500. (See Hume's Eng., vol. i. p. 21.)

Barrington, in his observations on the statute 27 Ed. I. (A.D. 1289,) says, that the form of the oath at that time was, "So help me God *and the saints.*" He refers to stat. 14 Ed. I. (A.D. 1276), which has the words—"Si Dieu m'aide et les seints." He says he does not find that the witness was sworn upon the evangelists. But this is no proof that it was not done. He says that he is unable to ascertain the precise year or reign in which the oath was altered, in the conclusion of it, to "So help me God;"* but that the alteration took place soon after the Reformation. He thinks that the legislature only could make the change, no court having power to do it. (Obs. on Stat. p. 130.) To this agrees Lord Coke, who says, that no ancient oath can be altered, nor new one introduced, but by act of parliament. (2 Inst. 479, 3. 165.) An oath found in stat. 12 Rich. II. cap. 2, § 1, (A.D. 1389,) ends thus, "As God you help, and his saints."

And when we take the foregoing, in connexion with the fact that the oath upon the Gospels was used prior to 1377, it proves that this form was in

* The form of the oath taken by those who matriculate in the University of Cambridge, differs from the common form, instead of "So help me God," being, Sic te adjuvet Deus et sancta Dei Evangelia—"So help you God, and the holy Gospels of God." So the form generally used by Roman Catholics is, "So help you God and all his Saints."—Starkie on Evidence, i. 82, note.

use long anterior to the time when the earliest English law books extant were written: and that the oath upon the Gospels was introduced before 1377, is proved by Fleta (a work written between 1306 and 1377) for in that work (lib. 4. cap. 9. § 1.) is this formula, "*Sic me Deus adjuvet et hæc sancta.*" The words *sancta* and *hæc* would require *evangelia* to be supplied in translating; thus, "So help me God and these holy (Gospels)." Bracton, who was a judge in 1229, gives the same form of an oath for jurors as Fleta. (See Brac. lib. 4. cap. 19. § 3.)

It would thus appear that the form of swearing upon the Gospels must have been in use before the 14 Ed. I. (A.D. 1276): although it appears, by a statute made in that year, that it was also customary to swear by the saints. There existed in those superstitious times various forms, as may be seen in Cotton's Abridgment of Records in the Tower of London. According to this book, oaths were sometimes taken upon the *holy cross of Canterbury*, (p. 371)—by the shrine of St. Edward, (p. 369)—and upon the *body of Christ*, (p. 400)—as well as upon the Gospels.

Nor is it difficult, historically, to connect the above-mentioned corruptions of the oath, with the similar corruptions which, as we have seen, were authorized by the Emperor Justinian in A.D. 529. If we may rely upon the tradition concerning the discovery of a copy of the pandects of that Emperor, at Amalfi, in 1130, then can we account for the introduction, into England, of the forms of the oath enjoined in the Justinian code. For immediately after this discovery,

the civil law was brought into vogue all over the West of Europe, and in England. And although “King Stephen (A.D. 1138) published a proclamation forbidding the study of the laws newly imported from Italy, yet it did not hinder the clergy from reading and teaching it in their own schools and monasteries:” and they, with the utmost zeal, exerted their influence and authority to introduce the rules of the civil, to the exclusion of the municipal law.* Now in the oath, which we before cited from the 8 Novel of Justinian, the juror was required to swear by the Trinity, by the Virgin Mary, by the Gospels, and by the holy archangels; and we cannot suppose that the popish ecclesiastics, “among whom it was a point of religion to exclude the municipal law,” would fail to introduce the *oaths* prescribed in the civil law whenever they could.

But we have other proofs. Dufresne (Gloss. vº juramentum) gives the form of an oath taken by Engeltrude, in the time of Pope Nicholas I., (about 860) in which the ceremony of kissing the book was observed. He also cites a work written during the Saxon Heptarchy, in which the ceremony of inclining the head towards the altar is mentioned—“*Jurare capito suo ad altare inclinato.*” In Fleta, too, lib. 2, cap. 63, § 12, there is allusion made to a custom of swearing upon several altars. “Then it is to be considered that he, whose tally is denied, should prove it in this way—quod adeat novem ecclesias, et super novem altaria juret—that he should go to nine churches, and upon nine altars shall swear, that such

* See Blackstone's Com. i. pp. 18 to 20.

an one made to him the tally, &c. &c. : *sic ipsum Deus adjuvet et hæc sancta.*" *Sancta* must here refer to the altar, and the Gospels or other sacred things laid upon it. Gregory of Tours (A.D. 600) refers to a similar custom.

Extracts of a similar tenour might be multiplied, but we do not wish further to cumber these pages. What has been adduced amply proves that the form of the oath, by touching and kissing the book, was very early introduced into England—that it was introduced through the influence of the popish clergy, and that it came in along with other superstitions and abominable rites of the Christiano paganism of Rome. From the civil law some, at least, of these forms were transferred by the English canonists to their canon law, and from the canon law to the civil practice : whilst there is evidence that the form in question (the usual corporal oath) was very early introduced. The clergy, in early periods of English history, exerted in these matters an all-controlling power. They were so generally lawyers, as to give rise to the saying, "*Nullus clericus nisi causidicus*"—"no clergyman unless he is a lawyer"—which was a remark of William of Malmsbury, soon after the Conquest. They were also *judges*, both amongst our Saxon ancestors and amongst the Normans. In the county courts, or shiremotes, the *bishop* and alderman, or earl, presided, (Hume, vol. i. 182,) and long afterwards the judges were usually created out of the sacred order, (Blackstone, i. 17.) These facts enable us to account for the introduction of the forms of the canon law to the details of civil practice, and they enable us to trace, in a line not to be mistaken,

the perversions of the oath which disgrace our jurisprudence, *through* papal Rome, to *the paganism* of which it is a modification.

It was characteristic of the English reformation, that no greater changes were made in the ritual of religion, than Protestant principles imperatively demanded. Effected, as it chiefly was, under the eye of an imperious and jealous princess, who still retained many popish prejudices, its best promoters could not obtain all they wished; and of course as many of the ancient forms, as decency would permit, were retained. It could not be expected that reformation would proceed farther in civil affairs than in the church; and accordingly the only changes that were made in the oath amounted to scarcely so much as Protestant decency demanded. The phrases —⁷“and the saints,” and “these holy Gospels”—were stricken from the conclusion of the written forms, and the practice of swearing by altars, tombs, crosses, relics, &c., was discontinued. But the form of touching and kissing the Gospels was retained; and, to the disgrace of Protestants, is still prominent upon our statute books. Strange! that Protestants should continue to practice inventions of Romish priests, which the priests themselves will not use, but have consigned entirely to the laity! Yet so it is; whilst we have cut off some popish ceremonies, we have retained others, without knowing whence they came, nor for what they were meant.

We now leave it with the candid reader to decide, whether we have not proved that the corporal oath, by touching and kissing the Gospels, was not deri-

ved by the papists from the pagans, and by Protestants from the papists.

2. We proposed to show that the form in question is *idolatrous* in its nature. This has already been pretty fully done, and a few words more will suffice. The Divine Being severely punished his ancient people Israel, for "swearing by them that were no gods." Now no one pretends that the material of a book—the leather, the paper, the cord, the ink, is God: and yet many, when the book is used, lift their thoughts no higher. Even the truth contained in the book is not God, and he has no where authorized us to swear by it. Is it answered—it is the juror's fault if he swear by the book and not by God? We reply, if it is the *tendency* of this ceremony to mislead, it is unlawful and inexpedient.

But besides this, the *book itself* forbids such a ceremony. "Thou shalt not make unto thee any graven image, nor the likeness of any thing, &c.—thou shalt not *bow down* thyself unto them nor serve them," &c. (Deut. v. 8, 9.) Now this command "forbiddeth the worshipping of God by images or any other way not appointed in his word." And how can any intelligent Protestant, with this command in view, employ any material representation of the Most High, the "image" of a book or any thing else, and either worship it, or worship through it? How can he bow down to, and bestow upon it the reverential kiss in token of worship? We have shown that the *kiss*, amongst the pagans, was a *part of the worship* bestowed upon their idols; where, then, is the difference between the pagan Egyptian, and the Protestant Christian? The one

kissed the *calf* which he worshipped—the other is content to kiss a piece of *calf-skin*.

Polycarp, Basilides, and others of the early Christians, suffered martyrdom for “refusing to swear as heathen;”^{*} and yet Protestant Christians, in the nineteenth century, will continue to swear in the *manner of heathen*, when there is not only no *compulsion*, but when the law expressly permits them to swear *as Christians*. “The Lord will not hold him guiltless that taketh his name in vanity.” Society may compel me to swear, but not to be an *idolater*. It is not enough to say, in reply, “We do not swear *by* the book, we use it merely as a symbol of the God whose word it is.”—The papist will tell you that he does not worship the image of the Virgin or of the saint, before which he bows—that it is only an *aid* to his devotion. Still you will call his worship *idolatry*: and if you swear upon, and kiss the Gospels, may he not retort the charge? Has he not just as much authority for his image in *human form*, as you have for yours in the form of a parallelopiped?

3. This form of the oath is *superstitious*, and tends to defeat the ends of the institution. We have shown, in a former chapter, that we cannot expect God to honour false or superstitious forms of worship, by making them as efficacious for good as the true: and here we will only say, that the superstitious form in question destroys the *efficacy*, by diverting the mind of the juror from the true *nature* of an oath, as an act of worship, and a covenant with

* Fox's Martyrs, chap. iii. iv.

God and society. Many of the less intelligent classes think more of the presence of the *book*, than of the *God* to whom they ought to appeal, and of whose presence it is one object of the oath to remind them. Indeed many—perhaps a majority of jurors, suppose that it is by the book they swear, and that, if they do not touch or kiss the book, they are not sworn. Many facts, in proof of this, are occurring every day; and many might be put upon record if our limits would permit. Witnesses have been known to apologize for their manifest perjury, by saying that they kissed their thumb nail instead of the book. A legal friend informed the writer of an instance in which a whole parish, in Ireland, thus perjured themselves, by advice and direction of the priest, when taking the oath of allegiance.

The *original design* of the popish forms of the oath was to appeal to the superstitious fears of the laity; the priests themselves not taking a corporal oath; and this shows how useless and pernicious these forms are. Perhaps the welfare of society requires that papists, and Mohammedans, and Jews, and pagans, be severally sworn by the form that will be binding upon their conscience; but the true interests of social man require, that superstition should give place to true religion, and that the oath be restored to its primitive simplicity. Indeed, it is our belief, that an immediate restoration of the ordinance to its original form, would render it more efficacious with all classes of men, Jew and Gentile, papist and Protestant: for it is notoriously the fact, that those who make matter of conscience of adhe-

ring to perverted forms, are *little restrained* by them. And we cannot doubt that one prolific source of perjury in our courts is, the superstitious form of the oath, and the irreverent manner of its administration.

CHAPTER XII.

ABUSES OF THE OATH.

THESE may all be reduced to two classes : I. The extra-judicial employment of the ordinance : II. The perversion or violation of judicial oaths.

I. *The extra-judicial use of the oath.* This includes profane swearing in common discourse : oaths administered by the authority of voluntary societies ; and oaths taken before a civil magistrate in cases where no judicial issue is joined.

1st. Of *profane swearing*—that vice of vulgar minds—it is needless that we say much. It is the province of the pulpit to expose and rebuke its enormity : and as much has been elsewhere written, and well written, upon this vice, we will only speak of it as an abuse of an ordinance of God.

We doubt not that the “Father of lies” has promoted profane swearing, as a means of weakening the obligations, and paralyzing the efficacy of lawful oaths. Apart then from its enormity, as a coarse and stupid vice—insulting to God—offensive to good taste, and shocking to decency, it is dangerous to society, because it tends to prostrate one of its safeguards. The man who, in common conversation, is constantly appealing to God in profane oaths, so stupifies his moral sense, that he cannot feel the solemnity of an oath when judicially administered.

Accustomed to repeated extra-judicial perjuries, heedlessly committed, it cannot be expected that he will fear a judicial oath. And besides this, he betrays a consciousness that his simple word is not entitled to credence. "Let your communication be yea yea, nay nay," said our Lord, "for whatsoever is more than this cometh of evil;" and the man who will appeal to God on oath, when not lawfully called to do so, by the proper civil or ecclesiastical authority, betrays a consciousness of evil—he shows that he does not expect his simple word to be taken.

2. Oaths administered by authority of *voluntary societies*. The *family*, the *church*, and the *state*, are the only societies that are directly and explicitly ordained by God. We have shown, in a former chapter, that these are not *voluntary* societies; that is, their existence is not based upon a voluntary compact of human framing, but is the result of a divine constitution. Except, perhaps, in a patriarchal age, prior to the aggregation of men into states and empires, the family sustains to the church and to the state the relation of the nursery to the vineyard; and it will not be necessary, in order to the illustration of our subject, to moot the question, whether the oath may lawfully be administered by the chief magistrate of a family. The government of a family is so simple in its form, so narrow in its range, and its administration is so generally influenced by the most tender affections of our nature, that the use of the oath can rarely, if ever, be needed.

Excepting then the family, we are inclined to take the position that no authority is competent to tender

the oath but that of the church or of the state. All other societies are *voluntary*; *i. e.* they are constituted by the will of man—not by the will of God. The church and the state are really the only societies, beside the family, that are needed. They cover the entire field of human operation; they are adequate, if rightly administered, to the entire demands of human necessity—the state in things temporal, the church in things spiritual. These societies only can show a divine character—these only has God made repositories of his own authority—these only can claim to be “ministers of God for good”—(Rom. xiii. 4.) To these only is allegiance owed and obedience required by divine appointment. If this be so, then no voluntary society has a right authoritatively to demand an oath of any individual, nor is the individual either bound or permitted to respond to such demand: for (*a*) The right to demand an oath of an individual presupposes a right to place him *sub pœnâ*—to call him to testify or promise under penalty—and this involves an exercise of supreme authority. No higher authority can be exercised upon earth, than that which summons the individual into the presence of his God, and calls him to perform any social duty under oath. (*b*) Two sovereignties of the same kind ought not to co-exist: an *imperium in imperio* is always dangerous. And (*c*) if voluntary societies may demand an oath in one case, they may do it in another; and thus, exercising the highest prerogatives of government, their authority may come in conflict with “the powers that be.” The church of Christ has a right to require her own members to swear, in courts

ecclesiastical—the commonwealth has a right to require the citizen to swear in courts civil—but if this right be extended to other societies at all, the authority of the church or of the state may be impaired, and the rights of the individual infringed. I own no allegiance to any societies except those under whose authority my God has placed me ; nor have I a right to transfer the allegiance which I owe to them, to any voluntary association of men ; and if I yield to such association the right of tendering to me an oath, I permit it to usurp a prerogative of the state. This usurpation becomes peculiarly dangerous, when the society employing the oath is secret, and employs it to bind its members under an allegiance to the society, which may be incompatible with allegiance to the commonwealth. We deem it, therefore, an abuse of the oath to employ it in any such way.

But it may be asked, May not the state delegate to a voluntary society authority to administer the oath ? No more than she can transfer her sovereignty. Upon her own lawfully constituted agents she may confer such authority ; but if she delegate it to any person or body of men independent of herself, she transcends her own powers. She usurps a prerogative of God. God only can confer civil sovereignty. He only can impart to any society the power to exact from men civil obedience. “The powers that be are ordained of God—there is no power but of God.” But the tender of the oath, as we have shown, is the highest exercise of civil authority. No claim of sovereignty can be loftier or sterner than that which demands of the citizen the

disclosure of the secrets of his heart for the public good. If, then, the state confer upon a voluntary society, which is not a constituent part of the commonwealth, authority to tender the oath, she undertakes to bestow sovereign power—a thing which none but God can do. Municipal corporations, and corporations for civil purposes, may be authorized to administer the oath, but they form part of the commonwealth, and are not properly voluntary societies. Associations that are strictly voluntary, and independent of both church and state, have no authority to employ this ordinance.

This position is corroborated by another consideration. All admit that a private individual has no right to administer an oath, nor of his own motion to swear himself. To do so is called profane swearing. But does the voluntary association of private persons, for private purposes, acquire any powers which the members, as individuals, did not before possess? Can private persons, within a State, by voluntarily associating together in a society, separate from, and independent of the State, thereby acquire sovereignty? By no means—they are private persons still: and the *thousand*, thus associated, have no more civil authority than the *individual*. And if it be profanity for the individual to employ the oath at pleasure, and upon his own motion, it is equal profanity for the thousand. If the thousand may use the oath at pleasure, so may each individual. There is, therefore, but one alternative—either limit the use of the oath to the civil and ecclesiastical courts, or let every one swear as he pleases, and pronounce profane swearing to be no longer a vice.

Again. In the preceding pages we have shown that to the civil covenant God is the highest contracting party—that the State is his agent—that the tender of the oath is, to the witness, the call of God, *through* the civil magistrate, for truthful testimony; and that, in the oath, the witness covenants with God and society to speak truth. It is obvious, therefore, that before any association of men should dare to tender the oath, they must be able to show that God is a party to the compact under which they are associated; and that, by virtue of that compact, they may exercise sovereign authority. No society has a right to call upon God to be a party to the covenant of the oath, until they can show that they “are ordained of God.” But this no merely voluntary society can do: and we therefore conclude that all oaths, administered by the authority of such, are extra-judicial, and an abuse of the ordinance.

3. Oaths taken before a civil magistrate, in cases where no judicial issue is joined, are also an abuse of the ordinance. This follows as a necessary consequence of the theory of the oath, laid down in the preceding pages: for (a) a civil oath can only be administered by the civil authority: (b) that authority can never be interposed unless it be lawfully invoked; and (c) it is lawfully invoked only when some legal process is entered according to law—when some issue is regularly joined which has for its object “to end strife,” or to guard the public peace. A magistrate is the mere servant of the law, and the law, in giving him authority to administer the oath, limits that authority to cases prescribed. It is, therefore, unlawful for a magistrate to adminis-

ter the oath for any private purpose ; or in any case in which there is no regular demand for the interposition of the civil authority. If the case be of such a character, or so unimportant as not to require such interposition, the officer who administers the oath transcends his powers, the juror makes an unlawful use of the ordinance, and both "take the name of the Lord our God in vain." Cases of this kind have often occurred. Such are the following. A man goes before a magistrate, and swears to abstain from drunkenness. This is of the nature of a religious vow, and pertains rather to the Church than to the State ; but neither is authorized to administer the oath for any such purpose. Oaths of voluntary purgation come under the same category. In these the jurors swear that they did not commit certain acts, which rumour may have charged upon them. To the same class belong depositions made in regard to facts, without any design of basing a judicial process upon the facts sworn to. Rare cases may occur in which such a use of the oath may be justifiable, but the great majority of actual cases cannot be defended. They are a deliberate profanation of the ordinance.

II. *The perversion and violation of judicial oaths*, includes the second class of abuses of the institution. We have already spoken of the distortions of the form of the oath, and of the perversion of the ordinance from its legitimate ends. It only remains to speak of the perversion of the *terms* and of the *interpretation* of an oath, for purposes of deception ; of perjury ; and of the flagrant assump-

tion, by papal Rome, of the power of absolving from the obligations of an oath. And,

1st. The perversion of the *terms* and of the *interpretation* of an oath. When the terms of an oath are employed by the juror in one sense, whilst he designs and expects them to be understood, by other persons, in a different sense, the terms and the interpretation are perverted. Or if the juror take the oath in the sense in which it was tendered, and afterwards attempt to avoid its obligations, by putting a different construction upon the terms, he perverts and abuses the ordinance. But upon this part of our subject we need not, in this place, dwell, because we have already devoted a chapter to the interpretation of oaths; and because the subject will be more fully illustrated when we come to treat of the papal abuses of the oath. We mention, therefore,

2nd. *Perjury*, as a flagrant abuse of the oath, and an awful sin against God and society. Sir Edward Coke (3 Inst. 164,) defines perjury to be, "a crime committed, when a *lawful* oath is administered, in some *judicial* proceeding, to a person who swears *wilfully, absolutely, and falsely*, in a matter material to the issue or point in question." In New-York, perjury is a wilful and corrupt declaration to any material matter, upon oath, affirmation, or declaration legally administered. With this the laws of other States substantially agree. "The law," says Blackstone, (book iv. p. 137,) "takes no notice of any perjury, but such as is committed in some court of justice, having power to administer an oath, or before some magistrate or proper officer, invested

with similar authority, in some proceedings relative to a civil suit or criminal prosecution : for it esteems all other oaths unnecessary at least.—For which reason it is much to be questioned how far any magistrate is justifiable in taking a voluntary affidavit in any extra-judicial matter—since it is more than possible, that by such idle oaths, a man may frequently, *in foro conscientiæ*, incur the guilt, and at the same time evade the temporal penalties of perjury. “Subornation of perjury,” continues he, “is the offence of procuring another to take a false oath, such as constitutes perjury in the principal. The punishment of perjury and subornation, at common law, has been various. It was anciently death ; afterwards banishment or cutting out of the tongue ; then forfeiture of goods ; and now it is fine and imprisonment, and never more to be capable of bearing testimony.”

But although *legal* perjury is confined to the case of false swearing to a matter material to the issue ; *moral* perjury is committed when any false statement is wilfully made under oath, when any fact material to the issue is withheld, when any false tinge is given to the statement of facts, or when any wilful carelessness is indulged in remembering or in stating the facts that would make up the whole truth. But as we have, with considerable fulness, pointed out the cases which amount to perjury, in the chapter upon the interpretation of oaths, we will not here enlarge. We will only add, that although moral perjury is not always legal perjury, so as to incur temporal penalties ; and although the perjurer may conceal his crime and escape punishment from

men, yet "the LORD will not hold him guiltless that taketh his name in vain."

3. But the most enormous abuses of the oath, which have ever disgraced humanity, have been perpetrated by papal Rome; and, in concluding this chapter, we ask attention to a succinct statement of the

PAPAL ABUSES OF THE OATH.

A full discussion of this subject would, of itself, require a large volume, and would open up "mysteries of iniquity," which are enough to curdle virtuous blood: but our limits will not permit the requisite historical detail; and we must be content to state a few of the most important points, with very brief historical illustrations.

We have already shown that through the influence of the popish clergy, the form of the oath has been distorted, and modes of swearing—borrowed from paganism—have been introduced. In order to be more fully impressed with their abuse of this ordinance, we must notice—

(a) The *Romish clergy have ever claimed exclusive control in the matter of oaths.* According to their view the oath was more properly called *sacramentum* than *juramentum*. Hence, as a sacrament, they held that it was within the jurisdiction of the church. Fleury (in his Hist. book 93, No. 39,) tells us that the Council of Marciac declared, "that all oaths, even those affixed to contracts, fall within the jurisdiction of a judge of the church." Henrion de Pansey, the late Chief Justice of the Court

of Cassation (the Supreme Court) in France, in his *Autorité Judiciaire*, chap. 26, states the principle on which they went. It was this—"Every judicial problem, the solution of which was subordinate to the oath of one of the parties, necessarily belongs to the exclusive jurisdiction of the courts of the church; for the oath being a pact between God and the conscience of man, cannot be taken, except through those whom God has appointed to represent him on earth." And it would appear that, in some of the popish states of Germany, this arrogant claim is still allowed; for we find, from the endorsements of affidavits taken in Germany, by commission, and on file in courts of Pennsylvania, that a priest must be present and participate in the solemnity of administering the oath. Whether this is required by the laws of those states, we have not been able to ascertain. Now who cannot perceive that this claim grasps at the very sinews of civil authority? Grant them the control of all cases requiring an oath, and you yield to the priests all earthly power. Such was their claim, and the forms of oaths, and the rules concerning the administration of them, show that the clergy not only claimed, but obtained the chief control of the ordinance. The use which they made of their power we have in part seen: and we farther notice—

(b) They procured for themselves *entire exemption from corporal civil oaths*: that is, from all civil oaths: for they did not anciently, nor (so far as we can ascertain) do they now consider even a solemn asseveration before God to be an oath, without *the tact* of some sacred thing—as the Gospels, a

cross, relics, and the like. Their canons forbid them to swear, on the ground that a priest's *assertion* is credible enough, without those solemnities by which (as they still hold) the laity must be bound.

"Jurare solent," says Dufresne, "*in verbo veritatis, quod omni stipulationi prævalet in ore sacerdotis.*" This he cites from John of Salisbury, Epis. 77. He also cites Capitulare Episcoporum (anno 801, c. 20): "Ut nullus sacerdos," &c. "That no priest should swear with an oath (juramento), but he should *simply assert* all things with purity and truth." Also Anselm, Archbishop of Canterbury, lib. 3, Epis. 83: "Asserunt enim pullice," &c. "For they avouch publicly upon that truth (in ea veritate) which bishops ought to preserve." Other expressions, quoted by Dufresne, prove that the clergy were permitted to declare "Upon their word of truth"—"Upon the word of a priest," &c. &c.

The Council of Meaux forbade the clergy to swear *super sacra*—upon sacred things—such as relics, crosses, the Gospels, &c. ; that is, (jurare corporaliter) to take any corporal oath ; and Dufresne is of opinion that the phrase *corporal oath* may be used in contradistinction from *sacerdotal oath*. It seems somewhat doubtful, whether this exemption of the clergy from corporal oaths was anciently confined to the *civil*, or extended also to *ecclesiastical* oaths. The verbal form of some oaths, imposed upon the clergy by the church herself, would seem to indicate that they must have been corporally taken : and if this be so, it shows that the church exercises an authority over the clergy, which she forbids the civil power to exercise. The Council of Trent decreed

that canons, dignitaries, parish priests, and all ecclesiastics that would have care of souls, and direction of the people, shall make a public profession of faith, and take an oath of obedience and fidelity to the Pope and his successors, (Sess. xxiv. cap. 12.) And Pope Pius IV., A.D. 1563, issued a bull in confirmation of these oaths. In this bull he prescribes the form of "the profession of faith and oath of fidelity," which ends thus—"I promise, vow and swear, so help me God and these holy Gospels of God." If this and similar oaths, imposed by the church upon the clergy, are taken with *corporal tact* of the Gospels, as the form would indicate, it betrays the cunning and ambition of the papacy. It shows that this "mystery of iniquity" seeks to bind all men to her own footstool, in the strictest obedience which her most solemn superstitions can secure; whilst she will not permit her own clergy to be held in similar bonds, by any civil authority.

This exemption of the clergy from civil oaths naturally results from the arrogant doctrine of the supremacy of the Pope and of the church over all civil government. A volume might be filled with proofs, from popish writers, bulls, decretals, and acts of councils, that such supremacy is claimed, and that in consequence of it the clergy are not subject to civil oaths. We have space only for a few extracts, but these few are sufficient.

"The supremacy of the Pope," says Bellarmine, "is the main substance of Christianity."—*Moscovius*, de Majest. Eccles. Milit. lib. 1, cap. 7, p. 26. "Pontifex Romanus est judex, &c. The Pope is universal judge, king of kings, and lord of lords, because

his power is of God: God's tribunal and the Pope's are the same, and they have the same consistory. *All other powers are his subjects.* The Pope is judged of none but God."

Mancinus, de jur. Princip. Rom. lib. 3, cap. 1, 2. "Papa est totius orbis, &c. The Pope is lord of the whole world. *The Pope, as pope, has temporal power.* The Pope's temporal power is most eminent. All other powers depend upon the Pope."

Maynardus, de priv. leg. Eccles. art. 13, sec. 9, after having previously asserted that "Emperors and kings are the Pope's subjects," says, "*Statutes made by laymen do not bind the clergy.*" *Emanuel Sa.* Aphor. Confes. Verb. Cleric. p. 41. "Clerici rebellio, &c. The rebellion of a priest is not treason, *because clergymen are not the king's subjects.*" *Panormitan*, ad Diet. cap. sollicitæ. "Imperium sub est, &c. The emperor is bound to obey the priest. The clergy are not subject to the laity, nor even to the king."

Colleg. Bononiensis, Respon. pro libertat. Eccles. sec. 21, &c. "Kings have no coercive power over ecclesiastics. The exemption of the clergy is of divine right, so that they cannot be judged or punished by any secular power." And *Concil. Lateran*, sub. Innocent III. can. 43. "Sacri autoritate, &c. The church expressly prohibits secular princes to require any oath of fidelity or allegiance of their clergy; and *peremptorily forbid all their priests from taking any such oath, if required.* Corpus jur. canon."

These extracts, and many others that might be made, clearly prove that papal Rome claims suprem-

acy over the whole world, not only in spiritual, but also in *temporal* authority ; and that she does not permit her priests, or other ghostly emissaries, to be “subject to the powers that be.” Now let it be remembered that these are the pretensions of a church that claims to be *infallible* : a church whose decrees, being perfect, can *never change* : and then tell us, is it not of the very *essence* of popery to seek the downfall of *every power* but her own ? Does not this very claim incontrovertibly prove that NO TRUE ROMISH PRIEST *can be a citizen* of any country, except that in which the Pope exercises temporal sway : and that no popish priest who is loyal to his ecclesiastical VOWS CAN BE LOYAL TO ANY CIVIL GOVERNMENT.

(c) But the most flagrant outrage which this apostate church has attempted against this ordinance of God, is her assumption of authority to absolve jurors from its solemn obligations. This is one of the enormities of the papacy which most distinctly point it out as “that man of sin—the son of perdition ; who opposeth and exalteth himself above all that is called God, or that is worshipped,” 2 Thess. ii. 3, 4. We have shown that to the covenant of the oath, God is the highest party. Consequently none but He can release the other party (the juror) from the obligations of this covenant. But the Pope claims authority to do so, and has, in countless instances, absolved men from their oaths—“so that he, as God, sitteth in the temple of God, showing himself that he is God.” This is one of the most heaven-daring usurpations of divine authority : and

the papacy perpetrates this abuse of the oath in several ways.

1st. By authorizing the practice of mental reservation, equivocation, and other frauds, in swearing; and teaching her deluded people that they may, by such frauds, avoid the obligations of the oath.

2nd. By teaching that certain oaths are not binding: and,

3rd. By the Pope formally absolving jurors from the obligations of oaths that had been taken in good faith. We shall make a succinct citation of a small portion of the proofs, furnished by Romish authorities, and by history, that Rome does usurp authority to relax and absolve the obligations of the oath, in these several ways.

1st. She authorizes the practice of *mental reservation, equivocation, and other frauds*, in swearing.

Suarez, Jur. Precept. lib. 3, cap. 9, p. 473. "If any one has promised or contracted, without intention to promise, and is called upon oath to answer, he may simply answer *no*; and he may swear to this denial, by *secretly understanding* that he did not sincerely promise, or that he promised without any intention to acknowledge it."

Sanchez, Op. Mor. precep. Decal. pars 2, lib. 3, cap. 6, Num. 13. "It is lawful to use *ambiguous terms*, to give the impression a different sense from that which you understood yourself. A person may take an oath that he has not done such a thing, though in fact he has, by *saying to himself*, it was not done on a certain specified day, or before he was born, or by concealing any other similar circum-

stance which gives another meaning to it. This is extremely convenient, and is always *very just*, when necessary to your health, honour, or prosperity." To the same purpose also, *Filiucius*, Quest. Moral. vol. 2, tract 25, cap. 11, Num. 328. "With what precautions may we equivocate? By intending to use only material words. A person may begin to say, *I swear*—he can add this mental restriction *to-day*, or in a whisper he may repeat, *I say*, and then resume his former tone, *I did not do it.*"

Charli, Prop. 6, p. 8. "He who is not bound to state the truth before swearing—is not bound by his oath, provided he makes the *internal restriction* that excludes the present case."

Taberna, vol. 2, p. 288. "Is a witness bound to declare the truth before a lawful judge? No—if his deposition will injure himself or his posterity: or if he be a priest, for *a priest cannot be forced to testify before a secular judge.*"

Laymann, lib. 4, Tract. 3, p. 73. "It is not sufficient for an oath that we use the formal words, if *we have not the intention and will* to swear, and do not sincerely invoke God as a witness."

Tamburinus, lib. 3, p. 27. "A *priest* may equivocate, before a secular judge, that he is no delinquent, by understanding that *the Judge is not a competent lawful authority, to receive the testimony of Ecclesiastics.*"

Can any candid reader fail to see, that such doctrines and practices as these strike at the very foundation of all social confidence and safety? and that men who receive them must be dangerous members of any community? Can justice be administered, and ra-

tional liberty preserved, where such principles prevail? It is impossible.

But these are not the only frauds that Rome permits and encourages, when it will subserve her ends. We had occasion to mention in a former chapter, that it was not an unfrequent practice for persons desirous of avoiding their oaths, to swear, with the connivance of the priests, upon an empty shrine; under the delusive belief, that the absence of the relics of the saint cancelled the obligations of the oath. And the fraud practised by William of Normandy, upon Harold, proves that at that period the doctrine prevailed, that the presence or absence of the relics of saints increased or diminished the strength of obligation.*

But the popish frauds are not confined to oaths upon altars, and relics, and crosses. In connexion with the usual corporal oath upon the Gospels, the most gross abuses are practised. We have already mentioned the expedient of pretending to kiss the book, but avoiding actual contact of the lips. This has repeatedly been done in this country; and the deluded wretches seem not to think that, in thus swearing falsely, they commit perjury. But other frauds, besides this, are practised; and the question, what kind of oath will a Roman Catholic feel to be binding upon his conscience? is worthy of the seri-

* Hume, vol. i. p. 150. William made Harold swear that he would relinquish his claims to the English crown; and he secretly conveyed under the altar, upon which Harold had agreed to swear, the relics of some of the most revered martyrs, and after the oath showed them to Harold.

ous consideration of every lover of justice and of regulated liberty.

Even leaving out of view their doctrine of mental restriction and equivocation—will a popish witness, that is disposed to falsify, feel bound by the oath, as ordinarily administered in our courts? Will he consider himself to be really sworn, when the oath is taken upon a *Protestant version* of the Gospels, even when a *cross of ink* or a cross in the *binding* is marked upon it? Will he feel bound even when sworn upon the Douay Bible? Or upon any cross, except one that has been duly consecrated by the bishop or priest, with holy water? We are painfully convinced that these questions can only be answered, with truth, in the *negative*. We do not believe that any papist, who is fully apprized of the teaching of his church, would feel bound, by any oath, unless administered with *corporal tact* of some *holy thing*. And does he consider any Protestant translation, or even the Greek original of the Gospels, as *holy things*? Not at all. He is taught to abhor them. No copy of the Bible is, in his eyes, holy—consecrated, except the Latin Vulgate authorized by the Council of Trent. No relic, church, altar, or cross is holy in his eyes, except such as has been consecrated by priestly hands, and with the rites of the church. The elements of the sacrament are not holy, until consecrated by the priest: and even the ground must be made holy, by ghostly rites, before he can resign his dead body to its embrace.

The entire system of papal superstition, then, as set forth in their books, and as practised, bears tes-

timony to the truth of our position, that no oath will bind the conscience of a Roman Catholic, who believes the teaching of his church, except such as are taken with *corporal tact* of something pronounced *holy by the church*. In this way has "the man of sin" managed, by "mystery of iniquity," to make the civil power completely dependent upon the *priests*, so far as the eliciting of truth from popish witnesses is concerned. No oath will bind a papist, that is not administered *supra sacra*, and no court can obtain a *holy book* or *cross*, without consent of a priest.

Is it not time that our jurists were looking at this important subject? These deluded people are multiplying amongst us. The issue of many trials is affected by their oaths. They are often upon the stand, and in the jury box. They are entrusted with responsible offices. Their church is boldly promulgating her principles. Is it not time to ask—Do they ever take a civil oath which they consider binding? We fear not: and in this we find a solemn argument for being upon our guard against the aggressions of this mother of abominations. In this too we find an argument against the use of any superstitious forms of the oath; seeing they prove so powerless. It is vain for a court of justice to attempt to pursue a superstitious conscience, with the mummeries of superstition. Better far to use God's ordinance, as he appointed it, and trust to him to make it efficacious.

2nd. Rome relaxes the obligation of oaths, by teaching that some oaths may be broken: *e. g.* such as the fulfilment of which would be against

the interests of the papacy: and such as are made to heretics. The well known maxim, that "*no faith* is to be kept with heretics," applies to oaths, as well as to other obligations. *Corpus juris Canonici*, cap. Sicut 27 Extrav. de jure jurando. "Juramentum, &c. No oath against the benefit of the church is binding. All such oaths are perjuries."

Directorium Inquisitorum, p. 103, Greg. IX. "Liberantur ab omni obligatione, &c. They who are held bound to heretics are released from *every obligation*," page 166, "Heretico non solvendum, &c. A heretic should not be paid what is due to him, on promise even with an oath." Other extracts to the same purpose might be multiplied, but we deem it unnecessary.

3. The pope abuses and violates the oath, by formally absolving jurors from oaths taken in good faith.

Lessius, Lib. 2, page 632, "*The pope can annul and cancel every possible obligation arising from an oath.*"

Corpus jur. Canonici. Can. Auth. 2, caus. 15, quest. 6, part. 2. "The pope may depose princes, and absolve their subjects from their oaths of allegiance. The pope does, by *usual authority*, so absolve subjects," can. 3. To the same effect are many other authorities which we have not room to quote. *Spotswood's Hist. Scot.*, p. 308, "If the pope dispense with voluntary oaths, it is valid." *Glossa*, ad Dict. Can. 2, Verbo Absolvimus. "The pope can dispense against the law of nature, and against the apostles."

And the power that the pope thus arrogates, he

has, in almost countless instances, exercised. In A.D. 1076, Pope Gregory VII., in a council convoked by him at Rome, deposed the Emperor of Germany, Henry IV., and absolved his subjects from their oath of allegiance. His language was, "In the name of God Almighty, and by your authority (the council's), I release all Christians from their oath of allegiance to him," &c. (Russell's Mod. Eup., vol. i. p. 130). Pope Alexander III., A.D. 1164, absolved Becket, Archbishop of Canterbury, from his oath of adherence to the constitutions of Clarendon. Russell, i. 165. Pope Innocent III. absolved John, King of England, from his oath to observe *Magna Charta*. A.D. 1215, Russell, i. 197. Henry III. of England, and his subjects, were absolved by the pope from the oath to observe the provisions of Oxford. Pope Celestine V. absolved John Baliol from his oath of fealty to Edward I.

But one of the most disgraceful examples of perfidious violation of the oath, is mentioned by Russell, vol. i. 306. Ladislaus VI. King of Poland, and Amurath II. Emperor of the Turks, A.D. 1444, concluded a solemn truce of ten years, to which the one swore upon the Gospels, the other upon the Koran. The Turks, reposing upon the faith of the treaty, which they religiously kept, carried their forces into Asia. The pope's legate persuaded Ladislaus to break the truce. The pope (Eugene IV.) ordered it to be broken, and released Ladislaus from his oath, acting upon the maxim that "no faith is to be kept with heretics." "Ladislaus invaded the Sultan's territories. The Turks, enraged at such a breach of faith, breathed nothing but vengeance.

'They met and fought near Varna. Amurath wore in his bosom the treaty which had been so solemnly sworn to, and so shamefully violated : he held it up in the height of the engagement, appealing to God as a witness of the perjury of the Christians, and beseeching him to avenge the insult offered to the laws of nations. Perjury received its reward.—The Christians were defeated with great slaughter.”

Many other examples of the exercise, by the Roman pontiff, of this most dangerous prerogative, might be cited, but we deem it unnecessary. This enormity of Rome stands forth too prominently, upon the pages of history, for even her effrontery to attempt a denial. She claims the power, and wherever she could thereby subserve her interests, she has exercised the power of cancelling the obligations of the oath. And will Protestants be blind to the alarming lesson which such facts should teach? Ought a Protestant republic to welcome to her bosom, and cherish by her peculiar favour, the blind votaries of a superstition which saps the foundations of social confidence and safety—which sunders the holiest bonds that bind man in loyalty to God and to his country—which pours poison into the very fountains of truth and public justice—which palsies the arm of civil authority, wherever that arm will not subserve the interests of Rome—and which, “with all deceivableness of unrighteousness,” tends *constantly* and *only* to bind men, with chains of civil and spiritual bondage, to the footstool of an Imperial priest? Is it conducive to the purity, the stability, and the perpetuity of our free institutions, to welcome and promote amongst us a church which,

wherever she has predominated, in all lands and in every period of her existence, has repressed free inquiry, has been the patron of ignorance and delusion, has annulled by turns every moral obligation, and fostered every crime, has set her foot upon the neck of liberty, and has claimed, as she still does, for her sovereign pontiff, that allegiance which man owes to God only? What man's life, liberty, reputation, or property is safe, in the hands of men who have embraced the principles, in regard to the oath, which Rome inculcates? And yet, with an infatuation, which we fear God permits to fall only upon those whom, for their sins, he would destroy, American citizens, legislators and jurists, continue to shut their eyes against these dangers—or to view with indifference the rapid growth amongst us of popish principles and popish population. Do we hear the reply—'No danger, Rome is changed, popery is not what it once was?' We answer, Rome herself gives the lie to this syren song, so often sung. "SEMPER EADEM UBIQUE—always and every where the same," is her own boastful avowal. And if she appears to change in conformity to times and circumstances, it is only that she may more effectually deceive and destroy.

Upon the subject of popish oaths we will only add, that, upon their own avowed principles, NO ROMAN CATHOLIC, who fully and truly receives those principles, CAN BE A LOYAL CITIZEN of any country, except that over which the Pope exercises civil rule. Let any man read, with candour, the creed of Pope Pious IV., published soon after the close of the Council of Trent, and he must be convinced of the truth of this statement. This creed,

according to their own writers, “has ever been considered, in every part of the world, as an accurate and explicit summary of the Roman Catholic faith. Non-Catholics, on their admission to the church, publicly repeat, and testify their assent to it, without *restriction* or *qualification*.”* Now in sec. 13 of that creed, every one professing it is required to say, “*I promise and swear true obedience to the Roman Bishop, the successor of Peter, the prince of the Apostles, and vicar of Jesus Christ.*” The extent of this *sworn* obedience is defined in the next sections; 14, “I also profess and undoubtedly receive *all other things* delivered, defined, and declared by the sacred *canons*, and general councils, and particularly by the Holy Council of Trent,” &c. And in sec. 15, and last, “This true Catholic faith, out of which *none can be saved*, which I now freely profess, and truly hold, I, N, do *promise, vow, and swear* most constantly to hold and profess the same whole and entire,” &c. Now is it possible for a man to take these oaths, in good faith, and also, in good faith, to take an oath of allegiance to any other government, especially if that government be Protestant? It is impossible: for, as we have already shown, the *canons*, which he swears “to hold and procure to be held,” explicitly arrogate to the Pope *supreme authority*, both *civil* and *ecclesiastical*, over the whole earth.

* Charles Butler’s Book on R. C. Church, p. 8.

CHAPTER XIII.

TO THE READER.

IT is time this book was brought to a conclusion. We have written "beyond our first intent," and yet we feel that the subject has been but partially discussed. If, however, this little work shall prove the means of drawing the attention of our countrymen to the subject of which it treats, we shall not have laboured in vain. It is our devout wish that it may be useful: and we desire to commend the book and the subject to the serious consideration of every one who may favour it with a perusal. Reversing, then, the order usually observed, we devote our concluding chapter *to the reader*: humbly requesting every one to do, in his respective station in life, whatsoever he may find to be his duty, in regard to this ordinance of God. Is our reader

A PROTESTANT?

Let him carry out his Protestant principles, when called to perform that act of worship of which we have been treating. Let him never consent to "swear as a heathen," or as a papist: but let him, both by precept and example, *protest* against all the principles and the forms by which Rome has corrupted and distorted this safeguard of justice and

liberty. We are aware that in some parts of our country, where the Papal forms have been retained, and where the Scriptural form is "a strange thing," it will require some *moral courage* to break away from an old custom, and to refuse to worship a book instead of God. But the *true Protestant* will not hesitate: and he is unworthy of the name who would yield to an idolatrous practice, which both the Bible and common sense condemn, simply from the fear of being thought singular. Is the reader called as

A WITNESS?

We remind him that, in the oath, he makes a solemn covenant with God, to speak truthfully, in regard to the matter in trial, and that it is both his duty and his interest to fulfil this covenant with scrupulous care and exactness. When, in the providence of God, a person witnesses any event or fact concerning which he *may* be called to testify, it becomes his duty, upon the principles laid down in the preceding treatise, to charge his memory with the facts: or to write them down, if his memory is not retentive, so that if ever called to testify, he may "swear in truth, in judgment, and in righteousness."

When summoned to bear testimony, the witness ought to make the duty a subject of prayer. He should pray that the Omniscient God of truth would enable him to remember fully and truly the facts of which he is to testify, and so to state them to the tribunal, that no inadequate or false impression

may be made. If we are bound to seek divine aid and direction in all the details of life—even in our private duties—we surely should not fail to implore his council and support, in the performance of this solemn social duty, upon the proper discharge of which depend the rights of others, the safety of society, and the welfare of our own souls. Is the reader

A MAGISTRATE,

or other official agent of society? He sustains to the ordinance of the oath a two-fold relation. For, (*a*) he has bound himself by oath to perform all the duties of his office with faithfulness and impartiality. By this oath he is obliged to inquire and know what those duties are, and then to perform them aright. (*b*) He may be called upon in his official capacity to administer the oath. In the performance of this duty, it becomes him to remember that he stands in the presence of, and acts as “a minister of God” (Rom. ix. 4). He should remember that the oath is an act of religious worship, and that it should be performed intelligently, decorously, and solemnly.

If the magistrate has reason to fear that the person to be sworn is ignorant of the nature and obligations of the oath; it is his duty to explain the same to the juror, so that he may receive the ordinance intelligently and in the fear of God. A magistrate or other officer, whose function it is to tender the oath, should never perform that duty in a hurried, careless, or irreverent manner; nor should he

permit any irreverent behaviour in the presence where it is administered. We solemnly believe that, where a magistrate or other agent of the law transgresses in this matter, he is guilty of a violation of the third commandment, which is, "Thou shalt not take the name of the Lord thy God in vain."

TO JUDGES OF THE COURTS,

we respectfully submit, whether it does not fall within the legitimate sphere of their duties, to take such measures as may promote the right understanding, and the proper administration of the oath. They are the expounders of the law, of which the oath is a part. Might it not conduce to the furtherance of justice and the public peace, if the presiding judges of our courts would embrace suitable opportunities of explaining, from the bench, the nature, design, and obligations of this most important element of judicial economy?

Is it not officially incumbent upon the president of a court to see that the oath shall be administered with becoming reverence and solemnity; that no noise, confusion, or other indecorum be permitted during the ceremony; and that the officer, who tenders the oath, shall do it in a *manner* becoming the sacred character of the evidence? We have heard oaths administered with the volubility of an auctioneer, and with an air more becoming the buffoon than the minister of God. A little attention to this matter on the part of presiding judges, would greatly tend to restore dignity and solemnity to our

courts; whilst it would burnish the scales of justice, so often defiled and driven from their equipoise, by inadvertent or wilful perjury. Shall this little book meet the eye of

AMERICAN LEGISLATORS?

Of them we would ask—Do you not represent a *Protestant* nation? Are not a vast majority of your constituents Protestants? And is it not just that the laws of a country should be adapted to the *majority* rather than to a minority? No sound Republican will gainsay these positions. Why then is it that, in a Protestant country, the popish form of the oath has been so long retained—that this idolatry is recognized as *the* form to be used; whilst as a matter of *indulgence* Protestants, by declaring their conscientious scruples, *may be permitted* to swear in the Scriptural form—by lifting up the hand? Is it fair that the statute book of a Protestant people should give this advantage to the rites of Rome? Have not the vast Protestant *majority* a *right* to claim that the scriptural form of the oath shall be recognized in our laws, as the one *usually* to be tendered; and other forms to be *permitted*? Ought not the form approved by the religion of the majority to be the *prevailing* form, whilst others are tolerated? We respectfully submit to our legislators, whether this feature of the statute books of most of the States does not demand revision—whether it is not required by justice and republican consistency. This yoke ought to have been shaken off with the other badges of British bondage.

TO MINISTERS OF THE GOSPEL.

We would suggest—The oath is a part of religious worship. This the ministers of the principal religious denominations *profess to believe*; for the forms of faith which they have vowed to maintain so declare. The standards of the Protestant Episcopal, the Presbyterian, the Reformed Dutch, the German Reformed, and we believe of most other churches, recognize it as an act of worship. Why, then, is this part of worship so seldom mentioned in the pulpit? Some of the hearers of every minister in this land will sometimes be called to take the oath. It is a solemn and awful duty, the right performance of which requires great circumspection. Do not the people, then, *need* instruction in regard thereto? Why is this instruction so generally withheld? Is not “all Scripture profitable for instruction in righteousness?” Why, then, are those numerous passages of both Testaments, including two of the Ten Commandments, which bear upon this subject, so totally neglected by most of our preachers? The occupant of a pulpit—and especially of an *American* pulpit—owes a duty to his country and her institutions, which is not performed if he neglect to unfold the elements of law as found in the Bible. The preacher who never expounds the third and ninth commandments, and their cognate precepts, does not declare the whole counsel of God. We respectfully submit, for the consideration of our brethren of the Christian ministry, the ques-

tion—*Ought not the pulpit to speak out upon the subject of the oath?*

The welfare of our country and of society, in all lands and in all time, greatly depends upon the restoration of the oath to its original purity, and to its proper place in the social economy. [And, in concluding this treatise, we would seriously call upon every Christian, every patriot, and every philanthropist, to contribute his part towards the diffusion of correct views upon the subject, and towards rescuing the ordinance from all abuses.] So shall it continue to be an instrument in the hand of the God of truth to restrain a world of lies; until he shall establish that blessed and promised state of society, in which this institution shall not be needed, and from which shall be excluded all “idolaters, and whosoever loveth or maketh a lie.”

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