every court of justice and before every tribunal which has the right to investigate any matter of a criminal or a civil nature. I need scarcely refer to the authorities, which are familiar to you, Mr. Speaker, and to the hon. members of this House who belong to the legal profession. I might refer, however, to Taylor on Evidence, and to Best on Evidence, the last editions, in which it is clearly laid down that any question the tendency of which is to criminate the witness who is asked the question, or to subject him to a liability for a penalty, or anything in the nature of a penal action, he cannot be compelled to answer. I submit that the question which the House has now directed to be put to the witness is of that nature, because it asks him whether the return which he has made is correctly set out on pages 15 and 16 of the volume which has been put into his hands. I submit that the effect of answering that question, if he said yes, would be to make an admission against himself, which could be used in evidence in any action which might be brought under those provisions of the statute which provide for the recovery of penalties against a returning officer or a deputy returning officer, or any other officer acting under the Election Act. The effect would be to make him liable, out of his own mouth, for the penalties provided by those provisions. I refer more especially to sections 101 and 105 of the Election Act of 1874. Section 101 provides:

"If any returning officer wilfully delays, neglects or refuses duly to return any person who ought to be returned to serve in the House of Commons for any electoral district, such person may—if it has been determined on the hearing of an election petition respecting the election for such electoral district, that such person was entitled to have been returned—sue the returning officer who has so wilfully delayed, neglected or refused duly to make such return of his election in any court of record in the Province in which such electoral district is situate, and recover from him a sum of $500.

"Every officer and clerk who is guilty of any wilful misfeasance or any wilful act of omission in violation of this Act, shall forfeit to any person aggrieved by such misfeasance, act or omission, a sum not exceeding $500 in addition to the amount of all actual damages thereby occasioned to such person;

"Every returning officer, deputy returning officer, election clerk or poll clerk, who refuses or neglects to perform any of the obligations or formalities required of him by this Act, shall, for each such refusal or neglect, forfeit the sum of $200 to any person who sues for the same."

In Taylor on Evidence, edition of 1878, vol. 2, page 1223, the right of a witness to claim this privilege is clearly laid down that a witness is not compelled to answer where the answers would have a tendency to expose him to any kind of a criminal charge, or to a penalty or forfeiture of any nature whatsoever. This rule, the author goes on to say, is one of great antiquity and applies equally to parties and to witnesses, and is now uniformly recognised by all British tribunals, whether civil or criminal. In the last edition of Best on Evidence, edition of 1883, the same principle is clearly laid down. And that it applies to the high court of Parliament as well as to any other tribunal, is laid down in Mr. Bourinot's work on Parliamentary Procedure and Practice, page 204:

"In all matters touching its privileges the House may demand definite answers to its questions, but in case of enquiries touching a breach of privilege, as well as what may amount to crime at common law, the House 'out of indulgence and compassionate consideration for the party accused,' has been in the habit of telling them that they are under no obligation to reply to any questions so as to criminate themselves."

The words which are in quotation marks are taken from the English *Hansard*, vol. 9, 1875. Now, I submit my objection to the question on these grounds. I say that the result of the witness answering this question would be to make an admission against himself which would certainly be used against him in any action which might be brought against him for any penalties to which he might be subject under the Election Act of 1874. I also submit that the question is objectionable on another ground. He is asked to say whether a copy which is placed in his hands is a true copy of a document which has not been placed in his hands. The question is of two branches. The first: "Are the writ and the letter of Mr. Pope on pages 13 and 14, true copies of the instructions sent to you." The witness has not been given an opportunity of comparing the documents, and he is asked to state here whether these are true copies or not. On these grounds, Mr. Speaker, I submit that the question is not a proper one, and that the witness should not be compelled to answer.

Mr. THOMPSON. I do not know whether the course I took under the former question was acceptable to the House or not; but I would suggest that hereafter it would be more convenient that the objections of counsel should be taken before the question is put to the House, because it is inconvenient, after the House has resolved to put the question, to consider whether it is a proper question to be put or not. The question the hon. member for St. John has put into your hands to be proposed to the witness is substantially whether certain documents which appear on the record and proceedings of the House are true copies of the original documents which have passed through the witness hands. In objection to that, there is first of all put forward the proposition that the answer may tend to criminate him. I presume the members of the House, who are acquainted with legal procedure, understand perfectly well the principles which govern the reception of questions which tend to criminate a witness. As I recollect them, they are these: that the tribunal must first decide whether the question may have a tendency to criminate the witness. If it decides in the affirmative, the witness has the absolute privilege of declining to answer. I submit, however, to the House that, with regard to questions touching a matter of this kind, we are not governed by the rules which apply to evidence in the ordinary courts of law. I quite agree with the contention raised by Mr. Dunn's counsel, that if this were an enquiry taking place in a court of law, he would be absolutely privileged, after making the assertion, under the obligation of his oath, that the answer would tend to criminate him; but the House is proceeding with an entirely different enquiry. The House proceeds according to the unusual procedure by which we can interrogate a person who may likely be criminated by his answers, and it would be entirely inconsistent with the fundamental right, which undoubtedly exists in the House, to interrogate the person at the Bar, that he, in respect to the main enquiry should shelter himself from all the questions we may put to him, behind the plea that his answers would tend to make him liable to the penalties which we may hereafter seek to impose upon him. I take it, when the House has the right and power to punish for an offence, and at the same time, to interrogate a person charged with the offence, his privilege, based on the principle that his answer may tend to subject him to the penalties of the offence, is gone; and that, therefore, in respect to the main enquiry, which is whether he has committed the offence charged or not, we have the right to put questions, notwithstanding that the tendency of his answers might be to criminate him. If not, it would be impossible for us to proceed at all. The protection which the person at the Bar has in such a case is in the strong hand of power which the House is accustomed to exercise to prevent an improper use of his answers. It is laid down that:

"While the House punishes misconduct with severity, it is careful to protect the witness from the consequences of his evidence given the House. On the 26th May, 1818, the Speaker called the attention of the House to the case of the King *vs.* Merceron, in which the shorthand writer of the House was examined without previous leave, and it was resolved, *nem con*, that all witnesses examined before this House, or any committee thereof, are entitled to the protection of this House, in respect of anything that may be said by them in their evidence; and that no clerk or officer of this House or shorthand writer employed to take evidence before this House, or any committee thereof, do give evidence elsewhere, in respect of any proceeding or examination had at the Bar, or before any committee of this House, without the special leave of this House."