

frequently might be so, if a less jealous caution was exercised in its reception.

"It is an established rule, that witnesses examined with a view to discredit the testimony of others, cannot be admitted to depose to particular facts of criminality, but can only express their general opinion, whether the party is or is not entitled to be believed upon his oath (*vide infra*, p. 169); but the other side, to support the testimony, may inquire what are the reasons of disbelief, which sometimes, as in a case above adverted to, are ridiculous enough. If it is declined to inquire into these reasons, there is pretty considerable ground to presume a conscientiousness that the opinion is founded upon adequate motives. I have heard witnesses asked, whether they had ever known the persons against whose veracity they depose, give false evidence in a Court of justice; and upon their answering in the negative, it was intimated to the jury, that the testimony to their discredit was absolutely frivolous; whereas, if the question had been, what were the reasons upon which the discredit was founded, a fraudulent conduct might have been shown which indicated the want of moral and religious principle, and consequently affected the strongest ground of reliance upon testimony. When witnesses speak to the character of others, not only their own character, but their ability, and opportunity to form an adequate judgment, are circumstances very proper to be taken into consideration.

"It is a rule of law that witnesses *cannot be asked** any questions which tend to subject themselves to punishment, or as it is usually expressed, to *criminate themselves*; but

* *Semble*, the rule of law is not, in England at any rate, that the witness may not be asked such questions, but that he is not obliged to answer them. It is for the witness, and not for his counsel, to claim the privilege. For a discussion of the authorities, *vide* Archbold, Crim. Plead., 23rd ed., p. 399, Roscoe's Nisi Prius Evidence, 18th ed., p. 168, Best 10th ed., p. 114.

It must be remembered that this rule does not extend to prevent a prisoner who is giving evidence on his own behalf from being asked and compelled to answer questions tending to show that he committed the offence with which he is then charged, or other offences (provided they are material under the Criminal Evidence Act, 1898, s. 1 (f)).