

loi, d'avec ce qui l'est. Le résultat inévitable d'une marche éclairée par une connaissance approfondie du droit, et par conséquent de l'histoire qui s'y rattache, et en est comme la base, serait la stabilité de notre jurisprudence, le respect pour les tribunaux, la justice bien rendue, et les droits de tous, maintenus.

Nous eussions pu donner plus de développement à une matière aussi grave, mais nous pensons que le peu que nous en avons dit, suffira pour faire naître plus d'une réflexion utile.

M.

Montréal, Avril, 1845.

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*Is a WITNESS bound to answer any question which has a tendency to expose him to the loss of character, public or private estimation, or to any kind of punishment, or to a criminal charge, or to infamy?*

Whatever preconceived or even well digested opinions are, or may be prevalent on the subject which it is here intended to investigate, it cannot be denied that, whether in a philosophical, social, legal or practical point of view, the question is of some moment. An inquiring and reflecting mind, before approving or condemning a course, which, although it has not been uniform, is more or less stamped with a certain degree of authority, will naturally attempt to test the soundness of a principle which, from its having been acted upon, for years, by the Courts in England and here, is, we apprehend, revered as sacred, and not to be, in the least, disturbed. We are free to admit, that unless a strong case is made out to shew, that justice, and a due regard for the interests of individuals, as well as of the community at large, require that Courts of Judicature should alter their course, it is hardly to be expected that such a result will be obtained. We therefore, request an attentive perusal of the present article; and should there be any thing in this investigation, that is not altogether in accordance with doctrines sanctioned by usage, the reader will perhaps, on reflection, be induced to trace to a higher authority than mere precedents, we mean philosophy, justice and reason, what he, at first, may consider as a legal heresy.

Before entering upon the discussion itself, we shall briefly advert to the Jurisprudence in England on the subject.

The latest authority on this question, is that of Cundell *vs.* Pratt, in which C. J. Best said: "Until I am told by the House of Lords that I am wrong, the rule I shall always act on is, to protect witnesses from questions, the answers to which may expose them to punishment; if they are protected beyond this, from questions that tend to degrade