the witness himself has refused to answer. According to our law, no man can be compelled to criminate himself; and no attorney can be allowed to divulge the secrets of his client. In these and some other similar instances the law affords to the witness or his client a protection of which he must not be deprived; and hence he cannot be compelled to give any answer before the commissioners which would go to admit his criminality, or to divulge the secrets of his client. *Bolton* v. *Corporation of Liverpool*, 6 *Cond. Chan. Rep*, 515; *Greenough* v. *Gaskell*, 6 *Cond. Chan. Rep.* 518; *Falmouth* v. *Moss*, 5 *Exch. Rep.* 158. When the witness himself makes an objection of this kind, it becomes indispensably necessary to suspend the examination until it is determined upon; because, there is no other possible mode of sustaining his protection, should he be entitled to it. But then the situation of the witness must be so described as to shew how he, or his client is entitled to the protection claimed, to enable this Court, in like manner as a Court of common law, to judge of its validity. In this, as in the English Court of Chancery, the only way in which a witness can protect himself, is to state his objection before the commissioners, who return the commission with, what is called, the witnesses' demurrer; and the question is brought before the Court by setting it down for argument. Certainly it is not, strictly speaking, a demurrer, which is an instrument, that admits facts stated for the purpose of taking the opinion of the Court; but, by an abuse of the term, the witness' objection to answer is called a demurrer in the popular sense. And there must be a way by which the Court can judicially determine its validity. If the demurrer of the witness be overruled he may be made pay the costs. *Smithson* v. *Hardcastle*, 1 *Dick.* 96; *Wardel* v. *Dent*, 1 *Dick.* 334; *Vaillant* v. *Dodemead*, 2 *Atk.* 524; *Nightingale* v. *Dodd*, *Amb.* 583; *Parkhurst* v. *Lowten*, 2 *Swan.* 194; *Davis* v. *Reed*, 7 *Cond. Chan. Rep.* 488; *McKenzie* v. *Towson*, 1806, *per* KILTY, *Chancellor*, *MS.*; *Singleton* v. *Edmondson*, 1806, *per* KILTY, *Chancellor*, *MS.*

This witness has assigned no reason for his refusal to answer; and his situation is no otherwise described than by his being designated as the cashier of the Mechanics Bank. It is neither expressly declared, nor to be inferred from anything which does appear, that the witness has rested his refusal to answer upon any one of the established legal protections. It is clear, that he cannot demur, because the questions asked him are * not pertinent to the matter in issue. *Ashton* v. *Ashton*, 1 *Vern.* 165. It surely cannot be pretended, that an individual, because it happens to be convenient to withhold a statement of his dealings with a party to the suit, pertinent to the matter in issue, from being used as evidence in that suit, should, therefore, be permitted to do so at his pleasure. A bank, as a body politic, is endowed with many attributes of personality; and acts as an individual in its

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