"Lord St. Leonards: I entirely agree.. The provision in the statute does not apply to this House, for, strictly speaking, we are not a Court of civil judicature. But here is a rule of evidence adopted for the purposes of the public good. If there was a good reason shown why we should not adopt it we would not do so, but would make a rule of our own for the purpose of greater care and caution; but that is not so, and there is nothing to induce this House, sitting in Committee for Privileges to inquire into a peerage, to disregard a rule of evidence which, in its legislative capacity, it has established as a rule of evidence good for all Courts of justice.

"Lord Wensleydale concurred."

Sir, I submit that the rule which is established by the Banks and Bankers Act is established for the protection of those whose accounts and secrets would be disclosed if the books of the bank were to be bandied about before a tribunal, and that this Committee—first, is bound by the Act of 1880 and the Amendment Act of 1887; and, secondly, if not bound, should follow the precedent and the principle established by the Shrewsbury Peerage Case. That is all I have to say.

Mr. Hutchison.—I should have an opportunity of replying to Mr. Bell.

The Chairman (after deliberating with the Committee).—Mr. Bell, the Committee have decided to hear Mr. Hutchison and Mr. Hislop on your contention as to the production of the documents of the bank.

Hon. Mr. Hislop.—I do not wish to address the Committee on Mr. Bell's contention as to the production of the bank's documents. I wish to submit to the Committee that, while the Government are prepared to submit to any ruling which may be made as to anything within the four corners of the speech, they will strenuously resist any attempt to go outside the particular issue.

The Chairman.—That is not before us now.

Hon. Mr. Hislop.—That is all I wish to say to the Committee at any time.

Mr. Hutchison.—It will be in the recollection of members of the Committee that Mr. Bell put his argument in the alternative. He first contended that this was "a legal proceeding," and then that, if not a "legal proceeding," still, by analogy, the rule in force in Courts of law ought to be applied. What I am about to say with reference to the Acts is: that the rule of common law is that the best evidence shall in every instance be produced. The best evidence of any transaction between a customer and his bankers is the entry made at the time. However, for convenience, it seems that in legal proceedings—I use that term advisedly—in legal proceedings a different course has been laid down in the two Acts Mr. Bell has quoted from—the Banks and Bankers Act of 1880 and the Amendment Act of 1887. Section 15 of the Act of 1880 reads thus: "The entries in bankers' books"—no doubt the books requisitioned are bankers' books, there can be no two opinions about that—"shall be admissible in all legal proceedings as *primâ facie* evidence of the matters, transactions, and accounts recorded therein, on proof being given by the affidavit in writing of one of the partners or officers of such bank, or by other evidence, that such books are or have been the ordinary books of such bank, and the said entries have been made in the usual and ordinary course of business, and that such books are in or come immediately from the custody or control of such bank; nothing in this section shall apply to any legal proceeding to which any bank shall be a party whose books may be required to be produced in evidence." Of course Mr. Bell, for the purpose of his present argument, admitted the position which was indicated to him—that the bank was not a party to these proceedings. If the bank be a party to these proceedings the Act does not apply. He assumed, however, that at present the bank is not a party to these proceedings. But it is necessary to consider whether the proceeding before this Committee is "a legal proceeding," because such a proceeding is the basis of this section. The interpretation clause of the Act reads: "'Legal proceeding' means any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes an arbitration." Now, there can be no doubt that this is not an "arbitration," and, therefore, we are left to consider whether it is a "civil or a criminal proceeding or inquriy"—the latter words being correlative. It is certainly not a "criminal" proceeding. Then, is it a "civil" proceeding? What is a civil proceeding? It is proceeding for debt or damages sought to be recovered by some suitor, or in which some relief is sought such as it is in the power of a Court in Equity to grant. Now, let us see how in "a legal proceeding" the character of evidence by production of copies of entries in books can be obtained. Section 16 of the Act of 1880 says—these sections I am reading from are repealed, but I am going through them to show the character of the modification made in the law and continued in the succeeding Act—"Copies of all entries in any banker's books may be proved in all legal proceedings as evidence of such entries, without production of the originals, by the affidavit of a person who has examined the same, stating the facts of such examination, and that the copies sought to be put in evidence are correct." Section 17 provides: "No banker's book, and no copies of entries therein contained, shall be adduced or received in evidence under this Act unless five days' notice in writing, or such other notice as may be ordered by the Court, containing a copy of the entries proposed to be adduced, and of the intention to adduce the same in evidence, shall have been given by the party proposing to adduce the same in evidence, to the other party or parties to the said legal proceeding; and such other party or parties is or are at liberty to inspect the original entries and the accounts of which such entries form a part." In this section we have the first reference to "the Court," and, as to this, the interpretation clause reads thus: "'The Court' means the Court, Judge, Magistrate, Arbitrator, or other person before whom a legal proceeding is held or taken." The amended provisions which have been substituted by the Amendment Act of 1887, to which I will now refer, show how inapplicable the proceedings are to the reference before this Committee; in fact, they do not apply at all, as will be seen. Sections 15 to 20 of the Act of 1880 are repealed. Section 3 of the Act of 1887 provides: "Subject to the provisions of this Act, a copy of any entry in a banker's book shall in all legal proceedings be received as *primâ facie* evidence of such entry, and of the matters, transactions, and accounts therein recorded." Section 4 continues: "A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be first proved that the book was at the time of the making of the entries one of the ordinary books of