

the bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the bank. Such proof may be given by a partner or officer of the bank, and may be given orally or by an affidavit sworn before any person authorised to take affidavits." Section 5 requires that the copy shall be a copy duly examined with the original entries. Section 6 provides: "A banker or officer of a bank shall not in any legal proceedings to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions, and accounts therein recorded, unless by order of a Judge made for special cause." It will be seen that there is an alternative even in "a legal proceeding," where a Judge may order, "for special cause," a different course to be pursued than that of the production of copies. Can this Committee adopt that alternative course? Has it the power over a Judge of the Supreme Court to direct, "for special cause," that originals shall be produced? Clearly not. This Committee has no power over a Judge. Section 7 says: "On the application of any party to a legal proceeding a Court or Judge may on summons order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceedings. An order under this section shall be served on the bank three clear days before the same is to be obeyed, unless the Court or Judge otherwise directs." Such is the process of the Supreme Court. How can such process be applied here? That process, which is a very convenient one indeed in proceedings in the Supreme Court, is wholly inapplicable here, even assuming that the bank is not a party. If it be that the bank is a party, not even in the Supreme Court would such proceedings apply. But, assuming that copies are ordered here, then, following the phrase on the door of this room, I, the "accuser," should not have the opportunity that the Act would give me, if I were plaintiff or defendant in a Supreme Court case, of examining the original entries, nor should I be prepared, if I had the right, to take that course, which would involve a prior inquiry in Auckland similar to that which I propose this Committee should make here. I submit, with confidence, firstly, that this is not "a legal proceeding;" that, secondly, none of the reasons which would be applicable in the circumstances of an action in the Supreme Court can apply here. I am not familiar with the Shrewsbury Peerage case referred to by Mr. Bell in regard to the adoption of a certain rule of evidence. The dictum relied on would appear to refer to a question of admitting the evidence of an expert as to identity of handwriting; and, as to that, the Committee of Privileges of the House of Lords considered it desirable to adopt a rule of evidence which experience in Courts of law had shown to have been conducive to the eliciting of truth. But the analogy fails which has been sought to be drawn between the Committee of Privileges of the House of Lords and this Committee, even assuming the decision referred to had any application to the adoption of a special course of procedure set up in Courts having the machinery to apply that procedure. The Committee of Privileges of the House of Lords is, in effect, a Court of law, although uncontrolled by any statute. The House of Lords is the ultimate Court of Appeal in the United Kingdom. I do not know of any higher Court unless it be that of the clemency of the sovereign, which is limited to reprieves and cases of that kind; but that is the exercise of a prerogative rather than the function of a Court.

*Mr. Bell.*—The House of Lords may or may not accept the report of a Committee of Privileges. The Committee of Privileges is not a Court of ultimate appeal.

*Mr. Hutchison.*—What was the procedure of this Committee of the House of Lords? The Lord Chancellor appears to preside.

*Mr. Bell.*—The Committee of Privileges only reports to the House of Lords, and it gives judgment.

*Mr. Hutchison.*—As indicated by the report, we find the law lords sitting and coming to a resolution, which universal practice has shown is always adopted. The report is a mere matter of form. The decision, however, has only reference to admissibility of evidence as to similarity of handwriting. What has that to do in the way of supporting an analogy between the course of procedure applicable to legal proceedings and that of a Committee of our House of Representatives? It does not apply at all. I claim that the original documents be produced. I have limited the range of the requisition more than once at the request of the bank. Mr. Bell referred to some passage in "Walker on Banking," but I do not know that it is in point at all. Before the Act of 1880 was passed bankers' books had to be produced in Court. Even in a Supreme Court the Judge may direct the very books to be produced. A bank has never, as far as I know, refused to produce them when required. It makes a protest as a matter of form but submits.

*Mr. Bell.*—A bank is bound under legal obligation to keep the accounts of its customers secret. Mr. Hutchison denies the obligation.

*Mr. Hutchison.*—Not unless with the authority of the customer. But the authority of this Committee is the authority of Parliament, which is supreme. At page 33 of "Walker on Banking," 1st edition, it is stated that it is improper to produce bank-books unless on compulsion. I admit the impropriety of a bank disclosing its actions except upon justifiable occasion. That this is a proper occasion I think the Committee have already decided by directing the production of the books. The power of the Committee is practically indisputable. The Committee, if it find any opposition made to its order, will report the matter to the House, and the House will give its direction; and I presume that the House would support the Committee in its demand with reference to the production of evidence. As to privilege against disclosing certain accounts, that, I think, is a subject which may be left to be discussed when it is raised. I am not aware at present that a privilege can be insisted upon. Mr. Bell only submitted, first, that copies ought to be sufficient, and then objected, *pro formâ*, as I understood, to the production of books without the customers' consent. The latter cannot avail against authority.

*Mr. Bell.*—I am afraid, Sir, that I have been misunderstood. Perhaps there has been some misfortune in my manner, or in the words I have used, though I have been exceedingly careful in writing them down, so that I should not be misunderstood, or use words which should leave room for misunderstanding. The bank is being called upon to do that which will practically stop its