cestui que trust, or of his client, the contents of which are in general privileged from production. All this is well settled law, and the question remains whether the entries in the bank books and the contents of the other papers, the production of which was called for by the subpœna, were relevant to the inquiry before the Master, and whether, if they were, they were for any reason privileged from disclosure.

Now, it is quite evident that those transactions were exceedingly pertinent and relevant to the inquiry before the Master, and there is no ground on which the appellant could be excused from disclosing all that he knew respecting them. It was at one time thought to be doubtful whether a witness could be compelled to answer where by so doing he would subject himself to a civil action for pecuniary loss, or would charge himself with a debt; but in *Lord Melville's Case* (1806), cited in Taylor on Evidence, the contrary was decided by a majority of the Judges, including the Lord Chancellor Eldon. I think that a sufficient authority for us, in the absence of any decision to the contrary, although the doubt was removed by statute in England immediately after the decision referred to. See also *Grainger v. Latham* (1870).

What has been said thus far relates to the transactions themselves with the bank and the disclosure thereof by oral evidence. The entries in the books of the bank are merely the record of those transactions, made by the clerks. Of themselves they would not be evidence against anyone but the bank, and in cases in which the bank was not a party could only be referred to in connection with oral evidence. But when a witness is asked of a particular act or transaction which it is his duty to disclose, there can be no ground on which, if not objected to by any party to the proceeding, he can refuse to produce any entry or memorandum in his possession made by him or by his direction of or in relation to that same fact or transaction. The entries are made to aid the memory, and when the transactions are numerous, reference to the record is absolutely necessary to secure fullness and accuracy in the testimony.

I am, therefore, of opinion that it was the appellant's duty to produce the books and papers mentioned in the subpœna, to answer all questions relating to the transactions with the bank, both of the testator in his lifetime and of his executors, including transactions with the firms named in the subpœna in which the testator was a partner, and, if required, to refer to the entries of those transactions in the books of the bank.

The appeal should therefore be dismissed.

Moss, J.A.— . . . I think the appellant was not justified in taking the position he did in refusing to produce the books and to give evidence as to their contents.