not pertinent to the matter in issue. (*n*) 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 dealings with all persons; consequently it can have no pretension to any greater right, arising from its mere character as a body politic, than any individual whatever to withhold any legal evidence, that may be in its possession. It is the duty of an executor or trustee to keep distinct accounts of the property which he himself is bound to administer. But if he blends them in accounts with others, and puts the accounts of his testator or the *cestue qui trust* into his banking or any other books, with the knowledge and approbation of those who may have a separate interest in such books, the *cestue qui trust* will have a right to see every part of such original books which contain any thing in relation to the transaction in which he has an interest. (*o*)

The act of Assembly upon this subject relates to the documentary evidence in possession of a party to a suit; (*p*) and as regards this court, has been truly considered as merely an affirmancc of its powers. (*q*) But where certain specified books and papers are in the hands of third persons, and the evidence they contain, materially bearing on the matter in issue, is distinctly designated, as in this instance, it is clear that a court of equity, as well as a court of common law, may resort to competent means to compel the production of such specified written testimony, as well as verbal proof; since the power to do so is essential to its constitution as a court, without which it could not possibly proceed with due effect. (*r*) I shall, therefore, overrule the objection of this witness; and order him to testify as required by the interrogatories.

In this case, the examination has not been attempted to be taken

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(*n*) Ashton *v.* Ashton, 1 Vern. 165.—Earl of Salisbury *v.* Cecil, 1 Cox. 277; Brace *v.* Ormond, 1 Meriv. 409; Freeman *v.* Fairlie, 3 Meriv. 43; Bolton *v.* Corporation of Liverpool, 6 Cond. Chan. Rep. 513.—(*p*) 1798, ch. 84.—(*q*) Hall *v.* Wirt, 1806, per Kilty, Chancellor, M. S.—(*r*) Amey *v.* Long, 9 East. 484; Earl of Salisbury *v.* Cecil, 1 Cox, 277; The Princess of Wales *v.* The Earl of Liverpool, 1 Swan, 114; Walburn *v.* Ingilby, 6 Cond. Chan. Rep. 508; Bolton *v.* Corporation of Liverpool, 6 Cond. Chan. Rep. 513; 3 Blac. Com. 382; 1 Harr. Prac. Chan. 450, 474; Ringgold *v.* Jones, 1 Bland, 90, note.