

take the trouble necessary to answer interrogatories of this description, which causes a vast amount of trouble and difficulty unless they are clearly relevant to the issue."

In the same case Mr. Justice Lindley, referring to the same interrogatories, says :—

"They are opposed to the fundamental principles of discovery which are stated in Sir J. Wigram's Treatise on Discovery :—

'The second proposition stated is as follows It is the right, as a general rule, of a plaintiff in equity to exact from the defendant a discovery upon oath as to all matters and facts which, being well pleaded in the bill, are material to the plaintiff's case about to come on for trial and which the defendant does not, by his form of pleading, admit. That renders it necessary to say a few words as to what are matters of fact, which, being well pleaded in the bill, are material to the plaintiff's case. What ought a properly drawn bill to contain? It ought to contain a statement of those facts, and those facts only, which, if proven, will entitle the plaintiff to relief.' And again in the same judgment, 'I doubt whether this information would be admissible in evidence, but, suppose it would, it does not follow that the plaintiff would be entitled to discovery of it. Examining witnesses at a trial and obtaining discovery before the trial are two totally different matters.'"

A not inconsiderable experience in practice motions in regard to discovery in our own courts leads the writer to venture the opinion that if the precise point decided in *Kennedy v. Dodson* were to arise in our courts upon a motion to compel answer to such questions, certainly prior to the decision of that case, a considerable number of the questions which might have been framed upon the examination for discovery relating to the matters covered by the interrogatories there refused would have been ordered to be answered, and, even with the authority of that case (which would of course be treated with all the respect that a decision of the Court of Appeal in England commands in our courts, it is not improbable that upon an argument based upon the language of Rule 439 "a party may be compelled to attend and testify in the same manner, upon the same terms and subject to the same rules of examination as a witness," helped out with the provisions of Rule 448, providing for the production on the examination of all