

properties purchased by himself and the bankrupt, jointly, prior to the particular transaction in question, and a number of interrogatories following that as to terms and conditions of the purchase, proportion of the purchase money, etc. In disallowing these interrogatories Lord Herschell, at page 338, after dealing with the suggestion that if it could be proved that in prior transactions the bankrupt and the defendant had been purchasing lands on partnership terms that would render it probable that such was the nature of the transaction in this case, proceeds: "But that is not relevant evidence. Cases of this description are not determined upon probabilities, but upon evidence of what happened upon the particular occasion. It is said that many of these questions might be put to the defendant in cross-examination, but that could not be for the purpose of proving what the particular transaction had been, except only to the extent of shewing that the defendant's evidence as to this particular transaction was not to be credited because of the admissions made by him in regard to the other transactions, but because those questions might be put to the defendant in cross-examination it by no means follows that evidence of such transaction would be relevant evidence to be given in chief at the trial. I entertain a strong opinion that interrogatories of this description, unless strictly relevant to the question at issue in this action, ought to be rigorously excluded; they cause a great amount of hardship and oppression; they cast upon the defendant, merely because a writ has been served upon him, the burden of a considerable amount of trouble and annoyance, and if he refuses to answer he may be sent to prison. Here the defendant is asked to give a list of all the properties prior to 1873 in which he and the bankrupt were jointly interested, and to state the terms and conditions upon which such properties were purchased. In order to answer that question he must rake up all these transactions for a period of twenty years before 1873. It is said that he may have diaries relating to these transactions—so much the worse for him. He will be a lucky man if he has destroyed them. Nothing shews better than this the wisdom of destroying books and papers relating to transactions which are done with. In my opinion there has sometimes been great laxity in times past in allowing interrogatories. It is a system which has made the very name of law stink in the nostrils of many sensible men of business. They state that they would rather pay the claim than