

vary, but for our part we think the headnote should be confined to the point authoritatively determined, and should never be incumbered with the *obiter dicta* of judges.

COMPANY—LIQUIDATOR—COSTS.

In *Re Bolton*, (1895) 1 Ch. 333, upon a question of costs, the Court of Appeal (Lindley and Smith, L.JJ.) overruled the case of *In re Staffordshire Gas Co.*, (1893) 3 Ch. 523 (noted *ante* vol. 30, p. 90). The question was whether a liquidator who had resisted an application of a person to be struck off the list of contributories was personally liable for the costs of the proceedings when, on appeal, the applicant succeeded in getting himself struck off. The Court of Appeal considered that where the liquidator is merely defendant in the litigation the costs are payable out of the assets, unless the liquidator has done something to make himself personally liable for the costs.

DISCOVERY—EXAMINATION OF DEFENDANT FOR DISCOVERY—RELEVANCY OF EVIDENCE.

In *Kennedy v. Dodson*, (1895) 1 Ch. 334; 12 R. Mar. 76, certain interrogatories exhibited for the purpose of discovery were objected to on the ground of irrelevancy. The action was brought for a declaration that a piece of land which had been purchased by the defendant and one Carswell, in 1873, was so purchased by them as partners, and for accounts of the partnership and consequential relief. The interrogatories were directed to showing that in previous transactions the defendants had purchased lands in partnership. The Court of Appeal (Lord Herschell, L.C., and Lindley and Smith, L.JJ.), although conceding that such questions might properly be put to the defendant upon a cross-examination, were, nevertheless, of opinion that such questions were irrelevant to the issue, and could not be properly put as evidence in chief; and they held that interrogatories, unless strictly relevant to the question at issue in the action, ought to be rigorously excluded. The interrogatories were therefore disallowed. If this rule were strictly observed in examinations for discovery under our practice, the outcry which has arisen about the length and cost of such examinations would probably not have arisen.