correctly to decide upon such objections, proceeding from a party, because some other testimony, upon which the validity of such an objection might mainly depend, might not then have been taken and brought before the Court.

For these reasons, therefore, as in England, where an order has been passed, which is granted, as of course, for the examination of a co-defendant as a witness, his examination cannot be suspended * by an objection to his competency, which must be raised at the hearing, when his deposition is offered to be read in evidence, *Lee* v. *Atkinson*, 2 *Cox*, 413; *Murray* v. *Shadwell*, 2 *Ves. & Bea.* 405; so here, I shall for the future regard it as a settled principle, governing the practice of this Court, that no objection coming from a party to the suit, to the competency of a witness, or to the relevancy of any interrogatory, or of any testimony, shall be allowed to suspend or impede the taking of the proofs. Such objections may, however, be noted by the commissioners in their proceedings, as has been the practice heretofore (*m*;) and whether so noted or not, they may be made, heard, and determined upon at the final hearing. *Strike's Case*, 1 *Bland*, 96; *Harwood* v. *Harwood*, 1806, *per* KILTY, *Chancellor*, *MS.*: *Johnson* v. *Berry*, 1810, *per* KILTY, *Chancellor*, *MS.*

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But if it appears that such an objection has been made, at any time, previous to the hearing, either before the commissioners, the auditor, or a justice of the peace, authorized by a special order to take testimony, it must be considered as sufficient notice to put the opposite party upon his guard to meet and repel it, either by a release at the time, so as then, as in cases at common law, immediately to remove the influence of interest from the mind of the witness; or to overcome the objection, if he can, by other proof. But if no such release be then given, nor other proof be then taken; and it should appear, at the hearing, that the witness was interested, the objection must be sustained, and he cannot be then released and re-examined; nor can the hearing of the case be postponed for the purpose of taking any other proof, of which the party had been thus apprised, might be called for; and which it had been in his power to have taken and brought in, as it must be

(*m*) COCKEY *v.* HAMMOND.—25th of January, 1775.—The plaintiff's second interrogatory to be asked of Lancelot Todd, is: "Are you to gain or lose any thing in case the decree in Chancery is for, or against the complainant John Cockey?" And then just previous to the heading of the commissioners' return is the following entry, "Mr. Hammond the defendant, objects to the testimony of Lancelot Todd, as being interested in the event of the cause; and, therefore, desires he may not be examined on his interrogatories." After which, follows Todd's deposition, in which he answers thus, "secondly, that he was not to gain or lose anything by a decree in Chancery in favor of the complainant." Nothing further appears in the case, as to this objection.—*Chancery Proceedings, lib. W. K. No.* 1, *fol.* 829.