harmonizing so entirely with all the established principles of law which have any bearing upon the same subject.

It appears then, that there are, at common law as well as in equity, a variety of cases in which the plaintiff, either because of the peculiar nature of his cause of action, or because of the nature of the several defences made to it, may obtain relief against some one or more of the defendants, although he may totally fail in his suit against all the others. In equity this more frequently happens than at law; but in all cases, it arises not from the mere manner or form of proceeding, but from the substantial nature of the case itself, or of the defence which may have been made.(*n*)

In all cases where there are a plurality of defendants, they are each of them charged as such; because of their having an interest in or being jointly or otherwise liable to the alleged cause of suit. Hence it is in general true, that the answer of one defendant cannot be read in evidence against another; because in such case there is no opportunity for cross examination; and also because each defendant, considered as a necessary party, must have some interest in the event of the suit; and is, therefore, an incompetent witness.(*o*) But there are exceptions to this general rule; as where the defendant against whom the answer is proposed to be read claims under him who made it; for a defendant cannot deny the title as thus set forth by him under whom he claims;(*p*) or where the defendants are partners in trade, and as such are then competent to bind each other by such a contract as that of which they speak.(*q*) So too in the peculiar case of corporations, one or more of its officers may be made co-defendants, whose answers may be received against the body politic; and so likewise as to arbitrators and attorneys, whose answers may be read against the other parties; and this from necessity, or because such co-defendants may be converted into witnesses.(*r*) And so it would seem at common law there is a case where, from necessity, one of the defendants may be called on as a witness to testify for the plaintiff against the co-defendants; "inasmuch as some books have said, that though the witness named in the deed be named a disseisor in the writ, yet he shall be sworn as a witness to the deed."(*s*)

(*n*) Royal *v.* Johnson, 1 Rand. 421.—(*o*) 2 Mad. Cha. 441; Fereday *v.* Wightwick, 4 Russ. 114.—(*p*) Field *v.* Holland, 6 Cran. 24; Osborn *v.* U. S. Bank, 9 Wheat. 832; Jones *v.* Magill, ante 177.—(*q*) Clark *v.* Vanriemsdyk, 9 Cran. 156. (*r*) Rybott *v* Barrell, 2 Eden, 133; Dummer *v.* Corpo. of Chippenham, 14 Ves. 252. Le Texier *v.* Anspach, 15 Ves. 164.—(*s*) Co. Litt. 6.