But, although it is a settled rule in equity as well as at law, that no one can be a witness who is interested in the event of the suit; yet, as it is often proper in equity to make persons parties to the suit who have no substantial interest in the whole subject of it; or in that distinct and separate part of it as to which they may be called upon to testify,—as where a bare trustee is made a co-plaintiff or co-defendant; or where it appears, that the plaintiff has no claim to any relief whatever against one or more of the defendants; or that he has cause of suit against one only as to one subject and against another as to a different subject, but has no cause of suit against them all jointly; unless the court permits the disinterested co-plaintiff or co-defendant to be examined as a witness for the others in such case,—the really interested plaintiff may lose his right; or the plaintiff by thus making two or more persons defendants to his suit may, by that sort of mechanism, deprive the one defendant of the benefit of the other's evidence.(*t*) And therefore it is quite common in chancery, to apply by petition, to have one of the parties examined as a witness, subject to all just exceptions; and unless the interest of the party, so proposed to be examined, is perfectly apparent, the order is granted almost as a matter of course, leaving the objections to be made and considered when the testimony is brought in.(*u*) But where a defendant has been examined and received as a witness to the whole cause of action, the bill as to him must be dismissed with costs; because the plaintiff, by calling for and using his testimony, thus virtually admits, that he has no cause of complaint against him.(*v*)

Hence it may be assumed as a general rule, that where there must be a decree against all the defendants because of their joint or blended interests, there no one of them can be examined as a competent witness in the case; and upon the same ground of the indivisible and inseparable nature of their interests, the defence of any one, which shews, that the whole of such alleged joint or blended interest, never existed or has been barred or satisfied, must

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(*t*) Nightingale *v.* Dodd, Mosl. 229; Amb. 583; Murray *v.* Shadwell, 2 Ves. & B. 404.—(*u*) Casey *v.* Beachfield, Prec. Ch. 411; Piddock *v.* Brown, 3 P. Will. 288. Meadbury *v.* Isdall, 9 Mod. 438; Gibson *v.* Albert, 10 Mod. 19; Dixon *v.* Parker, 2 Ves. 219; Man *v.* Ward, 2 Atk. 228; Barret *v.* Gore, 3 Atk. 401; Armiter *v.* Swanton, Amb. 393; Franklyn *v.* Colquhoun, 16 Ves. 219; De Tastet *v* Bordenave, Jacob, 516; Fereday *v.* Wightwick, 4 Russ. 114; Hougham *v.* Sandys, 2 Sim. & Stu. 221.—(*v*) Thompson *v.* Harrison, 1 Cox. 344; Weymouth *v.* Boyer, 1 Ves. jun. 416; 2 Fow. Ex. Pra. 85, 86.