

as against him who makes such a defence; because a plaintiff can only obtain relief upon the strength of his own title, and by shewing, that it is good against all the world as well as against each one of the then defendants; and also, because every Court of justice must act consistently, and cannot be allowed to contradict itself, by saying, in the same decree, in the same case, that the plaintiff has no cause of suit whatever; and also, that he has a just and well founded cause of complaint. *Gregory v. Molesworth*, 3 *Atk.* 626.

It may therefore be regarded as an inflexible general rule, which admits of few, if any exceptions, that according to any view which can be taken of the case, or upon any defence made against it, if it appears, upon the whole record, that the plaintiff's title, or cause of suit, is a mere nullity, or has been barred, satisfied, or extinguished in any way whatever, he can have no relief.

There are, however, some cases which present an apparent exception to this general rule. A Court of equity may, and always does, shape its decree according to the nature of the case, so as to place the burthen as nearly as may be where it ought to rest. Where there are many defendants, and some or one of them only is found liable to the plaintiff's cause of suit, the bill may be dismissed as to the others; or a defendant who has been made so merely because of his being the depository of the fund, for the purpose of having it detained in his hands by injunction, may, by the dissolution of the injunction, cease to be a necessary party, even before the case has been brought to a final hearing; 2 *Mad. Chan.* 191; or if the plaintiff has a separate cause of suit against each, then each of them may be charged according to their respective liabilities; or where all the defendants are alike bound for the whole to the plaintiff, but some of them stand only as sureties for the other, there the Court may, by a decree over, provide for the relief of the sureties against their principal, in case they should satisfy the claim, or direct a contribution, in case any one surety should pay more than his proportion. These instances are

276 * common, and the course of the Court, in that respect, is well settled. The Court is involved in no contradiction or inconsistency by any such decree; as a defendant in equity can only be charged to the extent of his liability, so the Court's decree against him must be modified accordingly. But as no one can be permitted impertinently to interfere with a matter by which he is not proposed to be, or obviously cannot be charged, a defendant cannot be allowed to direct any sort of defence against all or any distinct portion of the plaintiff's cause of suit in which his interests are not implicated, or by which he can be subjected to no kind of liability. Where, however, a defendant's liability is such, as principal or otherwise, that he must be charged by a decree which affirms the validity of the alleged cause of suit, then he