

passed, and entirely uninfluenced by this decree; and there can be no occasion to set it aside to let in his proofs, and to rehear this case for any such purpose. And besides, for aught that appears, or has been shewn, there are no assets real or personal, which were the property of the late plaintiff *Casenave*, that can or may be in any manner covered or protected by this injunction, even if it were made perpetual.

It has been urged, that so much of this decree as dissolves the injunction has been improvidently made; because it was awarded in a case to which the intestate of the petitioner had been a party; and that since his death it has been dissolved without his representative having been made a party, or being notified to revive.

It is true, that an abatement of a suit, in which an injunction had been granted, does not in strictness immediately and of itself dissolve the injunction; because the injunction, as a judgment of the court, gives a present vested right which must stand until reversed or revoked by the court itself. And it is therefore, a general rule, founded on the liberality of the court, that, in all such cases of abatement, to prevent the representatives of the deceased from being taken by surprise, notice must be given to them to revive, or that the injunction be dissolved. (*h*)

In this case the injunction has been dissolved, without any such notice; and, therefore, the only question now is, whether, looking to all the circumstances of this case, it might have been dissolved without any actual notice to the legal representatives of the late plaintiff *Casenave*?

According to the English authorities, such a notice, when required to be given, is in general very peremptory and short, usually not more than a week. (*i*) But the deceased party may have, in fact, no legal representatives, or they may be numerous and dispersed, or they may reside abroad, so that it would be impossible or very difficult to give them actual notice. (*j*) Where the representative was not a resident of this state, I have ordered notice to be entered on the docket to revive before the next term, or that the injunction then stand dissolved; and in that case I declared, that

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(*h*) *Chandos v. Talbot*, Sel. Ca. Cha. 24; *White v. Hayward*, 2 Ves. 461; *Forum Rom.* 198; *Eden Ing.* 93; 2 *Mad. Cha.* 533; 1 *Fowl. Exch. Pra.* 297.—(*i*) *Stuart v. Ancell*, 1 *Cox*, 411; *Hill v. Hoare*, 2 *Cox*, 50.—(*j*) *Carter v. Washington*, 1 *Hen. and Mun.* 203.