June 1831, his brother-in-law received a letter from America on behalf of A., describing him as having changed his name. Three months after this his wife sent him a letter addressed to him in his altered name by the hands of a friend who could not find him. He was not heard of any more, and it did not appear that any other inquiries had been made by his family. But it was held that, on this state of facts, there was not sufficient information to ground the presumption of death, still less of the particular period of death. In the latest case on the subject, *Re* Phene's trusts, 5 L. R. Ch. App. 139, the doctrine of Nepean v. Doe was affirmed, and Thomas v. Thomas, 2 Dr. & S. 298, and *in Re* Benham's trust, alluded to *infra* were overruled. And it was repeated, that if a person is not heard of for seven years, the presumption is that he is dead, but at what period he died is not matter of presumption but of evidence, and the *onus of* proving that the death took place at any particular time within the seven years rests on the party claiming the right to which the establishment of the fact is essential.[5] It was added that there is no presumption of law in favour of the continuance of life, though an inference may be legitimately drawn, that a person alive and in health on a certain day was alive a short time afterwards.

Circumstances shortening period.—On the other hand, there may be circumstances which will shorten the period necessary to raise the inference of the fact of death. Thus in Watson v. King, 1 Stark. 121, A. having sailed in a vessel which had not been heard of for two or three years, and was supposed to have been lost in consequence of having encountered very strong gales soon after she sailed, it was held that he was to be presumed dead, this being the kind of proof usually given in actions against insurers to prove the loss of a vessel, but that the time at which he died was to be collected by the jury from the particular circumstances of the case. Payment by underwriters of the insurance on a vessel supposed to be lost is, in cases of application for administration, strong evidence of death, *Re* Norris, 1 Sw. & Tr. 6; *Re* Main, *ibid.* 11; *Re* Bishop, *ibid.* 303. And as to the presumption from a party's weak state of health from dissipation, and his omission to apply for and receive his only means of support, see *Re* Beasney's trust, 7 L. R. Eq. 498.[6] Where a sailor left a ship at the end of 1849 or very early in 1850, and had not since been heard of, it was held, that if he were shown to have intended to desert, it could not be presumed that he was dead in May 1850, but that if he intended to return to his ship, the Court would assume that he had met with an accident, by which he perished a very short time after leaving the ship, and before May 1850, Lakin v. Lakin, 34 Beav. 443.

Practice in England.—In other respects, the principle laid down in Nepean v. Doe has always been adhered to, and was affirmed in terms by the Court of Appeals in Sprigg v. Moale **supra*. In Chancery, **505**

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[5] *In re* Rhodes, 36 Ch. D. 586; *In re* Lewes' Trusts, L. R. 6 Ch. 356. Cf. Hickman v. Upsall, 4 Ch. D. 144; 2 Ch. D. 617; L. R. 20 Eq. 136.

[6] Cf. In the Goods of Matthews, (1898) P. 17.