

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. *Chandos v. Talbot, Sel. Ca. Cha. 24; White v. Hayward, 2 Vcs. 461; Forum Rom. 198; Eden Inj. 93; 2 Mad. Cha. 533; 1 Fowl. Exch. Pra. 287.*

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. *Stuart v. Ansell, 1 Cox, 411; Hill v. Hoare, 2 Cox, 50.* 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. *Carter v. Washington, 1 Hen. and Mun. 203.* 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 *the lapse of time,

24 nine years since the abatement, should be taken into consideration. *Griffith v. Bronaugh, 1 Bland, 547.*

But here the abatement took place more than thirty-two years ago, and there is strong reason to believe, that James Walker, the administrator of Casenave, must have known of the institution of this suit; because it is stated in the award exhibited by the petitioner, that the bonds, the consideration of which was the subject put in issue by this bill, "were given by the said Robert Walsh as agent of the said Casenave & Walker, of whom the said James Walker was surviving partner." Considering Walker then an administrator, as surviving partner, and as joint *cestui que use* with Casenave, the presumption seems to be conclusive, that he must have been fully aware of the situation of this suit, and of the ex-