

trustee of such insolvent to come in by a certain day to proceed to reinstate the case, or that the bill be dismissed. Or, on the insolvency of a party his trustee may voluntarily come in by a supplemental bill in the nature of bill of revivor, and thus obtain the right to prosecute or defend the suit for the benefit of the creditors of the insolvent. (s)

This suit has, however, not only become defective by the insolvency of the defendant, who, as well as the plaintiff, was at that time an actor in relation to the account, and the benefit which might result from it; but it was afterwards totally abated by the death of the defendant; and the plaintiff might, if he had thought proper, have suffered it finally to go to rest in that manner. For, although, in consequence of the late defendant's having been made an actor by the decree to account, his trustee or legal representative, might, after his insolvency and death, have come in by bill and had the suit revived; yet since it had, by operation of law and by casualty, been brought to a final termination, the plaintiff was certainly under no obligation to revive or renew the litigation. He has, however, by his supplemental bill, in the nature of a bill of revivor, brought this case again before the court, and it now stands in the situation of a bill, answer, and decree thereon for a mutual account between partners in trade. And, therefore, the bill can now only be dismissed in the same manner as after a similar decree between the original parties; that is, upon notice to the opposite party by a rule further proceedings.

Whereupon it is *Ordered*, that the defendant proceed in this case on or before the fourth day of the next term, or the plaintiff may, at any time thereafter, dismiss his bill with costs. And it is further *Ordered*, that the register enter upon the docket, as at the instance of the plaintiff, the rule further proceedings.

The rule was entered accordingly. After which, no further proceedings having been had by the defendant, the bill was on the 5th of October, 1832, by order of the plaintiff's solicitor, dismissed.

---

(s) *Child v. Frederick*, 1 P. Will. 266; *Ex parte Ellis*, 1 Atk. 101; *Anonymous*, 1 Atk. 263; *Ex parte Berry*, 1 Dick. 81; *Hall v. Chapman*, 1 Dick. 348; *Sellers v. Dawson*, 2 Dick. 738; *Rutherford v. Miller*, 2 Anst. 458; *Williams v. Kinder*, 4 Ves. 387; *Monteith v. Taylor*, 9 Ves. 615; *De Minckwitz v. Udney*, 16 Ves. 466; *Randall v. Mumford*, 18 Ves. 424; *Boddy v. Kent*, 1 Meriv. 362; *Rhode v. Spear*, 4 Mad. 51; *Wheeler v. Malins*, 4 Mad. 171; *Porter v. Cox*, 5 Mad. 80; *Garth v. Thomas*, 1 Cond. Chan. Rep. 410; *Hibberson v. Fielding*, 1 Cond. Chan. Rep. 502; *Sharp v. Hullett*, 1 Cond. Chan. Rep. 558; *Caddick v. Masson*, 2 Cond. Chan. Rep. 252.