the trustee time to sue out a *scire facias* for the purpose of having the matter in controversy regularly determined. *Hewit* v. *Mantell*, 2 *Wils.* 372.

The insolvent law has no distinct provision whatever in relation to any kind of suit in equity to which an insolvent may be a party, and which may be depending at the time of his final discharge. But, although in equity as at law, a party to a then depending suit may, by his having obtained the benefit of the insolvent law, be thereby deprived of all right to the property in litigation held or claimed in his own right, and not as trustee or in right of another, and have been so, apparently, entirely divested of his capacity to sue or be sued in relation to it; yet here, as at law, such a discharge does not, as in the case of death, operate as an abatement of the suit. Upon the ground, as it would seem, that a discharge under the insolvent law operates only as a transfer of the insolvent's interest for the benefit of his creditors; but does not, as in case of death, effect a total prostration and extinction of all his rights. Hence, although an insolvent discharge cannot be said to be strictly an abatement of the suit, yet, that circumstance renders it as defective as if it had abated by death; which defect, when made known to the Court, must be remedied before the suit can proceed. The proper mode of reinstating a suit in equity, in such cases, is by a supplemental bill in the nature of a bill of revivor. So that, in general, upon the final discharge under the insolvent law of a plaintiff or defendant being suggested upon the record, the case may be ordered to stand over, with notice to the *trustee of such insolvent to come in by a certain day to proceed to reinstate the case, or that the bill be dismissed. **539** 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. *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.

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