

re: in the same in his hands until the arrival of such contingency, or until it shall be ascertained that it cannot arrive, and such person may, after such contingency shall have happened, prove in respect of such debt, and receive dividend with the other creditors, not disturbing any former dividends : Provided such person had not, when such debt was contracted, notice of any act of Bankruptcy by such Bankrupt committed ; and if it shall be ascertained that such contingency cannot arrive, the sum shall be applied for the general benefit of the Creditors, in the same manner as other assets of the Bankrupt's estate.

Proviso as to notice.

If the contingency cannot arrive.

XXXIII. And be it enacted, That no Creditor who has brought any action or instituted any suit against any Bankrupt in respect of a demand prior to the Bankruptcy, or which might have been proved as a debt under the Commission against such Bankrupt, shall prove a debt under such Commission, or have any claim entered upon the proceedings under such Commission, without relinquishing such action or suit ; and in case such Bankrupt shall be in prison or custody at the suit of or detained by such Creditor, he shall not prove or claim as aforesaid, without giving a sufficient authority in writing for the discharge of such Bankrupt ; and the proving or claiming a debt under a Commission by any Creditor, shall be deemed an election by such Creditor to take the benefit of such Commission, with respect to the debt so proved or claimed : Provided that such Creditor shall not be liable to the payment to such Bankrupt or the Assignee of his estate, of the costs of the action or suit so relinquished by him ; and that where any such Creditor shall have brought any action or suit against such Bankrupt, jointly with any person or persons, his relinquishing such action or suit against the Bankrupt shall not affect such action or suit against such other person or persons : Provided also, that any Creditor who shall have so elected to prove or claim as aforesaid, may, if the Commission be afterwards superseded, proceed in the action as if he

Creditors having suits pending against the Bankrupt must relinquish the same before proving, &c.

And the Bankrupt must be released if in Gaol at the suit of the Creditor proving, effect of proving.

Proviso as to costs.

Proviso. If the Commission be afterwards superseded.