ASSIGNMENTS IN FAVOR OF CREDITORS.—*Continued.*

the proceeds, 1st, to the payment of costs and commissions, and 2d, to the full payment of such creditors, named in an annexed schedule, as assent and release within a fixed time, "if the fund be sufficient for that purpose, and the balance, if any," to one of the grantors and his representatives, "but rateably and proportionably, according to the amount of the claims of each of said creditors, if the fund be insufficient to pay the whole;" *provided*, the shares of the non-assenting creditors "shall not be distributed among the others," but shall be held by the trustees, "subject to the future order and control of" the said grantor, is valid. *Hollins* vs. *Mayer et al.*, 343.

2. The fund not proving sufficient to pay the assenting creditors in full, they can only receive dividends, in the proportion that their claims bear to the whole amount of claims specified in the schedule, and the surplus must be paid to the grantor. *Ib.*
3. The non-assenting creditors cannot claim this surplus, because they would then receive the same benefit under the deed as the assenting creditors, without complying with its terms, which would destroy a material stipulation of the deed, and defeat one of the principal inducements to its execution. *Ib.*

ASSUMPSIT.

See LIMITATIONS, 2.

ATTORNEY, POWERS OF, &c.

1. An attorney, who has a claim for collection, cannot, without the authority of his client, take a bond or anything else but money, in satisfaction of the debt. *Kent* vs. *Ricards*, 392.
2. But the power of the attorney over the conduct of the cause, is coextensive with that of his client; he may agree not to demand a judgment, or stipulate for a *cessat executio*, and any violation of this agreement will give the opposite party title to relief, as if the agreement was made with the express authority of the client. *Ib.*
3. When an appearance of an attorney is entered on the record, it is always considered that it is by the authority of the party, and whatever is done in the progress of the cause by such attorney, is considered as done by the party, and binding upon him. *Ib.*
4. The plaintiff's attorney agreed with defendant, *first*, that the suit should not be further prosecuted until there was an ascertained deficiency in certain assignments which he received from the latter, to pay the claim against him. *Secondly*, when judgment was entered, he agreed with defendant's attorney that it should be stricken out, if objected to by defendant. And *thirdly*, when so objected to, he assured defendant the judgment should make no difference in the collection of the debts assigned, and that no execution should be issued upon it until such debts could be collected. HELD—

   That it was clearly within the scope of the authority of the attorney to make this agreement, and equity will interfere by injunction, to prevent the premature enforcement of the judgment. *Ib.*
5. An administratrix employed an attorney to collect certain claims due the estate of the intestate; and suits were instituted upon some, and judg-