

sary, to and amongst such of the creditors" of the grantors, named in another schedule annexed to the deed, "as shall, within six months from the date" thereof, "signify their assent to the terms of this deed, and execute and deliver to the" grantors "a full and final release and discharge of and from all claims, to the time of executing these presents, in full satisfaction and payment of all such claims of all such creditors assenting, as aforesaid, and executing such release, as aforesaid, if the fund be sufficient for that purpose, and the balance or surplus, if any may remain, shall and will pay over to the said John Hollins, or to his legal representatives; but ratably and proportionably, accordingly to the amount of the claims of each of the said creditors, if the fund be insufficient to discharge the whole. *Provided* always, that the United States shall not be required to signify any assent, nor to execute such release, as aforesaid, to entitle them to a share of the proceeds or fund arising from this trust: and *provided*, also, that the proportion or share of such creditor or creditors, if any, as shall neglect, refuse, or omit to execute such assent or release, as aforesaid, shall not be distributed or divided amongst the other creditors, but shall be, by the said trustees, held subject to the future order and control of the said John Hollins, his executors, administrators, or assigns."

On the same day, the said John Hollins executed another deed, conveying other property, real and personal, to the *same* trustees, upon the *same* trusts, conditions, and provisos. Some of the creditors referred to assented to the deed, and executed the required releases, others did not.

Afterwards, in 1849, the trustees recovered, under the Commission between the United States and Mexico, a large sum of money, upon one of the claims assigned to them by these deeds, a large portion of which they divided, according to the terms of the trust, among the assenting creditors, but there still remained about \$5,000 in their hands, undivided. John Hollins died in 1827, and his administrator, on the 8th of April, 1850, filed the present bill against the trustees, to recover the said balance of \$5,000, according to the terms of the said deeds.