

And then there is a provision, that the Baltzells take the debts due the firm at their own risk—that Trump should give them a bond with security, that he had contracted no other debts or liabilities against, or in the name of the firm, other than those enumerated in a schedule taken from the books, and also against any other liabilities created by him individually; and the Baltzells were, in like manner, to give bond to Trump for the performance of their engagement to pay the debts of the firm, and then follows this stipulation :

“The above conditions being fulfilled, William B. Trump, Thomas Baltzell and Philip Baltzell, mutually renounce all claims against each other, any loss or gain, or any accounts or claim, assigned to either party, to be the loss or gain of said party, as the case may be.”

Whatever may be the true construction of the articles of co-partnership, this provision, it is contended, must protect the defendant from the claim now made upon him for the sum of two thousand one hundred dollars, for which he was indebted to the firm, and stood indebted upon its books, until the entry of the 1st of February, 1838, was made.

We must assume, of course, that entry was an improper one, and that Mr. Trump actually owed the firm the sum of money in question, precisely as any other person would, who stood fairly charged upon its books with money and goods to that amount, and then the question is, whether, in the stipulation quoted, there is anything which will release him from such a claim.

I cannot bring myself to think so—the parties by the agreement dissolving the partnership, had entered into various reciprocal stipulations. Those on the part of Trump were, that he should transfer and assign to the Baltzells all claims due to, and merchandise and cash, the property of the firm, and the latter agreed, on their part, to pay all claims against the firm, to incur the risk of the insolvency of those who might be debtors to it, and to pay to Trump a specific sum of money for his interest. Stipulations which they have faithfully performed. Trump’s engagement was, that he would assign and