

But the plaintiff filed exceptions to its sufficiency, in which she distinctly speaks of it as the answer of both, and thereby virtually waived any objection to it, because of its having been sworn to by only one of the defendants. An order was passed appointing a day for hearing those exceptions; but as no further notice was taken of them in any of the subsequent proceedings, they were passed over at the final hearing as having been tacitly abandoned.

On the 11th of February, 1825, Anna G. M. Helms, formerly Newhaus, by her next friend, Frederick Augustus Wandelohr, and Joseph Sumwalt, and John McFarren, Jr. filed their supplemental bill against John Franciscus, Philip B. Sadtler, Carsten Newhaus, John Henry Newhaus, Jacob Newhaus, John Rathean, Susan Hüller, otherwise called Müller, Frederick Müller, Anna G. Bauer, Jacob Bauer and Lewis Helms. This bill, after reciting the substance of the before mentioned original bill, to which this is made a supplement, stated that, since the filing of that bill, the suit had abated by the marriage of the plaintiff Anna, with the now defendant Lewis Helms, who had separated from her; and that they had entered into a written agreement to live separate, by virtue of which agreement of separation, and of the power of this Court to have any property of a *feme covert*, which her husband asks its aid to recover, settled upon her and to her exclusive use, the plaintiff Anna insisted that she was entitled to have the whole of the residuary legacy applied to her exclusive use.

This bill further stated, that the surviving partner had finally wound up the affairs of the partnership; that the executors had paid the debts and completely settled up the estate of the testator;

548 *and that a certain property in Germany had devolved upon the late John Newhaus, the brother of the testator, the one-third of which on his death vested in his life, the defendant Susan, who with her then husband now probably alive, assigned her interest to the testator; by virtue of which his executors these defendants, have received a large amount; that the executors have not yet accounted for the property received by them or paid to the plaintiff Anna, the amount to which she was entitled as residuary legatee.

It further stated, that legacies had been given by the testator in his will to the defendants Carsten Newhaus, John H. Newhaus, and Jacob Newhaus, who were then infants; and as such the defendant Franciscus had been appointed their guardian. That the testator's sister — Bauers, of Bremen, never had but one child, the defendant Anna G. Bauers, now an infant; and that the other legatees, designated as her four other children, never did exist either before or since the testator's death; and consequently the right to that which had been so given to them by the testator devolved upon, and vested in the plaintiff Anna as residuary leg-