

under his will, upon the death of *Mrs. Martin* and *Mrs. Lee*. Such this trustee has understood to be the nature of the said action and the judgment of the court; from which an appeal was made, and the record now remains in the Court of Appeals for trial there. That the money of the estate, in this trustee's hands, he is and has been ready to pay over as his Honor shall direct, as well the part audited to the widow, as that to the heirs; who are satisfied on that subject, waiting only for a decision in the Court of Appeals. That the balance due *Sarah Rogers*, at her death, this trustee has been ready and willing to pay to the executors, and would have paid; but the heirs, although not disputing the account, conceived the money due on that account ought not to be paid until the determination of the Court of Appeals.

15th December, 1810.—KILTY, Chancellor.—Since the order of the 12th of September last a report has been made by the trustee of the matters directed therein; by which it appears, that the debts of *Charles Rogers* have been paid; except an account of small consequence; and the executors of *Sarah Rogers* have informed the court, that they wait for the sanction of the account rendered by the trustee. On this part of the case the trustee is authorized and directed to pay to the said executors of *Sarah Rogers* the sum reported due to her representatives, being \$227 83. As to the balance of \$2,889 47 due to the heirs, the trustee is authorized and directed to pay one-fourth part thereof to *Sarah Bailey*, and to take her separate receipt therefor, according to the will of *Charles Rogers*; and one-fourth part to *Catharine Diffenderffer*, taking her separate receipt therefor. For the two other fourth parts a further order will be given on the determination of the appeal in the suit mentioned in the report.

Some years after which, the trustee *Vincent*, in a letter, dated on the 23d of November, 1814, addressed to the chancellor, says, 'I inform you of my resignation of the trust in the estate of the late *Charles Rogers*, and have given it into the hands of Mr. *John Diffenderffer* one of the heirs at law.' There does not appear to have been any order passed upon this resignation; but on an application, dated on the 20th of December following, made by *John Diffenderffer*, in which, among other things, he says, 'on examining the account of Mr. *Samuel Vincent*, trustee of the late *Charles Rogers*' estate, I find, that he has charged a considerable sum of money to *Sarah Bailey*, *Ann Martin*, and *Mary Lee*; it appears to me, by