

ment from *Lewis Helms*, after the 29th of August, 1823; and as *Lewis Helms* could not after that time, when he had consented to the settlement of the whole upon his wife, have been, nor cannot now be allowed to take any part of this legacy; *Flagler*, who only claims under him, cannot be permitted to take any part of it. And consequently, without saying any thing of the propriety of *Flagler's* petition, in other respects, it is perfectly evident that it must be dismissed with costs.

Whereupon it is *Decreed*, that the said executors, *John Franciscus* and *Philip B. Sadtler*, account with *Anna G. M. Helms* and *Lewis Helms*, her husband, of and concerning the personal estate of the late *Carsten Newhaus*, including as a part of the said residuary legacy, so much of the personal estate as was given by the last will of the late *Carsten Newhaus*, to *Betsy A. Bauers*, — *Bauers*, *Henry A. Bauers*, and *John D. Bauers*, the four supposed children of the testator's sister, — *Bauers*, of Bremen, who never did in fact exist, by reason whereof the legacies so given to them, are void, and have become a part of the said residuary legacy. And the auditor is hereby directed to state the account in relation thereto; and also an account of the sums now due, if any, to each one of the existing specific legatees; and of the sum due, if any, to the residuary legatee, after deducting therefrom the principal and interest of the debt due to *Joseph Sumwalt* and *John McFarren*. The said several accounts to be stated by the auditor from the proceedings and proofs now in the case, and from such other proofs as may be laid before him. And the parties are hereby authorized to take testimony in relation to the said several matters of account, before the commissioners in the city of Baltimore, or before any justice of the peace, on giving three days' notice as usual; provided, that the said testimony be taken and filed in the Chancery office, on or before the third day of August next.

And it is further *Decreed*, that the whole of the said residuary legacy, after deducting therefrom the claim of *Sumwalt* and *McFarren*, be invested and settled in trust, so that the annual rents and profits, interest and dividends, be paid from time to time, and not by way of anticipation, to the said *Anna G. M. Helms*, to her sole and separate use, during her life, and apart from her husband, *Lewis Helms*. And if she dies in the life-time of the said *Lewis Helms*, then the whole to go according to her appointment by will; and in case she makes no such appointment, then the whole to go to her child, children or next of kin,