Birmingham Trust & Savings Company and Walter G. Shuster, as Executors under the will of Grace T. Heinede, deceased, and Birmingham Trust and Savings Company, as Trustee, under Will of Julius Heineke, deceased, and Walter G. Shuster, Individually, complainants,

In the Circuit Court, Tenth Judicial Circuit of Alabama in Equity

- VC-

Clara Swain, Alma Downard, Emma Wheat, August Heineke, Rudolph Heineke, Milton Heineke, Martha Dychmanns, Helene Kremer, Martha (Mrs Aarl) Heineke, Minna Roder, and Auguste Behrens,

respondents

TO THE HONORABLE JUDGES OF SAID COURT SITTING IN EQUITY:

Original Fill

Your Complainants, Birmingham Trust & Savings Company and Walter G. Schuster, as Executows, under the will of Grace T. Heineke, deceased, and BirmingammTrust & Savings Bank, as Trustee under the will of Julius H. Heineke, deceased, respectifully represents unto

Your Honors and aver: 1- That your Complainants, Birmingham Trust and Savings Company and Walter G. Shuster, are the Executors of the last will and testament of Erace T. Heineke, deceased, by appointment of the Probate Court of Jefferson County, Alabama, and that the administration of said estate has been removed from the Probate Court to this Court and is now pending in this Court. That the Birmingham Trust & Savings Company is named as Executor or Trustee in the will of Julius H. Heimeke deceased, and hereinafter referred to. That The Respondents, Clara Swain, residing at 182 Retreat Street, Bellevue, Kentucky, Alma Downard, residing at 130 16th Street, Clifton Kentucky, Emma Wheat, residing at 148 D.W. Street. Bellevue, Kenttaky, August Heineke, residing at 448 Berry Street, Bellevue, Kentucky, Rudolph Heineke, residing at 127 Fairfield Avenue, Bellevue Kentucky, and Milton Heineke residing at 127 Fairfield Avenue, Bellevue entucky, are the only children and heirs at law of August Heineke, deceased, who was a brother of Julius H. Heineke, deceased. That martha Dychmanns and Helena Kremer, both residing at Cologne, Streitzeuggasse 21, Germany, are the only children and heirs at law and Martha (Mrs Karl) Heineke, is the widow of Karl Heineke, deveased, and resides at Cologne, Streitzeuggass 21, Germany, the said Karl Heineke being a deceased brother of the said Julius H. Heineke, deceased. That Minna Roder and Auguste Behrens, both residing at Ilten, Hanover, Germany, are sisters of Julius H. Heineke, deceased. That all of said respondents are believed to be over the age of twenty one years&of sound mind. 2- That Julius H. Heineke, husband Off Grace T. Heineke, died in about the year 1922, leaving a last will and testament which was duly admitted to probate and record in the Probate Court of Jefferson County, Alabama, a true copy of which will is hereto attached as Exhibit "A", and made a part hereof, as if fully set out herein. That Grace T. Heineke duly qualified as the Executrix undersaid will, both in the State of Alabama, and also in the State of Florida and that shortly after the expiration of one year from the grant of said letters she made a settlement of her administration of said estate in Court and as such Executrix turned over all of the property and assets belonging to said estate to herself as beneficiary under said will.

3- That the said Grace T. Heineke was seized and possessed of an estate in her own right and that during her lifetime she invested and reinvested from time to time assets belonging to her own estate and also the to the estate of the said Julius H. Heineke. That all of the investments which were made by her of the assets belonging to the estate of her deceased husband were made in her own name without any designation of the same as belonging to the estate of her said husband or any reference to his will but that she kept two safety deposit boxes and two separate sets of bank accounts. In one set of bank accounts and in one safety deposit box she kept funds and securities which belonged to her own personal estate and in another set of bank accounts and safety deposit she kept funds and securities representing and consisting of funds or investments derived from the estate of her deceased husband.

4- That in the month of November, 1934, the said Grace T. Heineke died leaving a last will and testament which has been duly admitted to probate and record in this County, a true copy of which is hereto attached as Exhibit "B" and made a part hereof, as if fully

set out herein.

5- That there are sufficient assets remaining undisposed of and which can be definitely identified or traced as belonging to the estate of Julius H. Heikeke, deceased, to pay all of the special bequests under his will and there are sufficient assets belonging to the estate of the said Grace T. Heineke, deceased, to pay and satisfy all of the special bequests and devises made by her will.

That for this reason the rights of the special legatees under said wills will not be affected by this proceedings and that there is no necessity of making them parties hereto. That under the provisions of the wills of the said Julius H. Heineke and Grages T. Heineke, deceased the rest and residue of their respective estates remaining after the payment of the special bequests and legacies therein contained, is devised and bequeathed to the same persons with the exception that under the will of Grace T. Heineke, deceased, the said "artha (Mrs Karl) Heineke is entitled to share equally with the children of Karl Heineke in one share of the reste and residue of her estate while under the will of Julius H. Heineke, deceased, only the children of the said Karl Heineke are entitled to take the cotresponding share of the estate of the said Julius H. Heineke, deceased.

That the respondents hereto constitute all of the residuary legatees and devises under both of said wills.

6-. That prior to the death of the said Grace T. Heineke she was duly adjudged to be of unsound mind and your Complainant, Walter G. Shuester, was duly appointed her legal guardian by the Probate Court of Jefferson County, Alabama, and all of the property and assets belonging to her estate and the estate of the said Julius H. Heineke, deceased,

located in the State of Alabama, were in his possession and under his control. That the Complainant, Walter G. Schuster, has filed his account for final settlement of his guardianship and is in the process of turning over said property and assets to himself and the Complainant, Birmingham Trust and Savings Company, as said Executors and Trustees. 7- That the provisions of the will of Julius H. Heineke, deceased, are doubtful and uncertain and that it is necessary to obtain the advise and construction of the same by this Court in order to enable your Complainants to properly administer said estate inthe following particulars: (a) With respect as to whether or not money on hand and the investments or reinvestments made by Grace T. Heineke in her own name of funds or property derived from the eatate of the said Julius H. Heineke, deceased, or a part of her estate, Attached hereto as Exhibit "C" and filed herewith is a schedule of property and assets which were in the possession of the said Grace T. Heineke or her guardian and which can be definitely ascertained to have belonged to the estate of Julius H. Heineke, orwhich represent the investment or reinvestment of funds derived from said estate or which are believed to have been derived from said estate. That attached hereto and filed herewith as Exhibit"D" is a schedule of property and assets in the possession or under the control of the said guardian of the said Grace T. Heineke at the time of her death which are believed to constitute a part of her own individual estate. That in order to enable your Complainants to properly administer said estate, it is necessary to have this Court construe the will of the said Julius H. Heineke, deceased, and adjudge and advise your Complainants as to which of said estate the assets set forth in the said two schedules hereto at tached belong: (b) That it is doubtful and uncertain from the provisions of the will of said Julius H. Heineke, deceased, as to what are the fights, duties and powers as the Birmingham Trust and Savings Company with reference to such of said property and assets as may be adjudged to belong to the estate of the said Julius H. Heineke, deceased. It is uncertain and doubtful as to whether it was comtemplated under the provisions of said will that the said Birmingham Trust and Savings Company should apply to the proper court and be appointed Executor or Administrator bf said will de bonis non or whether its duties are that of Trustee. In order to pay said special bequests provided by said will and divide and distribute the rest and residue of said property among the residuary legatees and devisees under said will, it will be necessary to collect mortgage indebtednesses, foreclose mortgages, rent, sell, handle and dispose of real

property and otherwise handle, administer, care for and protect the property and assets belonging to said estates and it is necessary to obtain the construction and advise from this Court with reference to the rights, powers, and duties of Complainant, Birmingham Trust & Savings Company with reference thereto.

(c) Whether the bequest to August Heineke of Five Thousand (\$5,000.00)Dollars by Item "G" of the will of Julius H. Heineke, deceased, lapsed by reason of his death which occurred subsequent to the death of said testator or Whether the children of the said August Heineke are entitled thereto in addition to their share of the rest and residue of said estate.

The premises considered, your complainants pray that the said Clara Swain, Alma Downard, Emma Wheat, August Heineke, Rudolph Heineke, Milton Heineke, Martha Dychmanns, Helena Kremer, Martha (Mrs Karl) Heineke, Minna Roder and Auguste Behrens be made respondents hereto and that eprocess issue to them by publication or otherwise as directed by law and that they be required to plead, answer or demur hereto within the time prescribed by law and the rules of this court and failing to do so, that a decree pro confesso be entered against them.

Complainants further pray that upon a final hearing of this cause a decree may be made and entered in this court construing the provisions of the will of the said Julius H. Heineke, deceased, with reference to all of the particulars above set forth and advising your Complainants as to which of said estate the assets set forth inthe schedules hereto attached belong and the rights, powers and authority of your Comphainant, Birmingham Trust & Savings Bamkeny with reference to such of said property and assets as may be adjudged to belong to the estate of the said Julius H. Heineke, deceased.

Your complainants further pray for such other, further or different relief to which in equity and good conscience they may be entitled.

Smyer, Smyer & Brinbridge Solicitors for Complainants

Note: The respondents are hereby required to answer the allegations contained in the foregoing bill of complaint from paragraph first to last, both inclusive, but not under owth, answer under oath being hereby expressly waived.

Smyer, Smyer & Bainbridge Solicitors for Complainants

State of Alabama,

Before me, the undersigned Notary Public in and for said County, in said State, personally appeared Walter G. Schuster, one of the Complainants in the above styled caused, who is known to me, and who being by me first duly sworn, deposes and says on oath that he has read the above and foregoing bill of complaint and that the allegations of facts therein contained are true and correct according to the best of his knowledge, information and belief.

Walter G. Schuster.

Sworn to and subscribed before me, this 14th day of February, 1935 Ethal M. Ware-Notary Public.

WILL Exhibit "A"

State of Alabama, County of Jefferson.)

I, Julius H. Heineke born onthe 14th day of October, 1855, at Cross Lobke, Province of Hanover, Germany; being of sound mind and desposing memory, do hereby make, publish and declare, this my last will and estament, hereby revoking any and all wills and Testaments and Codicils by me heretofore made and published.

First: I desire that all my just debts, if any there be, be baid.

Second: I set aside out of my estate One Thousand Dollars (\$1,000) to be deposited by my executrix with the Spring Grove Cemetery Company of Cincinnati, Ohio, to be held by them in Trust perpentually, the interest thereof to be expended for the purposes of keeping up the "Lawn, Graves and Tombstones of Lot One Hundred & Sixty (160) Section

Seventy three (73) in said demetery. Third: I give, bequesth and devise to my beloved wife, Grace T. Heineke, all the balance of my estate, real, personal and mixed of whatsoever name, nature or description, with the right onthe part of my wife to use the property by me to her given, devised and bequeathed, in any manner by her deemed best. She shall have the gight to sell and convey any of the real or personal property, without being required to procure and Order from any court, whether she may desire to sell to expend the proceeds at her own pleasure, or to redinvest the proceeds.

It is my will and wish, that at the death of my wife, Grace T. Heineke, all property herein as above given bequesthed and devised to her and not expended br used by her, shall decend and go as follows:

- A. To the most Worshipful Grand Lodge A.E. & A. M. of the State of Alabama for the benefit of the Alabama Masonic Home, located at present time at Dingley, Montgomery Countym Ala., Five Thousand (\$5000).
- B. To Walter G. Schuster my stock or shares in "Heineke-Schuster Realty Co." unless said corporation has been previously dissolved or the shares been disposed of by my said wife. Also three thousand dollars (\$3000.) provided he is still conected with the "Heineke -Schuster Realty Co. at the time of the death of my wife, Grace T. Heineke.
- C. To my Aunt Sophie Koerding, of Hanover Germany, if living at the tile of the death of my wife, Five Thousand Dollars (\$5000.)
- D. To Mrs. Lucile Lees of Los Angeles County, California, if living at the time of the drath of vary wife, Two Hundred Dollars (\$200).
- E. To Albert W. Swain, son-in-law of my brother, August Heineke, Two Thousand Dollars (\$2000).
- F. To my bother, Henry L. Heineke whose address I have not been able to ascertain for more than twenty-five years, and who has treated me very badly, Five Thousand Dollars (\$5000) if living at the time of the death of my wife, Grace T. Heineke.
- G. To my brother, August Heineke, of Bellevue, Ky. Fave Thousand Dollars (\$5000.00).
- H. All the residue of my estate, not otherwise bequeathed or expended by my wife, Grace 1. Heineke, at the time of her death shall be distributed share and share alike to my two-brothers, "Carl Heineke now residing at Colen A/R Germany and to August Heineke now residing at Bellevue, Ky., and to my sisters August Behrens, now regiding at Iltem b/Hanover Germany and Minna Roeder now residing at Ilten b/Hanover Germany, with the express provision that should either of the four not be living at the time of the death of my
- wife, either ones bequeast shall be distributed to their children share and share alike.

 I hereby nominate and appoint my wife Grace T. Heineke to be the Executrix of this my last will and Testament and I direct that she shall not be required by any Court administrating on my Estate, to give bond as xuch Executoix or give an accountin as such

Executrix. Woonthe death of my said wife, Grace ". Heineke, I desire that the "Birmingham Trust & Savings Company, of Birmingham Ala." shall succeed my wife as Executrix of this my lawt will.

In witness whereof, I have hereunto set my hand and seal this 21st day of September, 1921.

Julius H. Heineke (SEAL)

We hereby certify that we were present and saw Julius H. Heineke, the above testator sign the foregoing instrument, which he declared to us to be his last will and testament and we have subscribed our names hereto as witnesses at his request end in his presence and in the presence of each other.

F. C. Shapart, Jr., S.E. Scholze.

L. A. Schuster.

Exhibit "B"

State of Alabama, JeffersonCounty)

I, Grace T. Heineke, of the City of Birmingham, County of Jefferson, and State of Alabama, being of sound mind and memory, and being the widow of the late Julius H. Heineke, do hereby make, publish and declare this to be my last will and testament, hereby revoking any and all wills, testaments and codicils by me heretofore made and published, and especially and expressly revoking a certain will made by me, which said taxk will is dated January 14th, 1926, and which was witnessed by Frank Deedmeyer, Ars Emilie Prodoehl and John O. Smith, and all the codicils thereto.

- A. I desire that all my just debts, if I owe any debts at the time of my death, be paid as soon after my decease as may conveniently be done.
- B. I direct that my executors, hereinafter named, cause to be engraved the date of my death on the monument which is now erected over the cemetery lot where my beloved hubband's remains are at rest, and on which I desire to be buired.
- U- I give and bequeath to Louis A. Schuster the sum of Three Thousand Dollars.
- D- I give and bequeath to Lester U. Maukkthe sum of Two Thousand Dollars.
- E_{-} 1 give and bequeath to Walter G. Schuster, the sum of Ten Thousand Dollars.
- The said Louis A Schuster, Lester C. Mauk and Walter G. Schuster reside at Birmingham, Alabama and they are, on the date of this will, connected with Heineke Schuster Realty Company.

 F. I give and bequeath to The Children's Hospital of Birmingham, Alabama, the sum of

rive Thousand Pollars.

- G- I give and bequeath to Alabama Association for the Blind, located at said Birmingham, Alabama, the sum od Five Thousand Dollars.
- Should said Virginia die before she is of legal age, then said sum of Two Hundred Dollars shall go to her mother. Should the said som of Lotoise Mauck die before he is of legal age, then the said sum of Two Hundred Dollars shall go to his mother.
- L- give and bequeath to Al Swain, the son-in-law of August Heinke, my de-ceaded husband's diamond Masonic Ring, to be worn by me until my death, then to go to said Al Swain.
- J- I give and bequeath to Walter G. Schuster my one share of the capital stock of the Heineke Schuster Realty Company, if I still own it at the time of my death, provided, that at the time of May death, said Walter G. Schuster is steill connected with said Heineke-Schuster Realty Company, K. I give and bequeath the sum of Two Hundred Dollars in cash to Lucy Royster, my cook, if she be still living at the time of my death. And it is my wish that there shall be given to said Lucy Royster by said Clara Swain, such of my cloting as said Clare Smith deems it best shall be given to said Lucy Royster.
- L- All family pictures belonging to me or to my late husband, Mr. Julius H. Heineke, shall be destroyed by Clare Swain, a neice of my deceased husband. Should said Clare Swain predeceased me, said family pictures shall be destroyed by my executors hereinafter hamed. Said family pictures shall be destroyed by my executors hereinafter hamed.

 M-I give and bequeath to said Clara Swain two small china closets and the contents of said china closets.
-)- My sealskin coat and all the rest of my furniture, furnishings, pictures, jewelry, household goods, glassware, tableware, musical instruments, trunks, china kitchen utensils, clocks, rugs, carpets, mirrors, silverware, in fact all my household things, except the aforementioned family pictures and the aforementioned two small china closets and the contents of said two small china closets, shall be sold by my executors to the highest bidder for cash, and the proceeds of such sale shall form part of my residuary estate, such sale shall be at my home, at public auction, or the articles herein named may be sold as a whole or separately at private sale.

 P- I give and bequeath to Eleanor Lorine Schuster, and I also give and bequeath to Walter G.
- Schuster, Jr., children of said Walter G. Schuster, each, the sum of Two Hundred Dollars, to be held in trust by their mother, Nellie H. Schuster, and to be put on interest in some Savings Bank, as aforesaid, the principal and accrued interest to be paid by each, if and when each attains full age.
- Should either of both of said children of Walter G. Shhuster die before becoming of full age, the share of such deceased child shall go to his or her mother, Nellie H. Schuster.

 Q-I give and bequeath to Harold Clifford Hassell the sum of Two Hundred Dollars, to be held in trust by his mother, Hannah A. Hassell, and to be put on interest in some savings bank, as aforesaid, until he becomes of full age, when it shall be paid to him. Should said Harold Clifford Hassell die before be becomes of full age, the said sum of Two Hundred Pollars, with the accumulated interest
- thereon, shall go to his mother Hannah A. Hassell.

 R- I give and bequeath to Jefferson Valley Lodge No. 11, Knights of Pythias, Birmingham, Alabama, the sum of Five Thousand Dollars to be the sum of Five Thousand Dollars to be used for the relief of widows and orbhans and for the relief of indigent members of said Lodge of Knights of Pythias. If said Jefferson Valley Lodge No. 11, Knights of Pythias shall be defunct at the time of my death, or if it shall become defunct after said trust has become in operation,
- said sum of Five Thousand Dollars shall go to and belong to the Knights of Pythias Orphans Home at Montgomery, Alabama, or its successor in trust, for the purpose in this first paragraph set out.

 As long as said Jefferson Valley Lodge No 11, Knights of Pythias, shall be existance, it shall be optional with said Jefferson Valley Lodge No 11, Knights of Pythias, after its has
- shall be optional with said series on variety bodge no line, independent of said Orghans Home received the sum of Five Thousand Dollare hereunder ro pay the same ober to said Orghans Home at Montgomery, or to use said sum of Five Thousand Pollars for the purposes in this paragraph first set out.
 - S-I give and bequeath to Zamora Temple, Ancient Arabic Order of Noble Mistic Shrine of Birmimgham, Alabama, the sum of Ten Thousand Dollars, in trust to be given or transferred by said Zamora Temple, Ancient Arabic Order of Noble Mistic Shrice within one month after it comes into possession of said Zamora Temple to some Masonic Hospital organized and equipped to care for crippled children.
 - T- I give and bequeath to the mercy home Industrial School for White Girls, located at Birmingham, Alabama, the sum of Five Thousand Dollars,

- U- I give and bequeath the sum of Five Thousand Dollars to the Masonic Orphans Home, located at Montgomery, Alabama.
- V- And I will and direct that all the rest , residue and remainder of my estate shall be divided into four equal parts or shares, and one equal part or share thereof I give, devise and bequeath to the wife and children of the late Carl Heineke, lately residing at Coelin, A/R Germany, who was one of the brothers of my late husband; one equal part or share thereof, I give, bequeath and devise to the children of the late August Heineke, late residing at Belleview, in the State of Aentucky, who was one of the brothers of my late husband; and I give, bequeath and devise one equal part or share thereof to Augusta Behrens, now residing at Ilten, b/Hanover, Germany, and who is one of the surviving sisters of my late husband; and I give and bequeath one equal part or share thereof to Minna Roeder, now redicing at Ilten, b/Hanover, Germany, who is one of the surviving sisters of my said hudband.
- I will and direct that all real estate belonging to me at the time of my death shall be mamaged, controlled and rented by Heineke-Schuster Realty Company up to the date of the final settlement of my estate.
- La hereby nominate and appoint Walter G. Schuster and Birmingham Trust and Savings Company of Birmingham, Alabama to be the executors of this my last will and testament.

 In witness whereof, Lave hereunto set my hand and seal this 8th day of October, A.D.

 1927.

Grace T. Heineke. SEAL.

We, the undersigned, hereby declare that we were present and saw

Grace T. Heineke, the within named testratrix, sign the foregoing paper writing, which she
declared to us to be her last will and testament, and we have hereunto set our hands ask
witnesses, at her request, in her presence, and inthe presence of eath other, on the
date of said will.

Henry Upson Sims, Edna Bryant. Frank Deedmeyer.

I, Grace T. Heineke, the withinnamed testratrix, do hereby make and publish this, my codicill to my last will and testament, bearing date the 8th day of October, A. D. 1927, as follows:

In paragrpah "O" of my said will I speak of my jewelry. Of my jewelry, I desire the following articles to go to the persons named:-

To J. O. Hassell, One Pair cameo cuff buttons. To Louis Schuster, my wrist watch. To Miss millie Wells, my long pearl beads, if I still have them at the time of my death.

To Wilma Schuster, one of my solitaire diamond rings, the ring to go to said Wilma hereunder is to be selected by my executor, Walter G. Schuster, and is to be given to said Wilma by him as one of my executors. To Lotoise Mauck, one of my solitaire diamond rings, the ring to go to said Lotoise hereunder is to be selected by my executor, Walter G. Schuster, and is to be given to said Lotoise by him as one of my executors. To Clare Swain, my cameo pin; also my coral beads; also my coral pin and also my watch studded with diamonds. To Clara Hassell, one yellow mother of pearl neck chain with crystal beads; also one long chain mother of pearlbeads; also one bar pin set in rhinestones; also one small watch, or such of the articles herein intended for said Udara Hassell which I may own at the time of my death.

- I give and bequeath to Walter G. Schuster, in compensation of services rendered to me to the date hereof, the sum of One thousand Dollars, and in addition to all other bequests made by me to him in my said will.
- I give to J.O. Hassell the sum of Five Hundred Dollars. I give to said Clara Hassell the sum of Five Hundred Dollars in addition to the sum of One Thousand Dollars in my said will given to her.
- to her.

 t is my will and I request that said Walter G. Schuster, one of my said executors, pay to Clara Hassell the sum of Twenty five Dollars per month as a salary and the additional sum of Twenty five Twenty five dollars per month to cover expenses, from the date of my death until such time that all my household goodsand personal effects have been sold or otherwise disposed of.
- I give and bequeath to the following named persons the articles named:To Harold Hassell, all my music books, music pamphlets and sheet musis; to said willie Wells,
 my black shiklshawl; to said Walter G. Schuster, my Masonic blanket; to Clara Hassell, one
 camel's hair blanket.
- I give to the Mercy Home at Birmingham, Alabama, all such wearing apparel and household articles, directed to be sold by my executors under paragraph"O" of my said will, which they find they are unable to sell for cash.

 In witness whereof, I have hereunto set my hand and seal, this 13th day of August, A D 1928.

Grace T. Heineke SEAL.

Signed and published by the said Grace T. Heineke, as a codicil and the first codicil to her last will and testament, in our presence, and we, inher presence and in the presence of each other, have, at her request, hereunto subscribed our names as witnesses, this 13th day of August, 1928.

Henry Upson Sims.

Ossie B. Stovall

Frank Deedmeyer

1, Grace T. Heineke, the within named Testatrix, do hereby make and publish this my second codicil to my last will and testament, bearing date the 8th day of October, 1927, hereby

ratifying and confirming my said will of Uctober 8th, 1927, and hereby ratifying and confirming my first codicil to said will dated August 13th, A.D. 1928, except as far as said will and said codicil refer to Lester C. Mauck, his wife Lotosie, and the children of said Lester C. Mauck and his wife Lotosie, as follows:-

I hereby revoke and declare as nulla, void and of no effect, all bequests by ma made in said will and in said first codicil to said Lester C. Mauck, to said Lotosie Mauck, to the children of said Lester C. Mauck, and his wife, Lotosie Mauck, whether made directly to said children or to said Lotosie Mauck in trust for said children.

The sums of money and the articles of personal property which I bequeathed to said Lester C Mayck, to his said wife, and to his said wife in trust for the children of said Lester U. Mauck, and his said wife, shall go to and form part of my residuary estate as I disposed of my residuary estate in my said will of October 8th, 1927, and on page four thereof and under "V".

> Grace T. Heineke. (SEAL)

Signed and published by the said Grace T. Heineke as the second codicil of her last will and testament, dated October 8th, 1927, and to her first codicil dated August 13th, 1928, in our presence, and we, in her presence and in the presence of each other, and at her request, hereunto subscribed our names as witnesses, this 10th day of June, 1931.

> May McCully, 3809 5th Avenue, South, B'Ham, Ala.

> > Frank Deedmeyer.

List of Assets of Julius H. Heineke Estate. Insured mort gages (National Surety Company, insolvent).

```
#3487 W.L. Jones, due 6/15/35.int coupons $15. due 12/15/32¢6/15/32 and subsequent coupons
      attached
                                                                                                 $500.00
  #4909 V.F. Hawks, due 6/15/35, int coupon $15.due 12/15/32; 12/15/34
  & 6/15/35 attached -
                                                                                                  500.00
  #3490 Guy E. Harvey, due 6/15/35.int coupon $15.due 12/15/34 & 6/15/35 attached
                                                                                                  500.00
  #3713 F. A. Kranzer, due 7/15/35, int coupon $15.due
         1/15/33;7/15/34 & subsequent counons attached
                                                                                                  500.00
  #3715 A A Oakes, due 7/15/35 int coupon $15.due 1/15/35 & 7/15/35 attached
                                                                                                  500.00
  4901 G W Beaire, due 1/1/35.int coupon $15.due 1/1/33 & subsequent coupons attached
                                                                                                  500.00
  4925 Nels Nelson, et al due 1/1/35, int coupon $15. due 1/1/33 & subsequent coupons attached
                                                                                                  500.00
    Receipt NO. B153 of the Baltimore Trust Co., dated 3/18/38 for compons due
      1/1/33 on Bonds Nos. MX780-781-782-779-DV97-98 Federal Mortgage Vo., aggregating
      $150.00 of which $52.80 has been paid leaving $97.80 unpaid on same.
   FD3143 Associated Mortgage Cempanies, Inc.
   FM20845 Deb, dated 12/1/33 due 12/1/53 & Int coupons due 12/1/34 and subsequent attached $350.00
   FM20846
                                       Dit to
                                                                                                          700 . Op
   FM20847
                                       Ditto
                                                                                                          700.0p
   FM20848
                                       ditto
                                                                                                          788:88
  AM381257 Home Owners Loan Corp Bond 3% dated 5/1/34 & coupon due 5/1/35 & Subsequent attachedop
  AX16100L
                                         di tto
                                                                                                          500.00
 AT611718J
                                        ditto
                                                                                                          100.00
 AR168249K
                                         ditto
                                                                                                           50.00
 AM79845E
                                         ditto
                                                                                                         1000.00
 AM79844D
                                        ditto
                                                                                                         1000.00
AMZ 9843C
AX31266F
                                        ditto
ditto
                                                                                                         1000.00
500.0p
AT121831A
                                         ditto
                                                                                                          100.00
AR32462B
                                         ditto
                                                                                                           50.00
MB34690L
MB7989K Home
              Owners Loan Corp Bond 24% dated 8/1/34
                                                                                                          25.00
        & coupon due 2/1/35 & subsequent attached
                                                                                                       1000.00
  M97990L
                                          ditto
                                                                                                       1000.00
  X41949K
                                          ditto
                                                                                                       500.00
  T161921A
                                          ditto
                                                                                                        100.00
  P45760L
                                        ditto
                                                                                                         25.00
  33551 State of Ala. 4½% 1935 Pub.Rd Hgy & Bridge Bond & Coupon due 3/1/35 actached
                                                                                                       1888:88
  33553
33554
                                          ditto
                                                                                                       1883:88
  33555
                                          dktto
                                                                                                       1000.00
                 B-2792/shares of New Hampshire Fire Ins.Co.par value $10.a share. D-2799 25 shares The Birmingham Water Works Co. 6% professed normal
  Stock; Cert.
                                     The Birmingham Water Works Co. 6% preferred parvalue $100.a share
                 P-2809 25 shares The Birmingham Water Works Co. 6% preferred par value $100 a share.
                D-358 50 shares Alabama Power Co. $6.per annum per share preferred BK-0-3669 50 shares
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American Express Company's Traveler's check (14 \$20 checks) \$280.00

74 shares Heineke-Schuster Realty Co., of Birmingham par value \$20.per spare

388 2 shares Masonic Temple Ass'n of Birmingham par value \$10.

ditto

ditto

ditto

134 1 share independent Publishing Co.par value \$100.

950 766 shares Round Mountain Mines Co., par value.50. No Value:

A-56 5 shares Bankhead Realty Cd. par value \$100.497- 3 shares The Gadsden National Bank Cert.

BK_0-9654 25 shares

BK/o-14137 20 "

BK/0-9882 25

100 shares Kentücky Racing & Breeding Assin par value \$1. 1287

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18-2000 Shares Alabama State Development Co. Pay value $100.
     77- 2000 shares Round Mountain Hydraulic Mining Co., par value $1.
     78- 2000-shares
                              Ditto
                               ditto
                               ditto
                              ditto
                              ditto
          #654 500 shares Jumbo Copper Mountain Mining Co;, par value $1.
             35 25000 shares Nevada Rosebud Mining Co. Par value $1.
   314 500 shares Tonopah Gold Butte Mining Cd., Par value $1. 1314 500 shares Mohawk Florence Leasing & Mining Co.par value $1.
   1317 500 shares Mohawk Florence Leasing & Moning Co. par value $1.
     55 1000 shares The Loftus-Davis Leasing Co., par value $1.
        100 shares The Nevada Exploitation Co Par value $1.
        1000 shares Mohawk-Jumbo Lease o par value $1.
                         ditto
        1000 shares
     21 500 shares Price-Goldfield Silver Pick Leasing Syndicate par value $1.
                         ditto
         500 shares
        3000 shares Fairview Ora Plata Mining Co. par value $1.
         50 shares Florida Fullers Earth Co., par value $10.
        100 shares Florida ullers Eath Co. preferred, par value $10.
Real Estate:
            Lots 7 to 10, inclusive, Block 129, according to the survey of North Birmingham
 Land Company in Birmingham, Ala.,
 An undivided one-half interest in Lot 6, Block 54, according to the survey of Elyton Land Cd.,
in the City of Birmingham. Alabama. Lots 11 & 12 and South 10 feet of Lots 9 & 10, Block 186
according to survey of Elyton Land Co., in the C ity of Birmingham, Alabama.
 Real estate in other states. T 25 Range 22 E Baker County, Florida (40) acres.
 Lot 16, Block 28, Riverside Survey, Miami Florida. Unidvided 1/2 int. Tracts Nox 70 and 75,
1st addition to Loma Mesa County, Colorado (20A)
 Real estate; The south 100 feet of west one half of Lot 5, Block 4, according to survey
of the Elyton Land Company in Birmingham, Alabama, (acquired by mortgage foreclosure 7/17/34.)
 The South 100 feet of West one half of lot 6, Block 4, according to turvey of the Elyton
 Land Company in Birmingham, Alabama (Acquired by mort gage for eclosure 7/17/34).
The South 100 feet of East one-half of lot 5, Block 4, according to survey of the Elyton
Land Company in Birmingham, Alabama, (ac quired by mort gage for eclosure 7/17/34).
     That certain lot of land according to present plan and survey of the City of Birmingham
 accreencing at a point on north side of Avenue "J" (10th Avenue South), 50 feet in an
 Easterly direction from Northeast corner formed by intersection of North line of said Avenue
 and East line of 16th Street; thence run in an Easterly Tirection along North side of said
 Avenue 50 feet; thence in Northerly direction and parallel with said 16th Street 1822 feet;
 thence in Westerly direction and parallel with said Avenue 50 feet; thence in Southerly
 direction parallel with 16th Street 1822 feet to point of beginning, being in Block 785, also
 right to alley 12% feet as covenanted in deed to Lillie Vorenburg by Amnie L. Tanner and
 husband, bearing date September 19th, 1906, recorded in office of Judge of Probate in and for
 said County, (acquired by mortgage foreclosure 7/17/34.)
 Lot 3 and West one half of Lot 1, in Block 142, according to North Birmingham Land Company's
surveyyof North Birmingham, (acquired by mortgage for eclosure 7/17/34.)
 Lot 2, Block 2, according to survey of Montgomery & Parks, map of which is recorded in the
office of the Judge of Probate for said County, deed book 112, page 543, (acquired by mort gage
fore closure 7/17/34.) Mort gages: Carrie D. Tuckerman(original)$15,000.00 dated 6/26/25, due 6/26/29 recorded in Book 715, page 52, in Circuit Clerk's Office, Dade County, Florida. Unpaid principal
|$11,500.00 and 8% interest from 6/26/31;adso payments made by Mortgagee becoming part of mortgage
 debt; 4/19/33 insurance premium $35.10;4/21/34 Insurance Fremium $45.60;4/13/33 tax redemption
$566.42. N.E. Second Avenue Company (Major Schiefield)$10,000.00 dated 5/25/23.due 5/25/26.
recorded in Book 198, page 247, in Circuit Clerk's office, Dade County, Florida, and 4% interest
from 5/25/31. Lillie Maude McDaniel, $25,000.00 dated 9/14/26 due 9/14/28 recorded in Book
723, page 237, in Circuit Clerk's office ,Dade County, Florida, and 4% interest from 9/14/30 less
credit of $400.00 payment. Also added to mortgage debt payment made by Mortgage e of $1588.37 for
improvement liens on 10/31/34. Lillie Maude McDaniel to Elizabeth V. Harisson & Charles W.
||Harrison, $5000.00 dated 2/23/25 due 2/23/30 reconded in Book 342, page 225, in Circuit Clerk's
office, Dade County, Florida, and transfer of said mort gage from Elizabeth V. Harrison to Grace T. Heineke, dated 1/16/30 recorded in Book 116, page 208, in Circuit Clerk's office, Dade County,
Florida, and 4% interest from 9/14/30.
 J R McDaniel, et al. $2500.00 dated 2/1/30(note dated 2/22/30 due 2/22/33 recorded in Book 804,
page 371, in 'Uircutt Clerk's office, Dade County, Florida, and 6% interest from 8/22/34 and unpaid
 checks of $75.00 and $6.00. Sinkler E Scholze, $570.00 dated 5/7/31, due 5/7/32, recorded Vol 2301
page 319, in Office of Judge of Probate Jefferson County, Alabama and 8\% interest from 5/7/32.
 L. A. Schuster, \#2000.00 dated 4/23/3 due 4/23/34, recorded vol 2335, page 7, in office of
Judge of Probate, Jeffers on County, Alabama, and 6% interest from 10/23/31.
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John Greif, $3500.00 dated 1/8/32, due 1/8/34, recorded Vol 2395, page 448, in office of Judge of
 Trobate of jefferson wounty of Alabama /and 8% interest from 1/8/34 to 2395, page 500, in office of
 Judge of Probate, Jefferson County, Alabama, and 7% interest from 7/8/32.
 J W & W J NcDonaid, $15,000.00 dated 8/1/31, due $1000.00 8/1/32; $1000.00 8/1/33; $1000.00 8/1/34
 $1000.00 8/1/35; $11,000.00 8/1/36; recorded Vol 2359, page 192, in office of Judge of Probate of Jefferson County, Alabama, and 5% interest from 2/3/34 less credit of $300.00 paid 11/23/34.
 Annie B. Brown, $10,000.00 dated 8/9/29 due 8/9/32, recorded Vol 2151, rage 102, in office of Judge
 of Probate, of Jeffer son County, Alabama, and 6 interest from 2/9/31.
Annie B. Brown, $6000.00 Collateral note dated 9/3/31 due 3/31/34 secured by mort gage and $20,000.00
 unnaid principal notebof Clarence mulling and Hunter Armstrong Estate dated 3/31/26 due
 3/30/34 recorded vol 1564, page 41, in office of Judge of Prohate of Jefferson County, Ala.,
 and 6% interest from 9/30/33 less credit of $52.55
 Jesse T.Gudger, $2500.00 dated 4/7/26 due 4/7/31, recorded Vol 1564, page 323, in office of Judge
 of Frobate of Jefferson County, Alabama, and 8% interest from 10/7/31 and $36.60 int prem paid
 by Mortgage e 9/24/34.
 Domencie & Concettini Calderello, $4700.00 dated 7/31/29, due $500.00 7/31/30; $500.00 7/31/32;
 $500.00 7/31/32 & $3200.00 7/31/33, recorded Vol.2148, page 128, in of ice of Judge of Fronate of
 Jefferson County, Alabama, and 7% interest from 7/31/30 less credit of $50.50
 mrs Lizzie Westbrooks, $1000.00 dated 3/15/32 due 3/15/35 recorded Vol 2400, page 540, in office of
 Judge of Pronate, Jefferson County, Alabama, and 7% interest from 9/15/34.
 Will Miles, (original) $400.00 dated 4/4/30 (40 notes $10.each, int included due, 1st note 5/4/30,
 and one note 4th each month last note due 8/4/33, 25 notes unpaid due 8/4/31 to 8/4/33.inc.add
 8% interest from maturity, recorded Vol. 2229, page 123, in office Judge of Probate of Jef er son
 County, Alabama.
Annie B. Brown, $6000.00 dated 11/5/23 due $500. 11/5/25;$500. 11/5/26;$500.11/5/27 & $4500.
 11/5/28, recorded Vol. 1285 page 261, in office of Judge of Fronate of Jefferson County, Alabama,
and 7% interest on $500 from 11/5/25; on $500 from 11/5/25; on $500 from 11/95/26 and on
 $5000.00 from 5/5/27.
 Annie Tobia, $400.00 dated 10/1/30 due 10/1/33, recorded Vol 2281, nage 425, in office of Judge of
 Fro bate, of Jefferson County, Alabama, and 6% interest from 10/1/32.
 Mary Bahakel, (original) $6500.00 dated 3/1/23 due 3/1/29 recorded Wol 1527, pake 137, in office Judge
of Pronate Jefferson County, Ala., $5000.00 unpaid principal and 7% interest from 9/1/30 less credit
 $10.00 padd 3/2/33.
Fannie W. Smith, $50,000.00 dated 4/16/30 due 4/16/35, recorded Vol 2242, page 54, inoffice of Judge
 of Pronate, Jeffer son County, Alabama, and 5% interest from 10/16/34.
 Liza Newman (Original) $30,00.00 dated 8/20/30 due bal. of principal $100.00 2/27/32;100.00 8/20/32p
$100 2/20/33; $2500.00 8/20/33 and $55.00 on $100.00 due 8/20/31.recorded Voi .2275, page 75,
 in office of Probate Judgee of Jefferson County, Alabama and 8% interest from 8/20/31 on $2855.00 and $2222 $8.25 ins. prem paid 9/24/34 by Mortgagee.
 Henry L. Evans $900.00 dated 6/16/25 due $300.00 6/16/26;$300.00 6/16/27;$300.00 6/16/28 , recorded vol 1432, page 97, in office Judge of Frobate of Jefferson County, Alabama, and 8% interest from
  12/16/28 less $100.00 paid 10/10/34.
Charley May, $100.00 dated 4/18/32 due 4/18/33 recorded Vol.2403, page 401, in office of Judge of
 rrobate of Jefferson County, Alabama, and 8% interest from 4/18/34.
 Henry Ruff to W. G. Schuster (original) $13,800.00 dated 3/6/28 due unpaid principal $1450.00
 on $3450.00 note due 3/6/32 recorded Vol. 152, page 283, in office of Judge of robate of Shelby
 County, Alabama, Transfer from W. G. Schuster to Grace T. Heineke, dated 8/13/28 recorded Vol 86,
 page 481, in office of Judge of Frobate of Shelby County, Alabama, and 6% interest from 9/6/34.
  Has. H. Leslie (W A Watts) original $11,000.00 dated 6/11/25 due unpaid princ.$500.00 6/11/28;
 $500.00 6/11/29;$7000.00 6/11/30, recorded Vol 1431, page 577, in office of Judge of Probate Jefferson County, Alabama, and 8% interest from 6/11/32 less $50.00 paid 10/27/34 and $50.00
 paid 11/30/34.
  J.O. Hassell (Original) $5322.00 dated 1/2/28 due $3000.00 1/2/33; 60 notes $38.70 each due 1st note 2/2/28 and
  one note 2nd day of each month (6% int.included in $48.70 notes) unbaid the $3000.00 note and 26 notes
 of $38.70 each due 12/2/30 to 1/2/33 inc. and 6% interest from maturity and 6% interest on$3000.00 note from 1/2/30, recorded Mol 2463, page 164, in office of Judge of Frobate, Jefferson County, Alabama.
 Costis Rerliki(original)$3500.00 dated 5/34/28 due $2500.00 5/24/33 and 28 notes $35.00 each and
 one note $20.00 lst note due 6/24/28 and 1 note 24th day of each month, unpaid notes $2500.00 and 10 notes of $35.00 each and 1 note of $20.00 due 12/24/29 to 9/24/30, inc.$350.00 notes $ 10/24/30
  $20.00 note (total $370.00) and 8% interest from 5/24/28 and 8% interest from 11/24/29 on $2500.00 note,
  recorded Vol. 1899, nage 597, in office Judge of Frobate of Jefferson County, Alabama.
  Costis Terliki Original $2000.00 dated 5/24/28 due $1500.00 5/24/33 and 25 notes $20.00 each due Ist note 6/24/28 and 7 notes $20.00 each due Ist note 6/24/28 and 7 notes $20.00 each
  due 12/24/29 to 6/24/30, inc.total $140.00 and 8% interest from 5/24/28 and 8% interest on $1500.00
  note from 11/24/29, recorded vol 1900, page 67, in office Judge of Frobate Jefferson County, Alabama.
  Maria & Carol Pasquini unsecured notes dated 6/7/34, 6 notes of $7.00 each due 12/7/34, 1/7/35, 2/7/35,
  3/7/35, 4/7/35, 5/7/35 & 1 note of $9.69 due 6/7/35—-$51.69
 Lillie & Sarah Trippi, unsecured note dated 5/10/32 due 12/15/32
                                                                           $50.00
 L. C. Mauck, (Mtge Ford Car) note dated 4/5/30 $20.00 due 3/5/31 & $30.00 due 4/5/31.
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Check of Shutts & Bowen Trust Acct on First National Bank of Miami, Fla, dated 11/29/34 $270.63
 Savings Account, Industrial Savings Bank, and semi-amual interest which was due 1/1/35/2264.46
                                                                                                 2.35
 Steiner Brothers Bank, deposit, open acct.
                                                                                              3780.74
 B'Ham Trust & Savings Co.
                                                                                              4689.31
First Natl Bank, Niami Fla.
                Exhibit "D"
List of Assets Indentified as Belonging to Estate of
                Grace T. Heineke, deceased.
 Bonds: \#G00158777- Liberty Loan 4\frac{1}{4}\% of 1933-38 with interest coupon due 4/15/35 and all
                                                                                      10000.00
 subsequent thereto attached.
 D00008044D00055724
D00018294
                         ditto
                                                                                      10000.00
                         ditto
                                                                                        500.00
                         ditto
 C00118293
                                                                                       500.00
                         ditto
 E00118295
                                                                                       500.00
                         ditto
 F00118296
                                                                                       500.00
                          ditto
 G00118297
                                                                                       500.00
                          ditto
 D00756724
                                                                                       598:88
                          ditto
 C02193463
 A007380861-First Liberty Loan converted 44% gold bond of 1932-47
  with int. coupon due 12/15/34 and subsequent thereto attached
                                                                                         50.00
             Liberty Loam of 1917-1932-47 3\frac{1}{2}\% with int.coupon due 12/15/34 and
 88 1351
                                                                                         50.00
 subsequent thereto attached.
 3. Masonic Temple Ass'n of Birmingham, Ala.6% gold bonds in amount of $1,000.00 Heack
#1201, 1202 and 1203 with int.coupons due 7/1/33 and subsequent thereto attached 3000.00
 3 National Union Nortgage Corp-special int.notes #AE3090, AE 3091, AE 3092 and 3 twenty year collateral Trust bonds, serial A.in the amount of $800.00 each, bearing same numbers as Special
 Int.notes with int.coupons due 1/1/35 and subsequent theretoattached
                                                                                       2400.00
 3 Associated Mortgage Co's 20 year debentures #FM20850 for $700.00,FM20851 for $700.00 and
FD3142 for $350.00 with int. coupons due 12/1/34 and subsequent thereto attached 1750.00
Participation certificate #234 of Continental Mort gage Co of Ashville, N. C. 5000.00
18 Woodward Iron Company 5% Sinking Fund Gold First and Consolidated mort gage Bonds in
 amount of $1000.00 each \#659, 660, 661,1392, 1393,1394,1396,11777 to 11786 inclusive with
interest coupons due 1/1/33 and all subsequent thereto attached
                                                                                    18000.00
5 County of Mobile 4-3/4% Road and Bridge bonds in the amount of $1,000.00 each #746,747,748,
749,750 with interest coupons due 12/1/34 and subsequent thereto attached
                                                                                     5000.00
 1 share of Heineke-Schuster Realty Company Certificate #2 Note of Chas A.Froehlich dated 7/18/32
in amount of $229.50 with certificate #D12210 for 27 shares Standard Oil of Ky, Com.attached as
collateral.
Jeweiry:
5 uld gold watches, 2 men and 3 ladies. 1 Pair ear rings-2 gold bracelets 1 Pin to match
5 watches chains-1 Ornament chain- 1 Pair Cameo Cuff Links- 1 wrist watch- 1 String of nearls with pendant-1 Masonic diamond ring- 3 Solitaire diamond rings-1 Pair ear rings, small diamonds-
1 Twin diamond ring-1 ring, rearls and turquoise-1 Cameo Fin 1 Shrine emblem-4 diamonds, 1 ruby-
1 Pair ear-rings, cluster of diamonds- 1 Dress pin, cluster of diamonds-
uld voins:
5 Silver $1.00 13 Silver.50 7 1/2dimes, 8 dimes 2 $1.00 Gold pieces- 3 Old $1.00 bills
1 $5 Gold piece- 5 $2.50 gold pieces- 1 1/2 dime-
Household and furniture and spods.
Savings account in Birmingjam Trust and Savings Company of about$28,000.00 out of which must be
paid attorney's fees, guardians commissions, bond pre, iums and court costs in guardianship
pro ceedings.
Filed in Office Feb 16, 1935.
                                 Birmingham Trust & Savings Company, ) In the Citcuit Court muenth
                                                                       Judicial Circuit of Alabama,
                                 et al,
                                 Complainants,
                                           VS.
                                Clara Swain, et al,
                                                                              In Equity
                                    Respondents
                                                                           No. 38,551
                                   DECREE
 This cause coming on to be heard was submitted for final decree upon pleadings and proof, as
 notes by the Register, and the same being duly considered by the court;
  IT IS THEREFORE, OFDERED, ADJUDGED ANT DECREBO BY THE COURT AS FOLLOWS:
1- That under the pwovisions of the last will and testament of Julius H. Heineke, deceased, his
wife, Grace I. Heineke, took only a life estate in the property and assets belonging to his
 estate with power to sell, convey, invest and reinvest the same and also with power to expend
 the same or consume the same for her own benefit but that all of said property hot so consumed or
 expended and the proceeds thereof or the reinvestments thereof are subject to the bequests,
remainders or devises over upon her death contained in the will of said Julius H. Heineke,
 deceased, and that all of the property and assets described in Exhibit "C" to the bill of com-
plaint filed inthis cause constitute a part of the estate of Julius H. Heineke, deceased, and are subject to the bequests, devises and remainder contained in his will.
 2- That the administration of the estate of Julius H. Heineke, deceased, has not been finally
settled and that the effect of the settlement made by Grace T. Heineke, as the Executrix
of his will in the Frobate Court of Jefferson County, Alabama, in connection with the
administration of his estate was only to relieve her of further accounting to the Probate
Court for the administration of said estate. That it was the intention of said testator
that at the death of his wife, the said Grace T. Heineke, the Birmingham Trust & Savings
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Company, a body corporate of Birmingham, Alabama, should succeed her as Executions of said

will for the purpose of completing the administration of said estate, paying the legacies

or bequests given by said will and making distribution of the remainder of said estate in accordance with the provisions of said will, all of which must necessarily take place after the death of his wife. That the administration of said estate of Julius H. Heineke, deceased, he and the same is hereby removed from the Probate Court of Jefferson County, Alabama, to Mhis court, and the Register of this court is hereby directed to notify the Probate Judge of Jefferson County, Alabama, of said removal. 3- That the Birming am Trust & Savings Company is hereby appointed Executor of said last will and testament of Julius H. Heineke, deceased, to complete the administration of said estate. the payment of the legacies and bequests therein provided, the collection of the assets belonging thereto and the distribution there of in accordance with the provisions of said will, and in connection therewith the said Executor shall have all of the powers and duties ordinarily incident to those of an Executor and of a Reveiver in Equity of all of the property and assets belonging to said estate, with leave to apply to this court for specific authority or instructions whenever deemed necessary. The court is of the opinion that the testator did not relieve the Birmingham Trust and Savings Company from giving bond as such Executor, and it is directed that letters testamentary be issued to it by the Register of this court upon the execution and filing in this court by it of a good and sufficient bond as such executor in the sum of Three Hundred Thousand Dollars, with surety to be approved by the Register of this court.

- 4- That the bequest of Five Thousand (\$5,000.00) Pollars to August Heineke given by Item "E" of the will of Julius H. Heineke, deceased, did not hapse by reason of his death subsequent to the death of the said testator but prior to the death of his wife, the said Grace T. Deimeke, and the said bequest is payable to the personal representative of the estate of the said August Heineke or to such spersons as may be entitled to receive the same as distributees of his estate. 5- That the promerty and assets described in Exhibit "D", attached to the bill of complaint in this cause, constitute the estate of Grace T. Heineke, deceased, and are subject to the administration of her estate thereon.
- 6. That this cause be and the same is hereby retained for such other and further orders as may be from time to time deemed proper. Costs are hereby taxed against netitioners herein for which execution may issue.

Done and ordered, this 15th day of May, 1935. E.M. Creel,

Circuit Judge Sitting in Equity.

Filed in Office May 15, 1935.

The State of Alabama, Jeff erson County

LETTERS TESTAMENTARY

Circuit Court, Tenth Judicial Circuit of Alabama, In Equity. May 17, 1935.

The will of Julius H. Heineke, of the said County having been duly admitted to record, insaid County, Letters Testamentary, are hereby granted to Birmingham Trust and Savings Company, the Executor named in said will, who have complied with the requisitions of the law and are authorized to take upon themselves the execution of such will. Dated, this 17th day of May, 1935.

G. H. Boyd, Register.

The State of Alabama. Circuit Court, Tenth Judicial Circuit of Alabama, in Equity. Jefferson County)

1, G H Boyd, Register of the Circuit Court, Tenth Judicial Circuit of Alabama, do here by certify that the foregoing pages Sumbered from One (1) to Twenty four (24) inclusive, contain a full, true and correct copy and examplification of the Bill of Complaint, filed Feb. 16, 1935. Final Decree reddered May 15, 1935, and Letters Testamentary on Will of Julius H. Heineke granted to Birmingham Trust & Savings Company on May 17th, 1935, in the cause of Birmingham Trust and Savings Company, et al, Complainant, vs. Clare Swain, et al, Respondent, as appears of record ih said Court. Witness my hand and the seal of said Court, this the 12th day of June, 1935.

G. H. Boyd, Register.

The State of Alabama,

Hefferson County.)
I, E. M. Creel, Judge of the Circuit Court, Tenth Judicial Circuit of Alabama, do hereby certify that G. H. Boyd, whose name is signed to the preceding certificate of exemplifications is the Register of the Circuit Court, Tenth Judicial Circuit of Alabama, duly appointed and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the said examplification is the seal of the said Circuit Court, Tenth Judacial Circuit of Alabama, and that the attestation thereof is in due form of

law. This the 21th day of June, 1935.

E.M. Creel, Citcuit Judge.

The State of Alabama,

Jefferson County)
I. G. H. Boyd, Register of the Circuit Court, Tenth Judicial Circuit of Alabama, do hereby certify that Hon. E. M. Creek, whose name is signed to the foregoing certificate, is one of the Judges of the Circuit Court, Tenth Juducial Circuit of Alabama, duly elected and sworn and that the signature of said Judge is genuine.

In witness wheereof, I have hereunto set my hand and affixed the seal of said Court, this 12th day of June, 1935. G. H. Boyd,

Register.

Filed for record in this office September 9th 1935 at 1 Pm and recorded in Deed Record 98. and examined. L C Walker, Judge of Frobate. page --