is called on to act upon, is the case remanded from the Court of Appeals, and to that case, certainly in the present stage of the proceedings, this Court is confined in its action.

The case decided by and remanded from the Court of Appeals, is that made out in the original bill; there the Complainants charge the first article of David Barnum's will to be void, because tending to perpetuities, and ask for an account of rents, &c, received under that will, and for a sale of the testator's estate and distribution of the proceeds, &c.

This view of the case the Court of Appeals sustained.

I have read, for instruction and light to guide this Court in the further proceedings in this cause, the opinion of that Court many times with care, and I learn from it, that the first article of the will, being held by the Court within the rule against perpetuities, is void; that the first article being thus disposed of, the second comes in and is operative, and that the children of the testator take by it a life estate only, with remainder over to the grand-children, of the latter, of whom the Complainants and some of the Respondents are, and that they, their parents, the life tenants being dead, are entitled to the relief prayed, that is, to an account of rents received by the Trustee from the leasing of the City Hotel property under the provisions of David Barnum's will, since the death of life tenants, for, certainly, the leasing of the property

under the clause of the will providing for it, and all rents paid and received and expended, and all acts done in view of it, in fair faith by the parties to the leasing and management of the estate in conformity with the provisions of the will, sustained as they were by the decree of this Court, would be held good, and as exonerating, to the extent of fair dealing, the Trustees, and those holding under them, up to the time that part of the will was declared void and inoperative.

It is, therefore, in the present stage of these proceedings, as remanded from the Court of Appeals, and until further proceedings are had, and testimony shall be taken with a view to final hearing shall, if ever determine otherwise, upon the Trustees under David Barnum's will, that the Complainants are to call for an account of rents, &c, and not upon the Trustee of the estate of Andrew McLaughlin.

The next prayer for relief, in the remanded case, is the sale of David Barnum's estate in the City Hotel property.

The City Hotel property as left by David Barnum, and that property as it had been enlarged and improved by Andrew McLaughlin at the time the bill was filed, was materially different, and in the question of a sale of David Barnum's estate, the question of what should be sold, would necessarily arise, and as of the essence of that question other issue would be presented of vital importance to the parties, which can only be determined after the