

in and by his last will and testament, and the said testatrix expressly declared that the aforesaid excepted property and estate, that is to say, the property and estate devised or bequeathed to or in trust for her by her father, was in no manner to be affected by her will. At the time of the death of the said Maria Mayo MacTavish, her two surviving sisters Emily MacTavish and Virginia Scott MacTavish, and her surviving brother Charles Carroll MacTavish were her heirs at law and next of kin under the laws of the State of Maryland.

16. On or about the 15th day of May 1919, the defendant Emily MacTavish was duly appointed administratrix o. t. a. of the estate of Maria Mayo MacTavish, letters of administration having been granted by the Orphans Court of Baltimore City, and thereafter she duly qualified as such administratrix, and on or about the 28th day of January, 1922, Emily MacTavish, Administratrix as aforesaid, passed her first and final administration account in said Court, in which she distributed the leasehold property of Maria Mayo MacTavish to the parties entitled. Thereafter in accordance with the order of the Orphans' Court of Baltimore City, Emily MacTavish Administratrix, by deed dated January 30, 1922, and recorded among the Land Records of Baltimore City in Liber S. C. L. No. 3822, Folio 314 & c., conveyed an undivided one-twelfth interest in the leasehold properties described in Complainants' Exhibit No. 4, to Charles Carroll MacTavish; an undivided one twelfth interest to Emily MacTavish; an undivided one-twelfth interest therein to Maria Wemaer and Anna Gysels jointly; and an undivided one-twelfth interest to The Safe Deposit and Trust Company of Baltimore. administrator d. b. n. o. t. a. of Virginia Scott MacTavish. A certified copy of said Administrator's deed is filed herewith marked "Complainants' Exhibit No. 8" and prayed to be taken as a part hereof.

17. On or about the 27th day of February 1919, said Virginia Scott MacTavish departed this life leaving a last will and testament duly executed to pass title to real and personal property in this State, which said will was duly admitted to probate in the Orphans' Court of Baltimore City on the 17th day of March 1919, a certified copy of which will is filed herewith and prayed to be taken as part of this complaint marked "Complainants' Exhibit No. 9."

18. By the thirteenth clause of the said will, the property and estate which the said Virginia Scott MacTavish inherited under the will of her father Charles Carroll MacTavish, or which she owned at the time of her death under said will, she gave, devised and bequeathed to the trustees nominated in said will under the trusts as therein set forth.

19. By the fourteenth clause of the will of the said Virginia Scott MacTavish, the real estate, money and investments which the said testatrix acquired from her sister Emily MacTavish under and by the deed above mentioned, dated October 6, 1883, she gave, devised and bequeathed to her said sister Emily MacTavish if she should be living at the time of the testatrix's death, and if also she should be entitled and able to use the said property for her own personal use.

20. The said Emily MacTavish was at the time of the death of the said Virginia Scott MacTavish living, and by the decree of this Court passed on the 29th day of March 1920, in the cause entitled Mary Bergin et al. vs. Alfred Jenkins Shriver, Trustee, et al. Docket No. 28 A.-159, has been duly adjudged to be entitled and able to hold and enjoy the said property for her own individual use. In the said decree it was further ordered, adjudged and decreed that the property and estate conveyed to the testatrix Virginia Scott MacTavish under the said deed of October 6, 1883, passed under the fourteenth clause of the last will of the said Virginia Scott MacTavish. A certified copy of the said decree last referred to is filed herewith and prayed to be taken as a part of this complaint marked "Complainants' Exhibit No. 10".

21. By the fifteenth clause of the said will of Virginia Scott MacTavish, the said testatrix gave, devised and bequeathed all the rest and residue of her estate and property of every kind, one-half to Mary Bergin absolutely, and one half to Charles Carroll MacTavish if he should be living at the time of her death; and at the time of the death of the said Virginia Scott MacTavish, Charles Carroll MacTavish was alive.

22. Your petitioners believe, and therefore allege, that the share of the estate of Charles Carroll MacTavish, Sr, devised and bequeathed to his daughter Maria Mayo MacTavish at her death passing