

Ditch executed his said Last Will and Testament, he had leased to Ditch Brothers, Incorporated, comprising a group of buildings fronting on Twenty-first street with numbers on Twenty-first street of 11, 13 and 15 East Twenty-first Street and extending down Lovegrove alley for a considerable distance and also a building on the east side of Lovegrove alley connected with the buildings on the west side thereof by an overhead bridge were generally known and referred to as one group of buildings under the numbers, 11, 13 and 15 East Twenty-first Street; all were rented by Luther B. Ditch to Ditch Brothers, Incorporated, and in all of them said Ditch Brothers, Incorporated, were at said time carrying on the dairy, confectionery and garage business except that the first floor of the building on the east side of Lovegrove alley was at said time subleased by Ditch Brothers, Incorporated, to a subtenant; the second floor of said building, however, was used and occupied by Ditch Brothers, Incorporated, in their said dairy, confectionery and garage business. Your Orators aver as aforesaid that one or more of the defendants herein have notified your Orators that, in the opinion of said defendant or defendants, the building owned by the Trust Estate of Luther B. Ditch on the east side of Lovegrove alley and separated from the buildings on Twenty-first street and the west side of Lovegrove alley by an overhead bridge (which has since been removed) does not pass to the said Winfield Scott Ditch under the clause of the said Will of Luther B. Ditch quoted in this paragraph of this Bill of Complaint, but your Orators believe and aver and are advised that the said clause of said Will includes all of the properties fronting on Twenty-first street and in the rear thereof on the west side of Lovegrove alley as well as the building on the east side thereof connected with the said other buildings at the time of the making of said Will by an overhead bridge and under lease at said time to Ditch Brothers, Incorporated, and in part at least occupied by Ditch Brothers, Incorporated, in their said dairy, confectionery and garage business.

ELEVENTH. That it is now the duty of your Orators to distribute the corpus of the Trust Estate in accordance with the fifth and sixth clauses of the Will of the said Luther B. Ditch. Your Orators aver that if the said Trust Estate is sold in order to make distribution and division thereof great loss and injury will be occasioned to all of the parties interested in said estate and that all of the devises and legacies set out in the said Will of Luther B. Ditch in remainder after the death of his said wife can be paid without loss or injury to any of the parties interested in said Trust Estate by delivery of portions of the trust property in kind, and your Orators have prepared a distribution account distributing the entire corpus of said Trust Estate in kind, which said account is filed herewith marked, "Complainants' Exhibit No. 4," and which is prayed to be taken as a part hereof. In said distribution account your Orators have distributed to Winfield Scott Ditch as part of the properties 11, 13 and 15 East Twenty-first street, not only the buildings in the rear of said numbers on the west side of Lovegrove alley, but also the building connected therewith at the time when said Will was made by overhead bridge and fronting on the east side of Lovegrove alley.

TWELFTH. That your Orators are advised that all of the items of income from the said Trust Estate of Luther B. Ditch falling due on or prior to April 17th, 1932 (the date of the death of the said Martha Alice Ditch), whether for income then accrued or for rents payable in advance, belong to and should be paid over to Chester F. Morrow, Executor of Martha Alice Ditch, the defendant herein, and that the said estate of the said Martha Alice Ditch is also entitled to that portion of the income from the Trust Estate of Luther B. Ditch arising out of investments in mortgages and corporation bonds, (which is interest accruing from day to day) from the date of the last payment of interest on such investments, respectively, up to April 17th, 1932. All items of income from said trust property arising out of ground rents or rental of properties falling due from and after April 17th, 1932, whether for a rent period then expired or in advance, are a part of the corpus of the