

SIXTH: That the said Anna S. Kemp then devised the remaining one-third for the benefit of her son, Harry M. Kemp, one of the Defendants, and then, after his death, to his children, the other Defendants, as set forth in said Will, whereby certain trusts certain trusts are created for the benefit of the said Harry M. Kemp for and during his life, and also for the benefit of his wife, Mattie M. Kemp, whose full name is Mattie Marcella Kemp, and is also one of the Defendants, all of which will more fully appear by reference to the aforesaid Last Will and Testament, a certified copy of which is filed as Exhibit No. 1, aforesaid.

SEVENTH: That a question has arisen as to the true and proper construction of said Last Will and Testament, especially as to the item devising the farm to D. Chester Kemp, the Plaintiff, and that, as to the repugnancy between the devise of one-third of the Estate, to the said D. Chester Kemp, and then the attempted imposition of an obligation upon the said D. Chester Kemp, to purchase the home farm, mentioned in the said Last Will and Testament of Anna S. Kemp, at and for the sum of Thirty-four Thousand Dollars (\$34,000), the question being: Is the devise of one-third of the Estate to D. Chester Kemp predicated upon his acceptance of the farm, at and for the sum of Thirty-four Thousand Dollars (\$34,000), so that if he refuses to take said farm, does such action affect the devise to him of one-third of the Estate, and, if yea, how?

EIGHTH: That the real estate of the said Anna S. Kemp has been appraised, as shown by the enclosed copy of the Inventory herewith filed as Exhibit No. 4, wherefrom it appears that the home farm mentioned in the aforesaid Clause of the said Anna S. Kemp's Will, is appraised at Twenty Thousand Dollars (\$20,000), and, hence, the said D. Chester Kemp claims that it would be inequitable and unjust to require him to pay the sum of Thirty-four Thousand Dollars (\$34,000) into the Estate, it being his contention that no such requirement is imposed upon him, but that he can refuse to accept said farm and not relinquish or forfeit his interest in his mother's estate, in view of the express declaration of her Will of her intention "to equalize her estate" among her "three children".

NINTH: That the real estate of which the said Anna S. Kemp died seized and possessed is not susceptible of partition in kind, neither can it be divided among the parties entitled thereto, without loss or injury.

TENTH: That it would be to the interest and advantage of all the parties, and especially to the infant Defendants, to have said real estate sold, and the proceeds thereof distributed, in conformity with the Last Will and Testament of the said Anna S. Kemp, under proper construction, to the parties entitled thereto, according to their respective interests.

ELEVENTH: That the Plaintiffs hereby invoke the intervention of this Honorable Court, in order that the said Last Will and Testament may be properly construed, that the rights of the parties may be declared and enforced, according to the practice in such cases, and that their interests may be protected.

TWELFTH: That all of the parties to this proceeding are adults except Harry C. Kemp, Mary Kemp, and Frederick, M. Kemp, who are infants under the age of twenty-one years, and are children of Harry M. Kemp and Mattie Marcella Kemp, his wife.

WHEREFORE, the Plaintiffs pray for the following relief:

(1) That the Last Will and Testament of the said Anna S. Kemp be construed by this Honorable Court, and all the interested parties be then instructed as to their rights under said Last Will and Testament.

(2) That the real estate of which the said Anna S. Kemp died seized and possessed be sold under a Decree of your Honorable Court, and Trustees to be appointed thereunder, and the proceeds thereof be divided among the parties entitled thereto, according to their respective interests.