

his executors should hold a certain other portion of his said residuary estate as trustees thereof to the use of all of the children of his (the said testator's) son David Smith, begotten or to be begotten, to be equally divided amongst them, and to be conveyed to them as fast as they should attain the age of twenty-one years, as by the said will and codicil, reference being thereunto had, will more fully and at large appear ;

That on the thirtieth day of March, one thousand eight hundred and forty-nine, the said testator departed this life without revoking the said will or codicil, and that the said executors and trustees therein named duly proved the same, and took upon themselves the administration of the said estate ; that the said Elias Peter Smith, one of the said executors and trustees, departed this life on the twenty-sixth day of December, eighteen hundred and sixty ; that the said two portions of the said estate, so directed to be held in trust as aforesaid, still remained in the hands of the petitioners as surviving trustees thereof as aforesaid, under and subject to the trusts of the said will and codicil ;

That all the said testator's children by his said second marriage have attained the age of twenty-one years except the youngest child, Wallis Smith, who on the twenty fourth day of January, Anno Domini one thousand eight hundred and sixty-three, departed this life, four months before he would have attained that age, leaving issue a posthumous daughter, born on the twentieth day of August, Anno Domini one thousand eight hundred and sixty-three ;

That before the death of the said Wallis Smith all the parties interested in that portion of the said trust estate so set apart for the said widow and children of the said testator by his second marriage, agreed that the same should be divided and conveyed to and amongst them, according to the intentions of the said testator, as soon as the said Wallis Smith should attain the age of twenty-one years, and that each portion or share thereof should be charged with an annual or other payment or amount for the support of the said widow during her widowhood ; that all the other parties are willing and desirous that such division should be made, but, in consequence of the death of the said Wallis Smith and the infancy of his said posthumous daughter, such division cannot now be legally made without the authority of an Act of Parliament ; that there are five surviving children of the said David Smith, two of whom have attained the age of twenty-one years ; that the said David Smith is now of the age of fifty-five years ; that his youngest surviving child is now of the age of twelve years or thereabouts ; that there is no probability of any further issue of the said David Smith ; that the said children are desirous that the said portion of the said trust estate to which they are entitled should be divided amongst them, but that, in consequence of

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