

[The facts of this case are fully stated in the opinion of the Chancellor.]

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THE CHANCELLOR :

On the 10th of December, 1834, the complainants filed their bill in this court, praying for relief against the representatives and devisees of Isaac Spencer, deceased.

It appears by the proceedings that William Spencer, of Kent county, departed this life in the month of March, 1822, having on the 3d of the same month duly made and published his will, containing the following provisions.

“I give and bequeath to my brother, Isaac Spencer, and his heirs and assigns forever, all my estate, real, personal and mixed, on these terms and conditions.

“After all my debts are paid, he is to call in two discreet persons (and he may consult the Orphans Court, if he may see proper, as to the persons) to make an estimate of the real value of all my estate, real and personal, and then adding to the number of his own children then living the two sons of my lamented brother, Jervis Spencer, George and William Spencer, and William Knight, son of my beloved niece, Charlotte Ringgold Knight, he is to ascertain what my estate will divide into, taking into consideration his own children then living, and the three above named, if alive, or so many as may be alive, and he is to pay to each of my brother’s children, and to William Knight, a sum that will put them each on a footing with his own children on the arrival of the said George Spencer, William Spencer and William Knight at the age of twenty-one years, without interest, taking into consideration the full value of all my estate, real and personal, and in case either the said George Spencer, William Spencer, or William Knight die before their arrival at the age of twenty-one years, my brother, Isaac Spencer, is absolved from the payment to any other person of such sum as the deceased would have been entitled to. But my brother, Isaac Spencer, is at full liberty to devise all my estate, real and personal, after complying with the foregoing provisions, to whomsoever he may see proper, but I should like, though I do not