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been twice married. That the said William W. Hoye after the death of his first wife, married a second time and had by second wife the following children, to wit: David Hoye who was born on the 12th of March in the year 1815 and died in the summer of 1849, but what representations or heirs at law he left this defendant does not know, except he left a wife and several children. Tabitha Hoye who was born on the 17th day of October 1816, and was married to Jeremiah L. Gorrend. William W. Hoye, who was born February 10th 1818 and died in October 1825. Daniel S. Hoye who was born September the 12th 1819. Edward Hoye who was born February 12th 1821. Maria Hoye who was born May 10th 1823 and married to Thomas H. Armstrong Catherine Hoye who was born February 5th 1826, and married William Ridgely (of Eli) Eli Hoye who was born November the 24th 1826, and died in the summer of 1844. Sarah Jane Hoye who was born March the 30th 1828 and died in April 1836. Elizabeth Hoye who was born May 13th in the year 1830. William D. Hoye who was born August August 19th 1832 and died in April 1836, and Mariam D. Hoye who was born in the month of July the 24th in the year 1834. That the said Mariam D. Hoye is the youngest child of the said William W. Hoye, and being born on the 24th day of July 1834 was not at the time of filing said Bill of Complaint nor now is eighteen years of age, and therefore whether the words "lawful age" used by the said Paul Hoye in his said last will and testament be construed by this Honorable Court to mean twenty one years, or eighteen years, the complainants had not at the time of filing their said Bill, nor have they yet the right to file their said Bill against this defendant, and the other defendants for the purpose of selling or dividing the real estate and negroes which were devised and bequeathed to said John Hoye in trust, for the purposes set forth and declared in said last will & testament of said Paul Hoye, decd. and to wind up and close said trust. and this defendant therefore insists on this fact and prays that he may have the benefit of it at the final hearing of this cause, as a full and sufficient answer as if it had been pleaded to said Bill of Complaint, to prevent and bar the further prosecution of the same. And this defendant denies that the said Marion D. Hoye was at the time of filing said Bill, or now is, of the age of eighteen years but says that she then was and now is under the age of 18 year.

And this defendant for further answer say that the whole trust property so devised as aforesaid, consisted at the time of the death of the said Paul Hoye, of the tract of the land called "The Gleanings" except one hundred and seventy six acres

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of said tract conveyed by said Paul Hoye to said John Hoye by his deed of bargain and sale, duly executed & delivered on the 15th day of June in the year 1801, and duly recorded in Liber I. L. No. 6, one of the Land Records of Allegany County, as by reference to the same will more fully appear & also except about sixty six & 3/4 acres conveyed by said Paul Hoye to Joseph Friend, by his deed bearing date on or about the ninth day of December in the year 1800 and recorded among the Land Records of last said County, as by reference to the same will more fully appear. That in addition to said tract of land called the "Gleanings" the said Paul also held a small tract called "Locust Thicket" containing 4 1/4 acres, as specified in his said last will, so that the whole real estate devised in trust as aforesaid, did not exceed the quantity of 4 942 acres & a half of land. The said tract called "Crab-tree Bottom" and the four soldiers lots of fifty acres each, are embraced by the lines, and constitute a part of the said tract called "The Gleanings" And that the negro man Harry, and the negro woman Rhoda, with her issue, & some farming utensils of small value, as also some stock of small value, constituted the personal trust property. That of the real estate there was not more than sixty or sixty five acres cleared & in cultivation & in meadow, and the improvements of little or no value compared to the improvements subsequently made by the said trustee. That the said William W. Hoye was at the time of his fathers death, and long subsequent, an indolent, intemperate and improvident man, and having a large family to support, & no other means except the said trust property, in the possession of which he & his children were at the death of the said Paul Hoye, enjoying the use and profits of the same, and so continued to the time of the death of the said William W. Hoye, the said John Hoye was obliged to furnish money, and other means for their support & maintenance & the education of the children from time to time, out of his own funds, to very large amounts. That the family of the said William W. Hoye increased very rapidly, so much so that the whole use and profits of said trust estate, were greatly inadequate to their proper support, and the proper education of the children of said W. W. Hoye. That the said John Hoye seeing this state of things and unwilling, as far as he could prevent it, to see the family of his brother the said William W. Hoye, grow up in great poverty and ignorance, gave them his best advice as to the proper management of the said trust estate so in their possession & used & enjoyed by them. And also from time to time advanced large sums of money to clear and enclose more land for cultivation, and to make all suitable improvements on the same for their comfort and conve-