of the premises aforesaid, according to their rights in said premises, and from the date of accrual thereof as aforesaid, but that by some arrangement between the executors of the said testator, and persons named in his said last will and testament, as Trustees for certain purposes therein expressed, the said Zenas Barnum and Andrew McLaughlin, had taken possession of the said premises, and had used and employed, and were still using and employing the same as and for the purposes of a City Hotel, and had thence derived and were still deriving large profits, and although they were aware of the rights and pretensions of your orators as aforesaid, they had refused and still refused to account with your said orators for the said profits so as aforesaid realized by them, or to permit your orators in any wise to share in the use and enjoyment of said premises. Wherefore your orators averring that said premises were incapable of advantageous division amongst the parties interested therein, prayed that the same might be sold under the direction of this Honorable Court, and that an account might be taken of the rents and profits derived by the said Zenas Barnum and Andrew McLaughlin, by the use and employment thereof as aforesaid, and for payment over to your orators of their just shares or proportions of the proceeds of sale, and of rents and profits realized therefrom as aforesaid, and for general relief, and so forth.

To which said bill and amended bill the defendants thereto answered, and other proceedings were had, and on the twenty-fifth day of November, in the year eighteen and sixty-two, a decree was passed by this Court dismissing said bill of complaint of your orators with costs, to be paid by them to the said Defendants, as by said bill, answers, decree and other the proceedings in the cause now in this Court will more fully and certainly appear.

And your orators further charge, that they entered an appeal from said decree to the Court of Appeals, and on said appeal such proceedings were had, that on the twenty-first day of December, in the year eighteen hundred and sixty-six, a decree was passed by the said Court of Appeals, whereby the aforesaid decree passed by this Court is reversed, and the cause is remanded to this Court for further proceedings therein, and it is directed that the costs of the suit be paid out of the fund to be realized and disposed of under the decree. The said Court of Appeals being of opinion that your orators were entitled to undivided shares or parts of the said buildings and grounds as claimed in and by their aforesaid bill of Complaint, and to an account of the profits realized from the use and employment thereof, as aforesaid; but were not entitled to any share or part of the aforesaid furniture and other chattels, as by a copy of said decree, and of the said opinion of said Court, now on file