subsequently and conclusively passed.

5. That in the bill of Respondent she distinctly averred as the foundation of her right to relief, that under the will of her late husband Charles Carroll MacTavish she was authorized and empowered as Trustee to make leases of his real estate with the consent and approval of Mr. Thomas C. Yearley. The answer of the defendants explicitly denied that she had any such power and authority and required proof of the same. A certified copy of the will of said C.C. MacTavish was accordingly filed as such proof with the Commissioner marked "Complainants Exhibit Commission No.1" and is now of record in these proceedings. Upon the issue thus joined and the proof thus given the case was heard and determined by this Court and the Court of Appeals, and this respondent insists that the question of her authority to make the lease in controversy, with the consent and approval of Mr. Yearley has been thus conclusively and finally adjudicated between the parties and is no longer open to discussion.

6. That even if the petitioner had any right to ask for a reopening of the case, and even if the matters alleged as cause for such reopening would furnish such cause, if true, the allegations in regard thereto are not, in any particular; that is t say:

It is not true as alleged, that by the last will of Charles Carroll MacTavish this Respondent has no authority, with the consent of the parties named in said will, to make leases for ninety-nine years.

It is not true, as alleged, that by the said will the consent of any of the children of this Respondent or of any other person is required to be given during the life of Mr. Yearley, to any leases which this Respondent may make

of the estate of her deceased husband, with said Yearley's consent, and even if the proper construction of said will did, (as it plainly and obviously does not) require the consent of her said children, or any of them, during the life of said Yearley, after the arrival of two of her said children at age, it is not true as alleged that two of them had arrived at age, at the time of the execution of the agreement for lease, of which the specific performance has been decreed.

All of the said allegations are false and merely vexatious and are in aid of a defence which was never anything but technical at best and has always been and still is dishonest. Respondent, if it should be held necessary or proper (which she denies) will readily procure the assent of her said children to the lease in question by their appearance in this cause and submission to the decree as rendered.

7. Respondent has no concern with the present rental value of the premises in question and she submits that if the petitioners and their codefendants after having agreed to take the lease in question (on the terms of the agreement now enforced) as a speculation as shown by the evidence, have incurred losses and depreciation of values by resisting for eight years the performance of their honest contracted obligations, it is only the penalty which is generally and justly paid for that sort of transaction.

Respondent prays that said petition be dismissed.

S. T. Wallis.

S. T. Wallis Jr.

Solrs for Respdts.

28th May 1884, Petition of administrators for leave to take testimony & order of Court thereon granting the same filed

Agreed Statement of Facts.