

"14. The trusts defined by the will are sufficiently certain to be carried into effect after the selection of the lot referred to, without requiring the personal direction of the executor, defendant herein, and moreover, in case of the death of the latter, certain other persons are, by the said will, nominated and appointed by the said testator to be executors in his place and stead."

The trust to select the site and build was the only one requiring personal discretion within a generation. And to secure this, the testator nominated two executors to succeed Mr. Williams after his death; (first codicil, clause XXVIII.) It is difficult to answer the contention that the estate goes to the heir at law, because Mr. Williams' "personal care, skill, taste, judgment and discretion," are alleged to be necessary to carry out, for all future generations, the testator's wishes as to the future management of the charity. To state such a proposition is to refute it.

Nor, apart from the act of 1855, is there any such trust as would fail for want of a trustee, for the same rule must then apply to a gift to an executor to purchase a dwelling for a testator's daughter.

"15. The complainant is debarred by his *laches* from controverting the provisions of the said will; and, by reason of lapse of time, no alleged invalidity of the codicils, or any part thereof, can now avoid the will."

The testator died on the 26th of May, 1869, and the will and codicils were proved on the 31st day of that month.

