

point where this fails to be shown, the original will stands undisturbed ;

1 Jarman on Wills, 159 ;

Lemage *vs.* Goodban, Law Rep., 1 Prob. and Divorce, 57 ;

In *re* Goods of Petchell, 3 *id.*, 153 ;

1 Williams on Executors, 185 ;

And the question of construction has already been considered ; *supra*, page 12.

"16. The complainant, while seeking equity, has not offered to do equity in this, namely, he has not offered to repay to the executor any moneys, part of the testator's estate, bequeathed for the use of this defendant, which the executor may have expended upon the lot of ground now claimed by the complainant."

It may be that the executor has spent, as he was directed to do, a great part of the estate in erecting a library building on the lot in question, and if so, confessedly without objection on the part of the plaintiff. If the latter should succeed in his claim for the lot, of course the building would pass with it, and the residuary devisee would lose just so much of the estate as it cost. It is so contrary to equity that the plaintiff should recover the lot, without making good this loss, that the question will hardly bear argument.

WM. HENRY RAWLE,  
R. C. McMURTRIE,  
*For Library Company, Defendant.*

