

ing, the trustee followed the directions of this unattested codicil. It was held by Vice-Chancellor Wigram: "It was argued that the codicil operated only with respect to the copyhold estates and the personalty. This argument is founded on a proposition which, in theory, is no doubt true, and, for some purposes, is true in practice, but it is not so for all purposes. The will in this case gives Leworthy powers large enough to do much that he has absolutely directed to be done during the life or continued incapacity of the lunatic, and the codicil certainly does not restrain it. Admitting that the powers given by the codicil would not authorize Leworthy to do some matters as to freehold which he might as to copyhold, *there is no reason why he should not, in the honest exercise of the discretionary powers given under the will, have regard to the known wishes of the testatrix, whether those wishes were obligatory or not.* Her wishes, communicated in conversation, would not be obligatory, but there is no reason why he should not attend to them in the exercise of his discretionary powers; and if he might, for that purpose, have regard to conversation not having any testamentary force, I do not see why he may not regard mere wishes, notwithstanding he derives his knowledge of them from the language of the codicil."

Expediency is different as looked at with the mental sight of different men. Dr. Rush knew this and prescribed the eyes through which it should be seen. He did not direct Mr. Williams to select the best lot; but to choose the one which HE should deem most expedient.

It has been decreed that such a lot shall be chosen as some appointee of the court shall select, though it may be one which the chosen trustee would utterly condemn.

