

it a "Decree," and precede the punishment with what, with grim humor, they call a "prayer."

There is no pretence that the executor's judgment in *ordinary* cases is defective, but simply that it has been unduly biassed in favor of one particular locality. Would not every end be gained by forbidding him to build there? The testator's wishes could still be partially carried out. Under the decree as made, however, this will be impossible. Few physicians would recommend decapitation as a cure for the headache.

We have shown that there is no precedent for equitable interference in a case like this, and we may safely assert that there is no precedent for an exercise by a Master, of a discretion confided to another, clear of all accusation of fraud, and in full possession of his mental faculties.

In most of the cases cited by complainants, there was a provision over, in default of appointment. Here there is none. The power must be executed by some one. Can any one else exercise it as well as the executor? The testator thought not. Why shall not his wishes be respected?

Is the Master to decide upon his own judgment or upon the judgment of others as gathered by him from their testimony? In either event we may confidently predict that a lot will be chosen such as Dr. Rush would never have selected.

Mr. Williams still possesses the right to say how much shall be expended in the building. The purchase of the lot and the erection thereon of a building, can only be economically and intelligently made, by the same person. Who must yield if there be a misunderstanding between the master and the executor as to the respective amounts to be expended upon the purchase, and the building?

In any event we submit, the present decree must be *modified*.