

to bring about equalization; and the executors are given power to charge the fee simple of the lands which are to be burdened.

The executors upon whom this duty devolves are all dead; and the first question calling for determination is, whether a new trustee should be appointed, and whether the powers were appurtenant to the office or personal to the executors named. I came to the conclusion upon the argument that the powers were personal to the executors, and that, there being no one who could exercise the power, the duty would devolve upon the Court, through its proper officers, to exercise the function imposed upon the executors by the will.

Counsel all agreed in this view; and it was then arranged that, instead of directing a reference, valutors should be named, who should value the different parcels. This valuation has now been made. In the result the parcel given to Hester is valued at \$92,000; the portion given to Eveline is valued at \$75,000; the parcel given to Charlotte, \$92,000; that given to Isabel, \$75,000; and that given to Laura, \$128,000.

The will itself is very obscurely expressed, and I have to determine whether, upon the true construction of the will, these values are the values which control and govern. I have come to the conclusion that they are. The testator has, I think, treated the daughter's share as covering that which is to go to her children upon her death; and the equality which he desires to have attained is not an equality between the life estates of the several daughters, but equality between the shares going to each daughter and her issue.

I think, further, that the words used in clause 18 indicate that what is to be valued is "the fee simple of the several properties," and that the distribution of the residuary estate and the charge upon the more valuable properties to be made for the purpose of equalization is to be treated as an increment to the less valuable shares, and that the sums to be set apart to produce this equalization must be held in precisely the same way as the less valuable shares are themselves held; that is to say, any money set apart from the proceeds of the residuary estate, or any money charged upon the more valuable property, will be held in trust for the daughter who has the less valuable property, for her life, and upon her death will go to her children and the issue of deceased children.

Disregarding for the present minor matters, such as the \$1,000 to be given to the daughter who is yet unmarried and the sums to be charged with respect to the small parcels of