

"Some weeks before Dr. Rush's death he was very anxious "to have the location of the intended building finally fixed "and settled. He desired Henry J. Williams, esq., to ascertain the size and cost of all the vacant lots on Broad street, "on which street he desired it to be placed."

Statements were procured by Mr. Williams.

"Another gentleman brought Dr. Rush a plan of the lot "on Christian street, and he was so much pleased with it, "that he desired Mr. Williams to buy it at once. Mr. Williams did so, and when the contract was signed, Dr. Rush "expressed great pleasure that it was concluded, as it relieved "his mind from all anxiety. Some days after Dr. Rush recurred again to this subject, as it had probably occurred to "him that he had given Mr. Williams an absolute discretion "as to the situation of the Library by the terms of his Will, "and that Mr. Williams might be induced to overrule his decision after he was gone. He called Mr. Williams to his "bed-side, and asked Mr. Williams to give him a promise "that Mr. Williams would build the Library on that lot, and "nowhere else. Mr. Williams gave him this promise as fully "and solemnly as language could express it."

This part of the appellant's history of the case is taken from the letter of the defendant, Henry J. Williams, esq., to Dr. Willing, printed in the report of Williams' Appeal, 23 P. F. SMITH, 258, changing only the pronouns to make the text intelligible.

This transaction occurred "within a month of Dr. Rush's death." (See *William's Appeal*, 23 P. F. Smith, 257.)

Dr. Rush did not fix all this by a Codicil, for he knew of the Act of April 26, 1855, declaring gifts to charities, within a month of the donor's decease, void. He had, in the alleged Codicil of May 16, 1866, denounced this statute as an "ill-conceived, inconvenient and mischievous law, resulting from a narrow sectarian spirit," and had (although wishing to

