

XIX. Shortly after your orators had heard of the dispositions of the testator's will, they also learned that the defendant, his executor, had formed the intention to select, as the site of the building to be erected under the terms of the trust, a lot of ground at the south-east corner of Broad and Christian streets, in the city of Philadelphia, and, indeed, the fact was so stated by him at the meeting of the shareholders on the 29th of June, 1869.

XX. This site was, in the general opinion both of the directors and shareholders, an undesirable one for the purpose. It was especially undesirable as a site for a building which should contain the collection of books of the Library Company. It was believed by all to be very inconvenient for the purposes of the said company as established and used up to this time, and it was believed by much the larger number that such a site would be injurious, if not destructive, to the interests and future prospects of the company, as the remoteness of the location from the residences or places of resort of all the shareholders, or persons accustomed to make use of the books, would, practically, prevent the library being used for the purpose for which it had been founded and had always been maintained,—and hence the income derived from contributions of shareholders, without which the institution could not be supported or continued, would cease. And your orators expressly show to the court that the said proposed site is not less than half a mile south of the usual places of resort of nearly all their shareholders, and more than a mile out of the line of travel of the large majority using, or entitled to use the library.

XXI. As evidence of the general conviction of this, and of the ruinous consequences to the library, they aver that the very large number of votes, to wit, 293 votes, cast against any acceptance of the provisions of the devises and bequests of Dr. Rush—being only five less than the majority—was caused by a fear that the company would be obliged to remove their