

argument would prove too much, and exclude all controversial writings on the five named topics, viz. :—

Science,
Government,
Theology,
Morals and
Medicine,

although containing, to use the testator's own language, "temperate, sincere and intelligent inquiry and discussion."

In order that the plaintiff should sustain this part of his contention, he must show that the testator's directions to violate the law are so plain that nothing but such violation would be within the terms of the trust.

"6. If, as alleged in the bill, certain parts of the said testator's scheme for a library are impracticable or illegal, this will not defeat the scheme as a whole, but the same will be carried into effect in manner as nearly in conformity with the intent of the testator as practicable, according to the provisions of the said statute in such case provided."

This was definitely settled in *The City vs. Girard's heirs*, 9 Wright, 9, where it was said :—

"Possibly some of the directions given for the management of this charity are very unreasonable and even impracticable; but this does not annul the gift. The rule of equity on this subject seems to be clear, that when a definite charity is created, the failure of the particular mode in which it is to be effectuated does not destroy the charity. For equity will substitute another mode, so that the substituted intention shall not depend on the insufficiency of the normal intention * * and this is the doc-