

Williams appeal, 73 Pa. 249

# LEGAL GAZETTE. May 23, 1873.

## Supreme Court of Pennsylv'a.

9

### PHILADELPHIA LIBRARY COMPANY v. HENRY J. WILLIAMS.

1. The taking by a court from the hands of a testamentary trustee, the execution of a power submitted to his sole discretion, would violate the right of private property and the spirit and purpose of the bill of rights, and could not be justified except upon the clearest evidence of his fraud or incapacity.
2. To hold that by reason of his promise to the testator, the mind of a trustee of admitted integrity, was under a constraint of which he was unconscious, and which made him incapable of exercising his judgment, notwithstanding he swears that he did act upon his own judgment, and because it accorded with his promise, would be to deny the power of self-knowledge and the capability of self-examination, upon which rests the doctrine of man's accountability for his thoughts and purposes.
3. Though a verbal direction of a testator in conflict with a power contained in his will, cannot alter the written terms of the power, yet a court of equity may compel a trustee to comply with a promise to follow a verbal direction and act of the testator, in the line of the power.
4. A chancellor will so control a trustee that he shall not disappoint the true intent and purpose of the donor, as gathered from the instrument containing the power; and an innocent motive will not save the exercise of the power if it violate the true purpose of the trust: broader than this there can be no conception of chancery power in Pennsylvania.
5. By the terms of a will, a trustee was to act under a broad and thoughtful foresight in the selection of a lot whereon to erect a building for a public library. The testator prior to his death, engaged the trustee upon his solemn promise to select a certain lot. The trustee, a man of admitted integrity, did select that lot. Upon a bill in equity filed against him, he both in his answer and whilst under examination, declared that he selected the lot because he thought it the best for the purpose that could be obtained, and assigned good reasons therefor. *Held*, that he had properly exercised the power.

Certificate from Nisi Prius.

Opinion by AGNEW, J. Delivered May 19th, 1873.

This is not an ordinary proceeding. It is an endeavor to set aside a man's solemn act, done in the exercise of his right of property, in his life-time, when he had ab-

22583.0.9

centimeters 10 9 8 7 6 5 4 3 2 1 0 1 2 3 4

inches 4 3 2 1 0 1 2 3 4

Don Williams  
Colors by Munsell Color Services Lab

1	39.12	65.43	49.87	13.24	15.07	18.72	-22.29	49.87	18.11	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19
2	65.43	49.87	13.24	15.07	18.72	-22.29	49.87	18.11	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19	
3	49.87	13.24	15.07	18.72	-22.29	49.87	18.11	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19		
4	13.24	15.07	18.72	-22.29	49.87	18.11	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19			
5	15.07	18.72	-22.29	49.87	18.11	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19				
6	18.72	-22.29	49.87	18.11	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19					
7	-22.29	49.87	18.11	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19						
8	49.87	18.11	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19							
9	18.11	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19								
10	4.34	-13.80	9.82	22.85	-24.49	59.60	-48.07	18.51	1.13	0.23	0.21	0.43	0.28	0.19									
11(A)	92.02	-60.80	-0.40	0.23	0.21	0.43	0.28	0.19															
12	82.14	87.34	-0.75	-1.06	-1.19	-1.07	-1.07	-1.07															
13	72.06	72.06	-1.19	-1.06	-1.19	-1.07	-1.07	-1.07															
14	62.15	62.15	-1.19	-1.06	-1.19	-1.07	-1.07	-1.07															
15	52.15	52.15	-1.19	-1.06	-1.19	-1.07	-1.07	-1.07															
16(M)	40.25	38.62	28.86	18.19	8.29	3.44	-0.23	0.19	0.49	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
17	38.62	28.86	18.19	8.29	3.44	-0.23	0.19	0.49	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
18(B)	28.86	18.19	8.29	3.44	-0.23	0.19	0.49	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
19	18.19	8.29	3.44	-0.23	0.19	0.49	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
20	8.29	3.44	-0.23	0.19	0.49	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
21	3.44	-0.23	0.19	0.49	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
22	-0.23	0.19	0.49	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
23	0.19	0.49	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
24	0.49	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
25	-19.43	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
26	55.93	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
27	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
28	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
29	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	
30	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	68.80	

D50 Illuminant, 2 degree observer  
Density