

conclusion. Now, let us see what he says on oath as to the exercise of his own judgment; and first in his answer in direct response to the bill: "I selected the Broad and Christian street lot when I had assumed the executorship, after calm, careful and deliberate consideration, having thought of it in every shape, favorable and unfavorable, in which it had been presented, because it was in my judgment, the best I could obtain for the object and purposes of Dr. Rush's will, and because it combined adequate dimensions with cheapness and position." In regard to his promise to Dr. Rush—the alleged ground of disqualification—after stating his efforts to find a suitable lot, he says: "It was after this that the promise stated in my letter of the 30th December, 1870, was made to him. This was given with a knowledge of almost every circumstance which lead subsequently to my decision, when, as his executor, it became my duty to determine the site of the library." Again: "I aver that at the time I made said promise I thought it the best lot for the purpose which could be obtained, and I aver that after careful reflection and subsequent examination I still entertain this opinion." There is much more in the answer to the same effect.

His testimony is given as strong as his answer. When asked whether his judgment was not influenced by his promise, he replied: "Not that I am conscious of at all. I believe if I had made no promise, and had not known the wishes of Dr. Rush, my judgment would have been the same." Again he said: "If my promise to Dr. Rush, and my oath as executor had been at all in conflict, I would have resigned my executorship at once, and left some other person to put up the building."

Much more he said to the point, but this will suffice to know the strong and positive convictions of his mind. In these assertions he is also strongly corroborated by the testimony of many witnesses as to what took place just before Dr. Rush's death, and the communication of the se-