

authority to bind the Company by an actual purchase.^(f) These gentlemen, though most earnest in their efforts, were unsuccessful at that time in obtaining a lot of adequate dimensions, at a reasonable price. Mr. Wharton favored the purchase, at a high price, of a small lot on a side street—Locust Street—but Mr. Williams opposed it.

After purchasing the lot, Dr. Rush was desirous to ascertain, through Mr. Williams, whether the Library Company would accept it as the site of their building. He authorized him to communicate his testamentary intentions to those gentlemen who, as the committee appointed to select a site, were in a position to speak understandingly, and, we think, authoritatively. Mr. Williams^(g) says:—I “desired Colonel Biddle to accompany me to Mr. Wharton’s office, and then stated to them that Dr. Rush had given almost his whole fortune, amounting to a million of dollars, to build a library at Broad and Christian Streets, and asked them if they thought the Library Company would object to that location. They declared that, considering the magnificence of the gift, the Library Company ought not, and they believed would not, make any objection to his wishes as to its position. Dr. Rush, to whom I immediately returned, was informed of the result of the interview, was greatly pleased, and having obtained the views of three members of the board, appeared entirely satisfied.”

Mr. Wharton, though differing slightly in his recollection of this conversation, understanding, as he says, “that Mr. Williams spoke of Dr. Rush’s intention to make this endowment in *prospective words*. * * * I may have mistaken Mr. Williams’ words, but that was my understanding of them, and upon that, it is my distinct recollection, that in what was subsequently said by me I acted,” admits:—

^(f) “I then went to Mr. Gummey and said, that, subject to Mr. Williams’ approval, we would purchase the lot.” Mr. Wharton’s testimony. Examiner’s Report, page 20.

^(g) Answer, page 5.