

IV. *Opinion of the Court Below.*

MERCUR, J.

This case comes before me upon exceptions to the report of a Master. He was directed to report the law, the facts, and a decree proper to be made therein. Twenty-two exceptions have been filed to his report. The very able arguments of counsel, however, have not been directed to each exception separately, but rather to the discussion of two questions, which may be stated to be covered by these, to wit:—

First. What powers were vested in the defendant under the trust created by the will of Dr. James Rush in regard to the location and purpose of the library building?

Secondly. Has he properly executed those powers in selecting the lot at Broad and Christian Streets as the site for said library building?

The first question can be more satisfactorily answered by referring at some length to different portions of the will.

The testator, by his will of the 26th of February, 1860, devised and bequeathed the whole of his real and personal estate to his brother-in-law, Henry J. Williams, his heirs and assigns, in trust, to pay certain legacies, annuities, gifts, and bequests, to be thereafter expressed in codicils, and then to hold the residue and remainder of his estate "in trust, to select and purchase a lot of ground, not less than one hundred and fifty feet square, situate between Fourth and Fifteenth and Spruce and Race Streets, in the city of Philadelphia, and thereon to erect a fire-proof building, sufficiently large to accommodate and contain all the books of the Library Company of Philadelphia." And upon the further trust, "so soon as this building is completed and ready for occupation, then in trust to convey the same, with the lot of ground whereon it is erected, unto 'The Library Company of Philadelphia' aforesaid,

