

the course and practice of chancery;—it is, therefore, ordered and decreed that it be referred to

Esq., as master, to inquire and report what would be the most expedient situation for the said building, to the end that the true intent and purpose of the testator, as contained in his will, may be carried into full effect; And that he have authority to take testimony in addition to that taken before the examiner; And that the defendant be restrained, until further order, from proceeding to erect the said building on the lot situate at the southeast corner of Broad and Christian Streets; And the Court reserves all questions of costs and expenses for its further consideration.

V. *Assignments of Error.*

1. The court erred in granting an injunction against the erection of a building on the lot described in the bill.
2. The court erred in granting the prayer of the bill.
3. The court erred in decreeing in favor of complainant.
4. The court erred in refusing to dismiss the bill.

VI. *Argument.*

It is conceded by the complainants that the executor, who has selected a site which will in the deliberate judgment of the donor of the power, best promote its objects, has honestly endeavored, since his appointment, to do his duty under the will, and that he believes he has done this. There is no allegation of any fraudulent or improper conduct, nor does any one breathe a suspicion as to the honesty of his motives. It is claimed, however, that a pro-