

The answer is, that the court will either, through a new trustee (if that step is necessary) to be appointed by them, or by a decree framed after a report from a master, carry out the intention of the donor if it can be ascertained. In this case the prevailing intention which manifests itself all through the will and codicils is that The Philadelphia Library Company shall, if they wish, become possessed of the building (which the testator has made it the duty of the immediate devisee in trust, to erect) to be by them held in trust, to be used for their own books, for books to be acquired from funds provided by his estate, for a monument to his wife and her father, &c.; And even if they refuse the trust, the testator declares that it will be in accordance with his wishes to allow them to use the building as a place for keeping their own books, and, at the same time, that they may be permitted to act as custodians of the books belonging to the Ridgway Branch, &c.; (will, ante page 34). The manner of building is pointed out in the will, the only point left uncertain being the site.

The court can enter into all matters in relation to those things that are beneficial to the estate, and into the motives of the trustees for exercising or refusing to exercise their powers; and courts will not allow the trustees to exercise their powers in this respect in an arbitrary or capricious manner. *Webb vs. Shaftesbury*, 7 Ves., 480; *Attorney Gen'l vs. Clark*, 1 Beav., 467; *De Manville vs. Crompton*, 1 V. and B., 359. If the court has acquired jurisdiction of the case by bill or decree, the trustees must act under the sanction of the court in appointing new trustees, making investments, sales, leases, and in varying securities, *Webb vs. the Earl of Shaftesbury*, and the *Earl of Shaftesbury vs. Arrowsmith*, 7 Ves., 480, unless the instrument of trust declares that their discretion is to be uncontrolled. *Mislington vs. Mulgrave*, 3 Mad., 493, *Lee vs. Young*, 2 Y. & C., Ch. Ca. 536. The Supreme Court of Massachusetts, in *Saltonstall vs. Saunders*, 11 Allen, 456, in pronouncing their decree, say, "If at any time hereafter doubts should arise as to the mode of distribution or *the trustees should exercise their discretion illegally*

