

I deny that my selection is disadvantageous to the object proposed by the testator, or to anything "which it was the manifest design of the testator to promote." Whilst nothing *in the will* justifies the complainants' assertion, his well-considered acts in selecting the site at Broad and Christian Streets, and his solemn injunctions to adhere to it, even if not registered in a form legally binding, shed such light upon his "cardinal intent," as understood by himself, as to render it absurd to allege that it will be defeated by my selection of the very site he so decidedly preferred.

I deny and condemn as utterly subversive of sound morals and testamentary right, as utterly unfounded in law, and monstrous as ground for equitable relief, the doctrine, that even if my "selection of the site were made, under an unbiased discretion," because, "contrary to their (complainants') wishes," and thought by them to be "injurious to his intended beneficiaries," this court would or could "interfere and control the defendant in regard to the selection of a site."

Though the complainants, after a thorough discussion, in a largely attended meeting, held specially on the 5th October, 1869, refused to authorize a separation of their collection of books, I admit the truth of the charge, that by their subsequent acceptance of the act of Assembly, and the amendments to their charter, they made a distinct election "not to allow their collection of books to be removed to the building to be erected by the defendant, if placed on the proposed site on Broad Street." This inference is clearly established by the clause in the said act authorizing them to act as trustees, "only in such manner that the real and personal property of the company, including such books, pictures, statues, and other works of literature and art as now are or hereafter shall be held by them in their own right or on any other or different trusts, shall be in no wise affected hereby, but shall remain and be under their entire and exclusive control and disposition," which means, that, in accepting Dr. Rush's bequest, whatever site be selected, they shall not, and cannot, deprive themselves of the right to put their books there or elsewhere, at their uncontrolled pleasure.