

BEQUEST OF DR. RUSH

DECISION OF JUDGE MERCUR REVERSED

By the Supreme Court in Banc

SITE FOR THE RIDGWAY BRANCH LIBRARY

To be Selected by the Executor

FULL OPINION OF JUDGE AGNEW

Bill of the Library Company Dismissed

INTERVIEWS WITH MESSRS. WILLIAMS AND SMITH

What They Think of the Situation

As previously stated the Supreme Court in banc, sitting at Harrisburg, on Saturday reversed the decision of Judge Mercur in the Rush will case. In a codicil to the will of the late Dr. Rush the executor, Henry J. Williams, Esq., was authorized to select any site on Broad street for the location of the Ridgway Branch of the Philadelphia Library, and that Dr. Rush had, previous to his death, exacted a promise from his executor to place this branch library at the corner of Broad and Christian streets. In December last Judge Mercur, at nisi prius in this city, decided that the executor could not be bound by this verbal promise, and that the site must be selected by a master in chancery. It is this ruling which is now reversed by the Supreme Court, and it may now be considered as settled that the site of the branch library will be at Broad and Christian streets. The bill of the Philadelphia Library Company is therefore dismissed at the cost of the plaintiffs. The decision of the court was delivered by Judge Agnew, from which Chief Justice Read and Judge Mercur dissented.

The following in full is the

Opinion of Judge Agnew.

The Library Company of Philadelphia vs. Henry J. Williams, Esq. Certificate from Nisi Prius. Appeal of Defendant. In equity.

Agnew, Judge.—This is not an ordinary proceeding. It is an endeavor to set aside a man's solemn act, done in the exercise of his right of property, in his lifetime, when he had absolute power over his own estate. It is an effort also to declare his friend, the chosen agent to execute his purpose, invested with absolute discretion to this end, disqualified to perform his will, because at his earnest request this friend has adopted and followed the testator's act. As a consequence, the bill seeks, on the ground of entire disqualification, to take the actual execution of the will into the hands of the court, and to declare how much of the corpus of the estate shall be used for the purpose. As a further consequence, the will must be executed by a stranger—a master acting under decrees procured from time to time by plaintiffs, for, by the total disqualification of the executor, the testator is no longer represented. This is the frame and purpose of this bill. Such a pro-

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