

To execute it otherwise is a fraud on the power. Hence, it is said, "he must execute it *bona fide* for the end designed." It may be a corollary, also, that an innocent motive will not save the exercise of the power, if it violate the true purpose of the trust. Broader than this, there can be no conception of chancery power in Pennsylvania, where the citizen is secured by the Constitution in his rights of property. When a testator, to fulfil his own purpose, confers an absolute discretion as to his property, it is his right to have the boon executed by his own trustee; and no court can, without clear and adequate cause, displace the trustee without violating the right of property. This is well expressed in the letter of advice of 15th June, 1869, from Judge Strong, under which Mr. Williams acted. "A court of inquiry does not interfere with a discretion reposed, except in cases of clear abuse, when the court can conclude that the donee of a power is acting in fraud of it."

"But when, as in your case, the trustee acts in accordance with his own best judgment, and in so doing follows the positive directions of his testator, it would be altogether unprecedented for a court to interfere and substitute its discretion for that invoked by the will." In this statement he is most distinctly supported by two recent cases decided by this court—*Palprop vs. African Church*, 12 Wright, 204, and *Nagle's Estate*, 2 P. F. Smith, 154. To these may be added a few citations from elementary writers. In the recent work of Mr. Perry on trusts the modern decisions are brought up. On page 455, section 508, he says, when the discretion to be exercised is a matter of personal judgment—"The trustees alone can exercise these powers, and courts cannot generally interfere to control mere personal judgments in personal matters." For this numerous cases are cited.

Again, on page 457, section 511—"If the trustees exercise their discretionary power in good faith and without fraud or collusion, the court cannot review or control their discretion." For this twenty-four cases are cited. "Nor will a bill be entertained to compel the execution of a mere discretionary power."—*Ibid.* Mr. Hill, in his work on trustees, Ed. 1846, p. 488, says:—"As a court of equity will not, in general, assume the exercise of a discretionary power vested in trustees, so it will not interfere to control the trustees acting *bona fide* in the exercise of their discretion." He cites many cases for this statement.

In conclusion, there is no ground in fact or in law on which the prayers of this bill can be supported.

The decree of the Court at Nisi Prius is, therefore, reversed, and the bill is ordered to be dismissed at the cost of the plaintiffs.

What the Executor Says.

A representative of THE INQUIRER yesterday afternoon called upon Henry J. Williams, Esq., the executor of the Rush will, at his elegant country seat at Chestnut Hill, and had a lengthy and interesting "interview" with him upon the question of how he intended to act now that the courts have sustained him in his determination to locate the library structure at Broad and Christian streets. Mr. Williams, who was in consultation with Mr. Hutton, the well-known architect, received THE INQUIRER reporter in an affable manner and freely conversed with him upon the subject.

Mr. Williams stated in answer to an interrogatory that now as he had been sustained in his action by the Supreme Court, and as the avenue was open, he intended to erect the library building at Broad and Christian streets, considering it the best site attainable. "Although," said he, "I would much rather have it at Broad and Chestnut streets."

The lot which has grown to be of some historical interest because of the fierce contest waged in the courts against its selection by the library company, and upon which the structure will be built, has a magnificent frontage on Broad street of 300 feet and a depth on Christian street of 527 feet. The area is fully three acres and a half.

Dr. Rush, after some score or more of other locations and sites had been submitted to him, considered this the most desirable for the purpose of the erection of a grand edifice of any other in the city. Mr. Wil-

