

The case was argued on March 28th and 29th.

The first amendment (record, page 81), that there was a present surplus exceeding \$100,000, was filed on

opposed to the policy of the law, the Court holds that the demurrer of the library company to the effect of the clauses alleged to be contrary to morality are merely directory and do not compel the purchase or preservation of any book whatever, is a sufficient answer. The Court goes on to say that the clause of the will was merely the expression of a wish, and it was clearly within the discretion of the trustees to decide what kind of books they would have in the library; as long as they do not allow indecent or ribald books to go upon their shelves they are exercising their discretion in a wise way.

"Speaking of the allegation of the plaintiff, that public morals would be subverted by the admission of certain books containing opinions contrary to the generally accepted views upon politics and religion, the court said:— 'We think it would be asking a Court to do a great deal to say that a large public library to which the whole public can go for knowledge should be restricted upon questions of vast importance to books confined to one side of a question only.'"—*Evening Telegraph, April 8th, 1878.*

"In Common Pleas, No. 1, on Saturday, Judge Allison rendered a verbal opinion in the matter of the bill in equity of Robert Manners vs. Henry J. Williams and the Library Company of Philadelphia. The matter was argued on the bill and demurrers. The Court sustained all the demurrers, of which there were twelve. Judge Allison said he did not think any one of the averments in the bill contained anything which entitled the matter to come to an issue; and there was nothing which would allow the plaintiff to enter into a contest on the will and claim the estate upon the grounds set up in the bill. As to the residue of the estate after building a library, the Court said that the intent of the testator was clear, and that he did not die intestate as to that residue. That he provided for the keeping up of the library for all time, and it was his intent that the residue should be expended for that purpose. Further, that in case the trustee should die, the argument that the purpose of the will would come to naught, was defective, because it was clearly such a case that the courts would see that another trustee was appointed to carry out the beneficial intent of the testator. In regard to the averment that religion and morality would be subverted by carrying out a certain portion of the will, the Court expressed the opinion that the ground of the demurrer was well taken. The language of the will says, '*I wish.*' But even were it in the nature of a binding instruction to keep these books in the library, we think it would be asking the Court a great deal to say that a large public library, to which the whole public can go for knowledge, should be re-

