

did not revoke the gift, nor did any failure of the executor to expend all the estate in building, divest the estate devised; this being a matter over which the library itself had no control.

This Court has decided that under this will the Library Company had, and has, no voice whatever, nor any standing in Court, to restrain or affect any act of the executor as to their building (Williams' Appeal, 23 P. F. Smith, 249), and hence that if he should *bona fide* locate it in any part of the city, however inconvenient or even ruinous, they could not be heard in opposition. Nor, of course, could they control him as to how much he should or should not spend on the building. This being so, the plaintiff's contention comes to this—that if the executor should by economy save a surplus after the building is finished, this act of saving forfeits the charity to the beneficiary, though the latter has had no voice in the matter. It is difficult to answer such a proposition.

12. The bill does not allege that the time has yet arrived for the Library Company to accept or refuse the trusts under the will, and the averments as to this are uncertain and inconsistent.

The averment in the bill (record, page 46) is:—

“The Library Company of Philadelphia have not finally accepted the devise contained in said alleged will and codicils, and have declined to accept the same upon the trusts and conditions in said writings mentioned. And your orator charges that the said The Library Company of Philadelphia have now no power to accept the devise contained in said alleged will and codicils, and that were it otherwise, they are incompetent in law to act as trustees under said alleged will and codicils.”

That is to say, the company—

1. Has not finally accepted,