2. Has declined to accept,

3. Has no power to accept, and

4. Is incompetent in law to act as trustee.

But for aught that appears in the bill, there is nothing anywhere to show that the testator has done anything beyond prove the will—no averment that a single stone of the library building has been laid.

And as the will says:—

"And upon this further trust, as soon as the building is completed and ready for occupation, then in trust to convey the same, with the lot of ground whereon it is erected, unto the Library Company of Philadelphia and their successors, for the uses and purposes of their library."

It is obvious that until the first trust, that of building, shall be completed, the second trust, that of conveying, cannot arise.

But if the company has *declined* to accept, why make it a party?

It cannot help the plaintiff, though it may require the executor to found a new library with the building and annuity fund, which the testator intended should take, in case of such declination. (See the first codicil, record, page 66.)

As to the averments that the company
Has no power to accept, and
Is incompetent in law to act,

On the 23d of February, 1870, there was approved the following act of the legislature:—

"That the Library Company of Philadelphia be and they are hereby authorized to act as trustees for the Ridgway Branch of the Philadelphia Library and the