

*Appeal of Robert Manners et al. from the final
decree of the Court of Common Pleas, No. 1,* } In Equity.
for the County of Philadelphia.

PAXSON, J.—This was a bill in equity filed in the court below by Robert Manners, of London, one of the heirs at law of Dr. James Rush, deceased, against Henry J. Williams and The Library Company of Philadelphia. Subsequently Elizabeth Murray Rush, a daughter of James Murray Rush, deceased, and a grand-niece of the said James Rush, upon application to the court below, was allowed to become a party plaintiff. The defendant Williams was the executor of the last will and testament of Dr. Rush, and the defendant corporation was the residuary legatee under his will and the recipient of nearly the whole of his large estate. The object of the bill, briefly stated, was to recover from the defendants the residuary estate, and the court below was asked to declare that the provisions of the testator's will in regard to The Philadelphia Library were impracticable and impossible of execution, or, if capable of execution, that they were contrary to public policy and sound morals, and that the defendant Williams be declared a trustee for plaintiff, &c. The defendants filed separate demurrers, upon which issue was joined. The demurrers were sustained, and the bill dismissed with costs. It is the appeal from this decree we are now called upon to consider.

We need not dwell at length upon that part of the bill which charges that the provisions of the will are impossible of execution. The argument upon this branch of the case rests upon the fact that the testator, in and by the last codicil to his will, directed that the "whole remainder" of his estate should be expended "in the purchase of a lot,

