

of the library and their current expenses—not to be so large as to invite extravagance and waste),—for which purposes the sums to be set apart to secure the legacies and annuities given by my said will and testament will be sufficient,—I hereby authorize and direct my said executor to expend the whole remainder of my estate in the purchase of a lot and the erection of the library building, construction of book-cases, &c., leaving the said company only an income sufficient to defray the ordinary and strictly appropriate expenses of such an institution.”

According to a literal construction of this clause, the testator permits no part of his estate to be employed in the maintenance of the library, or in the purchase of books, except the income of the fund to be set apart in the first instance for the payment of the annuities when and as these annuities shall fall in. He judged that the funds of your orators would be sufficient in the meantime, but they aver that this will not be the case if two separate buildings and establishments are to be kept up. They charge that the aggregate amount of annuities and legacies given by the said will and codicils will require to be set apart a fund of about \$200,000; leaving for the ultimate support of the Ridgway branch, if sustained as a distinct institution, only about \$11,000 a year, which would scarcely pay the taxes and current expenses.

If, however, by a liberal construction of the said clause of the codicil, the testator intended that his executor should not only erect the proposed building, but should set apart a fund to be held by your orators for the payment of taxes and current expenses for repairs and maintenance, for salaries of officers, and the publication of the testator's works, as prescribed by his will, (for which not less than \$200,000 would be necessary,) then your orators charge that the character of the building which the defendant proposes to erect is such as to defeat that intention entirely. For they aver that the defendant, acting on conversations held with the testator in his last illness, and drafts and sketches left by him,—which the defendant alleges are binding on him, but which your orators charge are not so in point of law,—has, without consultation with your orators' directors,