

sociation or individual desirous of carrying such disposition into effect, and willing to become responsible for the costs thereof, subject to an appeal as in other cases in said courts respectively, and to be reviewed, reversed, affirmed or modified by the Supreme Court of this State; but if the objects of the trust be not ascertainable, or have ceased to exist, or such disposition be in excess of the annual value permitted by law, or in perpetuity, such disposition, so far as exceeding the power of the courts to determine the same by the rules of law or equity, shall be taken to have been made subject to be further regulated and disposed of by the Legislature of this Commonwealth in manner as nearly in conformity with the intent of the donor or testator, and the rules of law against perpetuities, as practicable, or otherwise to accrue to the public treasury for the public use."

By the common law, the heir at law or the next of kin had their standing in court to contest such questions. By this statute they have none.

It is not arguable that this defendant does not come within the statute as a charity. Apart from the words of the Supreme Court as to it in Williams' Appeal, 23 P. F. Smith, 277—"A noble charity, at once a public benefit to his native city, Philadelphia, and a monument to those from whom he derived his wealth"—there is the recent decision as to it in Donohugh's Appeal, 35 Legal Int., 4 and 104, that it is "a purely public charity" within the meaning of the Constitution. And if not a charity (as the bill itself alleges, section XII.), it certainly is a *literary use*.

"4. Upon the complainant's own showing, the allegation of the want of funds wherewith to maintain the Library in

