and improvement of a lot for the same, did not operate as a revocation of the previous gift; nor could the failure or omission by the executor to expend the whole remainder of the estate in such purchase and improvement, being a matter over which the beneficiary had no control, divest the estate, or any part thereof, so as aforesaid devised."

The Supreme 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), 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 say in the matter. It is difficult to answer such a proposition.

"11. If no disposition were made of the residuary estate not thus expended nor required for paying annuities, yet any such surplus is not vested in the complainant, but remains as a gift to charitable uses to be applied under the said statute in that behalf provided."

The case of the City *vs.* Girard's Heirs, 9 Wright, disposes of this contention. It was urged that Mr. Girard never contemplated that the college would absorb all the income, and that there being a large surplus, the latter went to the heirs, and the court below so decided; but this