

and their successors, for the uses and purposes of their library, and for no other use or purpose whatever." Providing, however, before such conveyance should be made to the said Library Company, they should, either by an alteration in their charter or in some other way satisfactory to his executor, bind themselves and their successors to conform to, and comply with, certain express conditions therein specified. One of the conditions was "that all the accounts of the receipts and expenditures from the estates aforesaid, real and personal, shall be kept separate and distinct from all other accounts of the said Library Company, and shall all be headed and kept as the accounts of 'The Ridgway Branch of the Library Company of Philadelphia.'"

He also appointed said Williams executor of said will.

By a "first codicil" thereto, dated the 16th of May, 1866, he imposed additional restrictions upon said Library Company, and designated the beneficiaries of the legacies, annuities, and gifts indicated in his original will.

In his "additional codicil" of the 18th of April, 1867, he says, "I authorize and allow my executor, under a broad and thoughtful foresight, to increase the size of the lot and select any situation he may deem most expedient, without regard to any provision of my will or codicils."

On the 18th of January, 1869, Dr. Rush purchased by contract a lot at Broad and Christian Streets in the city of Philadelphia, for the avowed purpose of having the Library building erected thereon, and made a payment of \$1000 upon the contract. He held this lot subject to the payment of the residue of the purchase money at the time of his death. That occurred on the 26th of May, 1869. The defendant has selected this lot as the site for the library building. Had he the power in equity so to do? He says, he had: that the will left it to his sole judgment and discretion, and not to the judgment and discretion of anybody else; and in the exercise of that judgment and discretion he has made the selection. Superadded to the power given