table institutions, the popular as well as legal mind takes in at once its wider scope of good will, benevolence, desire to add to the happiness or improvement of our fellow-beings. It is in this sense that, not to mention the numerous other illustrations, our own local gifts of Elliot Cresson, for the planting of shade trees in the streets of Philadelphia (Cresson's Appeal, 6 Casey, 437), and a gift to a volunteer fire company for the protection of the property of the citizens (Thomas *vs.* Ellmaker, 1 Parsons, 98), have been recognized as charities, both in the legal and in the popular estimation.

But is the complainant a *public* charity? To answer this question we must look to the facts of the case.

By the original rules of Franklin and the other founders the librarian was required to permit "any civil gentleman to peruse the books of the library in the library-room," and in the same spirit the charter, which is the fundamental law of the corporation and the by-laws made under it, permit the use of the library: 1. By *all persons* within the library building free of charge or fee of any kind. 2. By *all persons* who desire to take out books, and for that privilege pay a small hire, and leave a deposit as security for the return of the books. 3. By members or commutors, who pay an annual sum instead of a separate hire for each time of taking out a book.

The essential feature of a public use is that it is not confined to privileged individuals, but is open to the indefinite public. It is this *indefinite* or unrestricted quality that gives it its public character. The smallest street in the smallest village is a public highway of the Commonwealth, and none the less so because a vast majority of the citizens will certainly never derive any benefit from its use. It is enough that they may do so if they choose. So there is no charity conceivable which will not, in its practical operation, exclude