

said in the charter that this payment shall be "for the increase and preservation of said library." I have endeavored to show that this privilege, almost the only one in which any distinction is made between the members and the general public, is not an undue privilege or justly obnoxious to the charge of being a private profit. But even this privilege is a regulation—not a part of the fundamental law of the corporation; and if it were held to be an undue privilege, repugnant to the public character of the charity, the result would be not that the charity would become less purely public, but that the privilege would be void.

I have not thought it necessary to notice in detail the authorities cited by the learned counsel on either side. Some of them are very close and decisive upon the points made in the case; but the subject is extensive, and this opinion has already reached a very great length, and I have therefore preferred to rest the case upon general principles, which I believe to be unquestionable.

It results from the foregoing that we hold that the complainant is exempted from taxation as an institution of learning, by the Act of May 14, 1874, and that as to such exemption the Act is within the terms of the Constitution, and is valid and binding upon the taxing power of the City of Philadelphia.

The injunction prayed for is awarded.

NOTE.—HARE, P. J., being a director of the Library Company, did not sit or take any part in this case.

#### V. ASSIGNMENT OF ERROR.

The Court below erred in awarding a special injunction as prayed for.

