

Williams, Amb., 652, describes a charity as "a gift to a general public use," &c. Many other authorities might be cited. But it is obvious that the recipient of charity may be anything else than charitable. The status of either a man or an institution cannot be fixed by the nature of a gift made by a third person. We may, therefore, very safely admit, as the plaintiff contends, that a gift to the Philadelphia Library may promote learning, and may, therefore, be a charitable gift. The institution itself, however, is, as to its original and principal purpose and use, intended for "the collection and use of books *by the members*, at their homes, *as a circulating library*." (See Mr. Smith's affidavit.) To secure these benefits the members have paid for each share of stock fifty per cent. more than its market value, in view of which it seems scarcely proper to consider them beneficiaries of a charity; their company is simply a co-operative association.

To this effect is *Carne vs. Long*, 2 De Gex, Fisher & Jones, 75, cited by plaintiff in the Court below. "A library established for the purpose of purchasing and preserving books for the use of the subscribers," was held not to be charity at all. The plaintiff in this case is a corporation whose members are stockholders. The par value of the stock is \$40. Each share is subject to the payment of an annual tax of \$8. It is a close corporation; the stock cannot be transferred without the consent of the Board of Directors elected by the stockholders. To these stockholders a very important use of the library—the privilege of taking books for use without the building—is principally confined. *Carne vs. Long*, decides that as to them the institution is not a charity, "but a mere association for the mutual benefit of the contributors."

The distinction which we draw accords with the popular use of the words. The plaintiff, citing in the Court below *Miller vs. Porter*, 3 P. F. Sm., 292, informs us that a gift to

