

The bill (filed November 22d, 1877) seeks substantially and ultimately for a decree as to the duty incumbent upon the plaintiff as trustee of the will of Dr. James Rush.

The plaintiff states that Dr. Rush, domiciled at Philadelphia, died in the month of May, 1869, seized and possessed of a large estate, and having left a last will and codicils thereto. The will is dated February 26th, 1860; the first codicil, May 16th, 1866; the second codicil, April 18th, 1867; and the third codicil, April 12th, 1869; all of which were duly admitted to probate by the register of this county on May 31st, 1869, and letters testamentary granted to him, the plaintiff, and he thereupon entered upon the discharge of his duties as executor.

2. He sets out the material parts of the will and codicils, as, with some immaterial exceptions, they are recited in the draft of deed hereto annexed, wherein and whereby the testator gave, devised and bequeathed the whole of his estate to the plaintiff, in trust, *inter alia*, after securing and providing for the payment of certain legacies and annuities, to expend the whole of the remainder thereof in the purchase of a lot, to be selected by him, and the erection thereon of a fire-proof building, with book-cases, &c., sufficiently large to accommodate and contain not only all the present books of the Library Company defendant, but also their probable increase for many years to come, and upon the completion thereof to convey the same, with the lot of ground whereon it is erected, unto the said Library Company, for the uses and purposes of its library and for no other uses and purposes whatever: *Provided, however*, That prior to such conveyance the said Library Company should, by an alteration in its charter, or in some other way satisfactory to his executor, bind itself and its successors to comply with certain conditions:—

*First.*—As to not allowing any lectures, public orations