

port, page 8), and certain amendments to their charter (Exhibit No. 16, This Report, pages 10, 11). The executor, by his letter to the Library Company, dated December twenty-first, 1870 (this Rep., pp. 41, 42), acknowledging the receipt of a copy of the proposed amendments writes. "As I understand the will of Dr. Rush, the trusts for the benefit of the Library Company only arise when the building is completed, ready to be delivered to them. At that time the question of their compliance with the conditions prescribed by the testator's will, will have been carefully considered and determined; until then the executor does not think it either necessary or proper for him to form or express any opinion in relation to the course pursued by the company to which he has always been designedly a stranger."

If the Master is right in the view he has expressed of the first ground of demurrer, the same argument must suffice to defeat that now under consideration. The complainants have done what they could. If the executor is right in saying, as he probably is, that he is not bound to say whether the conditions have been complied with satisfactorily to him until he comes to make the conveyance, that does not lessen the prospective interest of the complainants either as trustees or *cestui que trusts*, which is sufficient to enable them to intervene for the protection of the property against what may be the illegal or inequitable action of the Trustee.

As to subdivision "b," of the second ground of demurrer, viz.: "The clauses which the testator ordered to be inserted in an Act of Assembly have not been inserted in the one drafted by the counsel of the company, nor in any other,"

The Master is of opinion that the testator cannot be held to have meant by the language used in the second paragraph of the first codicil that an Act of Assembly must be used, whether necessary or not, to carry out the provisions of the will and codicils, or that the Act of Assembly used must necessarily enumerate *totidem verbis* all the alterations contemplated.

The Act of 23d February, 1870, authorizing the Library Com-