

into their possession, and become subject to their control), as trustees for the uses, objects, trusts and purposes in my said will, and any codicil thereto mentioned and expressed."

It is not sought to extend the trust, or to interfere with or control the property of the Library Company; and with this agrees the opinion of Judge Strong, fifth paragraph, part of Exhibit No. 23, page 116, Examiner's report, viz.:

"5. The plan of Dr. Rush was to establish a branch of the Philadelphia Library, not to extinguish it, or to merge its existence in a new institution. It is not, I think, made a condition of the devise to the Company, that they shall not retain their present building or procure some other for the convenience of the members, and for the reception of such books as are intended to be excluded from the branch Library. Of course such other building cannot be placed upon the lot upon which the building for the *branch* shall be erected; nor can the funds derived from Dr. Rush's estate be appropriated for any other purposes than those specified in his will. They can not be used for the purchase or erection of such other building, or for the purchase of such books, or for the current expenses of that part of the Library of the Company."

Subdivision g of the II ground of demurrer, the master thinks unsound.

The will in the fourth clause of the second codicil assumes, that a case may arise for a change of trustees. The law of Pennsylvania always contemplates such a possibility, and there certainly is nothing in the will of Dr. Rush to warrant the conclusion that he wished to interfere with, or control the Library Company, except while they were acting as his trustees, or enjoying his property. If they ceased to be trustees, or to enjoy the property, there is nothing in the conditions required by Dr. Rush which would prevent the Company from again amending its charter in favor of the three learned professions, or in that point which relates to the number of its shares.

In fact the will contemplates the contingency of the Library

