

Library will be constructed as a "*Public*" library, and a great charity will then be inaugurated; but Dr. Rush made no condition that the public should be admitted to the benefit of the bequests to the Library Company, and though allowing them to permit others to use their books for a pecuniary consideration, he expressly prohibited an increase of the number of shareholders.

4. I admit the truth of the statements in the sixth, seventh, eighth, ninth, tenth, and eleventh paragraphs of the bill, concerning the desire of the Library Company for a fire-proof building and the provisions of Dr. Rush's will; but for greater certainty pray that the will itself may be referred to. (See Exhibit "A.") The purpose to erect it as a monument to his wife and her father, however, was, if not preliminary, at least cotemporaneous with, and not subsequent to, his design to provide such a building for the Library Company.

5. I admit, as charged in the twelfth paragraph, that "it is clear the testator expected and designed that the building he directed his executor to put up would be used if the Library Company were willing to accept the conditions imposed upon them as a place of deposit for their own books as well as those purchased with the funds provided by him." He gave such directions as will prevent for the present the accumulation of much income from his estate for the purchase of books, and he must, therefore, have expected that those of the Library Company would be placed therein. The building was "to accommodate and contain all the books of the Library Company of Philadelphia and to provide for its future extension." (Will, page 4.) When finished, it was to be conveyed "to the Library Company of Philadelphia and their successors and assigns, for the use and purposes of their library and for no other use or purpose whatever." (Will, page 5.) The surplus income was to be used (Will, page 7) "to pay all necessary salaries of the librarian and his assistants, and the expenses of binding and preserving the books of the *whole library*, making cheap catalogues, and all charges incident to its care and management. The said library is to be kept open from 9 o'clock A.M. until at or near sunset, except on Sundays and holidays."