

We call attention to the fact, which no one will dispute, that our right to maintain a separate building, after acceptance, cannot depend on the assent of the executor, but on the meaning of the will. He has no power either to impose or release the obligations there defined.

There are other considerations we deem most weighty, in determining whether to accept this trust now. The will gives to the executor the absolute right to select the location and to construct the building, and this discretion has been exercised by selecting Broad and Christian Streets as the *most suitable* spot in the city for the purpose.

When he has completed the building, the whole details of which he has bound to retain under his discretion, and which discretion he cannot trammel for the future by any agreement, even if he desires to do so, the will directs him to convey it to the Company as trustees, when they are to assume certain obligations. If they violate them, the building will pass into other hands, and with it all books, if there shall be any, which have been purchased with the funds coming from Dr. Rush.

There are some of these conditions which deserve consideration, but might be submitted to as the price of a liberal endowment fund, if that were certain to exist. Such as, 1st, A prohibition to increase the number of our shareholders, which may result in the elective franchise being monopolized by a few who think they see some advantage in controlling this corporation and its funds. 2d. A restriction on the qualification of Directors, which may result in great inconvenience. 3d. The doubt whether the testator has not made it imperative that if we accept, we shall use his building as the sole depositary for our books. That he expected it is pretty certain. Whether he makes it obligatory is a serious question; and this cannot be waived or released. But there are both express and implied conditions, which we greatly fear may be ruinous, of which it is absolutely out of the power of any man now to decide the effect, see-