

ing the estate, property, books, &c., of the Ridgway Branch of the Library apart, the will could not be carried into effect. In the opinion of the Committee, after the acceptance of Dr. Rush's legacy, the Library Company will continue in as full right of its property as it possessed before; and in no respect will it be mingled with, or embarrassed by, the property of the trust.

It is also urged, that the time has not yet arrived for the acceptance or refusal of the legacy, but that such election is only required to be made when the Library Building, intended by the Executor to be placed under the care of the Library Company of Philadelphia, is erected and completed. This position was not regarded by the Joint Committee as well founded. It is true that as part of the duties of his office, the Executor is directed to erect a Library Building, to be placed, when finished, in the care and control of the Company. But if the Library Company of Philadelphia should "omit or decline" the execution of the trusts of the will, then the Executor is constituted a trustee to "*found and endow* a Public Library, entirely distinct from the Philadelphia Library, to be named and called the Ridgway Library." The building he would erect for the Ridgway Library would necessarily be a different one, in cost and extent, from one erected for the Ridgway Branch of the Philadelphia Library. Surely the Executor, having such a double duty to perform, cannot, under such circumstances, be required to expend the bulk of the estate in a building for the occupation of the Philadelphia Library, without knowing whether, when such building is completed, the Philadelphia Library will accept it, and enter into the execution of the trust. The Joint Committee, therefore, were of opinion that the Executor had the legal and moral right at once to know what position the Philadelphia Library intended to assume, in regard to the acceptance or refusal of the trust, so as to enable him to carry out the alternative duty imposed on him by the will, in the event of a refusal.