

Williams, having acted on this secret trust, and confessing himself to have done so, should select this lot and erect the Library Building on it, the heirs of Dr. Rush might claim that the gift was void in whole or in part, and assert a forfeiture under the provisions of the act. Whether they could succeed in their contention, the Committee do not venture a positive opinion; it is sufficient to say, that they entertain very grave doubts on the subject. They need only further say that the establishment and endowment of a Library, constitute undoubtedly a "charity," within the Act of Assembly, and that they incline very strongly to the opinion that not merely an independent gift to charity, but the modification of the scheme of a charity previously established by the testator, is prohibited within the calendar month.

The next question we have directed our attention to is, whether the whole of Dr. Rush's estate, with
 In the hand- the exception of the annuity-fund, is devoted
 writing of Mr. to the purchase of a lot and the erection of
 Peter McCall. the new building; or whether the executor
 has a discretion to employ so much thereof as
 he may think proper for those objects, leaving the residue
 for the purchase of books and current expenses of the
 Library.

We must confess that this question is not without difficulty; and this difficulty arises mainly from the language of the codicil of 18th April, 1867.

"Now, as I do not desire that the Library Company
 "shall have an income greater than is required to provide
 "for the legitimate (not a competing) increase of the Li-
 "brary and their current expenses (not to be so large as to
 "invite extravagance and waste), for which purposes the
 "sums to be set apart to secure the legacies and annuities
 "given by my said will and testament will be sufficient, I
 "hereby authorize and *direct* my said executor to expend
 "the *whole remainder* of my estate in the purchase of a lot
 "and the erection of the Library Building, construction of