

WZ
100
M949

Trials

Pa

COLL. CAT.

DUPLICATE
College of Physicians,
OF PHILADELPHIA

NATIONAL LIBRARY OF MEDICINE
Bethesda, Maryland



*To the Honorable the Judges of the Court of Common Pleas,
No. 2, of Philadelphia County.*

March Term, 1884. No. 506.

The petition of

WILLIAM HUNT, M. D., *Chairman,*
S. WEIR MITCHELL, M. D., and
JOHN M. BRINTON, M. D.,

“Committee of the Mütter Museum,” ^

Respectfully shows as follows :—

By articles of agreement dated the eleventh day of December, A. D. 1858, Thomas D. Mütter, M. D., the party of the first part thereto, covenanted that he would convey to and place under the guardianship of the corporation known as “The College of Physicians of Philadelphia” (the party of the second part thereto) the pathological collection owned by him, for the purpose of serving as the basis of a museum to be denominated “The Mütter Museum” as soon as the party of the second part should have erected a building suitable to its reception, and that he would convey to the Pennsylvania Company for Insurances on Lives and Granting Annuities, certain real and personal estate whose net income should, after his death and the erection of said building, be paid to the said corporation in the manner thereafter directed for the support and increase of the said museum, that was to say :

That the building should be fire-proof and completed within five years thereafter, and "to contain an apartment of sufficient dimensions for the accommodation of said museum and its probable increase"—that the charge of the museum should be placed in the hands of a committee of three to be appointed annually by the college, and called "The Committee of the Mütter Museum," to the chairman of which the income of the said trust estate should be paid—such income to be disbursed by the said committee under the supervision of the corporation in the manner thereafter directed, the committee to be at all times subject to directions from the college who should have power to supply any vacancies therein—the income so received to be "devoted to the following purposes and no other :

"1. For the salary of a curator, \$300 per annum,

"2. For the salary of a lecturer, \$200 per annum,

"And the remainder of said income to the preparing, fitting up, keeping in order, increasing and insuring of pathological and anatomical preparations and specimens, illustrative of surgery and medicine, drawings, models, casts and other like matters, which are intended to form the museum aforesaid."

And it was therein further provided that the annual income of the trust fund received by the said college should be devoted exclusively to the performance of the trusts specified in said agreement, and, in the event of their application to any other purpose, the benefit of the trust in favor of the said college should cease, and the fund revert to the heirs and assigns of the party of the first part.

By indenture of even date therewith, recorded at Philadelphia, in Deed-book A. D. B., No. 44, page 342, &c., the said Thomas D. Mütter and wife, reciting the said articles, granted and conveyed to the Pennsylvania Company for Insurances on Lives and Granting Annuities aforesaid, its successors and assigns, the real and personal estate so as aforesaid referred to, by for and upon the several trusts therein set forth, that is to say, *inter alia* "in trust to pay the said rents, interest, income and profits to the chairman of the said



committee of the Mütter Museum, for the time being, to be held by him and disbursed in accordance with the provisions of the thereinbefore recited agreement, his receipt to be the sole discharge to the said trustees paying the same, but so that the said trustees should not be liable to see that the said income was disbursed by the said 'The College of Physicians of Philadelphia' in conformity with the provisions of the said articles of agreement, and upon the failure by the said College of Physicians of Philadelphia to devote the said annual income exclusively to the performance of the trust specified in said agreement, or in the event of their application to any other purpose, then upon trust to convey the said trust estate and premises thereby granted unto such person or persons as the said Thomas Dent Mütter, by his last will and testament in writing, should devise, bequeath or appoint, or in default of any such devise, bequest or appointment, then upon trust to convey the same to the heirs and legal representatives of the said Thomas Dent Mütter according to the intestate laws of Pennsylvania then in force." The petitioners annex hereto as part of their petition a copy of said articles and of the said indenture.

In pursuance thereof, the said College of Physicians (which is a body corporate duly incorporated on the twenty-sixth day of March, 1789) proceeded to erect and complete, and did erect and complete, within the specified time, the said fire-proof building, which contained an apartment of sufficient dimensions for the accommodation of said museum and its probable increase, and which was accepted as satisfactory by the executors of Dr. Mütter in 1863, who thereupon transferred to the said College of Physicians the said pathological collection "for the purpose of serving as a basis of a museum to be denominated The Mütter Museum." The Pennsylvania Company for Insurances on Lives and Granting Annuities have, from time to time, paid to the chairman of the committee of the Mütter Museum the income of the subjects of the trust, which has been disbursed by the same under the super-

vision of the said college in the manner prescribed by said articles of indenture, and in no other manner. The increase, however, of the said museum has been so great that there is no longer room in the said building for the reception of any addition thereto, so that the further expenditure of the income in the increase of the said collection as contemplated by the parties to said agreement has necessarily and compulsorily ceased, and the Chairman of the said "Committee of the Mütter Museum," the said William Hunt, M. D., has now in his hands a sum of money exceeding seven thousand dollars, being income of the trust so paid to it by the Pennsylvania Company for Insurances on Lives and Granting Annuities aforesaid, which he and the said Committee are wholly unable to apply to the purpose so as aforesaid set forth.

The committee has thereupon applied to the said College of Physicians for directions by it as to the disposition of said fund, but has been hitherto unable to receive the same in such manner and form as would justify and protect their action in the premises.

And it is at times suggested that the said committee should temporarily invest a portion of the said surplus income in a mortgage to be secured upon the said building, which should be thereupon enlarged to meet the present requirements and probable future increase of the said collection.

And at other times it is suggested that the said income should be permanently invested in contributing to the cost of such increased building, and that the said college having already provided an apartment of sufficient dimensions for the accommodation of the said museum and its probable increase, has complied with the said articles according to their true intent and meaning, and is no longer bound to erect other apartments and buildings for the indefinite increase of the same, and that said surplus income can lawfully and should be applied in contributing to the expense of such erection.

Hence your petitioners need the instructions of the court in the premises, and pray that, upon proper notice to the

College of Physicians aforesaid, it may be ordered to answer this petition and stand to, perform and abide by such order and direction of the court as may be made therein.

William Hunt, M. D., one of said petitioners, being duly affirmed, says that the facts above set forth are true.

Affirmed and subscribed before me, this twenty-seventh day of March, A. D. 1884.

WALTER S. GIBSON,
Notary Public.

WM. HUNT.

APPENDIX.

ARTICLES OF AGREEMENT, Made and executed this eleventh day of December, A. D. eighteen hundred and fifty-eight, between THOMAS D. MÜTTER, of the city of Philadelphia, doctor of medicine, of the first part, and the COLLEGE OF PHYSICIANS OF PHILADELPHIA, of the second part.

The said party of the first part, for himself, his heirs, executors and administrators, hereby covenants and agrees to and with the said party of the second part and their successors, and the said party of the second part for themselves and their successors hereby covenant and agree to and with the said party of the first part, his heirs, executors and administrators, in manner following.

The party of the first part covenants and agrees according to the three following articles :—

1. That he will convey to and place under the guardianship of the party of the second part, the pathological collection at present owned by him (the particulars of which collection are set forth in a paper marked "A," annexed to these presents, and to be taken as part thereof), for the purpose of serving as the basis of a museum, to be denominated "The Mütter Museum, founded by Thomas Dent Mütter, M. D., LL. D., A. D. 1858," as soon as the party of the second part shall have erected a building suitable for the reception of the said collection.

2. That he will defray, during the term of his natural life, the expenses of maintaining said museum.

3. That as soon as the necessary papers can be prepared, he will convey and assign to the Pennsylvania Company for Insurances on Lives and Granting Annuities a yearly ground-rent of twelve hundred dollars, unincumbered,

and of good and marketable title, and also the sum of ten thousand dollars of the six per cent. loan of the city of Philadelphia, the net income of which investments, or of whatever investments may at any time be substituted for them by said Company, shall be paid unto the party of the first part when and as collected, during the term of his life for his own use, or in case of his death before the erection of said building, then according to his last will, and after his death and the erection of said building, shall be paid to the College of Physicians of Philadelphia aforesaid, in manner designated in the following articles, for the support and increase of said museum, and the other purposes hereinafter designated.

The party of the second part covenants and agrees according to the remaining articles of this agreement, being fifteen in number:—

4. That the building to be erected as aforesaid shall be fire proof, and shall be completed within five years from the execution of these presents. Said building is to contain an apartment of sufficient dimensions for the accommodation of said museum and its probable increase. Should the said party of the second part fail to erect such a building within the said period of five years, this whole agreement shall, at the option of the said party of the first part, become null and void.

5. That the charge of the museum aforesaid shall be placed in the hands of a committee of three, to be appointed annually by the College, and called "The Committee of the Mütter Museum," to the chairman of which committee the income of the said trust estate shall be paid from and after the death of the party of the first part as aforesaid. Such income is to be disbursed by the aforesaid committee, under the supervision of the said College of Physicians, in the manner hereinafter directed; and semi-annual accounts are to be rendered to the College by the said committee of all their receipts and expenditures. The committee is to be at all times subject to directions from the College, who shall have the power to supply any vacancy that may occur in said committee.

6. That the income so received by the chairman of the committee aforesaid shall be devoted to the following purposes, and no other:—

1. For the salary of a curator \$300 per annum.
2. For the salary of a lecturer \$200 per annum.

And the remainder of said income to the preparing, fitting up, keeping in order, increasing and insuring of pathological and anatomical preparations and specimens, illustrative of surgery and medicine; drawings, models, casts and other like matters, which are intended to form the museum aforesaid.

7. That they will appoint, annually, a curator of the Mütter Museum, who is also to be curator of the College. He shall receive the aforesaid salary of three hundred dollars per annum, to be paid to him by the chairman of the Committee on the Mütter Museum out of the income received by him in that capacity. No professor or lecturer on surgery or medicine shall be appointed curator aforesaid. The Museum of the College of Physicians shall be annexed to the Mütter Museum as soon as conveniently may be after the reception of the latter into the new College building.

8. That no one shall be permitted to remove from the College building, except for necessary repairs or preparation, any article belonging to the said Mütter Museum, after the same shall have been deposited there.

9. That proper accommodations, such as chairs, tables, pen, ink and paper, shall always be present in the museum for those who may be inclined to draw or describe any of the preparations.

10. That should the party of the first part again desire to teach, he shall have the use of the Mütter Museum, he undertaking to return, immediately after each lecture, the preparations removed for his use.

11. That free access to the museum and preparations shall be given to every regular graduate in medicine, and to every student of medicine, without charge or fee, subject to such regulations as the College may deem necessary for the preservation of order, and that other persons may be

admitted on the presentation of a ticket bearing upon it the signature of any Fellow of the College.

12. That the curator aforesaid shall attend at the museum, for the accommodation of visitors and students, for such a length of time, and on such days in each and every week, as may be directed by the committee aforesaid on the Mütter Museum.

13. That on such occasions the curator shall remove and replace specimens, afford information to the students, and prevent improprieties on the part of visitors.

14. That they will provide and pay a door-keeper for the building to be erected as aforesaid, who shall receive such specimens as may from time to time be sent to the museum.

15. That when any preparation has been properly placed in the museum, the name of the donor shall be conspicuously attached to it.

16. That they will appoint, once in every three years, a lecturer, whose duty it shall be during that period, to deliver, annually, a course of lectures on some point or points connected with surgical pathology. The same lecturer shall not be appointed for two such successive terms of three years. Such lecturer shall be subject to directions from the College in regard to the period and duration of his course; but no such annual course shall consist of less than ten lectures.

17. That the said lecturer shall receive from the Committee on the Mütter Museum the salary of two hundred dollars above directed to be paid him. He shall deliver his lectures within the College building, and shall have the use of the museum for the purpose of illustrating them. He may receive a fee of five or ten dollars, as he may himself determine, from every person attending his lectures. He shall, however, distribute ten gratuitous tickets to poor but well-educated and moral students of regular medicine, whom he may select at will; and all Fellows of the College are to be allowed gratuitous access to the lectures.

18. That the annual income of the trust fund received by the College of Physicians shall be devoted exclusively to the performance of the trusts specified in this agreement. In the event of their application to any other purpose, the benefit of the trust in favor of the College of Physicians shall cease, and the fund shall revert to the heirs and assigns of Dr. Mütter.

In Witness Whereof, The said Thos. D. Mütter has hereunto set his hand and seal; and the said College of Physicians of Philadelphia have caused their common or corporate seal to be hereunto affixed, the day and year first above written.

THOS. D. MUTTER. [L. s.]

Attest, GEO. B. WOOD, M. D., [L. s.]
President of the Col. of Phys. of Phila.

Attest, EDWARD HARTSHORNE, M. D.,
Secretary of the Col. of Phys. of Phila.

Scaled and delivered in the presence of us, by the party of the first part, December 13th, 1855:—

JOHN THOMPSON,
W. P. LEWIS.

In the presence of us, by the party of the second part, January 8th, 1859:—

EDWARD HARTSHORNE,
W. P. LEWIS.

INDENTURE.

This Indenture, made the Eleventh day of December, A. D. eighteen hundred and fifty-eight, between Thomas Dent Mütter, of the City of Philadelphia, Doctor of Medicine, and Mary A., his wife, of the one part, and "The Pennsylvania Company for Insurances on Lives and Granting Annuities," of the other part, whereas, in and by certain articles of agreement entered into between the said Thomas Dent Mütter of the first part, and "The College of Physicians of Philadelphia," of the second part, dated the same day and year as these presents, but executed immediately before them, and intended to be recorded, the said party of the first part, therein for himself, his heirs, executors and administrators, covenanted and agreed to and with the said party of the second part and their successors, and the said party of the second part for themselves and their successors, thereby covenanted and agreed to and with the said party of the first part, his heirs, executors and administrators, in manner following, to wit:— [See Articles of Agreement.]

All which, by reference to the said articles of agreement, will fully and at large appear. Now in pursuance and performance of the covenants entered into by him, said Thomas Dent Mütter, as above, and in consideration of the articles of agreement, and also in consideration of the sum of One Dollar, lawful money of the United States of America, to each of them the said Thomas Dent Mütter, and Mary A., his wife, well and truly paid by the said "The Pennsylvania Company for Insurances on Lives and Granting Annuities," at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged. This Indenture witnesseth that the said Thomas Dent Mütter and Mary A.

his wife have granted, bargained and sold, assigned, transferred and set over, and by these presents do grant, bargain, sell, assign, transfer and set over unto the said "The Pennsylvania Company for Insurances on Lives and Granting Annuities," their successors and assigns, the sum of Ten Thousand Dollars of the Six per cent. Loan of the City of Philadelphia, contained in the five following certificates, three of said certificates being for one thousand dollars each, and numbered respectively nine thousand eight hundred and forty-five, nine thousand eight hundred and forty-six, and nine thousand eight hundred and forty-seven (9845, 9846, 9847); another of said certificates being for the sum of three thousand dollars, numbered three thousand one hundred and seventy-one (3171), and the remaining one of such certificates being for the sum of four thousand dollars, numbered eleven thousand two hundred and six (11,206). And also all that certain yearly Ground Rent or sum of Twelve Hundred Dollars, lawful silver money of the United States of America, payable half yearly, on the first day of the months of September and March, by Peter A. Keyser and Francis B. Warner, their heirs and assigns, in every year, without deduction for taxes, and issuing out of all that certain Lot or piece of Ground, situate in that part of the City of Philadelphia, late Penn Township, on the north side of Girard Avenue, and on the east side of Schuylkill Fifth (now Eighteenth) Street, containing in front or breadth on said Girard avenue two hundred and fifty-five feet, and extending in length or depth northward of that width along the east side of Schuylkill Fifth street one hundred and sixty-five feet to a twenty-five feet wide street, bounded northward by the said twenty-five feet wide street, eastward by ground now or late of Charles F. Lex, southward by the said Girard avenue, and westward by the said Schuylkill Fifth street; which said lot or piece of ground the said Thomas Dent Mütter and Frederick Brown with their respective wives, by indenture bearing date the first day of March, A. D. one thousand eight hundred and fifty-three, recorded in Deed-book T. H., No. 73, page 140,

&c., granted and conveyed unto Peter A. Keyser and Francis B. Warner as tenants in common in fee, reserving thereout to them the said Thomas Dent Mütter and Frederick Brown, their heirs and assigns, the said yearly ground rent of twelve hundred dollars, and the said Frederick Brown and wife, by indenture bearing date the twenty-seventh day of June, A. D. one thousand eight hundred and fifty-four, recorded in Deed-book T. H., No. 160, page 61, &c., granted and conveyed his the said Frederick Brown's one full equal and undivided moiety of and in the said yearly ground rent unto the said Thomas Dent Mütter, his heirs and assigns, together with all the right, title, interest, property, claim and demand of the said Thomas Dent Mütter and Mary A. his wife, or either of them, in law or equity, of, in and to the said yearly ground rent, and also of, in or to the said lot of ground, out of which the same issues, to have and to hold the said yearly ground rent with the appurtenances, and also the said sum of ten thousand dollars of the Six per cent. loan of the city of Philadelphia, unto the said "The Pennsylvania Company for Insurances on Lives and Granting Annuities," their successors and assigns, to and for the only proper use and behoof of them the said "The Pennsylvania Company for Insurances on Lives and Granting Annuities," their successors and assigns forever, upon this special trust and confidence, nevertheless, to receive the rents, interest, income, and profits of the said trust estate, and after deducting all taxes, charges and the expenses of this trust, to pay the same over to the said Thomas Dent Mütter when and as collected during the term of his life for his own use, and in case of his death before the erection of said building, then according to his last will, and from and after the death of the said Thomas Dent Mütter and the erection of said building, then in trust to pay the said rents, interest, income and profits to the Chairman of the said Committee of the Mütter Museum, for the time being to be held by him and disbursed in accordance with the provisions of the hereinbefore recited agreement, his receipt to be the sole discharge to the said

Trustees paying the same, but so that the said Trustees shall not be liable to see that the said income is disbursed by the said "The College of Physicians of Philadelphia," in conformity with the provisions of the said articles of agreement, and upon failure by the said College of Physicians of Philadelphia to devote the said annual income *exclusively* to the performance of the trust specified in said agreement, or in the event of their application to *any other purpose*, then upon trust to convey the said trust estate and premises hereby granted unto such person or persons as the said Thomas Dent Mütter, by his last will and Testament in writing, shall demise, bequeath or appoint, or in default of any such devise, bequest or appointment, then upon trust to convey the same to the heirs and legal representatives of the said Thomas Dent Mütter according to the intestate laws of Pennsylvania then in force. And it shall and may be lawful for the said "The Pennsylvania Company for Insurances on Lives and Granting Annuities," if the principal of said yearly ground rent, or if said City loan or either of them should at any time be paid off, to reinvest the same, to and for the uses, trust and purposes specified and declared in and by this present indenture, and so to do from time to time as often as any of such investments or reinvestments shall be paid off, such reinvestments to be made according to law; and it is also hereby expressly provided, that the said Trustees in the premises shall not be liable for any act or acts in the execution of this trust done or performed by them in good faith, or for any loss or depreciation of the said trust estate, unless the same shall happen through their willful default or negligence. And the said Thomas Dent Mütter for himself, his heirs, executors and administrators, doth by these presents covenant and agree to and with the said "The Pennsylvania Company for Insurances on Lives and Granting Annuities," their successors and assigns, that he, the said Thomas Dent Mütter, hath not done or suffered to be done any act, matter or thing, whereby the estate hereby granted is or may be incumbered in title, charge or otherwise, howsoever.

In Witness Whereof, The said parties to these presents have interchangeably set their hands and seals hereunto the day and year first above written.

Sealed and delivered in presence of us :

NOTE:—The words or in case of his death, before the erection of said building then—according to his last will, and also the words and the erection of said building having been first interlined on the second and also on the eighth page.

JOHN THOMPSON,
W. P. LEWIS.

THOS. D. MUTTER. [SEAL]
M. W. A. MUTTER. [SEAL]

Acknowledged thirteenth day of December, A. D. 1858, before John Thompson, Alderman.

Recorded January 8th, 1859, in Deed-book A. D. B., page 342, &c.

Send to my care if
you have it

No. 506.

March Term, 1884.

Common Pleas, No. 2.

J.S.H

In the Matter of the Petition of
William Hunt, M. D., Chairman,
S. Weir Mitchell, M. D., and John
M. Brinton, M. D., "Committee of
the Mutter Museum."

PETITION.

WM. HENRY RAWLE,
Pro Petitioners.

ALLEN, LANE & SCOTT.