

the testator, that the devise to her was converted into a life estate, merely, with remainder to her children; and that the surviving sons of the testator are entitled to hold the property in trust for such children, until they respectively attain the age of twenty-one years or marry.

It is quite possible, that if there were no provisions in the will upon which this latter clause could take effect, except on those to be found in the devises to the daughters, the construction contended for would prevail, as it is the duty of the court to give effect to every part of the will, without change, or rejection; provided, an effect can be given to it, not inconsistent with the general intent of the whole will, taken together.

But when, upon an examination of this will it is found, that that there are provisions upon which this latter clause can operate, without at all disturbing the devises to the daughters, it is believed that there is no rule of law which requires its application to those devises. The principle appears to be, that you are not to disturb the prior devise further than is absolutely necessary for the purpose of giving effect to the posterior qualifying disposition. 1 *Jarman on Wills*, 414.

It was said by Lord Redesdale in *Jesson vs. Wright*, 2 *Bligh*, 56, "it must not be understood that because a testator uses in one part of his will words having a clear meaning in law, and in another part words inconsistent with the former, that the first words are to be cancelled or overthrown." This is only to be done when the two provisions are totally inconsistent with each other, and where the real intention of the testator cannot be ascertained. *Corecuboven vs. Shuler*, 2 *Paige*, 122.

It is quite apparent in this case, that the testator did not intend to give his sons and daughters the same interest in the real estate devised to them respectively, and it would seem equally manifest, that he knew the proper language to be employed in creating a life estate and an estate in fee. In the devises to each one of his numerous sons, he says in terms—I give him the land described, *for and during his natural life*; and to the child or children of such son born in lawful wedlock, and their heirs forever. The same precise language is repeated