

towards their support and maintenance. He does not in terms revoke the devise of the remainder to his children and grandchildren, after the death of his wife. That is left to stand, and if affected by the codicil, it is by implication and construction only.

The codicil was manifestly made for the purpose of revoking, in part, the devise and bequest to the wife, and for no other purpose; and it would be giving, as I think, an effect to it not contemplated by the testator, to make it operate upon the devise over to his children and grandchildren. It is to be observed, that the codicil does not give the property in question to his children, in the terms usually employed in such cases. It does not give them the house No. 42, but "the rents, issues, and profits" of it, and these words are relied upon as sufficient to pass the title. But a devise of the profits of land does not, *ex vi termini*, pass the land, but only furnishes evidence of the intention of the testator that it shall pass; and if upon the face of the will a different intention is manifest, that evidence is rebutted. *Magruder et al. vs. Peters et al.*, 4 G. & J., 323. My opinion is, that upon the face of this will, construing the will and codicil as one instrument, a contrary intention is sufficiently manifest to overcome the evidence of an intention to pass the land afforded by the devise of the rents and profits. There is upon the face of the codicil a plainly indicated intention to give the rents and profits only, and for a temporary purpose, that is, to provide the means of supporting and educating his two surviving children, until the devise over to them and his grandchildren, upon the death of his widow, should take effect. The codicil declares it to be the purpose of the testator to revoke and annul the devise and bequest to his wife only, and that only in part. Nothing is said about disturbing the disposition of the will, with respect to the limitation over to the children and grandchildren, after the death of the testator's widow, and the will and codicil can be easily reconciled by making the latter apply only to, and operate upon, that part of the will which relates to the wife. My opinion then is, that the testator having by his will given