

that the testatrix used the word in its original and etymological meaning of "to sit above, be superior to, precede, or have priority over"—a meaning which, according to standard dictionaries, it still retains. She merely meant that the 3 preferred bequests were to rank as follows: 1st, her husband, 2nd, Bertha, and 3rd, her son Vernon for his education or profession.

Another objection to the interpretation put upon the codicil by the judgment appealed from is that it would indirectly revoke all the special bequests of heirlooms, jewelry, silver and furniture made by the testatrix to each of her children and would wholly deprive Bertha of any share in them, although her mother gave her an equal share of the furniture with her brothers and as much of the other articles as her 3 brothers together. These bequests are made in the will with great particularity and detail, giving special articles to each of her children, and occupy no less than 5 clauses of the will and nearly as much space as does all the rest of her real and personal property. It is little wonder that counsel for the sons shrank from the necessary application of their theory of construction to these portions of the will.

To my mind this theory of interpretation is wholly at variance with the entire scope of the codicil. It is quite apparent that the testatrix had one leading object and purpose, namely, that of assuring to Bertha a more generous income, and there is no language in the codicil to lead to the conclusion that she proposed to practically revoke the will in so far as it conferred benefits upon Bertha, but the contrary; that she meant simply, as she says, to add a codicil in the express interest of Bertha; and in my opinion the language used by her in the codicil carries out this intention, and effect should be given to it.

Furthermore, there is nothing in the codicil to suggest that there was any intention to revoke the will. If such had been intended it should have been expressed in clear and unambiguous terms. This canon of construction has been laid down many times by the highest authorities, and was well expressed by Chief Justice Tindal in *Hearle v. Hicks*, 1 Cl. & F. 20, at p. 24, where he says: "If a devise in the will is clear it is incumbent on those who contend it is not to take effect by reason of a revocation in the codicil to shew that the intention to revoke is equally clear and free from