

*SURVIVORS—CARELESS USE OF THE WORD.*

The words "survivor" and "survive" should be absolutely banished from wills, unless it is quite clear on the face of the document itself who or what is to be survived, and in what sense "survive" is used. To take a very simple instance: A testator says: "I bequeath a sum of £c upon trust for my wife for life and afterwards for the survivors of my children." Does this mean that the children to take are those who survive the testator or those who survive the wife or those of the children who live longest? So common is the difficulty of ascertaining the testator's intention when he uses one of these words, that we noted two cases in our last number. In *Re King* (noted *ante*, p. 484) the gift was after the death of each of his daughters for her children who survived the testator. None of the daughters married in the testator's lifetime, but one of them afterwards married and had three children. Could it be said that these three survived the testator when they had not been born at his death? The natural meaning of survive is "to live beyond," and a person can scarcely be said to have lived beyond the life of another person when their lives did not overlap at all. No one, for instance, would say that Napoleon survived Julius Caesar. Words are, however, our servants, not our masters, and it was obvious that the testator must have intended his grandchildren to take though they were born after his death; and Mr. Justice Eve was enabled to hold that the grandchildren did take by allowing to the word "survive" a secondary meaning of "live after." In the other case to which we referred—namely, *Re Mears* (noted *ante*, p. 484)—the question was, in effect, whether "survivor" could not be interpreted as "other." The trusts of the will were, briefly, that the residue should be held in trust to pay the income equally between his three daughters during their respective lives, and after the death of any leaving issue to pay one-third of the capital to her children who shall attain twenty-one, and if they should die without leaving issue the survivors or survivor should take the de-