from the death of the testator, and it is also to be considered that while the intent in this will is expressed with clearness, so that it is not difficult to understand the meaning, it is not drawn with legal skill and an exact use of language. In such a case especially it is imperatively the duty of the Court to endeavor to ascertain the meaning of the instrument, and when ascertained, to carry it out if it can be legally done.

The objection is founded on the rule laid down in 3rd Jarman on Wills, p. 606. that where a bequest is simply to A, and in case of his death to B, A surviving, the testator takes absolutely. This rule is more fully explained on page 611. as follows: "But although in the case of an immediate gift, it is generally true that a bequest over, in the event of the death of the preceding legatee, refers to that event occurring in the lifetime of the testator, yet this construction is only made ex necessitate rei, from the absence of any other period to which the words can be referred, as a testator is not supposed to contemplate the event of himself surviving the objects of his bounty, and consequently where there is another point of time to which such legacy may be referred, (as obviously is the case where the bequest is to take effect on possession at a period subsequent to the testator's decease,) the words in question are considered as extending to the event of the legatee dying in the interval between the testator's decease and the period vesting in possession".

"Thus, in Harvey vs McLaughlin. 1 Bro. 264, where a testatrix bequeathed two several sums of stock to a trustee, in trust to pay the dividends to T for life, and after her death she gave the said sums to B. C and D, the three children of T, in equal shares, and in case of the death of either

of them, the share of such as might die to go to and belong to the children or child, if but one, of the persons so dying. B survived the testatrix and died in the lifetime of the mother, the legatee for life, and it was contended that the words "in case of the death" of the legatees, referred to a dying in the lifetime of the testatrix, and therefore that the children were not entitled. But the Court considered that the intention of the testatrix was to substitute the children of those dying in the lifetime of the legatee for life, in the place of their parent, and that therefore the parents took vested interests on the death of the testatrix, subject to be divested in the event specified."

Here is a clear decision that the point of time to which the dying of the legatee referred was subsequent to the death of the testatrix.

And on page 614 of 3rd Jarman, it is stated: "It should be noted that the construction of the words, "in case of the death", which makes them provide against the event of the legatee dying in the testator's lifetime, applies only when the prior gift is absolute and unrestricted, and not where such legatee takes a life interest only; for if a testator bequeaths the interest of a sum of money to A. expressly for life, "and in case of his death" to B. the irresistible inference is that these words are intended to refer to the event on which the prior life interest will determine, and that the bequest to B is meant to be not a substituted, but an ulterior gift, to take effect on the death of A, whenever it may happen."

And on page 615, 3rd volume, Jarman says, "where the prior gift not expressly for life, comprises the annual income only of the fund which is the subject of the bequest, the same construction seems to prevail as where the