

of all material facts known to the attorney, and that it is not brought about by any undue influence, either actively exerted or arising from the relation between them. The presumption is against its validity. *Nesbit v. Lockman*, 34 N. Y. 167; *Whitehead v. Kennedy*, 69 N. Y. 462; *Cowee v. Cornell*, 75 N. Y. 99; *St. Leger's Appeal*, 34 Conn. 435; *Newman v. Payne*, 2 Ves., Jr., 200; *Gibson v. Jeyes*, 6 Ves., Jr., 278; *Wood v. Downes*, 18 Ves., Jr., 120; *Savery v. King*, 5 H. L. Ca. 627; 1 Sto. Eq. Jur., ss. 310-312. No preponderance of evidence being found in favor of the defendant, the plaintiff prevails.

*Judgment for the plaintiff.*

BLODGETT, J., did not sit: the others concurred.

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[Rockingham, December, 1883.]

HANLEY, *Ap't*, v. RUSSELL, *Guard'n*.

CLARK, J. In the appointment of a guardian of a minor, no notice is required. G. L., c. 192, s. 2. It is not necessary to consider whether, as suggested in the arguments, the controversy respecting the appointment of the defendant as guardian arises from a diversity of religious creeds, or whether theology is to be regarded in the appointment of a guardian. There are in this case no facts raising any question of religious education; nor are the alleged reasons of appeal sustained by the facts proved. The finding that there was occasion for the appointment of a guardian, and that the defendant is a suitable person for the trust, does not show that the decree is erroneous, or that the appellant is legally aggrieved by it. *Waldron v. Woodman*, 58 N. H. 15; *Lunt v. Auburns*, 39 Me. 392. It does not appear that there is any person more suitable than the defendant.

*Appeal dismissed.*

ALLEN, J., did not sit: the others concurred.

*J. S. H. Frink*, for the plaintiff.

*C. Page*, for the defendant.

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[Rockingham, June, 1884.]

WHITTEMORE, *Adm'r*, & a., v. MERRILL.

BILL IN EQUITY, for the cancellation of a deed of a farm from N. A. D., now deceased, widow of G. A. D., deceased. A part of