

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

the plaintiffs, heirs-at-law of N. A. D., claimed that the deed was obtained by fraud. The other plaintiffs, legatees under the will of G. A. D., claimed that the farm conveyed was part of the estate of G. A. D., and that by the terms of the will N. A. D. was authorized to use and expend only so much of the estate as she needed for her support, and that the conveyance was unauthorized. The consideration of the deed was the defendant's agreement to support N. A. D. during life. The court at the trial term found that the deed was made without fraud or undue influence, in good faith, upon good consideration, and that the conveyance was reasonably necessary for the purpose of providing a home for N. A. D., and dismissed the bill; and the plaintiffs excepted.

*A. Whittemore, Jr., and W. L. Foster*, for the plaintiffs.

*Wiggin & Fuller*, for the defendant.

CLARK, J. No question of law is raised in this case. The material allegations of the bill are not sustained by the facts found.

*Exceptions overruled.*

STANLEY and ALLEN, JJ., did not sit: the others concurred.

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[Strafford, June, 1884.]

KAULBACH v. KAULBACH & a.

IN EQUITY. The facts being insufficiently found, a new trial was ordered.

*Carter & Nason and Wiggin & Fuller*, for the plaintiff.

*A. L. Mellows and Frink & Batchelder*, for the defendants.

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[Merrimack, June, 1884.]

DUDLEY v. PEASLEE.

CASE, for deceit in the sale of a straw-board mill, comprising real estate, water rights, machinery, and stock.

The plaintiff went into possession under a written agreement for purchase, dated January 24, 1880. By the conditions of the agreement the plaintiff was to receive a deed of the property by September 1, 1880, provided the payments specified in the agree-