

the testator, or to put forward a charge of undue influence or fraud, the losing party may properly be relieved from the costs of the successful party." This rule was acted upon, and the plaintiff relieved from costs in a case where the plaintiff had seen the deceased the day after the will was executed, and found him very low and unable to speak intelligibly, and where the testator had, to several persons spoken approvingly of the conduct of the plaintiff, a son of a deceased brother, and had expressed himself in such a manner as induced the plaintiff and others to believe that he would become a beneficiary under his uncle's will, in which his name was not mentioned, and which had been prepared at the house of the widow of another brother of the testator, where he had for some time been residing, and was taken ill and died, although at the hearing the plaintiff's case entirely failed in proof.

Macauley v. Kemp, 442.

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### WILL.

#### [DESTRUCTION OF]

The widow kept possession of the will for eleven months after the death of the testator, when she burned it for the purpose of enabling her to borrow money on the property devised, and she subsequently sold her interest under the will—an estate for life—and the only child professed to convey, as heir-at-law, to one R., who created a mortgage, under which the property was sold to D., a *bonâ fide* purchaser without notice, who afterwards agreed to sell to R. for the amount of his purchase money, interest and costs.

*Held*, that there was not any such inevitable difficulty as afforded a reason for the will not being registered within twelve months after the death of the testator, and that therefore D. was entitled to the protection of the registry laws (R. S. O. ch. 3, sec. 75), as against the infant devisees; but it appearing that R. had notice of the will when he purchased from the widow and heir-at-law, the Court declared the infants entitled to redeem.

Re Davis, 199.

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