G. H. Cooper submitted that the will was duly executed, and that the deceased knew and approved the contents. At this distance of time everything should be presumed in favor of the will. Parkinson saw the mark on the will before he signed, and what Davis said in the testator's presence amounts to an acknowledgment: *In the goods of Bosanquet*, 2 Robart. 577; *In the goods of Jones*, Deane & Swa. 3. As to knowing and approving the contents, Sir C. Cresswell held that there was no occasion for a man to know the contents of his will. He might delegate to another the task of making his will:

Middlehurst v. *Johnson* 30 L. J. 14; *Canliffe and Ormerod* v. *Cross*, 3 S. & T. 37; He also referred to—*Hastilow* v. *Stobie*, 35 L. J. 577, P. & M.; L. Rep. 1 P. & D. 64. *Cleare* v. *Cleare*, L. Rep. 1 P. & M. 655; 20 L. T. Rep. N. S. 457; *Allen* v. *Atkinson*, L. Rep. 1 P. & D, 655; 20 L. T. Rep. N.S. 404.

Searle for the plaintiff.—The defendant has not discharged the burden of proof on him to show that it is the testator's will. As to acknowledgment in the cases cited, the will was signed by the testator, here there is only a mark. The plaintiff is bound to show that the deceased knew and approved the contents of the will:

Cleare v. *Cleare* (*sup.*) *Grodatre* v. *Smith*, L. Rep. 1 P. & D. 359. *Cur. adv. vult.*

Sir James Hannen.—The issues in this case were—First, whether the alleged will of Thomas Morrit, dated the 9th May, 1862, was duly executed; and, secondly, whether the deceased at the time of the execution of the said alleged will knew and approved of the contents thereof. The alleged will purported to be executed by the deceased by mark. One attesting witness, Henry Parkinson, was called, who stated that upon going into the room where the deceased was, a person named Thomas Davis said to him and the other attesting witnesses that "he wished them to sign Thomas Morrit's will." The witness in answer to the question, "Did Thomas Morrit hear that?" said "Yes, he sat close by." It is clear that the witness merely drew the inference that the deceased heard from the fact that he was near. No other evidence was offered to connect the alleged will with the deceased. The mark which is alleged to be that of the deceased was already on the paper when the witnesses were called in. The will was not read to or by the deceased in their presence, nor was any allusion made to it by anyone beyond the words uttered by Davis, and the witness stated that he thought the deceased was not exactly in his right mind at the time. At the hearing several cases were cited, which I have examined, but I do not think it necessary to comment on them, as they have not assisted me to come to a conclusion on the simple facts of this case. It is sufficient to say that the evidence entirely fails to satisfy me that the deceased either acknowledged the mark to be his, or that he knew what the contents of the alleged will were.

UNITED STATES REPORTS.

DISTRICT COURT.

Passmore v. Western Union Telegraph Co.

1. A regulation that a telegraph company will not be responsible for the correctness of messages unless repeated, is not so far contrary to private interest or the public good, as to justify a court of justice in pronouncing it void.
2. As to the time when a contract becomes binding by letter or telegram discussed.

Rule for a new trial and motion for judgment on points reversed.

[U. S. District Court—Jan. 25, 1872.—*Hare, P. J.*]

This is an action against the Western Union Telegraph Company, to recover damages for a mistake committed by their servants in the transmission of a telegraphic message from Parkersburg, in West Virginia, to Philadelphia. The telegram as originally written by the plaintiff was as follows:

"Parkersburg, April 14th, 1865.

"To P. Edwards, 423 Walnut street, Philadelphia."

"I hold the Tibb's tract for you. All will be right."

Unfortunately, through some unexplained mistake or accident, an *s* was substituted for an *h*, so that the message when delivered in this city read, "I *sold* the Tibb's tract, &c." Edwards thereupon broke off the contract into which he had entered for the purchase of the land. The mistake was not discovered until the second or third of May, when the plaintiff came to Philadelphia, and had an interview with Edwards, who said that supposing the telegram to be correct, had made other arrangements.

The jury found a verdict for the plaintiff subject to the opinion of the court on the following points:

1. "Whether the defendants are liable in this case, the plaintiff not having insured the message nor directed it to be repeated, and

2. "That the form in which the telegram was transmitted by the defendants and received by Edwards, did not discharge Edwards from his liability as a purchaser under his contract with the plaintiff, and therefore, that the damages