

brought under similar circumstances to recover moneys paid for seats to view the coronation procession. On the question of costs, however, the Court of Appeal reversed Bigham, J.'s order, holding that there was no ground for depriving the defendants of their costs, the fact that it was "a hard case" not being deemed a sufficient reason.

WILL—PROBATE—FRAUD AND UNDUE INFLUENCE UNSUCCESSFULLY SET UP—COSTS.

Wilson v. Bassil (1903) P. 239, was a probate action in which the defendant set up that the will was obtained by fraud and undue influence. The facts surrounding the making of the will brought the case within the principles laid down in *Brown v. Fisher* (1890) 63 L.T. 465; *Fulton v. Andrew* (1875), L.R. 7 H.L. 448; and *Tyrrell v. Paintore* (1894), P. 151, and imposed upon the plaintiff propounding the will the onus not only of proving its valid execution, but that it was not obtained by fraud and undue influence, and that it did truly express the last will of the testator. Under these circumstances, although the defendant failed, Walton, J., held that the defendant was entitled to payment of his party and party costs out of the estate next after payment of the plaintiff's costs as between solicitor and client.

PROBATE—NUNCUPATIVE WILL—SOLDIER ON ACTIVE SERVICE—TESTAMENTARY DISPOSITION—"EFFECTS TO BE CREDITED"—WILLS ACT (1 VICT., c. 26), S. 11—(R.S.O., c. 128, s. 14).

In the goods of Scott (1903) P. 243, was an application for administration with the contents of a nuncupative will annexed. The testator was a soldier in active service at the time of his death. The declaration was made by the deceased to his commanding officer as follows: "In the event of my death in South Africa I desire all my effects to be credited to my sister, Miss N. Scott, 39 Hanley Road, London, N." This, Jeune, P.P.D., held to be a sufficient will and administration was granted as prayed.

HIGHWAY—LAND BETWEEN FENCES SEPARATING ROADWAY FROM ADJOINING LAND—DEDICATION—PRESUMPTION.

In *Harvey v. Truro* (1903) 2 Ch. 638, Joyce, J., decided that in the case of an ordinary roadway running between fences, although the space between them be of a varying and unequal width, the right of passage or way *prima facie*, in the absence of evidence to