

LOCKE *v.* HANCOCK.

The probate court has exclusive jurisdiction of the adjustment and establishment of advancements.

PETITION for partition. Facts found by a referee.

The plaintiff claims title through Stephen and Benjamin, sons of the late John Sanborn, who at his decease was the owner of the land, and who had conveyed to Stephen and Benjamin other lands exceeding in value their share of his estate. The plaintiff contends that the question of advancements cannot be tried in this suit.

Sanborn and Shirley, for the plaintiff.

Barnard & Leach, for the defendant.

BINGHAM, J. The probate court has jurisdiction of all matters relating to the settlement and final distribution of decedents' estates, including advancements. Gen. St., c. 170, s. 2; c. 184, ss. 9, 10; *Titus v. Ash*, 24 N. H. 319, 327; *Henry v. Arms*, Smith (N. H.) 39, 44. The defendant must apply to the probate court for an adjustment and establishment of the advancements, and this case may be continued to await the result of that proceeding.

Case discharged.

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

STATE *v.* THE CONCORD RAILROAD.

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| Case 2 | |
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| 72 | 387 |

In an indictment of a railroad corporation for not affording reasonable and equal terms, facilities, and accommodations for the transportation of merchandise, under G. L., c. 163, s. 2, it is not necessary to expressly allege that the acts charged were unlawfully done, nor that the merchandise was the property of the person having occasion to transport it.

INDICTMENT, upon G. L., c. 163, s. 2. Motion by the defendants to quash.

Mugridge, for the defendants.

Greene, Solicitor, and *A. F. L. Norris*, for the state.