

NUTE *& a. v.* YORK *& a.*

The heirs of a widow who did not release her dower and homestead right, have no title to the real estate of her husband.

WRIT OF ENTRY, for land in Alton of which Eben Hayes died seized. The plaintiffs are the heirs at law of Eben, and the defendants are the heirs of his deceased widow. Eben died intestate January 10, 1890, leaving no child or the issue of any child surviving him. His widow died ten days later. She did not file a release of her right of dower and homestead in the probate office or registry of deeds. After her death the plaintiffs and defendants, without legal advice, and supposing the widow, and under her the defendants as her heirs at law, were entitled to one half the land, made by parol an equal division. The demanded premises were assigned to the defendants, who occupied them and received the income about four months.

G. E. Cochrane and *J. Kivel*, for the plaintiffs.

E. H. Shannon, for the defendants.

CARPENTER J. The widow took her dower and homestead right. G. L., c. 202, s. 10; Laws 1883, c. 34. The defendants have no title. The rights of the parties are not affected by the parol division.

Judgment for the plaintiffs.

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

HART *& a. v.* LOCKWOOD.

In an action for injuries to the plaintiff's horse by negligent driving, the burden of proof is not cast upon the defendant by evidence that the horse was delivered to the defendant uninjured, and remained in his possession until returned to the plaintiffs injured.

The exclusion of evidence which might properly be rejected for remoteness is not open to exception.

CASE, for driving the plaintiffs' horse a greater distance than he was hired for, and for injuries to the horse caused by the defendant's negligence. Trial by the court, and verdict for the defendant.

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68	568
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69	389
66	541
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72	466