

The defendants' exception, therefore, that the indictment does not properly allege an offence under the latter statute, is unimportant; and as no other objection was raised to the indictment, the court is not called upon to pass upon its technical sufficiency.

The exception to the admission of evidence that the defendants kept liquor for sale on the second day of December, while the date of the offence as alleged in the indictment was the first day of December, cannot be sustained. The keeping of liquor for sale after the date alleged and before the finding of the indictment was competent evidence of the defendants' guilt. *State v. Pratt*, 14 N. H. 456; *State v. Rundlett*, 33 N. H. 70; *State v. Havey*, 58 N. H. 377; *State v. Ingalls*, 59 N. H. 88; *State v. Perkins*, 70 N. H. 330.

If the statements of one of the defendants in the absence of the others were not competent evidence against the latter that they kept intoxicating liquor for sale, they were admissible against the former. That the jury were properly instructed as to the legitimate use to make of the evidence is presumed, in the absence of an exception to the charge of the court upon that subject. *Haskell v. Railway*, 73 N. H. 587.

*Exceptions overruled.*

All concurred.

Rockingham, }  
Dec. 4, 1906. }

MURDOCK, *Guardian*, *v.* MURDOCK & *a.*

The adoption of a child by a husband and wife does not give him a right to an estate by the curtesy.

PETITION FOR PARTITION. Trial by the court and decree for the plaintiff. Transferred from the April term, 1906, of the superior court by *Chamberlin, J.*

Lydia A. Murdock died seized of the premises of which partition is sought. The only persons interested in the property are John C. Murdock, the decedent's husband, and Lena C. Yeaton, her daughter by a former marriage, who are the defendants, and Carrie L. Murdock, the plaintiff's ward and an adopted daughter of John and Lydia, who had no issue. John claimed an estate by the curtesy, and for that reason excepted to the denial of his motion to dismiss the petition.

*Edwin B. Weston*, for the plaintiff.

*John G. Crawford*, for the defendants.

YOUNG, J. If the language of section 9, chapter 195, Public Statutes, is given its ordinary meaning,—and there is nothing to show that the legislature intended to give it any other meaning,—John is not entitled to an estate by the curtesy. *Foster v. Marshall*, 22 N. H. 491. Although the fact that their adopted child takes more and he less than if she were their own child may have some tendency to prove that he ought to have such an estate, it has no tendency to prove that the legislature intended to give it to him, for he takes the same share of his wife's estate that he would if they had not adopted Carrie. P. S., c. 195, s. 12.

*Exception overruled.*

All concurred.

Belknap, }  
Dec. 4, 1906. }

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WILSON v. BARNSTEAD.

The term "bridge" includes not only that part which spans a stream, road, or other depression, but also the abutments and such other portions of the structure as are required to render it complete according to the plan upon which it is built.

A town is liable for injuries resulting from a defect in that part of a highway which is above the abutments and other essential portions of a bridge.

Whether a particular part of a highway is upon a "bridge," within the legal definition of that word, is a question of fact.

CASE, for personal injuries happening from being thrown from a wagon by reason of a defect in a highway bridge. Trial by jury and verdict for the plaintiff. Transferred from the March term, 1906, of the superior court by *Chamberlin, J.*

The plaintiff's evidence tended to prove that the bridge is constructed of planks laid upon iron girders, the easterly ends of which rest upon an abutment ten feet in height, built of split stone laid in cement. The stones constituting the base of the abutment are five or six feet long and are laid at right angles with the stream, the ends projecting toward the thread of the stream about a foot more than the face of the abutment. The stones above the base are laid, so as to form a perpendicular face toward the stream,