

NUTT V. MECHANICS' BANK ET AL.

[4 Cranch, C. C. 102.]¹

Circuit Court, District of Columbia. Nov. Term, 1830.

ASSIGNMENT OF DOWER—EQUITY.

Dower will be assigned in equity, where there has been a parol partition by tenants in common, and damages will be awarded from the time of the demand, if the husband died seized.

Bill in equity [by Jemima Nutt against Mechanics' Bank and Joseph Smith] for dower in certain lots in Alexandria, conveyed in fee to Nutt & Anderson, as tenants in common, subject to a ground rent, and conveyed by Nutt & Anderson to R. J. Taylor, in trust, to secure debts due by them to the Mechanics' Bank, and to Joseph Smith, and sold by R. J. Taylor, the trustee, to the bank. The bill seeks for damages, from the time of the sale to the bank. Anderson and Nutt were partners in merchandise, and this property was purchased with their joint funds. They divided their joint property, but no legal conveyance or deed of partition was made of the real estate.

Mr. Hewitt and Mr. Swann. A parol partition by tenants in common, is valid.

Mr. Neale. The husband died seized. The rent charged granted by the husband did not deprive him of his seizin.

Decree. Dower to be assigned, and referred to the master commissioner to take an account of the damages from the commencement of this suit to the time of taking the account.

¹ [Reported by Hon. William Cranch, Chief Judge.]

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