

in lot No. 2, and which, according to said division, was assigned to Thomas and John Purdy, in 1845, and of which they have been in the undisturbed possession and enjoyment from that time until this bill was filed, in November, 1850?

If the deed from Stockett and wife to Thomas and John Purdy created a resulting trust in favor of Galen, to the extent of the purchase-money paid by him, still, if he consented to the mortgage executed by the grantees to the Bank, to secure the payment of the money bound to pay for the land (and that he did so consent there is no room to doubt), he thereby parted with his equitable title, and his widow, to whom he was not married until September, 1850, can have no claim to dower, because, in that case, he not only did not hold the equitable title at the time of his death, but never had it during the coverture. It is true, the answer of the defendants admits, that so much of the debt due the Bank, as, according to the understanding between these parties, Galen and Henry Purdy were required to pay, has been paid, but still a portion of the mortgage debt to the Bank is due, and the equitable title of Galen is held by the Bank as security for such payment.

In the case of *Hopkins vs. Frey*, the Court of Appeals say: "Our State adheres to the English law (which declares a widow shall not be endowed of an equity of redemption), except when and so far as it may be changed by our Legislature." And it was decided in that case, and in the subsequent case of *Miller vs. Stump*, that the widow shall not be endowed of such equity, if the husband parts with it in his lifetime. It is not a very easy matter to determine what sort of an interest Galen Purdy had in the land purchased from Stockett and wife. He certainly had no legal title, because the land was conveyed by the vendors to his brothers, Thomas and Henry Purdy; and upon the facts as exhibited by this record, there might be some difficulty in saying there was a resulting trust in his favor, implied by law, from the manifest intention of the parties. There can be no doubt, that if an estate is purchased in the name of one, and the consideration-money is actually paid at the time by another, that there is a resulting trust in