

PARTITION—*Continued.*

2. When partition is made by agreement of parties, one of the modes known to the common law, is, by drawing lots, but there is no authority for saying, that when a compulsory partition is made by judicial process, recourse must be had to lots to determine the portion which each party is to take. *Ib.*
3. The legislature did not mean to confine the commissioners to a particular mode of making the partition, they may, if they please, award to each of the parties his share of the thing to be divided, or they may at the proper stage of the proceedings draw lots, and their return, otherwise unexceptionable, will not be set aside because they have adopted either of these modes. *Ib.*
4. It is a fatal objection to the return, that the value of the estate, in money, has not been stated by the commissioners. *Ib.*
5. The clause directing the commissioners to take evidence, should be added to the form of the commission. *Ib.*
6. The act of assembly requiring thirty days notice of the execution of the commission to be given, is not complied with, by stating, in the return, that *reasonable notice* was given, but the commissioners must say, in their return, either that they gave thirty days notice, or due notice according to law. *Ib.*

## PARTNERSHIP AND PARTNERS.

1. When one of several partners dies, if the surviving partners continue the trade or business, it is at their own risk, and they will be liable, at the option of the deceased partners, to account for the profits made thereby, or to be charged with interest on the deceased partner's share of the surplus, besides bearing all losses. *Goodburn and wife vs. Stevens, 420.*
2. The real estate of a partnership, though regarded in a court of equity as personal estate for all partnership purposes, yet, in the absence of an express or implied agreement indicating an intention to convert it into personal estate, will, when the claims against the partnership have been satisfied, and the partnership accounts adjusted, be treated in a court of equity as at law, as real estate, and be subject to the dower of the widow of a deceased partner. *Ib.*
3. By one of the articles of a partnership agreement, a partner bound himself "not to take out of the business or stock in trade" of the partnership "more than seven hundred dollars per annum, in goods or money, or both." HELD—  
That this article could not be construed as an agreement that this partner should have a salary of seven hundred dollars in consideration of his giving his attention to the business of the firm. *Baltzel vs. Trump, 517.*
4. That by this article he was restricted from taking *more* than seven hundred dollars, but he might take *less*, and if he should take less, he would not be entitled to have the difference made up, upon the expiration of the partnership. *Ib.*

See DOWER, 17.

ELECTION, 2.