

injury to all the parties entitled, and to ascertain the value of each part of such estate in current money, subject to any encumbrance thereon.

Cited but not construed in *Catlin v. Catlin*, 60 Md. 580.

1904, art. 46, sec. 40. 1888, art. 46, sec. 40. 1860, art. 47, sec. 40.  
1820, ch. 191, sec. 10.

40. If the commissioners, or a majority of them, shall determine that the land or estate can be divided, in either of the ways hereinbefore mentioned, without loss or injury to all the parties, they shall cause the lands to be surveyed and laid out by the county surveyor, or such other person as they may think qualified, for the several parties, in case the estate consists of lands; and if the estate shall be equally divided between all the parties interested, according to their several just proportions, then the commissioners, or a majority of them, shall allot to the several parties their respective shares of the said land; and in case the estate shall consist of houses, the commissioners, or a majority of them, shall make allotment and partition between the parties.

Where lands are divided in kind, the widow can not be assigned a portion of the land equal to her dower in the whole. (See section 62.) *Wilhelm v. Wilhelm*, 4 Md. Ch. 334.

Cited but not construed in *Catlin v. Catlin*, 60 Md. 580.

*Ibid.* sec. 41. 1888, art. 46, sec. 41. 1860, art. 47, sec. 41.  
1820, ch. 191, sec. 10. 1884, ch. 50.

41. If the estate cannot be divided into as many parts as there are heirs, but exists in separate parcels, or can be divided into parts less than the number of heirs, without loss or injury, then it shall be divided into as many parts as it is susceptible of, and each parcel shall be separately valued; then, upon the ratification by the court of such division and valuation, the person first entitled to election, under the provisions of this article, shall have the first choice of one of the parcels at the valuation, and the next in order the second choice, and so on in regular succession of right until all the parts are taken or refused.

It is a fatal objection to a return, that the value of the estate in money has not been stated. *Cecil v. Dorsey*, 1 Md. Ch. 223.

The return of the commissioners should show that the parties entitled were allowed the right of election. *Stallings v. Stallings*, 22 Md. 47.

The eldest son has the election to take all or any parcel or parcels of the estate. *Catlin v. Catlin*, 60 Md. 582.

An election, so far as it went, held to be in strict accord with this article. *Jenkins v. Simms*, 45 Md. 535.

See notes to sec. 44; also sec. 48, *et seq.*

*Ibid.* sec. 42. 1888, art. 46, sec. 42. 1860, ch. 47, sec. 42.  
1820, ch. 191, sec. 12.

42. The commissioners appointed as aforesaid, or a majority of them, after having made partition or allotment in manner aforesaid, shall return their proceedings to the next court to happen thereafter; and the same shall be ratified or rejected, as justice shall dictate; and if ratified, and no appeal by either party, the partition made as aforesaid shall be recorded and remain and be binding; and if rejected, a