

or papers as they may direct, at least two months previous to their proceeding to execute such commission.

Matters relative to this section necessary to be stated in the bill or petition filed under sec. 8. *Hughes' Case*, 1 Bl. 47.

See sec. 23.

An. Code, 1924, sec. 12. 1912, sec. 37. 1904, sec. 37. 1888, sec. 37. 1820, ch. 191, sec. 51.

**13.** In all cases where, by this article, any notice or publication is required, a statement made in the proceedings that due notice, according to law, has been given, or to that effect, shall be *prima facie* evidence that notice was given according to law.

A return that shows that "reasonable" notice was given is not in conformity with this section, or sec. 10. *Cecil v. Dorsey*, 1 Md. Ch. 228.

See notes to sec. 10.

An. Code, 1924, sec. 13. 1912, sec. 38. 1904, sec. 38. 1888, sec. 38. 1820, ch. 191, sec. 8.

**14.** The said commissioners, or a majority of them, shall adjudge and determine whether the estate will admit of being divided without injury and loss to all the parties entitled, and ascertain the value of such estate in current money, taking into consideration any encumbrance thereon, and ascertain the value of the estate subject to the encumbrance; and if the estate can, in the opinion and judgment of the commissioners, or a majority of them, be divided without loss and injury to all parties entitled, then they shall divide and make partition of the same, fairly and equally in value, between all the parties interested, according to their several just proportions.

This section requires that incumbrances should be inquired into, and a strict compliance with this section is necessary. *Stallings v. Stallings*, 22 Md. 46.

The judgment of the commission as to whether lands are devisable, though not absolutely conclusive, will not be disturbed in the absence of countervailing proof. *Wilhelm v. Wilhelm*, 4 Md. Ch. 332.

The commissioners have authority to examine witnesses, and should include the depositions with their return. *Cecil v. Dorsey*, 1 Md. Ch. 227.

This section referred to in construing secs. 17 and 20. *Catlin v. Catlin*, 60 Md. 580.

An. Code, 1924, sec. 14. 1912, sec. 39. 1904, sec. 39. 1888, sec. 39. 1820, ch. 191, sec. 9.

**15.** If the estate cannot be divided equally and fairly between all the parties interested, according to their several just proportions, then the commissioners, or a majority of them, shall have power to divide the estate into as many parts as it is susceptible of without loss and injury to all 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.

An. Code, 1924, sec. 15. 1912, sec. 40. 1904, sec. 40. 1888, sec. 40. 1820, ch. 191, sec. 10.

**16.** 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.