

SEC. 9. *And be it enacted*, That where sales have been or shall be made by executors, under a supposed authority derived from a will, the chancery court, and the county courts as courts of equity, shall have a discretionary power to confirm such sales on hearing, or in cases where bills may be taken pro confesso.

Sales by ex'ors under supposed power may be confirmed.

SEC. 10. *And be it enacted*, That widows shall not be entitled to dower in lands held by equitable title in the husband, unless the same be devised by a will made before the passage of this act; but such right of dower shall not operate to the prejudice of any claim for the purchase money of such lands, or other lien on the same; and tenants by the courtesy shall be entitled for life to lands held by equitable title, but not to the prejudice of any claim for the purchase money of such lands or other lien on the same.

Widows entitled to dower in lands held by equitable title in the husband—when.

SEC. 11. *And be it enacted*, That the provisions of the fifth section of the act of seventeen hundred and ninety-seven, chapter one hundred and fourteen, concerning partition, be extended to cases where all the persons reside out of the state.

Partition as under 1797, may be in cases where all are non-residents.

SEC. 12. *And be it enacted*, That in case of lands in this state descending to minors residing out of this state, on a bill filed by the prochein ami of any such minor, the said courts may issue a commission to three persons in the state where the infants reside, authorizing them, or any two of them, to go to the infant or infants, and appoint a guardian, for the purpose of answering and defending the suit, and authorizing them to take and return such answer, and on return of the same, there may be the same proceedings as if the infant defendants had been regularly summoned, and had been heard by a guardian appointed by the court.

Non-resident minors may answer by guardian a bill filed by their prochein ami relating to lands of such minors as if residents.

See 1832, ch. 302.

SEC. 13. *And be it enacted*, That the said courts may decree a sale of such lands, if it shall appear to be for the benefit and advantage of such infants, and may order or not, in their discretion, a commission to take depositions in the case, as to them shall appear necessary, and upon such terms as they may judge right and proper.

Courts may decree a sale of such lands if it shall appear to be for benefit of such infants

SEC. 14. *And be it enacted*, That when on appeal from any decree in the chancery court, or a county court as a court of equity, it shall appear that the proper parties have not been made, the court of appeals may, in their discretion, either reverse such decree without prejudice to another bill, or award a new trial on such terms as the court may deem equitable, specifying in the order for a writ of procedendo, the parties to be made, and the decree to be made thereon shall not be liable to reversal for the want of any other parties that may be alleged.

In case of appeals where proper parties have not been made, court of appeals may either reverse decree or award a new trial.