

obligors therein, or any of them, for any breach of the condition thereof by any person interested therein.

56. In all cases in which commissioners appointed under this article shall be ordered by the court to make sale of real estate, and in accordance with said order shall offer the said real estate at public auction and the same shall be bid off by some purchaser, and the said purchaser shall refuse or neglect to comply with the terms of sale, it shall be lawful for the commissioners to resell the real estate upon the notice contained in the order aforesaid; and if it sell for less than at the first sale, to compel, by suit or action to be instituted in their name as commissioners, the purchaser at the first sale to pay over the difference or loss that may be sustained between the first and second sales; *Provided*, a memorandum be made and signed by the auctioneer at the time of sale, in writing, containing the names of the parties, the amount and terms of sale.

57. Whenever any person shall be entitled as tenant by the curtesy to any part of the real estate of an intestate, and the commissioners appointed in virtue of this article shall determine that the estate will admit of division, then the said commissioners shall lay off the part or portion of such tenant by the curtesy of, in and to the said estate, before they shall proceed to divide or value the same; and the same commissioners shall make the ascertainment and location of such part or portion of the tenant by the curtesy a part of their return to their commission, and the court shall determine thereon, and confirm or reject the same, as in other cases.

58. Whenever any person shall become entitled as tenant by the curtesy as aforesaid, and the commissioners shall determine and so certify to the court, that the estate cannot be divided without loss and injury to all the parties entitled, and the return of the said commissioners shall be confirmed by the court, and the persons entitled to elect to take the said estate at the valuation made by the commissioners shall all refuse, then the estate shall be sold by the said commissioners agreeably to the terms prescribed to them, disencumbered by any tenancy by the curtesy; and the court shall award to the tenant by the curtesy such proportion of the purchase money as the said court shall think just and equitable, in lieu of such tenancy by the curtesy; and in decreeing such proportion of the said purchase money to the said tenant, the court shall be directed by the age, health,