

CHAP. 160.

Commissioners to lay off the portion of tenant by the curtesy.

2. BE IT ENACTED, by the General Assembly of Maryland, That the commissioners shall be, and they are hereby empowered and directed, to lay off the part or parts, portion or portions, of a tenant or tenants by the curtesy(a), of, in and to, the lands and tenements of an intestate, by virtue of their commission, before they shall proceed to divide or value the same, and the said commissioners shall make such ascertainment and location of such tenancy a part of their return to their commission; and the chancellor, or the county courts, as the case may be, shall determine thereon, and confirm or reject the same, as in other cases under the said act.

(a) By November 1812, ch. 181, if any person is entitled as tenant by the curtesy, and the estate cannot be divided, the chancellor, or county court, shall award to such tenant, money in lieu of such tenancy by the curtesy, &c.

If any person is entitled by deed or devise to a life estate, an estate in remainder after such life estate, or as devisee in fee, in an undivided part of the real estate of an intestate, see 1810, ch. 28, and 1811, ch. 200.

If person become entitled to undivided part after return by commissioners, Court to order them to alter it, &c.

3. AND BE IT ENACTED, That if any person shall become entitled, as tenant by the curtesy, to an undivided part of the real estate of an intestate, after the return of the commissioners aforesaid, and before the sale or division thereof, the courts of the several counties shall be and they are hereby empowered, to order that the commissioners shall alter and change their return, and the commissioners shall, upon service of the said order, proceed to alter their return, in such manner as that the tenant by the curtesy shall come in for his proportionable share of the said intestate's estate with those who by law are now entitled to take as heirs of the intestate.

See notes under the second section.

In case of sale, chancellor, &c. to award to tenant by the curtesy his proportion of purchase money.

4. PROVIDED ALWAYS, AND BE IT ENACTED, That in case of the sale of the intestate's real estate by the commissioners, they shall proceed to sell the whole real estate of the intestate, agreeable to the terms prescribed to them, disincumbered by any tenancy by the curtesy; and the chancellor, or the county court, as the case may be, shall award to the tenant by the curtesy such proportion of the purchase money as he or they shall think just and equitable, and in decreeing such proportion of the said purchase money to the said tenant, the chancellor, or county court, as the case may be, shall be directed by the age, health and condition, of such tenant, and such award of payment shall be sufficient to bar such tenant from all and every right or title by such curtesy which such tenant may claim to the lands and tenements of such intestate.

See notes under the second section.

In case parties entitled cannot agree, commissioners to divide the estate, &c.

5. AND BE IT ENACTED, That in case the parties entitled to the intestate's estate cannot agree upon the division thereof, or in case any person entitled to any part be a minor, the commissioners shall have power to divide the estate into as many parts as it is susceptible of, without injury and loss to all the parties entitled, and to ascertain the value of each part of such estate in current money, and if the judgment of the commissioners shall be confirmed by the county court, the right of election to take the several parts into which such estate may have been divided, shall be according to the rules of the act of assembly, entitled, An act to regulate descents, and the several supplements thereto.