

CHAP. 45. *the direction of the said commissioners(e,) or a majority of them, for money or upon credit, as they, with a majority of the persons interested, who are of age, and the guardians of such as may be minors, shall determine to be most advantageous to all concerned, and the purchase money shall be justly divided among the several persons interested according to their respective titles to the estate; but if all the parties entitled shall be minors at the death of the intestate, the estate shall not be sold until the eldest arrives to age, and the profits of the estate shall be equally divided in the meantime; and if the commissioners, or a majority of them, shall determine that the land or estate can be divided without loss and 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(f,) and the commissioners appointed as aforesaid, or a*

*county court, shall award to such tenant, such sum in current money as he or they shall think just and equitable, in lieu of such tenancy by the curtesy; and decreeing which they shall be directed by the age, health, and condition of such tenant, and such award of value shall bar such tenant, &c. and the person making the election to take the estate at the valuation, &c. shall hold the estate disencumbered, &c.*

*(e) By Nov. 1809, ch. 160, s. 7, if all the parties of age, and entitled to elect to take any part into which the estate may have been divided, at the valuation, shall refuse to take the same at such valuation, the estate shall be sold by the commissioners, &c. By 1819, ch. 152, where the estate may have been or shall be partly taken by election of one or more of the persons entitled, and partly not so taken, the county court may order a sale of the part not taken by election, &c. By 1799, ch. 49, s. 4, and 1802, ch. 94, s. 5, when the estate shall be sold on a credit, bonds shall be taken for the purchase money from the purchaser by the commissioners, with security if required, and made payable to each representative respectively, according to his or her proportional part of the net amount of sales; the bonds so taken shall remain and be a lien on the lands for the purchase of which they were given, until the said bonds shall be wholly paid. By 1815, ch. 205, (see the preceding note) if the county court deem it for the interest of all parties concerned, the bond, instead of being given to each of the representatives, may be given to the state, &c. By 1797, ch. 114, s. 6, all sales under this act shall be made agreeably to the order of the court from which the commission issued, and shall not be valid until ratified by the said court. By 1799, ch. 49, s. 3, in all cases of sale made by the commissioners, after the same shall be ratified by the county court or chancellor, and the terms of sale shall have been complied with by the purchaser having paid the purchase money, it shall then be the duty of the commissioners, or a majority of them, or the survivors or survivor of them, to make over unto the purchaser by deed duly executed and acknowledged, all the right, &c. of the deceased intestate, to the lands and premises sold by them, and the commission and proceedings thereon shall be recited in the preamble of deed; and every such deed shall be recorded within the time now limited by law.*

*In case of a sale of the estate disencumbered of the widow's right of dower, or of the right of a tenant by the curtesy, or of a person entitled by deed or devise to a life estate, or of a person entitled to the remainder after such life estate, &c. see note (f)*

*(f) By 1799, ch. 49, s. 5, the commissioners are directed to ascertain and lay off the widow's dower in and to the lands, &c. of the intestate, before they proceed to divide or value the same; and the commissioners shall make the ascertainment and location of such dower a part of their return; and the chancellor or county court shall determine thereon and confirm or reject the same. By Nov. 1809, ch. 160, s. 2, a similar provision respecting the part or portion of a tenant by the curtesy. By 1799, ch. 49, s. 6, in case of sale of the intestate's real estate by the commissioners, if the widow will consent to the sale of the whole estate, she shall signify and subscribe her consent in writing, to be filed with the clerk or register, and thereupon the commissioners shall proceed to sell the whole real estate agreeably to the terms prescribed by them, disencumbered by any right or title of dower, and in consideration thereof the chancellor or county court, shall award to the widow such proportion of the purchase money, not exceeding one seventh part, nor less than one tenth part of the net amount of sales, according to the age,*