

## CHAP. 45.

value; and if lands or other estate lie in different counties, then an application may be made to the chancellor(h.) who shall appoint commissioners to make the whole examination and division, or commissioners for each county where the lands or other estate lie, as to him may seem most convenient; and the commissioners by him appointed shall proceed in the same manner as directed for commissioners appointed by the county courts, and shall make returns to the chancellor for his confirmation or rejection, and similar proceedings shall be had in the chancery court upon a commission issued from that court, as are before directed upon commission issued from the county court; and in case of commission issued from the chancery court, either party may appeal to the court of appeals, but there shall be no appeal from the decision of the chancellor in cases where the commission issues from the county court; and in the execution of this act, reasonable notice(i) shall always be given by the commissioners to all parties concerned before any proceeding is had; and if any minor shall be interested who hath not a guardian, then the court from which the commission issues shall appoint a guardian for the purpose; and no proceedings of the commissioners shall be set aside for matter of form; and if the estate consists of things indivisible in their nature, then the rule of the common law as to the enjoyment thereof shall take place between the parties entitled.

(h) By 1814, ch. 109, s. 1, where any lands, &c. of any person dying intestate, shall lie in different counties, it shall not be necessary for the parties interested therein to apply to the chancellor for a commission thereon to sell or divide the same; but when it shall so happen that such lands, &c. lie in different counties, included in any one judicial district, then application may be made to the county court of such judicial district where the greatest part of the lands, &c. may lie. By section 2, where any lands, &c. shall lie in different counties of different judicial districts, and the said lands (although in different counties,) shall lie adjoining, then application may be made to the court of the county where the greatest portion of said lands, &c. may lie, for the sale or division thereof. By section 3, where lands, &c. shall lie in different judicial districts, and not adjoining, but lie in different or detached parcels, then application may be made in the several districts to the respective county courts where the greatest portion of such lands, &c. may lie, for the sale or division thereof. By section 4, the same proceedings shall be had on all such applications respectively as if the lands, &c. laid in one county, &c.

(i) By 1814, ch. 109, s. 7, the commissioners, before they proceed in the execution of the commission, shall cause notice thereof to be given by advertisement set up at the door of the court house of the county or counties where the lands may lie, and in such other public places in the counties as they may direct, at least two months previous to their proceeding to execute the commission.

9. PROVIDED ALWAYS, AND BE IT ENACTED, That if the inheritance consists of land not worth more than fifteen pounds ready current money per acre, to be ascertained by the commissioners aforesaid, then the same shall not be divided into any shares less than fifty acres each, and if the land shall not be above the value aforesaid, and there be not sufficient to distribute to each person entitled, fifty acres, and the land is determined to admit of division without loss to all the parties interested as aforesaid, then the land shall be equally divided among such number of the persons entitled, as the quantity of land left by the intestate divided by fifty will give; and the land so divided shall be offered, and if accepted, belong to the eldest male persons entitled by the course of descent, as by this act is settled, if the number of males entitled be sufficient to take the whole, and if not, to the eldest females to make

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15<sup>l</sup> not to be divided, &c