

for owelty of partition, *Mole v. Mansfield*, 15 Sim. 41, and such a return, it not having been authorized by the decree, was suppressed in *Peers v. Needham*, 19 Beav. 316. The Court in these cases of partition finds itself upon the general jurisdiction of Chancery and adjusts the equitable rights **315** of the parties *interested, taking accounts, between them if necessary, and gives special instructions to the Commissioners, having regard in decreeing partitions to the provisions of 8 & 9 W. 3, c. 31, s. 4, (*q. v.*) *Story v. Johnson*, 1 Y. & Coll. 538; S. C. 2 Y. & Coll. 586; and this general principle was recognized in *Young v. Frost supra*. In *Story v. Johnson*, where an estate was divided by the Commissioners between A. B. & C. in shares of equal market value, but A. was assigned an inn of which C. had been for many years occupier, and on which he had made improvements, and had purchased contiguous property for the purposes of his occupation, the award of the Commissioners was held to be wrong, and the same case is authority that the rights of sub-purchasers from the parties will also be regarded, and see *Warner v. Baynes supra*, where part of the decree was that one party should not erect a bath in competition with the other. In *Young v. Frost*, which was in part a controversy about the coal lying under the town of Frostburg, the surface lots in which had been sold by the defendants, the Court said that if instead of selling the lots they had opened the mines and made expenditures for working them and were so engaged, equity might give them a fair claim to have this part of the coal-field assigned to them to save their improvements and investments. The arrangement to be made is that which best accommodates the parties and renders their shares of most value to them, with reference to their respective situations in relation to the property before the partition; and there, said the Court, "where so much depends on the situation of the property, and the judgment of scientific men, and of persons practically acquainted with its nature and value, it was impossi-

the duty of the commissioners to allot to one party such part of the property as may be more advantageous to him on account of its proximity to his other property, if this can be done without injury to the other parties; and if the properties be in several parcels, the owners are not entitled to a share of each parcel but only to an equal share of the whole. The award will not be set aside on the ground of mistake in valuation unless there is clear evidence of serious error. *Claude v. Handy*, 83 Md. 225; *Godwin v. Banks*, 89 Md. 679; *contra*, where the commissioners exceed their authority; *Bull v. Pyle*, 41 Md. 419. Cf. *Johnson v. Hoover*, 75 Md. 489. As to the proper manner of administering the oath to the commissioners, see *Claude v. Handy*, 83 Md. 225.

Improvements.—When one tenant in common has improved the property under the mistaken belief of ownership, a court of equity in decreeing a partition will allot to him, as far as can be done consistently with an equitable partition, that portion of the property on which the improvements are situated without taking their value into consideration. *Dugan v. Baltimore*, 70 Md. 1; *Gittings v. Worthington*, 67 Md. 139. Cf. *Long v. Long*, 62 Md. 74; *Worthington v. Hiss*, 70 Md. 172. See also *Williams v. Harlan*, 88 Md. 1; *Hogan v. McMahon*, 115 Md. —.