Stallings, 22 Md. 45; and in Wilhelm v. Wilhelm *supra*, an allotment to two infants incumbered with dower was held a fatal objection to the return. So they must return the value of the estate in money, and of the several parts of it, and state that they have given due notice according to law, showing affirmatively the character of the notice and the manner in which it was given, Cecil v. Dorsey; Stallings v. Stallings. The condition of the land must also be shewn as to incumbrances, and that the parties interested were allowed their rights of election according to their order in point of age. And a Commission, and of consequence a return, is defective in not requiring the Commissioners, in case the land cannot be divided into as many parts as there are parties, to divide it into as many parts as it is capable of being so divided, Stallings v. Stallings *supra*. With us it is, in general, unnecessary to complete the partition by mutual conveyances, the final decree operating as a conveyance, Alexander Ch. Pr. 166. If, however, parties desire such conveyances they would be provided for in the decree, Young v. Frost *supra*. Costs, as already mentioned, are borne by the parties according to their interests, but these costs are not a lien on the commission. In cases where infants, lunatics, or a married woman, holding her interest to her separate use without power of anticipation, are concerned, the costs may, it seems, be made a charge on their or her shares and a sale ordered, Davis v. Turvey, 32 Beav. 554; Fleming v. Armstrong, 34 Beav. 109.

Sale for partition.—As above stated, in case a partition cannot be made without loss or injury to the parties, as this provision of the law now stands, the Court may order a sale.[12] In Billingslea v. Baldwin, 23 Md. 85, which was before the Code, it was made a question whether a party within the Acts to direct descents was entitled to bring his bill under the Acts of 1785, ch. 72, sec. 12; 1831, ch. 311, sec. 7, and 1839, ch. 23, corresponding to sec. 99 of Art. 16 of the Code, above cited, and thus avoid a compliance with the former Acts. Two of the judges, relying on Chaney v. Tipton *supra*, and Tomlinson v. McKaig, 5 Gill, 256, thought that as the rights acquired by the Acts to direct descents were valuable rights, were assignable, and vested at the death of the intestate, whenever it appeared, either by the bill or otherwise, that the parties took by descent and could not agree upon a division of the estate, or some of them were infants, it was the duty of the Court to protect those rights and make the proceedings conform to those Acts. But the majority of the Court took another view of those cases, and following Mewshaw v. Mewshaw, 2 Md. Ch. Dec. 12, and the long established practice in the State, held that the Acts of 1785, ch. 72, 1831, ch. 311, and 1839, ch. 23, were to be construed together, and that they conferred upon the Courts of Chancery power to decree the sale of any interest in lands, when it should appear for the interest of all parties holding the same jointly, (which word they construed to extend to estates in coparcenary,) whether they hold by descent or purchase. And this power is expressly given by the Code, but it must appear that
317 *the land cannot be divided without loss or injury, &c. A complainant, therefore, by framing his bill under the above cited section of

[12] See note 4 *supra*.