

Courts of common law and of equity have concurrent jurisdiction; the law and course of proceeding of the forum resorted to must be pursued. 3 *Blac. Com.* 436.

The Act to Direct Descents gives to the several heirs of an intestate a right to have a partition of his estate made among them; and has, in part, prescribed the manner in which such partition may be obtained; and, consequently, so far this Court must act according to the prescribed mode; but, in all other respects, it must be governed by its own established course of proceeding in so far as it can be modified, and adapted to the positive enactments of the Legislature.

In all cases of this kind, as has been done in this instance, it is indispensably necessary, that the petition should state, with sufficient perspicuity, where or in what counties the lands, or estate of the intestate lie; the name of his widow, if she be then living; and the names and description of his heirs, whether adult or infant; and where resident, in or out of the State; to the end, that, if they be inhabitants of the State, notice may be given to them; or if not, that they may be warned by publication as allowed by the 50th section of the Act. The commission awarded must, in all cases, exactly recite the petition for the government of the commissioners in their proceedings; and the Court will expect, in every case, that the petitioner should, as in this instance, nominate to it some suitable, disinterested, and respectable persons as commissioners. The form of the commission to be issued in this, and all similar cases, shall be as follows:

“The State of Maryland,

“To Joseph Townshend, Henry Stouffer, James Mosher, George Decker, and John Hillen, of Baltimore County, Greeting:

*“Whereas George Augustus Hughes and Christopher Hughes, by their petition to the Chancellor of Maryland, have set forth, that the late * Christopher Hughes, their father, died intestate and seized in fee simple of sundry parcels of land and real estate lying and being in Baltimore County and in Anne Arundel County, leaving a widow, Peggy Hughes, and six children; that is to say, the said petitioners, who are both of full age; and Peggy, who has intermarried with Samuel Moore; Louisa Armistead, who heretofore intermarried with George Armistead, since deceased; Mary, who has intermarried with Horatio G. Armstrong; and Juliana, who has intermarried with Charles M. Thruston; to whom the said real estate has descended. And the said petitioners allege, that the parties so entitled cannot agree upon a division thereof; they have therefore prayed, that partition of the said estate may be made among the aforesaid heirs according to their several just proportions, agreeably to the Act of Assembly in such case made and provided; which said prayer hath been granted:*