

and the reasonable certainty, or very strong probability, that by a sale, the proceeds may be invested in some other manner nearly or altogether as safe, and much more productive than the land itself, by its annual rents, or by its reasonably probable appreciation of value in the lapse of some ten or twenty years during the minority of its owner. But where the application is made on behalf of a plurality of infants, who hold as joint-tenants or tenants in common, although these reasons for a sale may not be shewn to exist with the same force, or to the same extent; yet as, in general, it is much more beneficial to every one to hold in severalty, than as co-tenants with others, it must, in most cases, be to the interest and advantage of such infants to have a partition made of their estate; *Abell v. Heathcote*, 4 Bro. C. C. 284; *Oates v. Brydon*, 3 Burr, 1898; and therefore, if it should be shewn, that the real estate is of such a nature, that a partition cannot be made of it, without loss, or disadvantage to the parties; and, that a sale then, or at some future period, must be made, in order to effect a division of its value among its owners, that circumstance of the indivisible nature of the estate may be taken into the estimate as an additional reason why a sale should then be made as called for. (i)

Here the application for a sale has been made by the widowed mother of the infants in their behalf; and all the circumstances shew, that a sale would be for their interest and advantage. The infants have no other source of revenue than this farm, which consists of two distinct tracts of land, the one held as chiefly or altogether valuable, because of its furnishing wood for the other; and the principal tract incapable of partition into four parts without much loss or disadvantage because of its valuable improvements of mills; and a large amount in value of other perishable edifices; and which principal tract, from its location along the margin of two water-courses, and being intersected by much frequented public roads is exposed to great injury from freshets and depredations along its borders. These and the other circumstances mentioned * by the commissioners, taken together, form a sufficient ground for a decree for a sale as called for **210** on behalf of its infant owners.

The law declares, that, in cases like this, if there be a widow and she assents to a sale of the whole estate, she shall signify her consent in writing, and the same shall be filed with the register; and thereupon the trustee shall proceed to sell the whole estate disencumbered of her right of dower. 1816, ch. 154, s. 10. And as to other cases it is declared, that before any sale of land shall be decreed, to affect the interest of a widow, her consent in

(i) But if all the heirs be minors, the estate cannot be sold by any preceding ground merely on the provisions of the Act to Direct Descents, until the eldest arrives at age, 1820, ch. 191, s. 9.