

In *Jones vs. Tottey*, 2 *Cond. Ch. Rep.*, 69, partition among tenants in common, was made by lot, but appears to have proceeded from the act of the parties, and not because the commissioners supposed themselves restricted to that mode. In the subsequent case of *Manners vs. Charlesworth*, 8 *Cond. Ch. Rep.*, 376, the commissioners themselves awarded to each party his share of the estate, and though their proceedings were most narrowly scrutinized, no objection on this account appears to have been urged.

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[After referring to a recent case in the Court of Appeals, in which it was decided, that the proceedings in this court for a partition, must as far as practicable conform to the act to direct descents, of 1820, ch. 191, and commenting upon the true construction of that portion of the act relating to the distribution of the shares ; the Chancellor continues :]

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Upon the whole, my opinion is, that the legislature did not mean to confine the commissioners to a particular mode of making the partition ; they may, if they please, award to each of the parties his share of the thing to be divided, or if they choose, they may, at the proper stage of the proceedings, draw lots ; and that their return, if otherwise unexceptionable, will not be set aside, because of the adoption by them of either of those modes.

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[To the objection, that the value of the estate in money had not been stated in the return of the commissioners ; the Chancellor after citing portions of the 8th, 10th and 12th sections of the act of 1820, chap. 191, requiring the same to be ascertained by them, and a return to be made of all their proceedings to the court, for ratification or rejection ; and deciding, that a statement of the value thereof, signed by three of them, which was sometime afterwards filed, but neither referring to, or in any way incorporated with their return, could not be considered part of the same, continues :]