

PARTITION—*Continued.*

ther the widow, the parts allotted to them being encumbered with her dower for life, is a fatal objection to the return of the commissioners. *Ib.*

7. The right of election given to the eldest son by the act of 1820, ch. 191, is a valuable right, but has no existence and cannot be enforced unless the commissioners determine that the estate cannot be divided without loss and injury to all the parties, and their return to this effect is confirmed by the court. *Ib.*
8. Where lands are divided in specie under the act of 1820, the commissioners have no power to assign the widow a portion of the land, *in fee*, equal to her dower in the whole, for this would be in effect making her a co-heir. *Ib.*

See PRACTICE IN CHANCERY, 7.

HUSBAND AND WIFE, 2.

PARTNERSHIP, PARTNERS.

1. A receiver will not be appointed upon the application of the representatives of the deceased partner against a surviving partner, unless the latter has been guilty of mismanagement and improper conduct. *Walker, adm'r of House vs. House.*
2. If both parties are dead, and the representatives of one institute a suit for an account against the representatives of the other, the court will, as a matter of course, appoint a receiver. *Ib.*
3. Where both parties are alive, and either has a right to dissolve the partnership, and the agreement between them makes no provision for closing up the concern, equity will, as of course, appoint a receiver if they cannot arrange the matter between themselves. *Ib.*
4. Each partner has an equal right to the possession of the partnership effects, and to collect and apply them in satisfaction of the debts of the firm. *Ib.*
5. The surviving partner has, by law, a right to the custody, care, and management of the joint estate, and a court of equity will not take the business of settling it up from him, and appoint a receiver, unless confidence be destroyed by his mismanagement or improper conduct. *Ib.*
6. The surviving partner alone can sue or is suable at law upon claims due to and by the firm, the executor of the deceased having a right to insist upon the application of the joint property to the payment of the joint debts, and a division of the surplus. *Ib.*
7. If the surviving partner does not, within a reasonable time, account with the executor of the deceased, and come to a settlement with him, equity will interfere in an effectual way, to prevent injury to the representative of the deceased. *Ib.*
8. A court of equity will interfere, by the appointment of a receiver, with much less reluctance in the case of a partnership which has closed, than during its continuance. *Ib.*
9. In the case of a subsisting partnership, the court will never, on motion,