

## ARTICLE XLVI.

### INHERITANCE.

#### Descents.

1. Lands held in fee simple; fee simple conditional or fee tail general, how to descend.
- 2-18. Order of succession of.
19. Lands acquired by purchase, how to descend.
- 20-23. Order of succession of.
24. How naked trusts to descend.
25. Party to inherit, except children, to be in being at death of intestate.
26. No distinction to be made between brothers and sisters of the whole and half blood.
27. Child or children to take by representation.
28. Entails created before January 1, 1788.
29. Child legitimated by subsequent marriage of parents and acknowledgment by father.
30. Inheritance among illegitimate children.
31. Hotchpot and advancement.

#### Division and Election.

32. Commissioners, how appointed; oath of.
33. Majority of, when qualified, may act.
34. Notice required to parties interested.
35. Court to appoint a guardian for minor not having one.
36. Notice required to non-residents interested.
37. Recital of notice *prima facie* sufficient.
38. How commissioners shall divide lands susceptible of division.
39. How commissioners shall divide lands not susceptible of division.

40. Survey to be made of lands divisible into as many parts as heirs; several shares to be allotted to parties.
41. If lands not thus divisible, to be divided into as many parts as practicable; election by parties successively entitled.
42. After partition, proceedings to be returned to court for ratification.

#### Election.

43. Proceedings where estate is indivisible.
44. Election by eldest son.
45. If he refuses, the next eldest son to elect, and so on.
46. Where a person is entitled to estate of one heir and cannot agree with other heirs.
47. Absence of party entitled to election; notice by publication to.
48. If *non compos*, person next entitled shall elect.
49. If eldest male be not of age, eldest female of age shall elect.
50. Election or refusal may be in writing.
51. Person electing to take shall give bond to other persons.

#### Sales by Commissioners.

52. If all parties refuse to elect, lands shall be sold by commissioners.
53. Where all parties are minors, estate not to be sold until eldest arrives at age.
54. Bonds for the purchase money payable to each representative.
55. Bond to the State for the whole unpaid purchase money; bond to be lien on the land.