

1904, art. 46, sec. 61. 1888, art. 46, sec. 61. 1860, art. 47, sec. 61.
1820, ch. 191, secs. 38, 39. 1829, ch. 32. 1898, ch. 457.

61. Where any person is entitled by deed or devise to a life estate in an undivided part of the real estate of an intestate, the same proceedings shall be had as are directed by this article with regard to surviving husbands; and where any person is entitled by deed or devise to the remainder after such life estate, the same proceedings shall be had as are directed by this article where a person is entitled to an undivided part of an intestate's estate subject to a tenancy by a surviving husband.

This section referred to in discussing the rules laid down by various statutes for the valuation of life estates and estates in remainder. Distinction drawn in this regard between dower and other life estates. *Williams' Case*, 3 Bl. 265.

Ibid. sec. 62. 1888, art. 46, sec. 62. 1860, art. 47, sec. 62.
1820, ch. 191, sec. 27.

62. The commissioners, or a majority of them, shall ascertain and lay off the widow's dower in and to the lands and tenements of the intestate, by virtue of their commission, before they shall proceed to divide or value the same; and the said commissioners shall make the ascertainment and location of such dower a part of their return to such commission; and the court shall determine thereon, and confirm or reject the same, as in other cases.

This section expressly requires dower to be laid off and assigned before partition among the heirs, unless sale be had with the widow's consent under section 63. *Phelps v. Stewart*, 17 Md. 240. And see *Childs v. Smith*, 1 Md. Ch. 487.

Where lands are divided in kind, the widow can not be assigned a portion of the land equal to her dower in the whole. *Wilhelm v. Wilhelm*, 4 Md. Ch. 334.

Cited but not construed in *Stein v. Stein*, 80 Md. 309; *Stallings v. Stallings*, 22 Md. 47.

See art. 45, sec. 6; also art. 16, sec. 42, *et seq.*

Ibid. sec. 63. 1888, art. 46, sec. 63. 1860, art. 47, sec. 63.
1799, ch. 49, sec. 6. 1820, ch. 191, sec. 28.

63. In case of sale of the intestate's real estate by the commissioners, if the widow will consent to the sale, she shall signify and subscribe her consent in writing, and the same shall be filed with the clerk of the court, and thereupon the said commissioner shall proceed to sell the whole real estate, agreeably to the terms prescribed to them, disencumbered of any right of dower, and the court shall award to the widow such proportion of the purchase money as shall be just and equitable, not exceeding one-seventh part nor less than one-tenth part of the net amount of the sales, according to the age, health and condition of such widow, and such award of payment shall be a sufficient bar to all right of dower which such widow may claim in said lands.

The widow has an option to consent to the sale or not; she can not be coerced. If, however, she agrees to the sale, she can claim no more, and must be given nothing else, than this section allows her. *Stein v. Stein*, 80 Md. 310 (explaining *Maccubbin v. Cromwell*, 2 H. & G. 443). And see *Phelps v. Stewart*, 17 Md. 240.