

An. Code, sec. 63. 1904, sec. 63. 1888, sec. 63. 1799, ch. 49, sec. 6. 1820, ch. 191, sec. 28.

38. 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.

Widow has option to consent to sale or not; she cannot be coerced. If, however, she agrees to 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.

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

Cited but not construed in *Catlin v. Catlin*, 60 Md. 578; *Stallings v. Stallings*, 22 Md. 47.

See art. 16, sec. 45.

An. Code, sec. 64. 1904, sec. 64. 1888, sec. 64. 1820, ch. 191, sec. 23. 1886, ch. 220.

39. The court shall, in its discretion, allow each commissioner for every day he shall necessarily attend in the execution of such commission a sum of money not exceeding two dollars per day, and to the surveyor employed by them (when necessary) a sum not exceeding six dollars per day for himself and chain-carriers, and such other expenses as they may deem reasonable and proper, all which allowances and expenses, together with the fees on the issuing and return of such commission, shall be paid by the representatives applying for such commission when the lands or estates are divided, or by the representative making his election to take the estate; and such representative may charge the other representatives with their respective proportions of the whole sum so paid, and each other representative, or his guardian, shall be obliged to repay or allow him his part thereof, respectively, and in case the lands or estates shall be sold by the commissioners they shall then pay out of the money arising from the sale the whole of the expenses attending the execution of their commission to be allowed as above by the court; provided, nevertheless, that the circuit court for Baltimore county may, in its discretion, allow each of the commissioners aforesaid for every day of service as said commissioners not exceeding the sum of ten dollars per day.

An. Code, sec. 65. 1904, sec. 65. 1888, sec. 65. 1820, ch. 191, sec. 32. 1832, ch. 53.

40. In all cases where an election shall be made by any person under and in virtue of this article, or by the husband in right of his wife, and the valuation of the land of the said intestate hath been paid to the heir or heirs of the deceased by the person so electing, the commissioners, or a majority of them, or the survivors or survivor of them, shall make and