

execute to the person so electing, at his expense, a good and valid deed of bargain and sale in fee simple, under the direction of the court to which the return or returns shall have been made.

Election to take whole estate and a settlement therefor vests legal title in the party electing without a deed from the commissioners, and this is true although election is made by husband in right of his wife. The settlement, however, or giving of bond under sec. 26, is a condition precedent to passing of title. *Stevens v. Richardson*, 6 H. & J. 156. And see *Jarrett v. Cooley*, 6 H. & J. 260; *Ridgely v. Iglehart*, 3 Bl. 546; *Jones v. Jones*, 1 Bl. 460.

For a form of commissioner's deed, see art. 21, sec. 62.

An. Code, sec. 66. 1904, sec. 66. 1888, sec. 66. 1820, ch. 191, sec. 24. 1833, ch. 93.

**41.** In all cases of sale made by the commissioners, or a majority of them, after the same shall be ratified by the court, and the terms of sale shall have been complied with by the purchaser or purchasers paying the purchase money, agreeably to the terms of sale, it shall then be the duty of the commissioners, or a majority of them, or the survivors or survivor of them, to convey to the purchaser or purchasers, by deed duly executed and acknowledged according to law, all the right, title, claim, interest and estate of the deceased intestate to the lands and premises sold by them in virtue of their commission; and every such deed shall be recorded in the time limited by law.

An. Code, sec. 67. 1904, sec. 67. 1888, sec. 67. 1820, ch. 191, sec. 25.

**42.** Whenever any estate shall be sold, and the purchaser shall die or shall assign his equitable interest therein before any deed shall be executed for the estate sold, then and in that case the court, on the application of the heir, devisee or assignee of such purchaser, and being satisfied that the purchase money has been fully paid, agreeably to the terms of sale, shall order and direct the commissioners who shall have made such sale, or a majority of them, or the survivors or survivor of them, to execute and deliver to such heir, devisee or assignee, a deed for the said estate, in the same manner as is hereinbefore provided for respecting deeds to be executed to purchasers.

This section referred to in construing sec. 30. *Ridgely v. Iglehart*, 3 Bl. 548.

An. Code, sec. 68. 1904, sec. 68. 1888, sec. 68. 1820, ch. 191, secs. 40, 41, 42. 1822, ch. 48. 1827, ch. 208, sec. 1.

**43.** In case of the death, inability, refusal to act, or removal out of the State, of all or any of the commissioners, without having performed the duties prescribed by such commission, it shall be the duty of the court issuing the commission, on the application of any person interested, to appoint as many commissioners as will fill such vacancies; and such new commissioners shall, in connection with the remaining commissioners, if any be remaining, and if none remaining, then the new commissioners shall execute the commission in the same manner as if they had been originally named therein.