

An. Code, 1924, sec. 35. 1912, sec. 60. 1904, sec. 60. 1888, sec. 60. 1820, ch. 191, sec. 37. 1898, ch. 457.

36. If any person shall become entitled as surviving husband to an undivided part of the real estate of an intestate, after the return of the commissioners, and before the sale or division thereof, the court shall order that the commissioners shall alter or change their return; and the commissioners shall, upon the service of the said order, proceed to alter their return in such manner as that the surviving husband shall come in for his proportionable share of the intestate's estate, with those who by law may be entitled to take as heirs of the intestate.

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.

An. Code, 1924, sec. 36. 1912, sec. 61. 1904, sec. 61. 1888, sec. 61. 1820, ch. 191, secs. 38, 39. 1829, ch. 32. 1898, ch. 457.

37. 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 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.

An. Code, 1924, sec. 37. 1912, sec. 62. 1904, sec. 62. 1888, sec. 62. 1820, ch. 191, sec. 27.

38. 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 widow's consent under sec. 39. *Phelps v. Stewart*, 17 Md. 240. And see *Childs v. Smith*, 1 Md. Ch. 487.

Where lands are divided in kind, widow cannot be assigned a portion of 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; *Scher v. Becker*, 163 Md. 203.

See art. 45, sec. 6; also art. 16, sec. 46, *et seq.*

An. Code, 1924, sec. 38. 1912, sec. 63. 1904, sec. 63. 1888, sec. 63. 1799, ch. 49, sec. 6. 1820, ch. 191, sec. 28.

39. 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.