

ment of the commissioners, or a majority of them, be divided without loss and injury to all parties entitled, then they shall divide and make partition of the same, fairly and equally in value, between all the parties interested, according to their several just proportions.

When to make partition equally

**39.** If the estate cannot be divided equally and fairly between all the parties interested, according to their several just proportions, then the commissioners, or a majority of them, shall have power to divide the estate into as many parts as it is susceptible of, without loss and injury to all the parties entitled, and to ascertain the value of each part of such estate in current money, subject to any incumbrance thereon.

Id s 39  
1820, c 191, s 9  
When to make partition and ascertain value of each part

**40.** If the commissioners, or a majority of them, shall determine that the land or estate can be divided in either of the ways hereinbefore mentioned, without loss or injury to all the parties, they shall cause the lands to be surveyed and laid out by the county surveyor, or such other person as they may think qualified, for the several parties, in case the estate consists of lands; and if the estate shall be equally divided between all the parties interested according to their several just proportions, then the commissioners, or a majority of them, shall allot to the several parties their respective shares of the said land; and, in case the estate shall consist of houses, the commissioners, or a majority of them, shall make allotment and partition between the parties.

Id s 40  
1820, c 191, s 10.  
Allotment.

**41.** If the estate cannot be divided into as many parts as there are persons interested, but shall be divided into as many parts as it is susceptible of, and the judgment of the commissioners shall be confirmed by the court, the right of election to take the several parts into which the estate may have been divided, shall be according to the rules herein mentioned.

Id s 41  
1820, c 191, s 10.  
Right of election  
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**42.** The commissioners appointed as aforesaid, or a majority of them, after having made partition or allotment in manner aforesaid, shall return their proceedings to the next court to happen thereafter, and the same shall be ratified or rejected as justice shall dictate, and if ratified, and no appeal by either party, the partition made as aforesaid shall be recorded, and remain and be binding; and if rejected, a new partition shall be made and returned as aforesaid, and either party may appeal from the judgment of the court to the Court of Appeals.

Id s 42  
1820, c 191, s 12.  
To return partition and allotment.

**43.** If the estate consist of things indivisible in their nature, then the commissioners, or a majority of them, shall proceed to appraise and value the said estate, and make return thereof to the court, as hereinbefore directed; and if the judgment of the commissioners shall be confirmed by the court, then the person or persons entitled under this article to elect to take other estates at the valuation of the commissioners, shall have the same election as it respects the estate provided for in this section.

Id. s. 43.  
1820 c 191, s 17.  
When estate indivisible, to be valued and return made

**44.** If the said commissioners, or a majority of them, shall determine that the estate cannot be divided without loss and injury to

Id s 44  
1820, c 191, s 9  
When not di-