

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.

*Kilgour v. Ashcom*, 5 H. & J. 82    *Wilhelm v. Wilhelm*, 4 Md. Ch. 330.  
*Catlin v. Catlin*, 60 Md. 573.

1888, art. 46, sec. 41.    1860, art. 47, sec. 41.    1820, ch. 191, sec. 10.  
1884, ch. 50.

**41.** If the estate cannot be divided into as many parts as there are heirs, but exists in separate parcels, or can be divided into parts less than the number of heirs, without loss or injury, then it shall be divided into as many parts as it is susceptible of, and each parcel shall be separately valued ; then, upon the ratification by the court of such division and valuation, the person first entitled to election, under the provisions of this article, shall have the first choice of one of the parcels at the valuation, and the next in order the second choice, and so on in regular succession of right until all the parts are taken or refused.

*Jenkins v. Simms*, 45 Md. 532.    *Catlin v. Catlin*, 60 Md. 573.

*Ibid.* sec. 42.    1860, ch. 47, sec. 42.    1820, ch. 191, sec. 12.

**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.

*Massey v. Massey*, 4 H. & J. 141.    *Cecil v. Dorsey*, 1 Md. Ch. 223.

#### **Election.**

*Ibid.* sec. 43.    1860, art. 47, sec. 43.    1820, ch. 191, sec. 17.

**43.** If the estate consist of things indivisible in their nature, then the commissioners, or a majority of them, shall