

their name as commissioners, the purchaser at the first sale to pay over the difference or loss that may be sustained between the first and second sales; provided, a memorandum be made and signed by the auctioneer at the time of sale, in writing, containing the names of the parties, the amount and terms of sale.

1888, art. 46, sec. 57. 1860, art. 47, sec. 57. 1820, ch. 191, sec. 34.  
1898, ch. 457.

**57.** Whenever any person shall be entitled as surviving husband to a life estate in any part of the real estate of an intestate, and the commissioners appointed in virtue of this article shall determine that the estate will admit of division, then the said commissioners shall lay off the part or portion of such surviving husband in and to the said estate, before they shall proceed to divide or value the same; and the same commissioners shall make the ascertainment and location of such part or portion of such surviving husband a part of their return to their commission, and the court shall determine thereon, and confirm or reject the same, as in other cases.\*

Ibid. sec. 58. 1860, art. 47, sec. 58. 1820, ch. 191, sec. 35. 1898, ch. 457.

**58.** Whenever any person shall become entitled as surviving husband as aforesaid, and the commissioners shall determine and so certify to the court that the estate cannot be divided without loss and injury to all the parties entitled, and the return of the said commissioners shall be confirmed by the court, and the persons entitled to elect to take the said estate at the valuation made by the commissioners shall all refuse, then the estate shall be sold by the said commissioners agreeably to the terms prescribed to them, disencumbered of any life estate of surviving husband; and the court shall award to the surviving husband such proportion of the purchase money as the said court shall think just and equitable, in lieu of such tenancy for life; and in decreeing such proportion of the said purchase money to the said tenant, the court shall be directed by the age, health and condition of such tenant; and such award of payment shall be sufficient to bar such tenant from all and every right or title as such surviving husband.\*

Ibid. sec. 59. 1860, art. 47, sec. 59. 1820, ch. 191, sec. 36. 1898, ch. 457.

**59.** Whenever any person may be entitled as surviving husband to an undivided part of the real estate of an intestate, and the commissioners shall determine and so certify to the court in their return that the said estate cannot be divided

\* See *ante* art. 45.