

terminated to admit of division without loss to all the parties interested as aforesaid, then the land shall be equally divided among such number of the persons entitled, as the quantity of land left by the intestate divided by 50 will give; and the land so divided shall be offered, and if accepted, belong to the eldest male persons entitled by the course of descent, as by this act is settled, if the number of males entitled be sufficient to take the whole, and if not, to the eldest females to make the number sufficient to take the whole, and if there be no males, then to the eldest females, and if any person refuses to accept the land as aforesaid, then the same shall be offered to the persons entitled next in seniority, pursuing the rule between males and females as is above directed; and upon such division and acceptance, the persons entitled under the course of descent aforesaid, who may be left without a share of land, shall in lieu thereof have in money the reasonable and moderate value of the land which would have fallen to their share upon a division among all the persons entitled, to be ascertained by the commissioners aforesaid, and returned to the county court for their confirmation or rejection, which money shall be paid to the persons entitled out of such part of the personal estate left by the intestate, as would upon a distribution thereof, belong to the persons provided for by accepting a share of land as aforesaid, if the same be sufficient, and if not, the deficiency shall be paid equally by the persons having land as aforesaid, and the same shall be a lien and incumbrance on such land until paid, and may be recovered by an action upon the case brought by the parties respectively entitled, wherein it shall be only necessary to charge the person or persons holding the land with money had and received to the use of the plaintiff or plaintiffs, and the sum justly due shall be ascertained and recovered—*ibid.* § 9.

9. If any citizen of this state shall be out of the state at the time when this act takes place, so that such citizen cannot have notice of the same, this act, and the course of descent thereby established, shall not extend to such citizen, or his estate, if he shall die intestate during his absence from this state, nor shall this act affect the estate of any citizen of this state, absent as aforesaid, until three months after his return into the state.—*ibid.* § 11.

10. All sales by the act to direct descents directed to be made of lands which will not admit of division amongst the heirs, shall be made agreeably to the order of the court from which the commission issued, and shall not be valid until ratified by the said court; and the commissioners for valuing such lands as in their judgment will not admit of division, shall take into consideration any incumbrance on the lands, and report the value of the land, subject to the incumbrance; and the election of any of the heirs to take the land, and pay the others their proportions, shall be made in the said court, before the expiration of the term next succeeding the term on which the return of the commissioners shall have been confirmed—1797, c. 114, § 6.

DISABLED OFFICERS, &c.