

C H A P.
XLV.

county court, and, in case of commission issued from the chancery court, either party may appeal to the court of appeals, but there shall be no appeal from the decision of the chancellor in cases where the commission issues from the county court; and in the execution of this act, reasonable notice shall always be given by the commissioners to all parties concerned before any proceeding is had, and if any minor shall be interested who hath not a guardian, then the court from which the commission issues shall appoint a guardian for the purpose; and no proceedings of the commissioners shall be set aside for matter of form; and if the estate consists of things indivisible in their nature, then the rule of the common law as to the enjoyment thereof shall take place between the parties entitled.

Proviso.

IX. PROVIDED ALWAYS, AND BE IT ENACTED, That if the inheritance consists of land not worth more than fifteen pounds ready current money per acre, to be ascertained by the commissioners aforesaid, then the same shall not be divided into any shares less than fifty acres each, and if the land shall not be above the value aforesaid, and there be not sufficient to distribute to each person entitled fifty acres, and the land is determined 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 fifty 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.

Commence-
ment.

X. This act to commence on the first day of January, seventeen hundred and eighty-eight.

Proviso.

XI. PROVIDED ALWAYS, AND BE IT ENACTED, That if any citizen of this state shall be out of this state at the time when this act takes place, so that such citizen cannot have notice of the same, that then 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.

C H A P. XLVI.

Passed 20th of
Jan. 1787.

An ACT for the adjournment of Baltimore county court. Lib. TBH. No. B. fol. 169.

C H A P. XLVII.

An ACT to aid and confirm the proceedings of Dorchester and Caroline county courts. Lib. TBH. No. B. fol. 169.

C H A P. XLVIII.

An ACT for the relief of Simon Nicholls, late collector of the public tax for Montgomery county, and of Alexander Catlett and Thomas Nicholls, his securities. Lib. TBH. No. B. fol. 170.

Preamble.

WHEREAS the said Simon Nicholls, late collector of the taxes for the years seventeen hundred and eighty, seventeen hundred and eighty-one, and seventeen hundred and eighty-two, and on the petition of the said Alexander Catlett, one of his securities aforesaid, an act passed to take the collection out of the hands of the said Simon Nicholls; and vest the same in the said Alexander Catlett: And whereas the said Simon Nicholls, by his petition to this general assembly, prays for a restitution of the collection, to which the said Alexander Catlett consents, under the particular terms and conditions stated in their respective petitions;

IL Br.