

**CHAP. 191.** shall come in for his proportionable share of the said intestate's estate, with those who by law may be entitled to take as heirs of the intestate.

Where a person is entitled to a life estate, &c in an undivided part &c same proceedings to be had as directed with regard to tenancies by the curtesy

Where entitled by devise in fee same proceedings shall be had as regards purchasers

Where all the commissioners die, leaving commission, &c unexecuted, others may be appointed, &c

Warrants to issue to such new commissioners, &c New commissioners to proceed in the execution of original commissions, &c

38. *And be it enacted,* That where any person is entitled by deed or devise to a life estate in an undivided part of the real estate of an intestate, the same proceedings shall be had as are directed by this act with regard to tenancies by the curtesy; and where any person is entitled by deed or devise to the remainder after such life estate, the same proceedings shall be had as are directed by this act, where a person is entitled to an undivided part of an intestate's estate, subject to a tenancy by the curtesy.

39. *And be it enacted,* That where a person is entitled to an undivided part of an intestate's real estate by devise in fee, the same proceedings shall be had as directed with regard to purchasers as aforesaid.

40. *And be it enacted,* That in any case wherein all the commissioners appointed by the court of chancery, or by any county court, shall die before having completely executed the commission directed to them, or any order made in connection therewith, it shall and may be lawful for the chancellor, or such county court by whom such commission shall have been awarded, on the application by petition, in writing, of any heir, representative, purchaser, or other party interested, to appoint other discreet and sensible men for the purpose of proceeding in the execution and completion of the commission originally issued, or of any order made in pursuance thereof, and every such petition shall set forth the substance of the first application, the issuing of the commission, the progress which the commissioners shall have made towards the execution thereof, and their decease, that the chancellor or court may be better enabled to understand what remains to be completed; and thereupon the said chancellor, or court, being first satisfied of the truth of what the petition shall allege, shall be, and they are hereby authorised and empowered, to nominate and appoint two, three, or more commissioners, according to the progress made by the deceased commissioners, for the purpose of completing the execution of the said commission, or of any order relating to the same.

41. *And be it enacted,* That the register in chancery, or the clerk of the county court, as the case may be, shall thereupon issue a warrant, in the nature of a commission, directed to the persons so appointed commissioners, reciting in substance the facts set forth in said petition, and authorising and requiring the said commissioners, or the major part of them, if more than two, forthwith to proceed in the execution and completion of the original commission, and directing them to return the said warrant, together with a certificate of their proceedings annexed to the same, with all convenient speed, and the said commissioners, upon receiving notice of the said warrant, shall repair before a justice of the peace, in and for the county wherein they shall respectively reside, and severally make oath or affirmation, that they will well and faithfully perform the duties required of them by the said warrant, and proceed in the execution and completion of the original commission therein mentioned, without favour, partiality or