

mises of the parties in such suit, or any of them, are subject to any general lien or incumbrance by judgment or decree, and such clerk shall forthwith cause a notice to be published once a week for four weeks in the Canada Gazette, and also in a newspaper, if there be one, in the County or Union of Counties in which such estate is situate, requiring all persons having any general lien or incumbrance on the estate or on any undivided interest or share therein, by mortgage, judgment, decree, or otherwise, to produce to the said clerk on or before a certain day to be named in such notice, proofs of all such liens and incumbrances, together with satisfactory evidence of the amount due thereon, and the clerk shall report with all convenient speed, the names of the creditors, the nature of the incumbrances, the dates thereof, and the several amounts appearing to be due thereon, and thereupon the Court shall order the Real Representative to bring into Court and pay to the clerk the whole purchase money, if the lien be on the whole estate, or the portion thereof arising from the sale of the part charged with the lien, after deducting the portion of the costs, charges and expenses to which it shall be liable.

XXII. Any party entitled to a share of the estate, may apply to the Court to order such part of the purchase money as he shall claim, to be paid to him, on affidavit shewing the amount truly due on each incumbrance, if any, the owner of such incumbrance, and his residence as far as known to such party, and also on proof of the due service of a notice on each incumbrancer, of the intention to make such application, at least ten days previous thereto, such service to be personal, or on a grown up person at the residence of such incumbrancer, if residing in this Province, and if residing out of this Province, by personal service thirty days previously, or by publishing the notice once a week for four weeks in the Canada Gazette.

Application of party entitled to a share of the estate, for payment of his share of the purchase money.

XXIII. Upon such application, and proof of notice being given, the Court shall proceed to hear the allegations and proofs of the parties, and after the amount of incumbrances shall be ascertained, shall order a distribution of the moneys so brought into and remaining in Court, among the several parties having such incumbrances, according to the priority thereof respectively, and the Clerk of the Court shall procure satisfaction thereof to be acknowledged, in the form required by law, and shall cause the incumbrances to be duly satisfied or discharged of record, defraying the expenses out of the moneys payable on the share or shares which were so incumbered: Provided always, that such proceedings to ascertain and value the amount of incumbrances, shall not affect or delay the paying over or investing of money to or for any party upon whose estate in the premises there shall not appear to be any existing incumbrance.

Hearing and proof: ascertaining amount of incumbrances and payment thereof.

Proviso.

XXIV. Whenever the estate of any tenant in dower to the whole or part of such estate, or of any tenant by courtesy or for life to any part of the estate, has been admitted by the parties, or ascertained by the Court to be existing at the time of the order for such sale, and the person entitled to such estate has been made a party to the proceedings, the Court shall first determine whether such estate ought to be exempted from the sale, or whether the same should be sold; and in making such determination, regard shall be had to the interests of all the parties, and if a sale be ordered including such estate, all the estate and interest of every such tenant shall pass thereby, and the purchaser, his heirs and

Case of tenant in dower, by courtesy or for life. If sale be made, such tenant shall be satisfied out of the proceeds and how,