

estate sold were clearly known. It was sold to promote the interests of all; and the question presented is, what allowance shall be made to the tenant for life out of the proceeds of the sale, for improvements put by him upon the property for the mutual accommodation of himself and the parties entitled in remainder?

The proof returned on the 6th of January last clearly shows the propriety, not to say necessity, of making the improvement; and though there is no evidence of the actual amount expended by Richard Gambril, yet its value at this time is shown to exceed three thousand dollars. And this is the amount which the Auditor has allowed Mr. Gambril in his account D. This allowance, I think, is warranted by the case of *Hibbert vs. Cooke*, 1 *Simons & Stewart*, 552, and is not at all in conflict with the case of *Jones vs. Jones*, or the case in 1 *Story's Rep.*, 478; but on the contrary, the allowance derives support from the views expressed by the Courts in those cases. There can be no doubt, from the proof, that it was for the benefit of all parties concerned that the house should be built; nay, it may with truth be said, that it was absolutely necessary for their comfort and safety that it should be, and inasmuch as the parties entitled in remainder participated with the tenant for life in the enjoyment of the improvement, the justice of making the allowance appears to be perfectly manifest. I am, therefore, of opinion, that the first exception of Richard Gambril to the account C, is well taken, and must be ruled good.

The second exception is directed against the sum allowed the said Gambril in lieu of his life estate, which it is urged is inadequate. In the accounts A, and B, accompanying the first report of the Auditor, Mr. Gambril is allowed the third of the net proceeds in lieu of his life interest in the property sold; whilst in the last account, he is allowed three-eighths. The Chancellor does not understand why this discrepancy exists in the two sets of accounts, and for this reason could not, without explanation, proceed to confirm any one of them. But there is another reason which would forbid an immediate order of