called by some of the witnesses the "Pump House" upon one end of the land in question. But it does not appear from anything in their cause whether the exceptant knowingly erected these improvements upon the common land, or placed them there by mistake, supposing that the land covered by said improvements was owned by it. However, whether the exceptant acted with knowledge or in ignorance, cannot, in my opinion, under the circumstances of this case, make any difference, for, in either event, it was the clear duty of the Commissioners, if they could do so without injury to the other tenants in common, to allot to the exceptant one-half of the land, and in addition thereto all of the improvements it had erected thereon and paid for. But the Commissioners certify in their return that they have allotted to the exceptant less than one-third in area, and less than one-fourth in value of said land; and in order to make the portion given to the exceptant equal to the sum of the parts awarded to the other tenants in common, the exceptant is charged with forty-eight thousand ($48,000) dollars for the improvements which already belong to it. Such a partition, it appears to me, does not accord with the principles of natural justice, and certainly not with the established principles of equity applicable to cases like the one on hand. In Freeman on Co-tenancy and Partition, section 509, it is said that the fact that a co-tenant has located upon a particular portion of the land of the co-tenancy, and has enhanced its value by making improvements, is a circumstance always deemed worthy of the attention of a Court of Equity charged with the duty of making a partition. And again in the same section, "The law declines to compel one co-tenant to pay for improvements made without his authority, but it will not, if it can avoid so inequitable a result, enable a co-tenant to take advantage of the improvements for which he has contributed nothing."

And it is the duty of equity to cause these improvements to be assigned to their respective owners, so far as can be done consistently with an equitable partition. When the equities accruing to a co-tenant, by virtue of improvements made by him, can be fully recognised and protected by awarding him the portion of the land on which they are situated, there can be no possible doubt in regard to the action which a Court of Equity will take, and that is to give the co-tenant, who has enhanced the value of a parcel of the premises, the fruits of his expenditures, by allotting to him the parcel so enhanced in value, whenever this can be done without injury to the other co-tenants.

I will sign an order accordingly, setting aside the return of the Commissioners, and directing such further proceeding as may be necessary and proper.

David Fowler.

Order.

(Filed Jany. 15, 1885.)

Emma Presstman, by her next friend. vs. C. Dugan, et al.	In the Circuit Court of Baltimore County, in Equity. December Term, A. D. 1884.

This case coming on to be heard upon the exceptions to the return of the Commissioners appointed to make the partition heretofore decreed, and having been fully argued