

The act of 1845, ch. 287, sec. 4, gives no right to a party to enforce this lien upon the proceeds of sales of *machinery*

Though a party having a lien on a *building* for work and materials, may come into a court of law or equity for his share of the proceeds of a sale, made under its authority, no such right is given when such proceeds arise from the *sale of machinery*.

[This case was argued on exceptions to the Auditor's report, filed on the 13th July, 1847. The claims of the exceptants under the lien law of 1838, chap. 205, and the various supplements thereto, especially those of 1845, chapters 176 and 289, having been rejected by the Auditor, the question brought before the court was, how far this law with its supplements applied to the case of the exceptants. The facts of the case are sufficiently disclosed in the opinion of the Chancellor:]

**THE CHANCELLOR :**

The exceptions to the report of the Auditor, were submitted to the Chancellor for his decision by an agreement of the parties, filed on the 8th of the present month, (December, 1847.) In pursuance of that agreement, the papers were laid before me on the 13th, and on the 14th upon an examination of the acts of assembly, I came to the conclusion, that the claims of Wells & Miller, and Edward G. Dorsey, excepting creditors, could not be supported as liens, upon the proceeds of the sale made by the trustee in this case, and ratified the Auditor's report, by which they were excluded.

After this decision was made, though on the same day, written arguments in behalf of these parties, were received by the register, who deemed it his duty, again to lay the case before me; and, in so doing, he was quite right; though it must be apparent to all concerned, that it would be far better, and much more satisfactory, if cases were withheld from the Chancellor, until they are actually ready for decision, and if arguments are to be made, they should be made before the judgment of the court is asked for.

I consider it proper, now, however, to state briefly the grounds of my opinion.