

The property sold by the trustee in this case, consisted of a certain lot and buildings in the city of Baltimore, and the machinery and fixtures attached to and connected therewith, which had been mortgaged by Hancock and Mann, to Dawson and Norwood, by three several deeds of mortgage, the first of which was executed on the 31st day of July, 1845,

The trustee, whose sale was made on the 15th February, 1847, sold the property in the lump, for the round sum of twenty-thousand five hundred dollars, and the sale was finally ratified and confirmed on the 14th June, 1847, after public notice duly given, and without exception.

The proceeds are insufficient by many thousand dollars, to pay the vendor's lien for the balance of the purchase money of the lot, and the amount due on the mortgages to Dawson and Norwood, which were assigned to Samuel Jones, Jr., and by him to Wynn and Ross.

These creditors, Wells and Miller, and Edward G. Dorsey, claim to have a lien upon the proceeds of sales, upon the ground, that the sums due them, are for work done, and materials found, for machinery put up in the factory, which was erected upon the premises, and they rely upon the 4th section of the act of 1845, chapter 176, being a supplement to the act of 1838, chapter 205, relating to the lien of mechanics, and others upon buildings.

The first section of this act declares, "that the work done, and materials furnished for, or about the erection or construction of any building," &c., "shall only be preferred to every other lien or incumbrance, which attached upon such building subsequent to the commencement of the same, and the ground covered by, and necessary for the ordinary and useful purposes of such building. But, if there be liens on the property prior to the commencement of the building upon which the work is done, or for which the materials are found, it follows that the lien, if for the work and materials, must be postponed to such prior incumbrance.

And the 4th section, relied upon by these creditors, says, "that every machine hereafter to be erected, constructed, or re-