

paired, within the city of Baltimore, shall be subject to a lien in like manner, as buildings are made subject under the provisions of this, and the original act."

Now, if the property upon which the machinery in question was constructed, was subject to a lien or incumbrance, prior in date, to the commencement of the buildings in which the machinery was placed, why then the parties doing the work upon, and finding the materials for such machinery, are deferred by the law to the holder of the prior lien or incumbrance.

In this case, the first of the mortgages to Dawson and Norwood, is dated on the 31st of July, 1845, and the presumption, therefore, is not a violent one, that it attached upon the property, before the buildings, within which was the machinery supplied by Wells and Miller, were commenced.

But again, the attempt here is to enforce the lien, not upon the machinery itself, but upon the proceeds of sales made by the trustee, when, as appears by his report, the whole property, including lot, buildings and machinery, were sold in mass, for one round sum, and there is no evidence, whatever, to show, what the machinery was worth at the period of sale, or how much it increased the price of the property.

The court, therefore, has no guide by which the money could be apportioned, and if it undertook to do so, must rely upon mere random conjecture.

There is, moreover, another difficulty. The right to come in upon the proceeds of sales made under the decree of this court, is founded upon the 4th section of the act of 1845, chap. 287, being an additional supplement to the lien law. But this section gives no right so to come in upon the proceeds of sales of *machinery*. The language is, "that in all cases of sales made under a judicial process," &c., "of any building to which a lien for work done or materials found attaches, the proceeds of such sale shall be applied and distributed, in such manner and form, as shall be just and equitable, and as shall apportion the same among the claimants thereto, according to their respective rights and priorities."

It would seem, therefore, that though a party having a lien