

in three aspects. In one account treating them as fixtures, and applicable to the payment of the prior mortgages; in the other as personal estate, and applicable to the satisfaction of the mortgage of Spence and Reed; and in a third account, as subject to the mechanics' lien: and these questions will be reserved for further consideration and order.

In regard to the question raised by one of the exceptions as to the apportionment of the rent received by the trustees, I am of opinion that it should not be credited to the several lien holders in proportion to the amount of their several claims. The proof shows the machinery is impaired in value by its use to a much greater extent than the buildings and real estate; and, therefore, in apportioning the rent there should be given to the holders of the lien on the machinery such proportion thereof, as according to the proof they would be entitled to, in view of the greater wear and tear to which the machinery is exposed.

The foregoing views are expressed as indicating the opinion of the Court upon the questions which have been argued, and an order would now be passed sending the cause to the Auditor to state accounts, in conformity therewith, but for the pendency of two petitions; one filed by William Mason and William Mason, Jr., on the 22d December last, and the other by Adam and William Denmead on the 31st of January last. The hearing of these petitions has been postponed by consent of counsel; and as it cannot now be known what effect they will have upon the rights of the parties to them, it would be premature to pass an order determining those rights.

An order having been filed by the Savage Manufacturing Company, dismissing their exceptions and petition as to the commissions of the trustees, and their counsel fees, an order will now be passed ratifying the report of the Auditor, except as to the disputed portions thereof.

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[The petition of the Denmeads afterwards coming on for hearing, the Chancellor delivered the following opinion.]