

The complainant's counsel may prepare an order for the receiver.

CHARLES F. MAYER, for Complainant.  
T. P. SCOTT, for Defendants.

[The decree, in this case, was affirmed upon appeal, by the Court of Appeals.]

WILLIAM M'KIM AND WILLIAM KENNEDY }  
vs. } DECEMBER TERM, 1852.  
WILLIAM MASON ET AL.

[FIXTURES—MECHANICS' LIEN LAWS.]

A MORTGAGE was executed to a manufacturing company, and the affidavit required by the 1st section of the Act of 1847, ch. 271, was made by the agent and treasurer of the Company. HELD—that this was a sufficient compliance with the provisions of that Act.

Where property on which machinery is constructed is subject to a lien or incumbrance prior to the commencement of the building in which the machinery is placed, the lien of the mechanic must be subordinate to the prior incumbrance.

Where a mechanic filed his claim against certain parties, and the *scire facias* was issued against them only, and the notice provided for by the 17th section of the Act of 1838, ch. 205, was not given, but waived by consent, the judgments recovered by the mechanic cannot affect the rights or interests of third persons having liens on the property against which the claim was filed.

Where a mortgage contains no covenant that the mortgagor shall continue possessed of the land, with power to take the rents, profits, and issues, until default made, he cannot be regarded as the tenant of the mortgagee.

A steam-engine and boiler placed in and affixed to a cotton factory, and constituting a part of the motive power thereof, are fixtures, and, as between mortgagor and mortgagee, belong to the latter, though placed in the building after the execution of the mortgage.

Where a mortgage contains no express stipulation, one way or the other,