

required by the 17th section of the Act of 1838, ch. 205, be given, the judgment must be limited in its operation to the parties warned by the preceding section.

But if the proceedings are strictly *in rem*, notice, either actual or constructive, is essential to the validity of the judgment against all the world.

Constructive notice is as essential to the validity of a judgment *in rem*, as actual notice is to that of a judgment *in personam*; a proceeding professing to determine the right of property without notice actual or constructive, is a mere arbitrary edict, not to be regarded anywhere as the judgment of a court.

Where a judgment is obtained under the mechanics' lien laws, without notice given as provided by the 17th section of the Act of 1835, ch. 205, a mortgagee of the property, who has no notice, either actual or constructive, would not have the right to appeal from such judgment.

None but parties to the judgment or decree appealed from, have the right of appeal, and the execution of such judgment or decree cannot be stayed or delayed unless the party *against whom* it was rendered or passed gives bond.

[The principal question arising in this case was, whether certain machinery furnished by various parties and put up in a cotton mill, was or was not to be regarded as fixtures. The machinery furnished by the Messrs. Denmead, referred to in the opinion, consisted of a steam-engine of 75-horse power, with the boilers, tanks, and appurtenances, and constituted a part of the motive power of the machinery of the mill, the other part being water power. The three boilers were put up with brick, resting on foundations dug in the earth, in a house built for that purpose exclusively, and to remove them it would be necessary to take down all but its side walls and roof. The engine was set on a very solid permanent foundation, and to keep it and the fly-wheel secured, a hole was bored down through the rock, and the pinion block was cemented with lead, and bolted to a large stone in the foundation. The engine rested on two long sills of wood, to which it was fastened with bolts. These sills rested on a stone foundation, to which they were bolted. The iron segments were fastened to the water-wheel by bolts running through the wheel. The water-wheel was connected to its shaft: at each end of the shaft is a gudgeon fastened into the shaft and resting in a