

understanding to make a part of *the building itself*." I am strongly inclined to think that, whatever stress may be laid upon some of the expressions contained in this very elaborate opinion of Judge Cowen, the principle which runs through it, and fairly to be deduced from it, is against regarding such machinery as that made by the Savage Manufacturing Company, and put up and secured as described by the witnesses, as forming a part of the building itself.

The case of *Vanderpool vs. Van Allen*, 10 *Barbour*, 157, cannot easily be distinguished in principle from the cases now under consideration. The property claimed to be fixtures, and as such to have become a part of the real estate mortgaged for the benefit of the mortgagee, consisted of the same description of machinery, and was attached to the building very much as in this case, yet it was held that it did not come within the denomination of fixtures, nor lose its character of personal estate, and this conclusion was stated by the Judge who delivered the opinion, to be quite consistent with the case of *Walker vs. Sherman*.

The opinion of Mr. Justice Brown, in 10 *Barbour*, 163, 164, contains several passages strikingly applicable to the present case; and, as I think, exhibits with great propriety and clearness the distinction between that kind of machinery which, from its weight and adaptation to the place where it is fitted and used, must be regarded as a part of the realty to which it is attached, and those lighter and more portable articles, which are capable of removal and use elsewhere, without injury to themselves or the building in which they stand.

In this case of *Vanderpool vs. Van Allen*, the authorities, or many of them, are again brought into review, and I am persuaded it will be found, upon an examination of them, that the old and rigid rule, that any annexation whatever to the freehold, however slight, will make the thing annexed a part of it, is not the law of the present day, and in view of the circumstances of the age in which we live, and the importance of encouraging and protecting the rights of him who employs his time and tasks his ingenuity in inventing new methods for