facilitating the operations of human labor, I may, perhaps be permitted to express my satisfaction that it is not.

In the case of *Holmes* vs. *Tremper*, 20 *Johns.*, 29, in which it was decided that a tenant might remove a cider-mill and press erected by her for her own use, Chief Justice Spencer, in pronouncing the judgment of the Court, said, "the rule anciently was very rigid, but I think it has yielded materially to the more just and liberal notions of modern times," and this case is referred to by Chancellor Kent, as containing a just and enlarged view of the subject. 2 *Kent's Com.*, 347.

It has already been said that no case has been produced by counsel, or found in my own researches, in which machinery placed in a mill for the manufacture of cotton, has been held to pass with the freehold as a part of it, as between vendor and vendee and mortgagor and mortgagee, whilst the cases establishing the contrary are numerous. In *Swift* vs. *Thompson*, 9 *Conn.*, 63, machinery in a cotton mill, attached to the building so far as to keep the machinery steady, and which could be removed without injury to the building or the machinery, was held to be personal property, as respects creditors and purchasers; and *Gale* vs. *Ward*, 14 *Mass. Rep.*, 352, maintains the same doctrine.

Some of the cases say that to convert things of a personal nature into real estate by annexation to the freehold, they must be fixed to it *perpetui usus causâ*, a phrase borrowed from the civil law. But this, as I understand it, is the rule when the question arises between landlord and tenant, a relation which, according to the uniform doctrine of the cases essentially modifies and mitigates the law upon the subject. I apprehend that, as between mortgagor and mortgagee, if the annexation be such as to make it impossible to dismantle the personal from the real estate without injury to both, and especially without injury to the latter, that the personal must be considered as converted into real estate, though it was not affixed *perpetui usus causâ*.

The case of *Trappes* vs. *Harter*, 2 *Crompton & Meeson*, 152, has been the subject of a great deal of comment on both