

It was then thought, that these judgments could not be permitted to impair the rights of third parties, because of the omission of the sheriff, by the consent of the plaintiffs, to give the public the notice directed by the Act of 1838, ch. 205, which notice by the 9th section of the supplementary Act of 1845, ch. 287, is required to furnish precise and full information of the amount of the claim, and other particulars interesting to all persons who may be concerned.

It is insisted, that as Baltimore County Court had jurisdiction to render these judgments, and the omission to give the notice was a mere irregularity, which (though perhaps ground of reversal on appeal) no Court in a collateral proceeding can for that reason refuse to give them full effect.

The question, however, is not whether the judgment shall have effect against the parties who were notified of the proceeding, but, whether they shall conclude persons who had no notice either actual or constructive, and who consequently have had no opportunity of defending their rights. It appears to me quite plain, that the legislature never, intended in passing these laws, to affect the interests of parties who had no notice, actual or constructive, of the proceedings under them; and I am by no means prepared to say, that if the person claiming the lien chooses to limit his remedy to the defendant and the person in possession of the building, that he may not do so.

Surely it would be everywhere and with one voice denounced as violative of the plainest principles of justice, that the rights of parties should be concluded by a judgment, when they were not only not summoned to resist it, but where a studious effort appears to have been made to keep them in ignorance of the proceedings which led to it. I do not, of course, mean to be understood as intimating that such design existed in this case, but simply as indicating the manifest injustice of holding the Bank to be affected by a judgment of which, upon the face of the record, they had not and were not intended to have notice.

I hold, therefore, that in denying to these judgments the full effect attributed to them, I am not impairing their efficacy