

set forth a substantially correct description of the various machines, and the mode in which they are severally annexed with certain modifications which are in the main as follows : Large punch (No. 3 boiler shop list). I do not think there is evidence to satisfy me that this was bolted to timbers, but it is imbedded in the earth, and if removed the soil would be displaced. Large planer (No. 9 engine list.) It has not been proved that this is bolted to timbers on which it rests, but I find that if it were removed the soil would be displaced and a gap or opening left, and in order to remove it, part of the flooring would have to be torn away.

There is, as to some of the machinery, contradictory evidence as to the extent to which they, or the timbers on which they rest, are imbedded in the ground, but I find it proved in respect of all of them that there is a bedding more or less substantial in the earth, and their removal would cause displacement of the soil. It is argued as to some of the machines which are bolted to timbers embedded in the ground, that by removing bolts or other fastenings the machines could be removed from the timbers without displacement of earth, but it appears to me that the bolting to foundation timbers firmly embedded in the soil is equivalent to other recognized modes of attachment, e.g., nailing to a floor.

I find on the evidence that when these machines were placed in the building, the earth was excavated so as to admit the machines or the timbers to which they were bolted, and I find against the contention that the embedding is the mere result of the accumulation of debris or refuse.

I do not agree with the contention of defendants' counsel that it has for years been supposed by lawyers or laymen that a chattel mortgage on de facto fixtures, if duly filed, would prevail as against a subsequent purchaser or mortgagee of the land who registers his conveyance, and has not actual notice of the prior chattel mortgage. My recollection of what was customary when I was in practice agrees with Mr. Ritchie's statement, viz. : that it was not usual for solicitors in searching titles to real estate to search in the office of the Clerk of the County Court. That state of facts was not presented to the Court in any of the cases cited by Mr. Thomson. The Chancellor points out in *Carson v. Simpson*, 25 O.R. 385, that the question of the Registry laws was not dealt with in any of them. *Hobson v. Gorringe*, (1897) 1 Ch. 182, followed by the learned Chancellor in *Landed Banking Co. v. Clarkson*, is strongly in favor of plaintiffs.

As a question of construction, and also on the evidence, I find that the word "tools" in the first chattel mortgage of defendants does not include the machines in the engine shops. The evidence shows that all the machines in the engine shops (other than the large planer and the shafting lathe) were spiked down or fastened to the floor when first placed in the factory. As other machines were from time to time brought in for purposes of light and convenience, new positions were assigned to machines and in some cases bolts or fastenings were not replaced, but I do not find that the omission to refasten was with intent that the machines should be regarded thereafter as chattels. All the machines which are now loose, are run from countershafts, which are, with pulleys and cones, securely fastened to the ceiling ; these countershafts, pulleys