of the term, they form part of the freehold nevertheless. "When chattels," says Parke, B., in *Hallen* v *Runder* (3 Tyrr. 959), "are thus fixed to the freehold by a tenant, they become part of it subject to the tenant's right to separate them during the term and thus to convert them into goods and chattels as stated by Gibbs, C.J., in *Lee* v. *Risdon* (7 Taunt. 191; 2 Mar. 495), and the very able work of Messrs. Amos and Ferrard on Fixtures; but whilst annexed they may be treated for some purposes as chattels, for instance, in the execution of a *fi. fa.* they may be seized and sold as falling under the description of goods and chattels" He cited, besides the cases cited for the defendants, *Ex parte Barclay*, 5 De G. M. & G. 403; *Boyd* v. *Shorrock*, 17 L. T. Rep. N. S. 197; 37 L. J. 144 Ch.. L. Rep 5 Ch. 72; *Re Dawson*, 16 W. R. 424.

Field, Q.C., in reply.

Cur. adv. vult.

May 23.—Blackburn, J. delivered the judgment of the Court (Kelly, C.B., Blackburn, Mellor, and Hannen, JJ., Channell and Cleasby, BB.)—In this case George Mason, who was owner in fee of a mill, occupied by him as a worsted mill, mortgaged the mill and all fixtures, which then were or at any time thereafter should be set up and affixed to the premises, in fee to the plaintiffs. The mortgage deed was not registered as a bill of sale, and Mason, who continued in possession, assigned all his estate and effects to the defendants, as trustees, for the benefit of his creditors. The defendants, under this last deed, took possession of everything. The plaintiffs brought trover. The defendants paid money into court, and there was a replication of damages *ultra*. A case was stated showing the nature of the articles, and how and in what manner they were affixed to the mill. As the deed was not registered under the Bills of Sale Act, 17 & 18 Vict. c. 36, it was, by sec. 1 of that Act, void as against the defendants, as assignees for the benefit of creditors, so far as it was a transfer of "personal chattels" within the meaning of that Act. And as by sec. 7 the phrase "personal chattels" is declared in that Act to mean, *inter alia*, "fixtures," it was void (as against these defendants), so far as it was a transfer of fixtures as such. Since the decision of this court in *Climie* v. *Wood* (*sup*), it must be considered as settled law (except perhaps in the House of Lords) that what are commonly known as trade or tenant fixtures form part of the land, and pass by a conveyance of it, and that though, if the person who erected those fixtures was a tenant, with a limited interest in the land, he has a right as against the freehold to sever the fixtures from the land, yet, if he be a mortgagor in fee, he has no such right as against his mortgagee. Trade and tenant fixtures are, in the judgment in that case, accurately defined as "things which are annexed to the land for the purpose of trade or of domestic convenience or ornament in so permanent a manner as to become part of the land, and yet the tenant who has erected them is entitled to remove them during his term, or it may be within a reasonable time after its expiration." It was not disputed at the bar that such was the law, and it was admitted, and we think properly admitted, that where there is a conveyance of the land, the fixtures are transferred, not as fixtures, but as part of the land, and the deed of transfer does not require registration as a bill of sale. But we wish to guard ourselves by stating that our decision, so far as regards the registration, is confined to the case before us, where the mortgagor was owner to the same extent of the fixtures and of the land. If a tenant, having only a limited interest in the land and an absolute interest in the fixtures, were to convey not only his limited interest in the land and his right to enjoy the fixtures during the term so long as they continued a part of the land, but also his power to sever those fixtures and dispose of them absolutely, a very different question would have to be considered. As it does not arise, we decide nothing as to this. We are not to be understood as expressing dissent from what appears to have been the opinion of Wood, V.C., in *Boyd* v *Shorrock* (*sup*), but merely as guarding against being supposed to confirm it. In *Climie* v. *Wood* (*sup*) the jury had found as a fact that the articles there in question were tenant's fixtures, and that finding was not questioned. Neither the Court of Exchequer nor the Court of Exchequer Chamber had occasion there to consider what would constitute a fixture. In the present case there is no such finding. The controversy was confined to the looms, the nature of which, and the mode of their annexation, are described in the case. In the court below it was properly admitted that there was no real distinction between those looms and the articles which the Court of Queen's Bench in *Longbottom* v. *Berry* (*sup*) decided to be so annexed as to form part of the land. Judgment was accordingly given for the plaintiffs without argument, leaving the defendants to question *Longbottom* v. *Berry* in a court of error. The present is therefore really, though not in form, an appeal against the decision of the Court of Queen's Bench in *Longbottom* v. *Berry*, and was so argued. There is no doubt that the general maxim of law is that what is annexed to the land becomes part of the land, but it is very difficult, if not impossible, to say with precision what constitutes an annexation sufficient for this purpose. It is a question which must depend on the circumstances of each case, and mainly on two circumstances, as indicating the intention, viz., the degree of annexation and the object of annexation. Where the article in question is no further attached to the land than by its own weight, it is generally to be considered a mere chattel: (see *Wiltshear* v. *Cottrell*, 1 E. & B. 689, and the cases there cited.) But even in such a case, if the intention is apparent to make the articles part of the land, they do become part of the land: (see *Deyncourt* v. *Gregory*, L. Rep. 3 Eq. 382.) Thus blocks of stone, placed one on the top of another, without any mortar or cement, for the purpose of forming a dry stone wall, would become part of the land; though the same stones, if deposited in a builder's yard, and for convenience sake stacked on the top of each other in the form of a wall, would remain chattels. On the other hand, an article may be very firmly affixed to the land, and yet the circumstances may be such as to show that it never was