If, therefore, the company's lien was preserved by the proceedings taken prior to her purchase, the defendant Mary E. Gamble was affected with notice of the lien at the time of the conveyance to her.

It is proper, though not compulsory, in the first instance to make a person having a lien on the estate or any part thereof by decree, mortgage, or otherwise, a party to the proceedings. If a person having a lien on the undivided share of a person interested in the lands is made a party, his lien is confined to such share. But failure to make him a party in the first instance does not impair or affect his lien: sec. 21. And in either case he is left to make proof of his claim at a future stage. The exact effect of the allowance of the petition is not declared by the Act, but I think it clear that it has not the force of a judgment or order establishing the claim of any party. Upon the allowance the parties shall and may appear, and, by a concise statement of facts by way of defence, and further according to the practice of the Court, shew title as to the proportion which they or any of them claim of the premises: secs. 31, 32. If none of the parties answer within 15 days next after service of the order of allowance of the petition, the petitioner shall be at liberty to sign judgment of partition and proceed as directed: sec. 34. Where a sale is determined upon, inquiries and proceedings are directed for the purpose of ascertaining and settling the claims of creditors or persons having liens or incumbrances: secs. 44, 45, 46.

And this inquiry should extend not merely to the existence of liens at the date of the filing of the petition, but to the time when the reference is being proceeded with: Robson v. Robson (1884), 10 P. R. 324.

The allowance of the petition seems to operate to no greater extent than to declare the regularity of the proceeding, and to enable the petitioner to give notice of the lis pendens by registration of the certificate, and to call upon the other parties to the petition to make answer if so advised. It does not, nor does registration thereof, determine anything as to the rights of the parties or dispense with proof of the title to, and claims against, the land.

In Yale v. Tollerton (1866), 2 Ch. Ch. 49, Vankoughnet, C., held that a judgment creditor, having obtained a decree in Chancery for equitable execution by sale of his debtor's interest in certain lands while executions against lands were in force in the sheriff's hands, was not required to keep the