holding the engine and boilers chattels would lead, were widely dissimilar. No one has ever doubted that in the case the court mentioned the property would be real estate. The rule has invariably been stated with the limitation that there must be no material injury to the fixture or the freehold involved in the removal. How illogical, to attack a rule restricted in its operation by citing the consequence of its operation beyond its restrictions. This is the reasoning of the court. There is a strong dissent in the case, the judges standing three to two.

The decision in *Fryatt* v. *Sullivan Co.*, 5 Hill, 116, affirmed by Court of Errors, 7 Hill, 529, is placed on the ground that the annexation was of such a nature that the chattel could not be removed without material injury, and it is on this ground that this case is distinguished in *Ford* v. *Cobb*, 20 N. H. 351.

The annexation of the chattel to the land must be with the knowledge of the owner of it, or the one holding a lien on it. The act of the owner of the chattel in attaching it to realty, cannot prejudice the lienor unless he knows of it or impliedly consents to it. This demonstrates the absurdity of the reasoning of the court in the case of *Voorhes* v. *McGinnis*, just cited, for in the case put by the court the chattel mortgagee *could* have insisted upon his lien, even after the brick and timber had become part of the house, if he did not consent to their being used in the construction of the house, or known of it. It is true he could not tear down the house or replevy the materials, but he could sue for conversion, and recover their value as against the owner of the house.

Whether the filing of a chattel mortgage is sufficient to give notice to a purchaser of the realty that apparent fixtures are personalty, is as we have seen a question about which there is a decided difference of opinion. There is certainly less authority against the doctrine that such filing is notice than there is in favour of it. But the spirit of the registry laws of this country are in harmony with it, and would even seem to require such a rule. On the other hand, there are more decisions in support of the contrary rule. Moreover, it cannot be said that the *letter* of the various recording acts comprehends the case of a chattel, which in spite of its annexation to the land, remains personalty, for this would involve the assumption of what is the exact reverse of the fact, *i.e.*, that the chattel has become a fixture. The recording acts do not attempt to affect any property which is not in fact real estate, and when it is admitted, as it is by all the decisions, that in certain cases the chattel does *not* become a fixture, then the letter of the recording act does not touch the case at all. In answer to the argument founded upon the spirit of such acts, may it not be said that notice is given in just the manner that the spirit of such acts requires. It is true that the notice is in a different record, and may be in a different office; but it is a public record, and can the purchaser of the land claim that he was not bound to look to such a record, for the reason that he had a right to assume that the property alleged to be personalty was a fixture? In view of the well-settled rule that such property may or may not be a fixture according to the intention of the parties interested in it, has the purchaser an absolute right to regard it as a fixture without examining a public record where the record of a lien upon it