and he urged with great force that we ought not to act on a surmise that there were any special facts or findings not stated in the report, but to meet the case as showing that the judges who decided *Hellawell* v. *Eastwood* thought that articles fixed in a manner very like those in the case before us remained chattels; and this is felt, by some of us at least, to be a very weighty argument. But that case was decided in 1851. In 1858 the Court of Queen's Bench had, in *Willshear* v. *Cottrell* (1 E. & B. 689), to consider what articles passed by the conveyance in fee of a farm. Amongst the articles in dispute was a thrashing machine, which is described in the report thus: "The thrashing machine was placed inside one of the barns (the machinery for the horse being on the outside,) and there fixed by screws and bolts to four posts which were let into the earth." *Hellawell* v *Eastwood* was cited in the argument. The court (without, however, noticing that case) decided that the thrashing machine, being so annexed to the land, passed by the conveyance. It seems difficult to point out how the thrashing machine was more for the improvement of the inheritance of the farm than the present looms were for the improvement of the manufactory. And in *Mather* v. *Fraser* (2 K. & J. 286) Wood, V.C., who was there judge both of the fact and the law, came to the conclusion that machinery affixed not more firmly than the articles in question by the owner of the fee to land for the purpose of carrying on a trade there became part of the land. This was decided in 1856. And in *Walmsley* v. *Milne* (7 C.B., N.S., 115), the Court of Common Pleas, after having their attention called to a slight misapprehension by Wood, V.C., of the effect of *Hellawell* v. *Eastwood*, came to the conclusion, as is stated by them at p. 131, "That we are of opinion, as a matter of fact, that they were all firmly annexed to the freehold for the purpose of improving the inheritance, and not for any temporary purpose." The bankrupt was the real owner of the premises, subject only to a mortgage which vested the legal title in the mortgagee until the repayment of the money borrowed. The mortgagee first erected baths, stables, and a coachhouse and other buildings, and then supplied them with the fixtures in question for their permanent improvement. As to the steam engine and boiler, they were necessary for the use of the baths. The hay-cutter was fixed into a building adjoining the stable as an important adjunct to it, and to improve its usefulness as a stable. The malt mill and grinding stone were also permanent erections, intended by the owner to add to the value of the premises. They therefore resemble in no particular (except being fixed to the building by screws) the mules put up by the tenant in *Hellawell* v. *Eastwood*. It is stated in a note to the report of the case that on a subsequent day it was intimated by the court that Willes, J., entertained serious doubts as to whether the articles in question were not chattels. The reason of his doubts is not stated, but probably it was from a doubt whether the Exchequer had not, in *Hellawell* v. *Eastwood*, shown that they would have thought that the articles were not put up for the purpose of improving the inheritance, and from deference to that authority. The doubt of this learned judge in one view weakens the authority of *Walmsley* v. *Milne*, but in another view it strengthens it, as it shows that the opinion of the majority, that as a matter of fact the hay-cutter, which was not more firmly fixed than the mules in *Hellawell* v *Eastwood*, must be taken to form part of the land, because it was "put up as an adjunct to the stable, and to improve its usefulness as a stable," was deliberately adopted as the basis of the judgment; and it is observed that Willes, J. though doubting, did not dissent. *Walmsley* v. *Milne* (7 C.B., N.S., 115) was decided in 1859. This case and that of *Willshear* v *Cottrell* seem authorities for this principle, that where an article is affixed by the owner of the fee, though only affixed by bolts and screws, it is to be considered as part of the land—at all events, where the object of setting up the article is to enhance the value of the premises to which it is annexed for the purposes to which those premises are applied. The threshing machine in *Willshear* v. *Cottrell* was affixed by the owner of the fee to the barn as an adjunct to the barn, and to improve its usefulness as a barn, in much the same sense as the hay-cutter in *Walmsley* v *Milne* was affixed to the stable as an adjunct to it, and to improve its usefulness as a stable. And it seems difficult to say that the machinery in *Mather* v *Fraser* was not as much affixed to the mill as an adjunct to it, and to improve the usefulness of the mill as such, as either the threshing machine or the hay cutter. If, therefore, the matter were now to be decided on principle, without reference to what has been done on the faith of the decisions, we should be much inclined, notwithstanding the profound respect we feel for everything that was decided by Parke, B., to hold that the looms now in question were, as a matter of fact, part of the land. But there is another view of the matter, which weighs strongly with us. *Hellawell* v. *Eastwood* was a decision between landlord and tenant, not so likely to influence those who advance money on mortgage as *Mather* v *Fraser*, which was a decision directly between mortgagor and mortgagee. We find that *Mather* v *Fraser*, which was decided in 1856, has been acted upon in *Boyd* v. *Shorrock*, by the Court of Queen's Bench, in *Longbottom* v. *Berry*, and in Ireland in *Re Dawson*, Ir. L. Rep. 2 Eq. These cases are too recent to have been themselves much acted upon, but they show that *Mather* v. *Fraser* has been generally adopted as the ruling case. We cannot, therefore, doubt that much money has, during the last sixteen years, been advanced on the faith of the decision in *Mather* v *Fraser*. It is of great importance that the law as to what is the security of a mortgagee should be settled; and without going so far as to say that the decision, only eleven years old, should be upheld, right or wrong, on the principle that "*communis error facit jus*," we feel that it should not be reversed unless we clearly see that it is wrong. As already said, we are rather inclined to think that if it were *res integra* we should find the same way. We think, therefore, that the judgment below should be affirmed.

Judgment affirmed.