

include it in the list? If the United States Insurance Company knew of the prior mortgage, they also knew that this property thus encumbered was no security whatever. If they did not know of its existence, they were deceived with regard to it.

In the absence, then, of any other list, and without any proof that the lien in question was noted upon such other list (for Mr. Freeman expressly says he does not know whether said lien was on it or not), and seeing that the list which has been produced was preserved by the United States Insurance Company, and furnished the basis of an entry in its books, there would seem to be very little doubt that it was regarded by the Company as a substantial and not a mere nominal security, which it would have been considered, if known to be encumbered by a previous mortgage to the full value of the interest of the mortgagor in it.

The ground taken in this case is, that Peter Neff, the President of the United States Insurance Company knew of the lien held by the General Insurance Company, and this knowledge, it is insisted, is binding on the corporation of which he was the President. But there is no proof bringing home to Mr. Neff specific knowledge of this lien. It rests entirely upon inferences drawn by Mr. Freeman from the fact, as appears by his answer to the 4th interrogatory in chief, that Neff had full knowledge of all his real property, and transactions concerning the same. He says expressly that he cannot say whether Neff had *specific knowledge* of the lien of the General Insurance Company, and by his answer to the 8th cross-interrogatory, it appears that the witness, Freeman, was largely engaged in business transactions, buying and selling, and that his property and his interest therein was continually and almost daily changing. Now, under these circumstances, and in view of the rapid and constant mutations which property in the hands of this gentlemen was liable to, when its condition one day furnished no ground for assuming what its situation might be the day after, it would seem improper, merely because an individual happened to be familiar with his