as personalty would disclose the fact that it is not a fixture? The moment it is admitted that personal property affixed to the realty in a certain manner is not necessarily a fixture, it becomes the duty of the purchaser to ascertain whether it has been incumbered as personal property by an examination of the records where such an incumbrance would be found. Is there any hardship in this? There would certainly be none whatever after the rule had been settled, as purchasers could then conform to it. On the other hand, the interests of trade would be subserved by protecting the chattel mortgagee, for without such protection the vendor of machinery and other property which can be used only by attaching it to the freehold, would be unwilling to sell on this kind of security, and in many instances the purchaser is unable to pay cash or give any other security. The vendor would not care to take a mortgage on the realty, as that would postpone his lien to a prior mortgage not only as to the land as it was before the chattel was attached to it, but also as to the chattel itself, which would then become a fixture. There is a strong dissent from this view by Judge Dillon in *Bringhoeff* v. *Munzenmaier*, 20 Iowa, 513; but what was said was *obiter*, as the chattel which was mortgaged as such was at the time attached to the real estate, and had prior to the giving of the mortgage been a fixture. He says: "They had no constructive notice of the plaintiff's right, because the plaintiff's mortgage was a chattel mortgage, and recorded and indexed as such. There never having been any actual severance of the articles in question, and the same being admitted to constitute as between vendor and vendee part of the realty, a subsequent purchaser would not be bound to take notice of a chattel mortgage thereon; the statute requiring those to be separately recorded and separately indexed. If the defendants at the time of their purchase had been shown to have had knowledge of the plaintiff's mortgage, the question then arising would be much more difficult of solution. But without such knowledge it appeared to us plain that the defendants had the title to the property in question. Any other rule would practically nullify the registry laws, or else introduce the startling doctrine that in examining the titles to real estate, the searcher must also examine the records of chattel mortgages. If the defendants, prior to their purchase from Rawson, had visited the premises, they would have seen the property in question, constituting to all appearances part of the real estate. There would be nothing on the ground, and nothing in the nature of the property, to advise them of the plaintiff's adverse right or ownership. Rawson, and not the plaintiff, it seems was in possession. If defendants should then examine the records of real estate transfers, they would there discover nothing advising them of the plaintiff's claim. They are therefore entitled to and do stand free from it." *Sowden* v. *Craig*, 26 Iowa, 162, appears, as we have seen, to hold the contrary.

In *Sisson* v. *Hibbard*, 75 N. Y. 542, the court ruled that a purchaser at an execution sale was not a *bona fide* purchaser, and could not claim chattels as part of the realty which were annexed to the realty with the understanding that they were to remain personalty.

Nothing can be constructively severed from the freehold and made person-