jurisdictions are not to be extended beyond the fair import of the statutory grant; and that presumptions of law which are incident to the ordinary tribunals are not allowable in importing judicial powers into the statutory jurisdiction other than those specially given by the legislature.

The statutory powers under this Act might have been vested in a justice of the peace, or a registrar of deeds, instead of the judicial officers named, and it would appear with the like result as to jurisdiction, for it is not clear whether the intention of s. 23 of the Act, importing the rules respecting sales only, was to exclude the other Consolidated Rules defining the delegated powers of the Master, or whether the intention of ss. 38 and 40 was to import them into this procedure. These points were not argued.

But although courts have intimated that, where doubts exist as to the limits of the jurisdiction of statutory officers, it is inadvisable that such officers should act under such doubtful powers, I think in the interests of justice I ought to dispose of the questions raised under the evidence given by both sides as necessarily incident to the statutory jurisdiction giving me power over the subject matter in obedience to the maxim *ampliare justiciam*,* and leave to a higher tribunal the limitation of my judicial powers.

In *Reinhart* v. *Shutt*, 15 O.R. 325, it was decided that under a reference in a mechanics' lien case the master had no power to add, as a party defendant, a prior mortgagee, so as to give the Master jurisdiction to try the validity of the mortgagee's title or claim on the contention of the plaintiff that, though prior in registration, he ought to be adjudged as a subsequent incumbrancer to such plaintiff.

This decision is in harmony with *McDougall* v. *Lindsay Paper Mill Co.*, 10 P.R. 247, and *Wiley* v. *Ledyard*, 10 P.R. 182, in both of which cases the extent of the delegated jurisdiction of the Master to try questions properly triable in court was considered, and was shown to be as stated by STRONG, J., in *Bickford* v. *Grand Junction Ry. Co.*, 1 S.C.R. 696.

But as this case does not come before me under my delegated jurisdiction as defined in in the Con. Rules, nor under a judgment of the court giving me jurisdiction over a specific question or issue, for the reason stated above I proceed to dispose of it on the merits.

In *McVean* v. *Tiffin*, 13 A.R. 1, it was held that a lienholder had no priority over a mortgagee who had obtained his mortgage while the work was in progress and had registered it prior to the registration of the lien of the plaintiff-mechanic. In *Wanty* v. *Robins*, 15 O.R. 474, the rule laid down in that case was construed to apply only to innocent purchasers or mortgagees, who had not actual notice of the lien of the mechanic at the time they paid the money and registered the deed or mortgage. And in *McNamara* v. *Kirkland*, 18 A.R. 271, OSLER, J.A., who delivered the judgment in *McVean* v. *Tiffin*, took occasion to add the following observation to what he had said in that case: "If the lien exists, and the purchaser has notice of it, there is no reason why he should not be held to take subject to it," and he further intimated an agreement with what had been said by BOYD, C., in *Reinhart* v. *Shutt*, and *Wanty* v. *Robins*, *ante*.

This then brings this case down to the question whether the mortgagee McCausland had actual notice of the plaintiff's lien.

In *Rose* v. *Peterkin*, 13 S.C.R. 677, STRONG, J., citing Sir James Wigram's definition of notice given in *Jones* v. *Smith*, 1 Hare 55, held, that notice which merely puts a party upon enquiry, as to the facts of which it is material he should have knowledge, is clearly insufficient to postpone a registered instrument; and in *Richards* v. *Chamberlain*, 25 Gr. 402, SPRAGGE, C., held, that it would be holding mortgagees to a stricter course than lienholders if mortgagees were to be taken to have notice of a lien merely because they saw the work being done and materials for it furnished. And his decision in that case is in harmony with *Grey* v. *Ball*, 23 Gr. 390, where he held that possession of a piece of land was not notice of an equitable title claimed by the party in possession. See also *Cooley* v. *Smith*, 40 M.C.Q.B. 543.

There is evidence that the defendant McCausland was told that the contracts were let, and the work on the buildings was going on, before he took his mortgage, but there is no evidence that he had actual notice that this

*This maxim is sometimes quoted as *Boni judicis est ampliare jurisdictionem* (*Collins* v. *Aron*, 4 Bing. N. C. 235), but Lord MANSFIELD, C.J., in *Rex* v. *Phillips*, 1 Burr 304, says, "The true text is *Boni judicis est ampliare justiciam*, not *jurisdictionem*; as it has been often cited."