

MECHANICS' LIEN.

1. Where property on which machinery is constructed is subject to a lien or incumbrance prior to the commencement of the building in which the machinery is placed, the lien of the mechanic must be subordinate to the prior incumbrance. *McKim and Kennedy vs. Mason*, 186.
2. Where a mechanic filed his claim against certain parties, and the *scire facias* was issued against them only, and the notice provided for by the 17th section of the Act of 1838, ch. 205, was not given, but waived by consent, the judgments recovered by the mechanic cannot affect the rights or interests of third persons having liens on the property against which the claim was filed. *Ib.*
3. Where a mortgagee purchased the mortgaged premises at the trustees' sale, and took the property wholly discharged from the lien of the mechanic, a purchaser, whoever he may be, from such mortgagee, must take a title equally exempt from the lien. *Ib.*
4. The lien of the mechanic under the Act of 1838, ch. 205, and its supplements, for work and labor and materials furnished, is in subordination to prior incumbrances, but subject to such incumbrances, the mechanic has a lien on the building and the ground covered by it. *Ib.*
5. By the 4th section of the Act of 1845, ch. 176, machines are rendered subject to the lien "in like manner" as buildings are made subject thereto by the original Act, and hence the lien of the machinist must be subordinate to prior incumbrances. *Ib.*
6. Proceedings under the lien laws, though in the nature of proceedings *in rem*, are not purely of that character, and unless the notice by advertisement required by the 17th section of the Act of 1838, ch. 205, be given, the judgment must be limited in its operation to the parties warned by the preceding section. *Ib.*
7. But if the proceedings are strictly *in rem*, notice, either actual or constructive, is essential to the validity of the judgment against all the world. *Ib.*
8. Constructive notice is as essential to the validity of a judgment *in rem*, as actual notice is to that of a judgment *in personam*; a proceeding professing to determine the right of property without notice actual or constructive, is a mere arbitrary edict, not to be regarded anywhere as the judgment of a court. *Ib.*
9. Where a judgment is obtained under the mechanics' lien laws, without notice given as provided by the 17th section of the Act of 1838, ch. 205, a mortgagee of the property, who has no notice, either actual or constructive, would not have the right to appeal from such judgment. *Ib.*

MERGER.

1. Where there is a parol agreement respecting the purchase of lands, and a bond of conveyance is subsequently executed, this merges and extinguishes all previous agreements resting in parol. *Bullett vs. Worthington*, 99.
2. Unless there is some provision in the charter to the contrary, a transfer of its own stock directly to a corporation, will operate as a merger of the stock so transferred. *Williams vs. The Savage Manuf. Co.*, 418.
3. But it does not follow, that though the shares transferred to the corporation are merged for the time being, they may not be subsequently revived. *Ib.*