

Where prior to the commencement of a building, a judgment is confessed as security for certain future advances, the judgment has priority over a mechanics' lien, although the advances were not actually made until after the building was commenced. *Robinson v. Consolidated Real Estate Co.*, 55 Md. 111.

This section applies to a lien for materials, as well as for labor. This section applied. *Rosenthal v. Maryland Brick Co.*, 61 Md. 594 (explaining *Robinson v. Consolidated Real Estate Co.*, 55 Md. 111.) Cf. *Heath v. Tyler*, 44 Md. 317.

Where a machine against which a mechanics' lien claim has been filed, is sold in equity *en masse* with real estate, with an agreement that the whole was to be sold free from incumbrances, the lien claimant is entitled to share in the proceeds, and to that end the relative value of the real estate and machinery may be proven. *Wells v. Canton Co.*, 3 Md. 242 (overruling *Jones v. Hancock*, 1 Md. Ch. 190).

The lien of a machinist on a machine which he builds and then puts up in a factory which is subject to a prior mortgage, is subordinate to the mortgage—see section 22. *Denmead v. Bank of Baltimore*, 9 Md. 183. And see *Jones v. Hancock*, 1 Md. Ch. 189. Cf. *McKim v. Mason*, 3 Md. Ch. 210.

As to when the building has been commenced within the meaning of this section, see *Kelly v. Rosenstock*, 45 Md. 392; *Jean v. Wilson*, 38 Md. 295; *Brooks v. Lester*, 36 Md. 70.

This section has no application to vessels—see notes to section 47. *The Marcella Ann*, 34 Fed. 143.

Cited but not construed in *Filston Farm Co. v. Henderson*, 106 Md. 373; *McLaughlin v. Reinhart*, 54 Md. 76.

See sec. 9 and notes.

As to mechanics' liens not being impaired by exemptions from execution, see art. 83, sec. 12.

1904, art. 63, sec. 16. 1888, art. 63, sec. 16. 1860, art. 61, sec. 16.
1838, ch. 205, sec. 8.

16. If the building against which any claim shall be filed under this article or any of the ground adjacent thereto shall be sold under judgment or decree on mortgage, or any other decree or process of any court of law or equity, or by a trustee of an insolvent debtor, before the extent of the lien of the claimant shall be ascertained as before directed, the court from which execution issued, or which passed such decree, or by which such trustee was appointed, may determine the respective rights of the parties and the apportionment and appropriation of all liens and for that purpose may appoint an auditor to inquire into and report the facts; or, upon application of any of the parties, may direct an issue to try the facts and may decree distribution accordingly.

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Ibid. sec. 17. 1888, art. 63, sec. 17. 1860, art. 61, sec. 17.
1838, ch. 205, sec. 10. 1890, ch. 107.

17. Each person entitled to such lien shall file a claim or statement of his demand in the office of the clerk of the circuit court for the county or the superior court of Baltimore city, as the case may be, and such claim or statement shall be re-delivered by the clerk to the party filing the same after it has been recorded as provided in section 18.

Cited but not construed in *Franklin Ins. Co. v. Coates*, 14 Md. 296.
See sec. 23 and notes.