

Subsequent purchasers and creditors.

The registration of a deed without the order of court required by this section, does not give constructive notice to subsequent purchasers or creditors; and the paper must be considered as a mortgage unrecorded. However, if the paper is *bona fide* and one which the court would order recorded under this section, it is valid as between the parties and gives priority over creditors of the grantor whose debts were contracted before its date, and over subsequent creditors with actual notice. *Stanhope v. Dodge*, 52 Md. 493; *Wally v. Long*, 56 Md. 571; *Pfeaff v. Jones*, 50 Md. 263; *Harding v. Allen*, 70 Md. 399; *Dyson v. Simmons*, 48 Md. 220; *Sixth Ward Bldg. Assn. v. Willson*, 41 Md. 514. And see *Bowie v. Stonestreet*, 6 Md. 429.

This section applied as to subsequent creditors without notice. *Cissel v. Henderson*, 88 Md. 576; *Nally v. Long*, 56 Md. 571; *Hoffman v. Gosnell*, 75 Md. 590; *Dodge v. Stanhope*, 55 Md. 115; *Stanhope v. Dodge*, 52 Md. 491; *Pfeaff v. Jones*, 50 Md. 263; *Dyson v. Simmons*, 48 Md. 220; *Sixth Ward Bldg. Assn. v. Willson*, 41 Md. 514; *Pannell v. Farmers' Bank*, 7 H. & J. 205; *Carroll v. Norwood*, 1 H. & J. 167; *Gill v. Griffith*, 2 Md. Ch. 284; *Brooks v. Dent*, 1 Md. Ch. 528; *Coombs v. Jordan*, 3 Bl. 325.

A deed not recorded in time, is not operative as to subsequent creditors until recorded, but thereafter divests the powers of the grantor over the property just as if it was recorded in time. *Dodge v. Stanhope*, 55 Md. 115.

The rule prescribed in this section will be applied where a mortgage recorded in time, was defectively acknowledged. Purpose of this section. Proof held not sufficient to charge subsequent creditors with actual notice. *Dyson v. Simmons*, 48 Md. 218. *Cf. Price v. McDonald*, 1 Md. 403.

The effect of this section and of art. 21, secs. 1, 13, 19, 32 and 33, is to protect the rights of subsequent creditors against a defective or unrecorded mortgage, where the claims under said mortgage are asserted at law, as well as in equity. *Sixth Ward Bldg. Assn. v. Willson*, 41 Md. 514.

Portion of this section giving subsequent purchasers without notice, a priority over a mortgage recorded under this section, applied. *Harding v. Allen*, 70 Md. 399; *Sprigg v. Lyles*, 2 G. & J. 446. *Cf. Price v. McDonald*, 1 Md. 403.

Contention that a creditor of a mortgagor who knows of a prior unrecorded mortgage, has a stronger equity than a subsequent creditor who has no such knowledge, is in conflict with this section. *Ohio Ins. Co. v. Ross*, 2 Md. Ch. 33.

Application of this section.

This section has no application where the deed is recorded in time, and the creditors seeking to charge the property are those of the grantee. *Hartsock v. Russell*, 52 Md. 626.

The application of this section to a deed of manumission, denied. Purpose and intent of this section. *Wicks v. Chew*, 4 H. & J. 546; *Miller v. Herbert*, 5 How. 78.

Generally.

This section compared with art. 21, sec. 19. This section refers exclusively to deeds executed and acknowledged according to law and perfect in all respects so far as the act of the grantor or mortgagor is concerned. This section embraces mortgages. Requirements and provisos of this section. Constructive notice. *Pfeaff v. Jones*, 50 Md. 263. And see *Harding v. Allen*, 70 Md. 399. *Cf. Dyson v. Simmons*, 48 Md. 218.

For a case dealing with question of when a surety "trusts" his principal, as involved in the application of this section, see *Nally v. Long*, 56 Md. 571.

As against creditors and purchasers or assignees of a mortgagor who seeks to redeem, the English doctrine of tacking or consolidation is inconsistent with this section. *Brown v. Stewart*, 56 Md. 431.

This section referred to in passing upon effect of failure to stamp a mortgage as required by act of congress. *Wingert v. Zeigler*, 91 Md. 324.

This section referred to in construing art. 21, secs. 19 and 21—see notes to the latter. *Cramer v. Roderick*, 128 Md. 425.

An estate tail, held not to be embraced by the act of 1785, ch. 72, sec. 11. *Jones v. Jones*, 2 H. & J. 284. And see *Posey v. Budd*, 21 Md. 482.

Cited but not construed in *Woods v. Fulton*, 4 H. & J. 331.

As to defective conveyances, see art. 21, sec. 84, *et seq.* See also art. 21, sec. 19, and notes to art. 21, sec. 33.