

was a "prior mortgage" within the meaning of s. 5, by reason of its prior registration, and that therefore the lienholder was entitled to priority in respect of the increased selling value occasioned by his work; but the Chancellor decided that the priority referred to in s. 5 is, as we suggested, a priority in point of time, and not priority acquired merely by means of prior registration, and he therefore reversed the Master's ruling.

MARRIED WOMEN—DEVOLUTION OF ESTATES.

It is somewhat strange that the courts have not long before this been called upon to solve the legislative riddle which arises upon the apparently conflicting provisions of R.S.O., c. 108, s. 5, and R.S.O., c. 132, s. 23, but we are not aware that thus far any judicial construction has been sought in reference to those sections; though we can hardly think it possible that cases cannot have occurred to which their provisions must not of necessity have applied.

By the first of these sections, which formed part of the Devolution of Estates Act of 1881, it is provided that the real and personal property of a married woman, in respect of which she has died intestate, shall be distributed as follows: One-third to her husband, if she leave issue, and one-half if she leave none; and, subject thereto, shall go and devolve as if her husband had predeceased her. The effect of this provision is to give the husband one-third of his wife's undisposed of real and personal estate, if she also leave children; but if she does not leave children, then he is to get one-half, and the residue will devolve upon the wife's next of kin.

By R.S.O., c. 132, s. 23, however, it is provided that the separate personal property of a married woman dying intestate shall be distributed in the same proportions between her husband and her children as the personal property of a husband dying intestate is to be distributed between his wife and children; and if there be no child or children living at the death of the wife so dying intestate, then such property shall pass and be distributed as if this Act had not been passed.

This section is a survival from the Consolidated Statutes of Upper Canada. It will be observed that it is confined to