

leaves no children her separate personal property is to devolve "as if this Act had not been passed." From these words you draw the conclusion "that the whole of it is to devolve on the husband." I am unable to discover any such meaning in the words. You read them as though they were "as if this Act and R.S.O., c. 108, s. 5, had not been passed." In the interval between 47 Vict., c. 19, s. 20 (which contained the original enactment now appearing as R.S.O., c. 132, s. 23), and 49 Vict., c. 22, s. 5 (wherein R.S.O. c. 108, s. 5, was first enacted), doubtless the whole of the childless deceased intestate's separate personal property would devolve on her husband. But it seems to me that since the passing of the latter enactment the only effect of the phrase, "As if this Act had not been passed," in c. 132, s. 23, is, in the circumstances to which it applies, to remove the estate from the operation of that section, and to leave it to be distributed under c. 108, s. 5. The effect in these circumstances, I apprehend, is as if c. 132, s. 23, were omitted from the statute book. If it were omitted, we would have no difficulty, I think, in holding that the Devolution of Estates Act applied to the separate personal property of the married woman who died childless and intestate. In my humble opinion, wherein the oversight of the revisers of the statute consisted was in failing to observe that the earlier enactment was superseded by the later one, and should be omitted.

LEX.

*To the Editor of THE CANADA LAW JOURNAL :*

SIR,—Your article on page 466 of the August number, entitled "Married Women—Devolution of Estates," and dealing with what are termed therein "the apparently conflicting provisions of R.S.O., c. 108, s. 5, and R.S.O., c. 132, s. 23," places, in my humble judgment, a wrong construction upon the effect of the two sections, and assumes a conflict which does not really exist. It must be admitted that the sections are, at first sight, confusing, and overlap one another, but I think that they are quite capable of perfectly harmonious construction. The flaw in your argument rests in the construction which you give to the concluding words of R.S.O., c. 132, s. 23. You construe the words, "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 dis-