or consent, or for whose direct benefit any such work is done, etc., *and all persons claiming under him, whose rights are acquired after the work in respect of which the lien is claimed is commenced, etc.* The words we have italicized say nothing of registration. The 3rd section goes on to provide that the mechanic is to have a lien not by virtue of registration of his lien, but "by virtue of being so employed;" and the 6th section provides that every lien is to attach upon the interest of the "owner," which word, as we have seen, includes not only the person by whom the mechanic is employed, but all persons claiming under him, whose rights are acquired after the work in respect of which the lien is claimed is commenced.

Any other result than that which the Court arrived at in *Hynes* v. *Smith* might perhaps appear to work injustice, and it may not unreasonably be said, that to postpone a mortgagee to a lienholder under such circumstances, assuming that the mortgage is taken without actual notice of the existence of the lien, would be a very great hardship. We are disposed to think that it would. At the same time, we are not at present concerned with that aspect of the case. What we desire now to arrive at is, What is the true state of the law on the point? From the sections of the Act we have referred to, we are clearly of opinion that that case ought to have been decided without reference to the Registry Act. For it cannot for a moment be contended that the 26th section, while expressly declaring that the Registry Act shall not apply to liens, nevertheless permits a mortgagee to set up its provisions against the lienholder. The true effect of section 26 is to take mechanics' liens out of the provisions of the Registry Act requiring registration in order to preserve their priority, except so far as the Mechanics' Lien Act itself requires their registration for that purpose. Dealing then with that case apart from the Registry Act, there is no ground for contending on the facts stated that the lien of the plaintiff was not prior in point of time to the two mortgages, because by the words of the 3rd section it attached, "by virtue of the plaintiff being so employed," and his employment dated prior to the mortgagors, and his work was commenced prior to the mortgages, and by the terms of the 6th section, taken in connection with the meaning assigned to the word "owner" by the 2nd section, his lien bound not only the interest of the mortgagor who employed him (as Blake, V.-C., erroneously assumed), but also that of all persons claiming under the mortgagor, whose rights were acquired after the plaintiff's work was commenced.

The judgment of Proudfoot, V.-C., in that case appears to be conclusive, as set out on p. 152.

On the other hand, we cannot agree with Blake, V.-C., as given on p. 151.

How his argument can be reconciled with the words of section 26, which declares that the Registry Act shall not apply, and with section 2, which declares that "owner" includes a person claiming under the person by whom the lienholder is employed, whose rights are acquired after the commencement of the work, we fail to see.

The last case on the subject is *McVean* v. *Tiffin*, 13 App. R. 1, which was very similar in its circumstances to *Richards* v. *Chamberlain*, 25 Gr. 402. The arguments of counsel in this case are not reported, but here again, in the judgment of the court, which was delivered by Osler, J. A., we look in vain for any consideration of the effect of section 26. The reasons on which the judgment of the Court of Appeal is based are practically that the Registry Act did apply to the lien and did protect the mortgagee, and a passage from the judgment of Blake, V.-C., in *Hynes* v.