

quire deposits is not so clear in refusing it priority of its liens over existing mortgages which are not benefited by the service and the owners of which have no control over it, that such priority can be said to be implied. The wisdom or policy of such precedence is for the Legislature and not the courts. With respect to this precedence the Legislature has been silent.

The plaintiff relies upon the case of *Mechanics Savings Bank v. Collector of Taxes*, 299 Mass. 404. The Court announced its decision that the lien for water rates was superior to an existing mortgage after a recital (p. 409) of a provision of the law that: "The collector shall have the same powers and be subject to the same duties with respect to such unpaid accounts as in the case of the annual taxes upon real estate, and the provisions of law relative to the collection of such annual taxes, the sale of land for the non-payment thereof and the redemption of land so sold shall apply to unpaid accounts charged upon real estate under sections 42A to 42F."

With respect to the \$24.02 item, the bank was a subsequent purchaser so far as its second and third mortgages were concerned. Since there was enough to satisfy the first mortgage and this claim, the plaintiff is entitled to judgment for \$24.02. With regard to the balance of the \$99.08, the bank does not rank as a subsequent purchaser because under the foreclosure deed it acquired the title as it existed at the creation of the mortgages.

Judgment for the plaintiff for \$24.02.

All concurred.

Hillsborough, }
Oct. 3, 1944. } No. 3487.

STATE *v.* MARY PAPCIAK, *alias* MAY PAPCIAK.

[REDACTED]

J. Vincent Broderick, County Solicitor, for the State.

Philip J. Biron, for the defendant.

MARBLE, C. J. If the defendant failed to support her illegitimate child, as charged in the indictment, she is guilty of a violation of section 2 of chapter 441 of the Revised Laws. This section is as follows: "Any person who shall, without lawful excuse, desert or willfully neglect or refuse to provide for the support and maintenance of his or her legitimate or illegitimate minor child under the age of sixteen years in destitute or necessitous circumstances shall be fined not more than three hundred dollars, or imprisoned not more than fifteen months, or both."

The case of *State v. Byron*, 79 N. H. 39, on which the defendant relies, merely holds that the alleged father of an illegitimate child is not liable to indictment under the statute in question if he has not been adjudged chargeable in bastardy proceedings (R. L., c. 128).

Case discharged.

All concurred.

[REDACTED]

Hillsborough, }
Nov. 8, 1944. } No. 3493.

FLORA E. LECLERC *v.* PRUDENTIAL INSURANCE COMPANY
OF AMERICA.

[REDACTED]