

Council, expressed in *Trimble v. Hill*, 5 App. Cas., they would consider themselves bound to follow the decisions of the House of Lords and the English Court of Appeal, and would therefor allow the appeal with costs. Such is the practice of the law.

**THE HUSBAND'S INTEREST IN THE ESTATE OF HIS
INTESTATE WIFE.**

Prior to the Statute of Distributions it was well settled that a husband might, in the character of administrator (and as to certain classes of property even without administration), possess himself of his intestate wife's whole personal property, including chattels real. Doubts arose as to whether the statute did not deprive him of this right. It was therefore enacted by sec. 24 of 29 Car. II., c. 3, that the Statute of Distributions should not be construed "to extend to the estates of femmes covert that shall die intestate, but that their husbands may demand and have administration of their rights, credits, and other personal estates, and recover and enjoy the same as they might have done before the making of the said Act." (See *Lamb v. Cleveland*, 19 S.C.R. 78, 83.) At the same time the husband was entitled to tenancy by the curtesy, that is a life estate in lands held by his wife in fee-simple or fee-tail. The four requisites of this estate were marriage, seizin of the wife, issue born alive and capable of inheriting, and the death of the wife: Leith & Sm. Bl. 136.

The above is a brief statement of the husband's interest in the estate of his intestate wife as the law stood in Ontario in 1859. Sec. 18 of 22 Vict., c. 34, which went into force on May 4th of that year, enacted: "The separate personal property of a married woman dying intestate shall be distributed in the same proportions between her husband and children as the personal property of a husband dying intestate is or shall 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 or be distributed as if this Act had not been passed."

The words after the semicolon appear to be surplusage. In any event their effect is no greater than if it had been said, "This section is not to apply if there be no child or children living at the death of the wife so dying intestate." The section did not, of