## STATISTICS.

We were, some time age, in common with other Editors of newspapers and periodicals in Ontario, requested to call the attention of our readers to the requirements of the Acts, 1868-'9, cap. 30, and 1869, cap. 22, respecting the registration of Births, Marriages and Deaths in Ontario. Probably, however, our delay herein has not been prejudicial to the cause so strongly advocated by the Registrar-General for Ontario in his circular, as the class of readers that we reach has sufficient intelligence to be fully alive to the importance of having a complete and accurate record of every birth, marriage and death occurring throughout the Province. In fact lawyers and public officials, more than others, necessarily see from actual experience of every-day business, the trouble and difficulty frequently arising from the want of authentic information on these subjects. In a variety of ways this information is required, and can only be obtained with much trouble and expense, and often without that certitude which alone makes it of value. Whilst urging the importance of a faithful compliance with the provisions of the statutes for the numerous purposes for which these statistics may be useful, it does not appear that the returns are to be looked upon as legal evidence, nor would it be proper that they should be at least without sufficient safeguards to prevent mistakes or frauds. At the same time, these returns will often be used for purposes where something less than legal evidence will suffice.

## SELECTIONS.

### ON PRIMOGENITURE.

The measure which Mr. Locke King has introduced into Parliament, having for its object the assimilation of the law of descent of freehold estate to that which governs the succession to personal property—in other words the abolition of the custom of primogeniture—may render some explanation of the question useful to our readers; and this, less by way of controversy on a subject which is one of admitted difficulty, than in order to aid in forming a correct opinion on a matter which comes near to the interests of a large section of the community.

1. It is then in the first place material to bear in mind that there is a very large class of interests in lands which, as not coming within the strict meaning of "real estate," is now, and from the most ancient period in our legal history has been, subject to the same law as that which regulates the title to personal property, and which is therefore free from the objections which, be they real or fancied, are considered to attach to the descent of freehold, or as the lawyers term them "fee simple," estates.* These are well known as leases for terms of years of any duration whatsoever, short or long, from one to 999 years. If the owner of this kind of property dies intestate it is divided amongst his next of kin in the proportions settled by the well-known Act called the Statute of Distributions,† as if it was so much money or goods, a system remarkable for its fairness. With respect therefore to this class of interests in land, no objection can be made as to the proportions in which it is divided amongst those who are entitled to succeed an intestate owner; in other words primogeniture, as a consequence of law, has no bearing on leasehold estate. The large districts, or parcels of land, in which so much money is invested are divided—or the value of them—amongst the widow and children or the near relatives of the intestate. He may of course by his act give the entire estate to his eldest or any other son, as he may give it to a more relative, or to one who is no relative at all. But this is not the act of the law, nor is properly chargeable as a defect in our legal system; it results simply as a consequence of ownership.

The rule—or custom as it may properly be termed—of primogeniture as an act of law distinct from the act of the party, which operates, generally speaking, on small estates held in fee simple, and then only in cases of intestacy, has it will be seen, but little if any bearing on the excessive accumulation of land in the possession of individuals, to which exception is taken as being an enjoyment of property so aggressive as to create an evil which the Legislature should interpose to remove, or at least to mitigate. Such undue accumulation arises from the acts of parties availing themselves to the fullest, and perhaps to even a vicious extent, of the power which they enjoy, and which as incident to ownership may or may not be exercised, of limiting estates so as to run, as it were, in a certain groove and be taken out of the track of commerce for a period, speaking generally, of twenty-one years beyond a life or any number of lives in being: and of tying

* The term "freehold" it may be observed, which is in such general use, was in its original meaning such an estate as a free man would deem worth the holding; and therefore in early times denoted an estate for life merely. The modern idea annexed to the terms "freehold" or "freeholder," signifies the whole extent of the fee: the entire interest that is, which a man can have in lands.

† This is the Act—or Acts rather, for there are two—22nd and 23rd Car. II. and 1 Jac. II. cap. 17. They were originally taken from the Civil Code, having their origin in the 118th Novel of Justinian; a source which Sir W. Blackstone (Com. ii. p. 516) is unwilling to admit, although Lord Holt and Sir J. Jekyll in former, and Chancellor Kent in modern times (Com. vol. i. p. 191) have declared that the Statute was, as they expressed it, "penned by a civilian," and to be governed and construed by the civil law.