

the mother of Miss Greenshields. Do they take the undisposed-of residue to the exclusion of Mrs. Bell and other descendants of the deceased uncles and aunts of the testatrix?

Under sec. 30 of the Devolution of Estates Act, R. S. O. 119, personal property in such a case as that now before us "shall be distributed equally to every of the next of kindred of the intestate who are of equal degree and those who legally represent them, and for the purpose of this section the father and the mother and the brothers and sisters of the intestate shall be deemed of equal degree; but there shall be no representation admitted along collaterals after brothers' and sisters' children. By sec. 3, sub-sec. 1, realty shall be distributed as if it were personalty.

The provisions of our statute as to the distribution of personalty upon an intestacy are based upon the old Statute of Distribution, 22 and 23 Car. 2 Ch. 10. In one of the early cases under that statute, *Pett v. Pett* (1701), 1 Salk. 250, 91 Eng. Rep. 220, the question for determination was whether the brother's grandson should have a share with the daughter of the intestate's sister. To quote the report:

"The words of the Act are, *Provided no representation be admitted amongst collaterals after brothers' and sisters' children*; and it was urged that this Act was a remedial law to prevent administrators sweeping away the whole personal estate of the intestate, and therefore to be taken largely; *sed non allocatur per Curiam.*"

The correctness of this decision has never been impugned.

In *Re McEachren* (1905), 10 O. L. R. 499, the intestate was an unmarried woman. There were two daughters of a deceased sister of the intestate's father, and sixteen or more grandchildren of deceased brothers and sisters of the intestate's mother. As in the present case, the intestate's father and mother were dead. The learned Chief Justice of the King's Bench held that there was no representation of collaterals and that the daughters of the deceased sister of the intestate's father took to the exclusion of the grandchildren of the deceased brothers and sisters of the intestate's mother.

The prohibition that there shall be no representation among collaterals after brothers' and sisters' children excludes all but Mrs. Paterson and her brother. That they are but of the half-breed does not limit their right. Under