

DIVISION COURTS—CURIOSITIES OF ENGLISH LAW.

be inequitable, but the end might be accomplished by making the salary dependent either upon the number of suits entered, or upon the amount of claims involved.

On page three of the Report, we find the Inspector saying, "When judgment has been rendered against the primary debtor and garnishee at the same sittings, and in the same minute of judgment, two fees have been taxed as for separate judgments, when in fact there is only one judgment of the Court * * * These practices are contrary to law, and are disallowed by me."

By the expression "contrary to law," we presume is meant, unauthorized by the practice. The Inspector's opinion on this point, however, is, as we are informed, at variance with that of some of the older and more experienced County Judges who have, since the Garnishee Act was passed, directed and sanctioned the contrary practice. Looking cursorily at it, we fail to see how a decision between the primary creditor and primary debtor, whose dispute may be about a horse, has anything to do with that between the primary debtor and the garnishee, the latter being charged as owing the former for a cow. As a fact, we are informed that in some counties, the two decisions are rarely, if ever, given at the same sittings—the primary creditor being seldom prepared to prove the indebtedness of the garnishee, relying on his not denying it, or on his paying money into Court. In such a case, that is, when an adjournment takes place as to the garnishee, the two decisions clearly do not make one judgment; that against the primary debt. or is complete in itself, and becomes a judgment at once. Why then should the contrary be the case merely because the two decisions are given at different times on the same day, instead of on different days. A decision on a claim against a primary debtor, pronounced in open Court,

becomes at once a judgment. And it seems to us most unlikely that a judge should delay in pronouncing judgment against a primary debtor, until he ascertained whether a third party were indebted to him. It is only where he does so, that the case could possibly come within the words used by the Inspector "in the same minute of judgment," which may be another way of saying, "in the one adjudication."

If the two make *one judgment*, how about the separate executions which it may be necessary to issue at the same time? and if the plaintiff is nonsuited as against the garnishee, but recover against the primary debtor, in whose favour could the judgment be said to be? The case is unlike that where several issues between the same parties are decided differently. Again it is competent for the Judge, as against *one party only*, to set aside the judgment and make an order for a new trial, or for a nonsuit, leaving the other part of the adjudication intact; this also points strongly to the view that there can be two judgments resulting from the complex procedure under the garnishing clauses of the act.

SELECTIONS.

CURIOSITIES OF ENGLISH LAW.

CONDITIONS IN RESTRAINT OF MARRIAGE.

We now propose to review a branch of the law which, if it were on no other account open to comment, would be abundantly worthy of notice as having given rise to a most remarkable rule of Construction.

This rule of construction, commonly known as the doctrine of conditions *in terrorem*, may be shortly stated as follows:—Where a testator attaches to his bounty a condition of forfeiture on marriage, the Court often refuses to construe his words according to their natural meaning, and holds that he did not really