INTERPLEADERS.

Nothing, probably, in the ordinary administration of justice strikes the observation of the uninitiated public as a grievance more than the expense too often attending the litigation of matters of minor importance, or of trifling value. There is a very natural and a very common idea that the costs of a suit should in some degree be proportioned to the amount in dispute, and this view is becoming more prevalent every day; and such is the tendency of legislation.

In one class of cases, however, no step has been taken in this country to reduce the costs in proportion to the sums litigated: we refer to interpleader suits or issues from the Superior or County Courts. These issues, being creatures of the Court, may from such fact have escaped the changes that have from time to time been made in the direction referred to; but it may well be urged that the time has come to follow the example of the legislation in England on this subject, or to take some other course which may secure the desired result, even in a more effectual manner.

It is provided by section 14 of the English Common Law Procedure Act of 1860, that,

"Upon the hearing of any rule or order calling upon persons to appear and state the nature and particulars of their claims, it shall be lawful for the Court or Judge, whenever, from the smallness of the amount in dispute, or of the value of the goods seized, it shall appear to them or him desirable and right so to do, at the request of either party, to dispose of the merits of the respective claims of such parties, and to determine the same in a summary manner, upon such terms as they or he shall think fit to impose, and to make such other rules or orders therein, as to costs and all other matters, as may be just."

In this country, and in England previous to the above enactment, the consent of both parties was necessary to give the Court or a Judge jurisdiction.

Section 15 of the same Act provides that,

"In all cases of interpleader proceedings, where the question is one of law, and the costs are not in dispute, the Judge shall be at liberty, at his discretion, to decide the question without directing an action or issue, and, if he shall think it desirable, to order that a special case be stated for the opinion of the Court."

As regards the first of the two sections above quoted, the inconvenience and difficulty of satisfactorily deciding questions of fact on affidavit may be urged as an objection; and there might perhaps be some force in this, were the difficulty one which could not be obviated. This, however, is not so; for nothing could be simpler than to provide that in all cases where the appraised or sworn value of the goods seized and claimed by any one claimant, does not exceed a certain amount —say $100—the issue to decide the right to the goods shall be tried in the Division Court most contiguous to the residence of the judgment debtor.

There would seem to be no objection to some such procedure as this, as an alternative in case the Judge before whom the interpleader application might come should think it a case in which the facts should be brought out by *viva voce* testimony, and not by affidavit only. The details necessary to carry out a procedure such as this could be easily arranged.

This proposition can scarcely even be said to have the claim of novelty, for there is an analogous provision with respect to disputes as to the liability of a garnishee on applications to attach debts. The wonder is, rather, that a change has not been made before this, such as we now suggest.

A very slight experience of a lawyer's office is sufficient to prove the propriety of some such alteration of the law as we propose. Many a claimant has been prevented from litigating his claim to goods seized under an execution against another person by the mere fact that whether successful or otherwise, the costs would be more than the value of the goods. Thus it is possible that an execution creditor who is proof against costs may recover a debt by simply causing the sheriff to seize the goods of a third party; for the action against the sheriff will, under ordinary circumstances, be barred, and the claimant will (if venturesome enough to go to law), vainly perhaps, seek damages against the execution creditor or his attorney.

There is a pleasant fiction known to the law, that there is no wrong without a remedy. The only difficulty lies in this, that the remedy is very often more injurious than the wrong. We might indulge in a long train of reflections suggested by these thoughts; but as we might perhaps at length arrive at the conclusion that going to law at all is a species of insanity, we had better, perhaps, in the interests of the profession, say no more.