jurious to the sacred interests of the heir-at-law. Now between a testator's legatees and his next-of-kin Equity is content to hold a pretty even balance, the claims of the next-of-kin not being invested with any peculiar sanctity, whilst the heir-at-law has always been pre-eminently what is called "a favourite" with the Court. Any interference with the prospects of that favoured individual, who has the divine right of primogeniture on his side, is jealously watched, and, indeed, the measure of favour dealt out to him was so extravagant, and so obviously inconsistent with a just estimate of the rival claims, both of creditors and of next-to-kin, that the Legislature had to interfere and enforce (in spite of strenuous opposition on the part of the highest legal functionaries) the elementary principles of justice; 1st. By making the heir liable to the extent of his inheritance for all the debts of his ancestor; and, 2ndly. By forbidding him to come upon the next-of-kin to pay off out of personalty the mortgages and charges to which his inheritance had been subjected. The heir-at-law then and the next of kin stand at the opposite ends of the scale of favouritism. Starting from this premise we may deduce the relative positions of legatee and devisee. In so far as their respective interests do not clash with those of the heir, the devisee is the more favoured of the two. He holds a very strong position when put in competition with such unconsidered persons as legatees and next-of-kin, but in so far as he ousts the heir he is considered in the light of a usurper, and the Court is only too glad of any excuse for holding a devise to be inoperative, and so reinstating their favourite the heir.

But whatever may have been the original motive for construing conditions attaches to devises more strictly than conditions attaches to legacies, whether partiality for the heir or regard for the Canon Law; at the present time there is not a shadow of excuse for making rules of construction vary according to the nature of the property given. If the doctrine of conditions *in terrorem* is held to furnish the rules of construction best calculated to carry a testator's real wishes into effect, the doctrine should manifestly be applied to devises as well as legacies.

It may be observed that even this last-mentioned limitation of the famous doctrine, comparativaly simple as it is, has given rise to questions of some difficulty. It has only just been decided, and we venture to doubt whether it has been finally settled, by the present Master of the Rolls (*Bellairs* v. *Bellairs*, L. R. 18 Eq. 510), that a mixed fund of realty and personalty follows the rule of personalty, and in the same case it was intimated, but not expressly decided, that proceeds of sale of realty follow the same rule.

We have said enough to give some idea of the absurd and perplexing nature of the law of conditions *in terrorem*. We must not forget that a complete knowledge of that branch of the law, so far as it has been settled is but a small part of the qualification necessary for deciding on the validity of conditions in restraint of marriage. We have but put aside all the judically collected rubbish which impedes us at the threshold of our inquiry. We have learnt only to decide under what circumstances a testator shall be presumed to have meant what he has said, and it remains to be seen how far the law will permit his intentions when discovered by the canons of construction already noticed, to be carried into effect.

It is not every condition in restraint of marriage that is illegal. If a condition is what Equity considers reasonable, it has some chance of being enforced. The delicate task of discriminating between reasonable and unreasonable conditions, has, of course, afforded abundant opportunity for the display of differences of opinion among the Judges. On the whole, however, we do not think that the conclusions arrived at are, as a rule, sufficiently remarkable either for their sagacity or the reverse, to be of any great value, whether by way of example or warning; we do not propose, therefore, to dwell at length on this division of our subject, but only to mention shortly some few decisions which seem especially open to comment.

In the first place, Equity shows no indulgence to second marriages under any circumstances whatever. Widow or widower, young or old, childless or otherwise, Equity sees no reason why any one should not be debarred from marrying again under any pain of pecuniary loss.