

RECENT DECISIONS.

tion of the Reports, though it is observable that two of the judgments reported therein, viz: *Erb v. G. W. R. Co.* and *Fitzgerald v. G. T. R. Co.*, were delivered in June, 1881, some months after the latest of those which appear in No. 3.

As to the delay on giving judgment, there is no doubt it is to some extent attributable to the fact that the Judges do not all reside in Ottawa, and the opportunity for consultation is thereby reduced. This consultation is of course a matter of vital moment. A free exchange of views and a cordial and full discussion of conflicting opinions, and a consequent elimination of legal truth should be one great advantage derivable from a large Bench. If this is wanting, confusion becomes worse confounded, and instead of one well considered judgment embodying the best opinion of the majority of the judges, after examining the points in question from all sides, we have a disjointed patch work of individual opinions that carries comparatively little weight with the profession, and is disastrous in its effect upon the administration of justice in the eyes of the public. There have been causes assigned for this state of things quite apart from the minor one already referred to, known to those within the inner circle; should these continue the country will not unnaturally clamour for a reconstitution of the *personel* of the court, or for its abolition. Not only should the very best talent that the country can produce be had at any price, but there should be that harmonious working and mutual personal respect amongst the members of the Bench, without which it will be in vain to expect beneficial results for the public. The Court has so far been a failure, partly owing to the inherent difficulties of our confederation, partly to the fact that the best talent has not always for some reason or other been taken advantage of, and partly owing to the difficulties and infirmities of a personal nature which we do not care to enlarge upon.

The delay in issuing the reports is said to be sometimes owing to the difficulty of obtain-

ing the MSS. from some of the judges. If this be the case the reporter should see that the judgments are taken down by a stenographer at the time of their delivery. The judges are under no obligation to deliver their MSS. to the reporter, nor could a judge under such circumstances complain that what he stated in Court was not his judgment, or needed alteration. This course would soon remedy the supposed evil and the blame would then rest on the right shoulders. The present condition of affairs must be pronounced unsatisfactory, and it is high time that the Government, who must know all about the evils complained of, did something to make this most important Court more what it was originally intended to be than it is now.

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Proceeding with the December number of L. R. 18 Chy. Div., we still have the cases from p. 524 to p. 710 to review.

WILL.—EXECUTORY DEVISE.

The first case is *In re Lechmere v. Lloyd*, in which the M. R. had to construe a devise to E. for life, and from and after her death to such of her children living at her death "as either before *or after* her decease" should, being males, attain 21, or, being females, attain that age or marry, in fee simple as tenants in common. He held that those of E.'s children who were adults took vested interests liable to open to let in the other children, who were minors, on their fulfilling the conditions of the will. He takes an important distinction, as appears at p. 528 of the judgment, where he says: "If the devise be to A. for life, and after her death simply to a class of children who shall attain 21 or marry, I agree that those members of the class who have not attained 21 or married at the death of the tenant for life, though they may do so afterwards, cannot take, according to the rule in