JUDICIAL DELAYS.

The law's delay has long been proverbial. Fortunately, for some time past the courts have done much to redeem the administration of justice from this stigma. Occasionally yet, however, gross abuses are found to exist. An instance of this is becoming every day more apparent in connection with part of the work of the Court of Appeal for the Province of Ontario, The regular business of the court appears to be disposed of with every reasonable expedition. In the case, however, of appeals in which the regular court cannot sit on account of some of the members of it being disqualified through having been concerned in the same cases either at the trial or in the lower courts, the court has practically been at a dead standstill for the last two or three years.

That a man after having won his case in the lower court should not only be subjected to the necessary delay of an appeal, but should be compelled to wait for two or three years after the appeal is ready for argument, because there is no court constituted ready to hear the argument, with the prospect before him of further indefinite delay, is a flagrant evil for which a remedy will have to be found. One reason, it is said, for this delay is the failure of the Dominion Government to appoint a judge to the existing vacancy. It is stated by the members of the Court of Appeal that the other courts are so busy that it is very difficult to get the members of them to sit in the appellant court to take these extra cases. If another judge were appointed, it is said, this would be somewhat relieved; and as the vacancy has practically existed for two or three years, the delay in filling it affords at least an excuse for the failure of the court to dispose of these cases. In this state of things the filling of the vacancy has become a matter of urgency.

While, however, the politicians may be partly to blame for the delays complained of, it is by no means certain that the judges are so over-worked that they cannot attend to this business. A suitor who is being injuriously affected by this unreasonable failure of justice may be forgiven for thinking that some of the judges might have given up some days of their two months' holidays to dispose of these few cases, and thus assisting to remove a serious blot from the administration of justice.

THE RAILWAY COMMISSION ENQUIRY.

Mr. Dalton McCarthy can scarcely have hoped to do more than attract public attention to the subject of a railway commission when he introduced a bill proposing to create such a body. We pointed out, at the time, that this method of procedure was at once irrational and inconvenient; irrational, inasmuch as it assumed to settle a very intricate question without the careful preliminary enquiry which ought to precede action; and inconvenient because no measure of such great importance ought to be introduced on any less responsibility than that of the Government. The Government has, at length, appointed a royal commission to enquire into the question, and already its members have met. The only thing done was to make provision for obtaining the reports made to the British Government, by a similar English royal commission, and any Imperial Acts bearing on the subject. The composition of the commission seems to assume that the question to be dealt with is largely one of engineering. Sir A. T. Galt has some railway experience, but it is scarcely of the kind required in this enquiry; still his qualifications for the post need not be doubted. Mr. Collingwood Schreiber and Mr. Moberly would be good members of any commission where engineering ability was in request; but the questions here to be considered have no necessary relation to engineering.

There has been much loose and even wild talk about a railway commission, and persons of robust faith have professed to see in it a remedy for every ill which the ingenuity of railway management ever invented. What is meant by a railway commission? What are to be its powers? This question has been answered in very different ways by legislatures of several American States. The powers of the State Railway Commissions vary all the way from the right to fix rates to the right to make recommendations to the State legislature, after investigation. Of these two extremes, examples may be found in Georgia and in New York. The Massachusetts Railway Commission has no executive authority, and its boasted moral force, has a very narrow limit. Railway commissions are in force in seven States of the American union: New York, Georgia, Illinois, Iowa, Kansas, Colorado, and California. It is pertinent to enquire, what record have they established for themselves?

Mr. James F. Hudson, in his work, *The Railways and the Republic*, gives a very discouraging answer. "Only two of these bodies," he says, "have, within four years, made any effort to restrain abuses which have aroused the press and the public to impatience; the other five, for any practical benefit they have secured to the people, might as well have charge of regulating the movements of the heavenly bodies." We are further told that "the effectiveness of these boards appears to have no relation to the thoroughness or radicalism of the legislation by which they are established." The reasons given for this state of things are the reverse of encouraging. "It must be remembered," says Mr. Hudson, "that this legislation seeks to restrain the greatest power in the country, except the united and aroused popular will. It confronts not a local or private wrong-doer, but the organized and combined power of the railway corporations, with unlimited political influence, infinite resources of corruption and secret methods for controlling appointments and legislation. This power has kept courts in its pay, it defies the principles of common law, and nullifies the constitutional provisions of a dozen States; it has many representatives in Congress and unnumbered seats in the State Legislatures. No ordinary body of men can permanently resist it. Here," in the opinion of Mr. Hudson, "is the fatal weakness of laws establishing railway commissions, whether their ordinary provisions be radical or mild." The hopelessness of a railway commission he puts in this form: "It is idle to hope that a board of nine commissioners, with salaries such as a railway pays its third-class subordinates, will permanently remain superior to the manifold forms of pressure and corruption that can be exerted by four thousand millions of railway capital, until it has been demonstrated that a house-maid's mop can keep back the tides of the Atlantic ocean." In Canada, we do not count railway capital by thousands of millions, but, providing a corrupting tendency can be shown to be exerted by it, hundreds of millions might be relied on to produce the same effect. Still we are willing to believe that things are not as bad in Canada as Mr. Hudson would have the world believe they are, and as he undoubtedly believes them to be in the United States. We can believe, however, that, in either country, "the dignity and honor of the national cabinet, or of a supreme court, afford far stronger intrenchments for integrity and public duty than the position of a railway commission, while the duties of the latter bring against them, with a hundred-fold greater energy, the forces combined to assail them;" though we would fain hope, against the strong conviction of Mr. Hudson, "that such a body would [not] sooner or later become a mere bulwark or outpost for the defence of corporate abuses," and that the result would not be as certain "as if nine men, however expert and strong, were ordered to stand in the path and arrest the destructive course of a mountain avalanche." But with the experience of railway commissions, in the United States, before us, it is difficult to hope for anything effective from a commission here.

It is quite clear that, in any case, the protection of the public against railway abuses must depend upon the law; and the question would seem to be, in what way can the law, once it has assumed a satisfactory shape, be best administered: through the courts or through a railway commission? What recommended the railway commission to popular approbation, before it had been tried, was the hope that it would administer justice, at little cost, to persons who suffered grievances at the hands of railway companies. The public was seduced by the notion of a simple and easy remedy for every ill which a company can inflict. In experience, this fantastic hope has not been realized. With advanced railway reformers, in the United States, the railway commission is already an anachronism. The Reagan Bill, which was before Congress last session, rejected the plan of a commission, and proposed to make the legal prohibitions specific and direct, and it left the remedies against railway abuses with the courts. A suspicious circumstance is that, of late years, railway commissions have come more or less into favor with railway managers.

Until we have exhausted the resources of law, and its ordinary mode of administration, in respect of railway management, it is useless to seek extraordinary remedies. The abuses most complained of are discriminations, rebates, drawbacks, and pooling. Some of these things have not yet with us been made a subject of prohibition. Until we have formed a definite resolution