

THE TRIENNIAL DIGEST—RESTRAINTS ON ALIENATION.

every attempt to supply the dearth of Canadian text-books, almost apart from questions of their individual merit. Of the merits of the present work only a prolonged user can really afford a test. It is an extensive work of four hundred and forty-seven pages, which must comprise many thousands of entries, and that of itself implies that the Statutes have been pretty thoroughly ransacked. One entry indeed we have been somewhat struck with. It occurs at page 361, and is as follows:—"Reside with respectable persons, children may be permitted to. See Industrial Schools, 1884." Indexing is tedious and monotonous work, and we take it Mr. Lewis is not without a sense of humour. Perhaps he had heard of the celebrated entry in an English Digest which consisted of, "Great mind: of Lord—," and which referred to a passage in the body of the work wherein it was stated that "Lord — stated he had a great mind" to do something or other.

WE also have before us the new triennial Digest by Mr. Christopher Robinson, Q.C., and Mr. F. J. Joseph, which we presume is by this time familiar to all practitioners. It appears to have been compiled with all the care of the former Digest by the same gentlemen. In one marked respect it is an advance upon that. We refer to the "Table of cases affirmed, reversed, or specially considered." The next triennial Digest will no doubt include in this table English cases commented on in our Courts, as well as Canadian. In another respect, on the other hand, this Digest seems to us to be a falling off from the former one, namely, in not comprising the numerous County Court decisions reported during the last three years, which have been published in these pages. Many of these decisions collate with much labour the cases on their respective subjects, and in the neces-

sary dearth of provincial text-books, to which we have already alluded, it seems a pity that they should be allowed to drop out of sight. The compilers of the Digest, or one of them at least, did we believe propose to include them, but the Law Society considered it better to confine the Digest to the regular reports. Possibly they thought that the profession perused this journal with so much care and were so familiar with its pages, that it was unnecessary to include the many valuable decisions which we are enabled to lay before our subscribers, and which do not find their way into any other reports.

RESTRAINTS ON ALIENATION.

For some time past it has been assumed that a devise of land in fee subject to a partial restraint against alienation may be validly made. The restraint if limited in point of time, it was considered, must be reasonable and so as not to offend against the law against perpetuities. In our own Court of Appeal, this point, that a restraint of alienation for a limited time is good, was decided in *Earls v. McAlpine*, 6 A. R. 145. In that case a devise made subject to a proviso that the devisee should not sell or transfer the property without the consent of the testator's wife during her life, was held to be valid; and a mortgage made by the devisee, in violation of this restriction, was held to be invalid and to work a forfeiture of the estate, and the heirs-at-law of the testator were held entitled. *In re Winstanley*, 6 O. R. 315, the Divisional Court of the Chancery Division, have also held where a devise in fee was made subject to the restriction that the devisee should "not have power to dispose of it only by will and testament," the restriction against alienation was valid, and binding on the devisee. In the recent case *re Rosher*, *Rosher v. Rosher*, 26 Ch. D. 801 Pearson, J., however, seems to