

"Fortunately, the Common Law is a living thing and capable of growth, capable of being adapted to all the needs and circumstances of liberty-loving and justice-loving peoples.

"Many thoughtful persons view with alarm the growing custom of vesting in irresponsible bodies, legislative as well as administrative powers and making their arbitrary decisions above the law—not subject to appeal, as the phrase is. After a long fight it was established that even the King was not above the law, and our forefathers abolished one Star Chamber. This generation of English-speaking peoples is multiplying Star Chambers. When they become too oppressive and tyrannical, as most certainly they will, they can in turn be abolished. While the mischief done will be annoying, and to many distressing, I do not believe that in any case it will be fatal. The living principles of liberty and justice embodied in the Common Law have enabled our race to survive many dangers in the past and I, at any rate, have no doubt they still have sufficient vitality to ensure that we shall overcome the grave perils that menace our future."

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#### RESTRAINTS ON ALIENATION.

After our article on this subject (p. 244 *ante*) was in print, a decision was given by Orde, J. (*In re Ferguson & Rowley*, 90 O. W. N. 16), to the effect that a restraint of alienation, except by will, is invalid, and that *Re Winstanley* (1884), 6 Ont. 315, has been in effect overruled by the Supreme Court in *Blackburn v. McCallum*, 33 S. C. R. 63. By a printer's error the case referred to in our former article is called "*Re Gooderham*" whereas it should have been "*Re Goodhue*."

We may remark that Mr. Justice Orde treats a restraint against alienation, except by will, as being a general restraint against alienation; whereas all prior authorities agree that such a restraint is only a partial restraint; and *Blackburn v. McCallum* seems only to decide that a general restraint cannot be made valid by a mere limitation as to time. The decision of Orde, J., in these circumstances, can hardly be said to be satisfactory.