Book Reviews.

purpose of saying masses in perpetuity. In Ireland, a gift for masses has been held to be a good charitable gift.

Lord Birkenhead points out that it must not be assumed that there are now no superstitious uses; he thinks that an ingenious person could multiply instances in which even to-day dispositions connected with relics, the veneration of saints or the sustenance of miracle-producers, might be held to be invalid. In this connection, the Roman Catholic religion has the benefit of an Act of 1860, which provides that where property is held as a trust for purposes of the Roman Catholic religion, part of which are valid and part invalid, as being for superstitious uses, then so much as is held applicable to the void uses shall be applied under a scheme to be settled by the Judge for the benefit of the Roman Catholic religion.

It is not clear what would be the fate of a gift for superstitious uses connected with a religion other than Roman Catholicism.

Chapters XVIII and XIX dealing with procedure will be found particularly helpful. The cases have been classified with a view to extracting from them a principle distinguishing the right of the Crown to direct the disposition of a charitable gift under the sign-manual, from that of the Court to order the disposition. The following four rules have been deduced: 1. Where, without there being a trust, express or implied, there is a gift for charity generally, the Crown and not the Court has the disposition of the gift. 2. Where, without there being a trust, express or implied, there is a gift for a specified object of charity which fails by reason of its not existing at the death of the testator, then, if there is a general intention in favour of charity, the Crown by sign-manual, and not the Court, has the disposition of the gift, and if there is deemed no general intention in favour of charity, a gift to a specified object which does not exist at the testator's death fails. 3. Where, without there being a trust, express or implied, there is a gift to a specified object of charity which fails by reason of its coming to an end after the death of the testator, then if there is a general intention in favour of charity, the Crown has the disposition of the gift. On the other hand—4. Where there is a trust, express or implied, in favour of charity, the right of disposition is in the Court and not the Crown.

It may be worth while calling attention to the fact that in the preface to the first edition, which has not been reprinted, there is a convenient record of the standard works existing before 1888, which were consulted by Mr. Tyssen in preparing his book.

H. A. Hollond.


The publication of the third edition of Topham's Real Property, was stayed for some time owing to the possibility that the Law of Property Bill might be passed, and render necessary a complete restatement of this
branch of the law. Now, however, it seems likely that, before the proposed reforms are carried into effect, a new generation of students will have recourse to Mr. Topham’s help in its old familiar form, in numbers sufficient to justify the venture financially.

The book needs no advertisement; it will sell profusely, as it has sold before, just because it gives its public exactly what the latter wants. As a book of its kind, except for an occasional inaccuracy, it could not be surpassed. And it has its legitimate uses in the hands of an industrious and conscientious student. But we do deeply deplore the fact, modestly stated in the preface as a probability, that such a book should be found sufficient in itself for certain examinations. It is a regrettable fact that there should be any examination in a subject as vast as the Law of Real Property, so conducted that a student can satisfy its requirements by memorising the mass of matter tabulated in this book, without the necessity of resorting to fuller sources.

We do not share the author’s belief that this book is suitable as an introduction to the study of the Law of Real Property by candidates for more advanced examinations. There is too much wealth of detail for a preliminary statement. What such a student requires as an introduction to an intricate subject, is a survey of its foundations, unencumbered by the detail of the superstructure which he will, in due course, have to surmount. Mr. Topham presents the foundations and the superstructure telescoped into one plane.

The book may be used with real profit concurrently with one of the larger text-books, sometimes for the purpose of finding a lucid explanation of a difficulty, and always for the purpose of ready reference to a succinct statement of the law. The ideal method of using it would be for the student to make his own analysis of larger works as he goes along, and to compare it with Mr. Topham’s.

Some revisions have been made in this edition, notably in the accounts of the cases of Pickersgill v. Grey, on p. 192, and Kilgour v. Gaddes, on p. 256. But there remain a few places where the statement of the law, generally because of compression, is liable to confuse.

On page 116 the statement that an estate tail descends, on the death of a tenant in tail, to the next person entitled under the entail, free from the debts of the first tenant, might be qualified by adding that an estate tail descends charged with a judgment, for the enforcement of which a writ or order has been registered, and also charged with certain Crown debts.

On page 132, in line 7, for the words “a fee simple” should be substituted the words “an estate of inheritance in possession,” and the statement which follows—that the husband need not have possession of the land—is confusing in this abbreviated form. The statement that a widow entitled to dower cannot exercise the powers of a tenant for life under the Settled Land Acts, should be completed by the addition that she has powers of leasing under the Settled Estates Act, 1877.

On page 154 we suggest the deletion of the illustration to the effect that “a gift to B for 50 years and then to C in fee simple was void; for during the 50 years B had merely a term or personal estate in the land, and no one was seised,” because it ignores the rule in Boraston’s Case.

On page 168 the facts in Re Thompson [1906] 2 Ch. 199, are so condensed as to be misstated, and the conclusions stated are misleading as to the law.
On page 249, in the summary of the decision in Garner v. Wingrove, the reference to the fact that when the right of action accrued to G in 1891 there was no disability is confusing, because that fact is immaterial. The determining factor is that, when the right of action first accrued in 1884, there was no disability on the part of the person through whom the plaintiff is now claiming.

It is a pity that Chapter 31 on Prescription has not been re-written. A judicious selection of passages from Mr. Topham's own article on Easements and Profits in Volume II of the Laws of England would be a more effective summary of the confused state of the law on this subject. A student does not readily realize that even now a title to an easement or profit may be established by prescription in one of three alternative ways, prescription based on the presumption of a grant assumed to have been made before the first year of Richard I, prescription based on the presumption of a more recent lost grant, and prescription under the Prescription Act, 1832, and that in some cases it may be desirable for the claimant to base his claim alternatively on each of these three grounds.

H. A. HOLLOND.


Fifty years ago Mr. Goddard first published his book on the law of Easements. It is interesting to note that the present eighth edition has been edited by the same learned author. Surely this is something of a record in the annals of legal literature. No material changes have been made in the work itself, which has now been brought up to date by the inclusion of recently reported cases. Mr. Goddard's book still remains authoritative, and should be found in the library of every lawyer who is interested in the law of real property.


The eleventh edition of this work was published in January, 1915, and, though following the tenth by an interval of only a few months, was necessitated by the passing of the Deeds of Arrangement Act, 1914, and the consolidating Bankruptcy Act, 1914. Since that bout of legislative activity there has been a lull, and the task of the new editor of the twelfth edition (Mr. Stable) has mainly consisted in a correct appreciation of the case-law of the period from January, 1915, to August, 1920. The position of the Married Woman continues to develop. At common law she could be made bankrupt if she were a sole trader in the City of London (by the custom of the City), or if she were blessed with a convict husband. Under the Married Women's Property Act, 1882, s. 1, sub-s. 5, every married woman carrying on a trade separately from her husband was liable to the bankruptcy laws in respect of her separate property as if