

EXPROPRIATION—COMPENSATION—LAND LET FOR PUBLIC PARK—POWER TO RE-ENTER IF COMPULSORILY TAKEN.

In re Morgan & London & N. W. Ry., (1896) 2 Q.B. 469, certain land was expropriated for a railway, and the question of compensation having been referred to arbitration, it appeared that the land in question, with other land, had been sub-let, at a small yearly rental to a municipal corporation for a public park, subject to a provision that if the land or any part of it should be compulsorily taken under any Act of Parliament, it should be lawful for the lessor to re-enter as of his former estate. The lessor did not actually re-enter, but claimed the compensation payable in respect of the land taken. The railway company contended that the proper amount of the compensation was the loss of rent which the claimant would sustain during the residue of the term to the corporation, and the value of the reversion, which was for one day only. The claimant on the other hand contended that the proviso in the lease entitled him to compensation for the value of the land for the residue of his original lease freed from the sub-lease to the corporation. This proviso the railway company claimed was nugatory because it only gave power to determine the lease, which was done ipso facto by the company taking possession, and the claimants had not actually re-entered nor could they, after the company had taken possession. A Divisional Court (Day and Laurence, JJ.), not without some difficulty, decided in favor of the claimant's contention.

PRACTICE—PRESUMPTION OF DEATH—EVIDENCE.

In the Goods of Clarke, (1896) P. 287, Jeune, P.P.D., held that where it is sought to raise a presumption of the death of a party who has disappeared, the evidence in support of the application which referred to letters from the person which had been received, but which were not produced nor accounted for, and which omitted to account for the delay which had occurred, and was unsupported by any corroboration of belief in the death, was altogether insufficient and could not be acted on.