Recent English Decisions.

Expropriation of land – Compensation for land injuriously affected.

On perusing *The Queen* v. *Essex*, 17 Q. B. D. 447, we find that the decision of the Divisional Court (14 Q. B. D. 753,) which we noted *ante*, Vol. 21, p. 209, has been reversed by the Court of Appeal. The point involved, strange to say, was a somewhat novel one, arising under an Act providing for the expropriation of lands for public purposes. Part of a plot of land laid out as a building estate was expropriated for the purpose of a sewage farm, by reason whereof the value of other parts of the land was depreciated; but these parts, though situate near to the part expropriated, were separated from it by the intervening lands of other owners. Compensation had been allowed by the court below, but the court now decide that although the lands in respect of which the compensation was allowed may have been actually injuriously affected by the expropriation, they were not so injuriously affected within the meaning of the Act as judicially interpreted. The case chiefly relied on by the respondents was the *Stockport Case*, 33 L. J., Q. B. 251, but the court distinguished that case, on the ground that there the land in respect of which the compensation was allowed was a part of the estate of which the land expropriated formed a part without any other land intervening. Lord Esher, M. R., does not hesitate to say that the Stockport case should be overruled, and gives the following lucid statement of the legal result of that case:

> It appears to my mind to raise this extraordinary proposition, that something to be done under an Act of Parliament by those who have to pay compensation, being necessary to the original object which they are to carry out, and not being the mere subsequent user of the land, if it is not done actually on the claimant's land, although it is done on the very border of his land, is to be taken as not injuriously affecting the claimant's land within the meaning of the Lands Clauses Act; but that if some few feet of the claimant's land are taken, the main body of the land is to be considered as injuriously affected.

Water works—Highway—Nuisance.

The case *Moore* v. *Lambeth Water Works Co.*, 17 Q. B. D. 462, was one brought to recover damages for injuries sustained by the plaintiff in falling over a fire plug on the sidewalk. It appeared from the evidence that the fire plug in question had been placed by proper authority in the sidewalk, but that the pavement, which had originally been on a level with the top of the plug had become worn away, so that the plug projected about half an inch above the level of the pavement, the plug itself being in perfect repair. Day, J., who tried the case, was of opinion that *Kent* v. *Worthing*, 10 Q. B. D. 118, was in point, and gave judgment for the plaintiff for £600; but on appeal the Court of Appeal (Lord Esher, M. R., and Lindley and Lopes, L.JJ.,) unanimously reversed this decision and dismissed the action, holding that the fire plug, being in good repair and having been lawfully fixed in the highway, the defendants were not liable.

Trustee in bankruptcy – Improper rejection of proof—Costs.

The only point necessary to be noticed in *Ex parte Brown*, 17 Q. B. D. 488, is the fact that when the court found that a trustee in bankruptcy, acting under the directions of the committee of inspection, had unreasonably and improperly rejected the proof of a claim tendered to him, it not only reversed his decision, but ordered him personally to pay the costs.

Easement—Prescription—Landlord and tenant.

Proceeding now to the cases in the Chancery Division, the first which challenges attention is *Chamber Colliery Co.* v. *Hopwood*, 32 Chy. D. 549, in which the question at issue was the right to the flow of water through an artificial course which had been constructed and enjoyed by the defendants under the following circumstances. In 1834, the defendants demised to the plaintiffs the coal under the C. estate for 50 years, with a right to make drains, etc., for supplying their engines with water, and for draining the demised mines, and any other mines of which the plaintiffs might become lessees of any other persons. In 1836 the plaintiffs became lessees of the O. Colliery from a neighbouring landowner; and in 1846 made a drain about a mile long, chiefly on the C. estate, by which they diverted a small natural stream on the C. estate and brought it down to the O. Colliery, where they made reservoirs for the water at considerable expense. The plaintiffs did not ask leave to make the drain, but the defendants' agent saw the work going on and encouraged it. In 1872 the plaintiffs acquired the fee of the O. Colliery. In 1884, the lease from the defendants having expired, they stopped the drain and diverted the water.