

RAILWAY—EXPROPRIATION—STATUTORY RIGHT TO TAKE PART OF PROPERTY—
RIGHT OF WAY—POWER OF RAILWAY COMPANY TO GRANT.

In re Gonty and Manchester & Sheffield Ry., (1896) 2 Q.B. 439, was also a case arising out of the expropriation of land by a railway company. In this case the company, by virtue of a special Act, had power to take part of houses and buildings specified in the Act, provided the portion could in the opinion of the authority who determined the amount of compensation, be severed from the remainder without material detriment thereto. The company gave notice to treat for a portion of certain property, and undertook to give the land owner a right of way over the property taken, to the remainder of his property. On a special case stated by the arbitrator, to whom was referred the question of compensation, the Court of Appeal (Lord Esher, M.R., and Smith and Rigby, L.JJ.), held that it was competent for the arbitrator in determining whether there would be "material detriment" to the remainder of the property, to take into consideration all the circumstances, including the sufficiency of the proposed access; and that the giving of the proposed right of way over the lands of the company, was not inconsistent with the purposes for which the land was taken, and that therefore the company had power to grant it.

ESTOPPEL—JUDGMENT IN REM—INSURANCE—SALVAGE.

In *Ballantyne v. Mackinnon*, (1896) 2 Q.B. 455, the doctrine of estoppel by matter of record is discussed. The action was brought to recover under a policy of marine insurance a sum paid by the plaintiff for salvage which had been awarded against the plaintiff by a judgment of the Admiralty Court. The plaintiff contended that by the judgment of the Admiralty Court the defendant was estopped from disputing that the loss was one covered by the policy. Lord Russell, C.J., who tried the action, gave judgment for the defendant, and the Court of Appeal (Lord Esher, M.R., and Kay and Smith, L.JJ.) affirmed the judgment, holding that a judgment in rem is merely conclusive as to the status of the res, but not as to any other matter. In the present case it appeared that the