poration filed a petition to quash the injunction, and after a variety of procedure, which it is unnecessary to detail, Chagnon, J., on the 10th March, 1885, gave judgment annulling the writ of injunction, with costs. On an appeal by the present respondent, the decision of the Superior Court was unanimously affirmed by the Court of Queen's Bench for the Province, consisting of Dorion, C. J., with Monk, Ramsay, Cross, and Baby, JJ.

The case was then carried by appeal to the Supreme Court of Canada, who, on the 20th June, 1887, reversed, by a majority of four against two, the judgments of both Courts below, found that the warrant and all proceedings following thereon were illegal and null, and ordered that the same should be set aside, and that a writ of injunction do issue out of the Superior Court for Lower Canada, enjoining the Corporation to desist from all proceedings to enforce the warrant.

Chief Justice Ritchie, with whose opinion Strong, Henry, and Gwynne, JJ., substantially agreed, stated the real controversy between the parties to be "whether or not "anything more of the land on which the "superstructure of the railroad is placed can "be assessed in addition to the land itself;" and on the construction of the clauses of the General Act already quoted, the learned Chief Justice was of opinion that "the Legis- "lature has carefully protected railways from "any local assessment beyond the mere "value of the land, apart from, and indepen- "dent of, the roadway with its superstruc- "ture."

The two Judges of the minority were Fournier and Taschereau, JJ. Fournier, J., does not, in his elaborate opinion, deal with the point which was said by the Chief Justice to constitute the real matter of controversy. Taschereau, J., on the contrary, states that the respondent attacked the warrant of distress on two grounds, the one affecting the whole assessments, and the other confined to the assessment for the year 1880. The learned Judge said, "The first, which applies to all "the taxes claimed on the part of the appel- "lants' road on *terra firma*, is that the land only "occupied by the road is taxable, and not "the road itself." His reasons for coming to a different conclusion from that of the majority are thus expressed:—"We have been "referred to the case of the *Great Western* v. "*Rouse* (15 U. C., Q. B., 168), in which it was "held that only the land occupied by the rail- "way and not the superstructure is taxable. "But this case has no application here, be- "cause the Statute of 1853, Upper Canada "Assessment Act, 16 Vict., cap. 182, sect. 21, "does not provide, as the Quebec Statute I "have cited does, that if the Company fails "to make a return to the Council the valua- "tion of all its immovable property shall be "made as that of any other ratepayer."

Her Majesty, in accordance with the advice of this Board, was pleased, by Order-in-Council dated the 17th December, 1887, to allow the present appellants to enter and prosecute an appeal against the judgment of the Supreme Court. In the petition for special leave, which is recited in the Order, the appellants set forth correctly the grounds upon which the learned Chief Justice, and the Judges who concurred with him, decided in favour of the present respondent, and then submitted, "that if the judgment of the Su- "preme Court, contrary to the view of both "Courts in the Province and to that of the "two French Judges in the Supreme Court, "is correct, the power of taxation of the mu- "nicipalities in the Province of Quebec is "greatly limited, and that whether it is "by law so limited is a question of great "and general importance."

Their Lordships would not have made any reference to these initial proceedings, had it not been that, at the hearing of the appeal, their time was chiefly occupied by an endeavour on the part of the appellant Corporation to argue that, as matter of fact, they had not, in any of the yearly rolls upon which these assessments were made, valued aught beyond the land occupied by the railway, and that they did not desire to include, and had not included, the bridge or other superstructures in the estimate. Their Lordships purposely abstain from laying down any rule as to the points which an appellant may competently raise under an appeal by leave from the Supreme Court of Canada. That must depend upon the special circumstances of each case. But it must be understood that parties who get such leave, upon the dis-