

limits of the town to the middle of the Richelieu river, a navigable river, is intra vires of the legislature of the Province of Quebec.

The judgment of their lordships was pronounced by

LORD WATSON :—

By the Quebec Act, 44 Vict., cap. 62, which amends and consolidates previous statutes relating to the incorporation of the town of St. John's, the appellant corporation is (Sect. 86) authorized to levy annually on all lands, town lots, and parts of town lots within the municipality, with the buildings and erections thereon, a sum not exceeding one half cent in the dollar on their whole real value as entered on the assessment roll of the town. Section 98 of the Act incorporates certain sections of "The Town Corporation General Clauses Act, 1876" (Statutes of Quebec, 40 Vict., cap. 60), including the three following clauses, upon the construction of which this appeal mainly depends :—

"323. It shall be the duty of the valuers in office to make annually, at the time and in the manner ordered by the Council, the valuation of the taxable property of the municipality, according to the real value."

"326. Every iron Railway Company or wooden Railway Company, other than those mentioned in the preceding section, and possessing real estate in the municipality, shall transmit to the office of the Council, in the month of May in each year, a return showing the actual value of their real estate in the municipality other than the road, and also the actual value of the land occupied by the road, estimated according to the average value of land in the locality.

"Such return must be communicated to the valuers by the Secretary-Treasurer in due time."

"327. The valuers, in making the valuation of the taxable property in the municipality, shall value the real estate of such Company according to the value specified in the return given by the Company.

"If such return has not been transmitted in the time prescribed, the valuation of all the immovable property belonging to the Company shall be made in the same manner as that of any other ratepayer."

The Central Vermont Railway Company,

the respondent in this appeal, is the owner of a line of iron railway, part of which is within the municipal limits of the town of St. John's. The municipal boundary extends to the *medium filum* of the Richelieu, a navigable river, over which the respondent's railway is carried by a wooden bridge, some of its piers having their foundations in the *solum* of the river, which, in so far as the interests of navigation are concerned, is subject to the legislative authority of the Dominion. The respondent Company did not, in any of the years from 1880 to 1884, both inclusive, make the return to the Council which is prescribed by Section 326 of the General Act; and, in each of these years, its real estate within the municipality was valued for the purposes of the assessment roll, by the official valuers of the town, in terms of Section 327.

For the year 1884 the entry made in the roll was in these terms :—

La Compagnie de Chemin de Fer de Central Vermont, étant pour la partie de son pont en bois dans les limites de la ville - - - - \$12,000

In each of the four years following, the valuation of the respondent's real estate within the boundaries of the town, as entered in the roll, included these two items :—

Railway tracks from East Longueuil Street to bridge - - - - \$10,000

Part of railway bridge within limits of town of St. John's - - - - \$10,000

The appellant Corporation annually imposed municipal assessments upon the basis of these valuations, no part of which has been paid by the respondent. In consequence of such default, a distress warrant was issued by the Corporation empowering a bailiff to distrain for the amount of the assessments in arrear, with interest.

The respondent Company, on the 18th December, 1884, made application to the Superior Court of the Province of Quebec for a writ of injunction ordering the Corporation to stay proceedings upon the warrant until further orders of the Court; and on the 19th December a writ of injunction was issued by Chagnon, J., upon the applicant's giving security in terms of the Quebec Act in that behalf of 1878. On the 10th January, 1885, the Cor-