was directed by the Chief Justice to be referred to arbitration under the compulsory clauses of the C. L. P. Act.

The order of reference was made a rule of Court, and the costs were taxed and an allocatur granted.

The defendant was served with a copy of the allocatur, and a demand was made on him, by an attorney under a power of attorney, of the amount awarded, and of the costs taxed, but they were paid.

Osler, for defendant, shewed cause, and objected that an order could not be made upon the defendant to pay until all the formalities had been observed by the plaintiff, which, under the practice, as to enforcing payment of money awarded before the C. L. P. Act, would have been required before an attachment would have been directed to issue. That the defendant should have been served with a copy of the award and of the affidavit of execution, and with a copy of the power of attorney, and of the affidavit of its execution, and that as this was not shewn to have been done, plaintiff was not entitled to the order which he asked.

C. McMichael, contra, contended that when a compulsory reference is directed, the party is at liberty to proceed upon the award, without these formalities, as upon a verdict. Harr: C. L. P. Act, 163, 181, 199, 732; Arch. Pr., 11 Edn., 1696; Ch: Forms 9 Edn. 918.

Adam Wilson, J.—The sections in the Consolidated Act which correspond to those above referred to are 158, 169, 166; but see also secs. 161, 162, 163.

The first of these sections applies to cases in which the judge may refer "at any time after the writ is issued," and it provides for the award being enforced "by the same process as the finding of a jury upon the matter referred."

The 160th sec. applies to cases which are referred "at, and during the trial." It does not clearly point out how the award is to be enforced, perhaps the judge may direct it to be enforced in like manner as he has power to do under sec. 158; or, it may be, as the arbitrator has "the powers expressed in the 161st sec.," and that section provides that the award made thereunder, shall be enforced by "such and the like proceedings as to the taxation of costs, signing judgment and otherwise, as upon the finding of a jury upon an assessment of damages;" that the award may be enforced in the same manner as it is by the 161st sec., although the mode of enforcing the award is not part of the power of the arbitrator.

In cases of voluntary submission when it is desired to enforce payment by execution, a rule is issued after the submission has been made a rule of court calling on the other party to shew cause why the money should not be paid, and if no cause, or no sufficient cause be shewn, the rule is made absolute, and the execution then issues upon the rule, but before the rule to shew cause issues "the same formalities as to personal service of a copy of the award, &c., and demand of performance are in general required as when an attachment is moved for." Arch. Pr 11 Ed., 1690.

When a verdict has been taken it is stated in the practice, p. 1691, "it is not necessary that the party against whom the award or certificate is made should be personally served with a *copy of the award, nor is it necessary to* obtain the leave of the court to sign judgment."

In compulsory cases where no verdict is taken, it seem judgment must be entered before execution can issue; *Kendal* v. *Merritt*, 18 C. B. 173; *Talbot* v. *Fisher*, 2 C. B. N. S. 471; and as it is enforceable by the same process as on the finding of a jury, I do not see that the party need serve a copy of the award, there is no more occasion for his doing so than when a verdict has been taken, and it need not be done in the latter case.

The objections taken cannot prevail There does not seem to be any object in making the order to pay the costs; judgment cannot be signed on it, but must be signed on the award after setting out all the pleadings according to the form in Harr. C. L. P. Act, 700; but there can be no objection to making the order.

The order may be granted *quantum valeat.*

ENGLISH REPORTS.

Bateman v. The Mid-Wales Railway Co. The National Discount Co. v. The Same. Overand, Guerney, & Co., v. The Same.

Railway company—Bill of Exchange—Power to accept—Form of acceptance—8 & 9 Vic. c. 16, s. 97—Pleading.

The plaintiffs, as indorsees, sued the defendants, a railway company, as acceptors of a bill of exchange.

Held, that the defendants had no power to accept a bill of exchange, and were not liable in this action, they being a corporation created for the purpose of making a railway, and the accepting of a bill of exchange not being incidental to the object for which they were incorporated.

Held, also, that the defence was properly raised by a plea denying the acceptance of the bill.

[14 W. R.—C. P., May 3, 7, 8, 1866.]

These were actions on bills of exchange accepted by the defendants and indorsed by the plaintiffs. The defendants traverse the acceptance of the bills, and at the trial verdicts were found for the plaintiffs in all three actions, leave being given *to the defendants to move for a rule nisi* to enter a verdict for the defendants or for a nonsuit.

On a former day *Karslake*, Q. C., on behalf of the defendants, had obtained a rule *nisi* accordingly, on the ground, 1st, that the defendants had no power to accept the bills. 2nd, That if they had, these acceptances were in such a form as not to bind the company.

The defendants were incorporated by a private Act 22 & 23 Vict. c. lxiii. which incorporated the Lands Clauses Consolidation Act, 1845; the Railway Clauses Consolidation Act, 1845; and the Companies Clauses Consolidation Act, 1845. The powers of the defendants were subsequently extended by several other private Acts, but none of these conferred on the defendants any express power of accepting bills of exchange.

Messrs. J Watson & Co., had contracted with the defendants for the construction of certain works which the defendants were empowered by their Acts of Parliament to construct. The bills on which these actions were brought were accepted by the defendants on account of the debt they had incurred to J. Watson & Co. in