

of public works. The papers were put before me the following day (Saturday), and I had but a very short time to look at them, and on Monday I requested the counsel to speak to a point that had presented itself to me, and counsel were heard upon that point the day before yesterday. I have now, therefore, to give judgment on the motion for contempt and on the answer that is made to it; and first as to the motion to revise the order for injunction: I am of opinion that that motion cannot be granted, and therefore that that part of the answer made to this proceeding for contempt fails. I do not regret the discussion that took place the day before yesterday as to whether the act of 1869, c. 15, gave the Provincial Government power over any but Provincial works, because too much light cannot be thrown upon so important a subject; but I observed to counsel then, and I must observe again now, that I am concerned only at present with the proceedings for contempt; and as regards the question whether a contempt has been committed, it is immaterial whether a good defence can ultimately be made to this injunction or not, the question at this moment being only whether this order, on the face of it, is such a nullity (as a necessary conclusion from what is alleged in the Petition) that it could be treated as if it had no existence; because if the learned Judge saw on the face of this petition that it was averred, and sworn to, as it undoubtedly was, that the Company from which the Quebec Government purchased being a Federal corporation had no power to sell, and the Quebec Government no power to buy; and if he further saw, as he might have seen, that in another case to which the Quebec Government was itself a party, it had been held that they had nothing, at the very utmost, but proprietary rights in this railway after it had ceased to be a Provincial work, and had changed its character into a Federal railway, it will hardly be contended that, under such circumstances, he ought not to have granted the injunction; indeed, it appears plain that the learned Judge, who is known to be one of the most accurate and painstaking judges on the Bench, would have violated his duty if he had refused it; for, after all, whether Mr. Macdonald's asserted rights ultimately prevail or not was not the question; whether those rights involve, as he asserts, over a million of dollars,

or whether it ultimately turns out that he has nothing to lose, makes no difference. There was one right that he clearly had when he asked for that order—a right common to the wealthiest contractor and the humblest laborer on the line, both exactly to the same extent, neither more nor less,—and that was the right to be heard, and to have his case heard, and to make those of whom he complained come and answer him, and show their right, if they had any; and he got that right acknowledged, and properly acknowledged; and those to whom the injunction was addressed might have come and answered him, and have exercised their undoubted right also of being heard; but, instead of that, it is asserted that they set themselves above the law, and therefore the question now is whether this was a legal injunction *prima facie* to be regarded and obeyed, or whether these gentlemen, without giving themselves the trouble to come and answer it at all, could disregard and disobey it,—in one word, whether the authority of the Queen, conveyed in the usual form of a writ, under the seal of her Court, can be overpowered by the mere brutal assertion of force. I say that is the question now, and so on the clearest grounds it is the question, if there is to be in this country such a thing as liberty under the law. It is, indeed, conceivable that the rights of the executive administering different departments of the Government for the public may have been vested in them in a different form, as regards the mode of their exercise, from those of individuals; but the exercising of those rights must be subject to the law of the land, and it appears to me that in a country possessing at least some of the essential forms of the English political constitution, it ought to be obvious to every one that there is and can be no power that is not in some shape amenable to the law, or that can venture, at least as far as the instruments of that exercise are concerned, to set the supreme authority of the law at defiance. It is clear therefore under this view of the case, that it would be equally premature, at this moment, to say anything as to the ultimate validity on the one hand of this writ of injunction, or on the other of the Lieutenant-Governor's warrant that may be opposed to the injunction on the merits. All we are concerned with now, having once