" rights, powers, liabilities, and duties of the " company, but it may enure as a sale of the " lands acquired in order to the construction of " the railway, or part of them, in the exercise " of the power in question." Would not the answer be, " there is no trace of such a contract, " or of an intention to make it?"

By the evidence taken on this proceeding, it appeared that a considerable part of the lands, rolling stock, and other property seized, had never belonged to the company, but had been purchased by the Commissioners since 1875.

In respect of that property, the Attorney General was entitled to succeed in his opposition. He should, however, have been held to have failed as to the lands, &c. which had belonged to the company. And in their Lordships' opinion, the proper order to be made was one which would have upheld the seizure as to this latter part of the property in question, whilst it granted main levée as to the rest, leaving each party to pay their own costs. Since the execution must now altogether fail by reason of the award having been set aside, it will not be necessary to draw up a formal order to the above effect.

The order which their Lordships will humbly recommend Her Majesty to make on the four consolidated appeals will be to the following effect, viz., to dismiss the appeals numbered respectively 13 and 144, and to allow those numbered respectively 117 and 141; to affirm the judgment of the Court of Queen's Bench (record 180) in the suit No. 693, wherein the company was plaintiff, and the appellants and others were defendants; to reverse so much of the judgment of the Court of Queen's Bench (record 286) in the action 1213, wherein the appellants were plaintiffs, and the company were defendants, and the Attorney General intervenor, as relates to the intervention of the Attorney General, and in lieu thereof to affirm so much of the judgment of the Superior Court in the same suit as relates to such intervention, with the costs of the appeal to the Queen's Bench; but to affirm in all other respects the last mentioned judgment of the Court of Queen's Bench; to reverse the judgment of the Court of Queen's Bench in the matter of the opposition "à fin de distraire," and to declare that in lieu thereof, an order should have been made reversing the judgment of the Superior Court in such matter, and declaring that the opposition should have been allowed as to so much only of the property seized as had been purchased by the Commissioners since 1875, and disallowed as to the rest, and that each party should bear their own costs in both Courts, but that by reason of the failure of the execution in consequence of the setting aside of the award, it had become unnecessary to draw up any such order.

Their Lordships are of opinion that, under the circumstances, no order should be made as to the costs of these consolidated appeals.

COMMUNICATIONS.

APPEALS FROM INTERLOCUTORY JUDGMENTS.

QUEBEC, June 5, 1880.

To the Editor of THE LEGAL NEWS:

SIR,—Would you kindly permit me to point out what seems to me a material difference between the law respecting appeals to the Court of Queen's Bench from interlocutory judgments of the Superior Court, under the Code of Procedure, and the law as it stood previously; a difference which has never, so far as I have been able to ascertain, been brought under the notice of the Courts.

Before 1867, the subject was governed by the 25th Geo. III, cap. 2, sect. 24, reproduced in the Consolidated Statutes for Lower Canada, cap. 77, sect. 26, §§ 3 and 4, as follows:—

" 3. An appeal may be had and obtained, in " manner above said, from interlocutory judg- " ments which would carry execution by order- " ing something to be done or executed that " cannot be remedied by the final judgment, or " whereby the matter in contestation between " the parties may be in part decided, or whereby " final hearing and judgment would be un- " necessarily delayed;

" 4. But such appeal from an interlocutory " judgment shall not be granted and allowed, " unless the party desiring to obtain the appeal, " or his attorney, obtains a rule, upon motion " made in the Court of Queen's Bench, and " served upon the other party or his attorney, " to show cause why a writ of appeal from such " interlocutory judgment should not be granted."

Under these provisions the Court of Appeals may have had a discretion to examine the merits of the interlocutory judgment before granting leave to appeal from it. At all events it was so held by the Court in *Mann et al.* v. *Lambe*, 6 L. C. J., p. 75, a ruling always acted upon since.

The Code of Civil Procedure, which came into force on the 28th June, 1867, provides for