pursuant to instructions; and, if he was injured by any act for which the appellants are liable, the respondent is entitled to recover.

As to negligence, the respondent rests this upon two principal grounds: first, that the accident was caused by the negligence of Hamilton, as a person having superintendence intrusted to him, and whilst in the exercise of such superintendence; secondly, that the appellants' system was defective, in that no proper system of signalling was adopted.

Upon the first ground: when the test was being undertaken, Thompson was put in charge of it and of the machine. Thompson's duty was not merely to ascertain whether the generator, when set in motion, produced certain desired electrical results, but included applying electricity to the motor so that it would cause the belt to revolve and thus set the generator in motion. It cannot be said that before he did this he had no duties of superintendence intrusted to him. His helper was there and was under his instructions. Darke and Cartner were also there. It was, I think, clearly the duty of Thompson not to set the mechanism in motion—a purely physical act, such as applying steam to the works of a locomotive—until he had examined and seen that everything was clear and ready. . . .

[Reference to Kearney v. Nicholls, 76 L.T.J. 63; Osborne v. Jackson, 11 Q.B.D. 619; Wilson v. Boulter, 26 A.R. 184.]

If Hamilton comes within the definition of sec. 3, sub-sec. 2, there was evidence that he was guilty of negligence, which could not have been withdrawn from the jury; and, as they have found him negligent, their view must prevail. Cartner says he told him "not to start up, we were going to fix this pillow block."

I think there was some evidence that no proper system of signalling was adopted by the appellants which would justify the jury in making the finding they did. If so, the law would seem to support liability upon that ground: Choate v. Ontario Rolling Mill Co., 27 A.R. 155; Ainslie Mining and R.W. Co. v. McDougall, 42 S.C.R. 420, at p. 426; Fralick v. Grand Trunk R.W. Co., 43 S.C.R. 494, at p. 519.

While I fully appreciate the difficulty which may arise from unauthorised actions, I think that here there was a natural and proper act, based upon instructions reasonably direct, and sufficiently connected with the acts done to bring them within the ordinary and proper course of Darke's employment. In an operation that set in motion a large amount of transmitted power, it is not unfair to insist upon a degree of care that might not be asked in a less dangerous situation.

The appeal should be dismissed.