

It was lowered and hoisted by means of a cable which ran over a sheave-wheel at the top of the shaft, and to prevent accidents, guide-rails were placed along the elevator shaft, and the cage was fitted with automatic dogs or safety clutches, intended to engage upon these guide-rails and hold the cage in the event of the cable breaking. The guide-rails were continued only to a point about twenty feet below the sheave wheel. On one occasion the engineman, in charge of the elevator, carelessly allowed the cage to ascend higher than the guide-rails and strike the sheave wheel with such force that the cable broke and the safety clutches failing to act, the cage fell a distance of over eight hundred feet, smashed through a bulk-head at the eight hundred foot level and injured the plaintiff, who was engaged at the work for which he was employed by the defendants, about fifty feet lower down in the shaft. In an action to recover damages for the injury sustained, the jury found that the "proximate cause of the injury was occasioned by the non-continuance of the guide-rails which, in their opinion, caused the safety clutches to fail in their action, and thereby allowed the cage to fall."

Held, that the Court ought not, on appeal, to disturb the verdict entered for the plaintiff, as there was sufficient evidence to support the finding of fact by the jury. Appeal allowed with costs.

Aylesworth, K.C., and *MacNeill*, K.C., for appellant. *Daly*, K.C., for respondents.

Ont.] ATTORNEY GENERAL v. SCULLY. [Dec. 9, 1902.
Appeal—Special leave—Error in judgment—Concurrent jurisdiction—Procedure.

Special leave to appeal from a judgment of the Court of Appeal for Ontario, under sub-s. (e) of 60 & 61 Vict., c. 3, will not be granted on the ground merely that there is error in such judgment.

Such leave will not be granted when it is certain that a similar application to the Court of Appeal would be refused.

The Ontario Courts have held that a person acquitted on a criminal charge can only obtain a copy of the record on the fiat of the Attorney General. S. having been refused such fiat applied for a writ of mandamus which the Divisional Court granted, and its judgment was affirmed by the Court of Appeal.

Held, that the mandamus having been granted, the public interest did not require special leave to be given for an appeal from the judgment of the Court of Appeal though it might have had the writ been refused.

The question raised by the proposed appeal is, if not one of practice, a question of the control of Provincial Courts over their own records and officers with which the Supreme Court should not interfere. Motion refused with costs.

Cartwright, K.C., for the motion. *Arnoldi*, K.C., contra.