

not, I think, be any doubt that an engineer, when running his engine in the performance of his duty as such, or such other person so likewise engaged, as in this case, is, within the meaning of the enactment upon which the judgment in this case is based, a person in charge or control of an engine; see *Martin v. Grand Trunk Rv. Co.*, 20 O. W. R. 600; but it may be observed that there may have been liability any way in that case on the ground that the opening of the "point," which was held to be negligence causing the accident, was done by one in charge or control of that point and of the other point which it was held he ought to have opened instead, and so made this master liable whether, or not, he was in charge of control of the engine.

I would dismiss the appeal.

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HON. MR. JUSTICE SUTHERLAND. NOVEMBER 19TH, 1912.

POWELL-REES LIMITED v. ANGLO-CANADIAN  
MORTGAGE CORPORATION.

4 O. W. N. 352.

*Contempt of Court—Motion to Commit—Refusal to Answer Questions on Examination—Order of Divisional Court—Scope of—Con. Rules 902, 910—Officer of Corporation—Provisional Director.*

Motion for an order committing one Reynolds, by reason of his alleged disobedience of an order of Divisional Court herein (see 26 O. L. R. 490), in refusing to answer certain questions put to him on his examination ordered by the said order.

Reynolds contended that the order should be given a very strict construction as he claimed it was made under Con. Rule 910.

SUTHERLAND, J., *held*, that under the order of the Divisional Court, Reynolds could be examined as fully as if an officer of the company, and directed him to attend at his own expense and answer such questions as should be put to him.

An application for an order to commit Edwin R. Reynolds, for contempt in failing to comply with the directions and terms of an order of the Divisional Court, dated 23rd September, 1912, see 26 O. L. R. 490; and in refusing to answer satisfactorily certain questions alleged to have been properly put to him on his examination and to produce certain documents as therein required, or in the alternative for an order that he do attend at his own expense and submit to be further examined pursuant to the provisions of the said order.

Paragraph 2 of the order referred to was as follows:  
"2. And this Court doth under the provisions of Rule 910 in that behalf order that the said E. R. Reynolds, upon