I quite acquit all the members of the council from any intention to act improperly: yet the position of affairs quite warranted the making of this motion.

Has the applicant taken the right course? He has not made all the councillors parties to this motion, and justifies this course by saying that he is satisfied that these could shew that they had endeavoured to comply with the order.

The proper mode of enforcing obedience to an order against a corporation or company is not free from difficulty. . . .

[Reference to English Rule 609; Con. Rules 856, 857; Hurlburt v. Cathcart, [1894] 1 Q.B. 244; London and Canadian Loan and Agency Co. v. Merritt, 32 C.P. 375.]

One remedy is, I think, by attachment or committal, and this is adequately provided by Con. Rules 853-5.

A judgment requiring a corporation to do or abstain from doing an act is an injunction that must be obeyed by all officers of the corporation. The corporation can act only through its officers, and, when the corporation is required to act, all the officers of the corporation upon whom devolves the duty of acting as and for the corporation are in substance and in effect called upon to do what is necessary to carry the decree of the Court into operation. . . . The officers and agents must each and all do his and their part, and if, knowing the mandate of the Court, and their duty to obey, they fail to discharge this duty, they are guilty of contempt. . . .

[Reference to Demorest v. Midland R.W. Co., 10 P.R. 85; Regina v. Ledyard, 1 Q.B. 623.]

Where the act to be done is a "corporate function," the mandamus must be directed to the corporation. Where the duty appertains to the officer of the corporation in his official capacity, then the mandamus must be to the officer himself. This distinction kept in mind reconciles the cases.

A mandamus against a corporation is, then, a judgment requiring the officers of the corporation to do an act, within Con. Rule 853, so as to render them liable to attachment for disobedience.

Demorest v. Midland R.W. Co. is relied upon as establishing that an attachment cannot be granted unless the mandamus has been served upon the officer. There is here an order for substitutional service, and, as it is admitted that all had knowledge of the order, this service is, I think, sufficient.

I am not prepared to accept the statement that service is necessary. . . .

[Reference to Rex v. Edyvean, 3 T.R. 352.]