

ROBINSON BROTHERS CORK CO. LIMITED v. PERRIN & CO. LIMITED  
—HOLMESTED, SENIOR REGISTRAR—AUGUST 31.

*Summary Judgment—Motion for—Rule 56—Company-defendant—Affidavit of Principal Officer—Information and Belief—Sufficiency—Cross-examination—Disclosing Defence—Amendment of Writ of Summons.*]—Motion by the plaintiff company for summary judgment on a specially endorsed writ of summons. The defendant was a limited company, and the affidavit filed with the appearance was made by the secretary-treasurer of the company. The action was for the price of goods sold and delivered; and the defence set up was, that some of the goods were not according to contract, and that the defendant company had as to part of the claim a set-off. The secretary-treasurer was cross-examined upon his affidavit, and it appeared from his examination that he had not much personal knowledge of the facts on which the alleged defence was based—he spoke from information received from other servants of the company. The learned Registrar (sitting in Chambers for the Master) said that the affidavit was not to be rejected as not being a sufficient compliance with Rule 56. The Rule is sufficiently complied with if one of the principal officers of the company, even though he speaks only from information and belief, makes the affidavit; it is not intended that all the officers of the company who have an actual knowledge of the facts must join in the affidavit. The Judge or officer in Chambers is not called upon to try the action upon an application such as this. The cross-examination in this case did not shew that the defendant company had no defence; it rather shewed that it had a defence. Motion refused, without prejudice to the further prosecution of the action; costs in the cause. The plaintiff company was allowed to amend the writ, and service of the amended writ was dispensed with; the plaintiff company to pay the costs of the amendment. J. I. Grover, for the plaintiff company. H. H. Davis, for the defendant company.