

But, however that may be, the language of Rule 439 (a) is plain. No doubt a corporation should put forward the most suitable officer for examination. But the other party would not be bound to accept their nominee. If they persisted in examining an officer other than the one suggested by the corporation, that might reasonably affect the disposition of costs. But serious injustice might be done if the right of examination for discovery was in any way to be regulated by the adverse party.

If I rightly understand the affidavit of defendants' solicitor of 23rd April, Mr. Value resigned in January last, and is no longer an officer of the defendants, and therefore is not **examinable** as such. If I am correct as to this, the main ground of the motion is taken away. Mr. Thornley has been appointed hydraulic construction engineer of the said company, and has been in chief authority over the construction works of the company at the Falls. This is so stated in the affidavit aforesaid, and is given as a reason why it would be very inconvenient to have him examined, and it is said it will cause serious loss to defendants if he is taken away from the works. This, however, plaintiffs agree to minimize by taking the examination after working hours.

The motion is novel and cannot succeed under the facts and the plain language of the Rules. It must, therefore, be dismissed with costs to plaintiffs in any event.

BRITTON, J.

MAY 1ST, 1906.

CHAMBERS.

YEMEN v. MACKENZIE.

Land Titles Act—Appeal—Time—Registration of Caution—Registered Owner Attacking Mortgage — Determination of Invalidity of Mortgage by Local Master of Titles—Jurisdiction—Findings of Fact.

Appeal by plaintiff from order of local Master of Titles for Rainy River South Division, made on 18th December, 1905.

W. Proudfoot, K.C., for plaintiff.

Frank Ford, for defendants.

BRITTON, J.:—Alexander Mackenzie was the locatee of the north-west quarter of section 38 in the township of Shen-