

CARTWRIGHT, MASTER.

OCTOBER 7TH, 1904.

CHAMBERS.

PERRINS (LIMITED) v. ALGOMA TUBE WORKS  
(LIMITED).

*Discovery—Examination of Officer of Foreign Corporation—  
Provisional Director—Officer out of the Jurisdiction—  
Rule 439 (a).*

Motion by plaintiff for leave to examine for discovery, at Philadelphia, one John S. Freeman, a director of the defendant corporation.

C. A. Moss, for plaintiffs.

W. E. Middleton, for defendants.

THE MASTER.—The motion was resisted on two grounds. The first was, that Mr. Freeman was only a provisional director of the defendant company, which was incorporated under R. S. O. 1897 ch. 191, by letters patent dated 30th December, 1902, but that no steps had been taken "for organizing the company for commencement of business."

To this it was replied that sec. 41 of the above Act is a sufficient answer. It provides that "the persons named as provisional directors in the special Act, or in the letters patent, shall be the directors of the company until replaced by others duly elected in their stead." With that contention I agree.

The second ground of opposition was, that there is no provision in the Rules for the examination for discovery of an officer of a foreign corporation, who is himself resident out of the jurisdiction. The argument was developed in the way following. In the Rules, at p. 65, we find that chapter VII. is headed "Discovery." This is then subdivided.

1. Examination for Discovery (439-462).
2. Production and Inspection of Documents (463-474).
3. Miscellaneous (475-477).

It was argued that all the provisions for examination for discovery are to be found under the first sub-head,