

IN THE MATTER OF THE PETITION OF RIGHT OF

WILLIAM MONTGOMERY,

SUPPLIANT;

AND

HIS MAJESTY THE KING,

RESPONDENT.

1915  
Feb. 22.

*Practice—Discovery—Rule 135—“Any departmental or other officer of the Crown”  
—Master of Government Dredge.*

Upon an application being made in Chambers for an order to examine the master of a Government dredge for the purposes of discovery, in a proceeding by petition of right for damages arising out of an accident to an oiler employed on such dredge.

*Held*, that the master of the dredge was not an “officer” within the meaning of the rule in question.

**SUMMONS** for an order for the examination on discovery of the captain of a government dredge on board of which the suppliant had met with an accident.

February 19th, 1915.

*Alexander Smith* in support of summons; *E. J. Daly*, contra.

CASSELS, J. now (February 22nd, 1915) delivered judgment.

This was an application on behalf of the suppliant for an order for the examination for the purposes of discovery of one Gavin, who was captain of the government dredge *Industry* at the time that the suppliant was employed as an oiler on board of such dredge, and

at the time of the accident set out in the Petition of Right.

I am of opinion that the application fails. The Rule of Court (Rule 135) which permits examination of "any departmental or other officer of the Crown" cannot be extended so as to comprise the captain of the vessel in question. See *Larose v. The Queen* (1) The words there interpreted were "any officer or servant of the Crown" as appearing in sec. 20 of *The Exchequer Court Act*.

A collection of authorities in the United States may be referred to in the second series of *Judicial and Statutory Definitions of Words and Phrases* Vol. 3 at page 703 under the word "Officer". See also *Boumier's Law Dictionary*. (2)

The costs of this application will be costs in the cause, in any event, payable by the suppliant to the Crown.

*Summons dismissed.*

(1) 31 S.C.R. 209

(2) By Rawle, 1914, 2404.

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v.  
THE KING.  
Reasons for  
Judgment.