

entitle a party to be excused from further answering will be found in the House of Lords' Appeal Cases, Part 1st. of Reports, in March, 1884. It is the case of *Lyell v. Kennedy*, and cases illustrative of the extent to which the privilege is carried will be found cited in the 3rd volume of "Russell on Crimes," by Prentice, at p. 549.

I order the remand of the Petitioner.

*J. N. Greenshields* and *E. Guerin* for the Petitioner.

*M. Hutchinson* for the private prosecution.

### SUPERIOR COURT.

MONTRÉAL, Sept. 30, 1884.

[In Chambers.]

Before JETTE, J.

*Ex parte* ABBOTT, Petitioner.

*Privileged Communication — Attorney and Solicitor.*

*Communications between solicitor and client are privileged, and accordingly it was held that the managing director of a company could not be forced to produce letters written to him by the solicitor of the company touching the suit in which said company was defendant.*

Mr. H. Abbott, Jr., was named commissioner to take evidence in the city of Montreal, in a suit pending before the Court of Queen's Bench, at Winnipeg, in Manitoba, wherein the Imperial Bank of Canada is plaintiff, and the Guarantee Company of North America is defendant.

Mr. Edward Rawlings, managing director of the company defendant, being asked to produce letters referring to the suit, received by him from Mr. J. S. Ewart, solicitor of the company in Winnipeg, objected on the ground that communications between solicitor and client are privileged.

The Commissioner reserved the objection, and ordered the witness to answer.

The witness persisting in his refusal, the Commissioner petitioned the Superior Court for an order that the witness produce the correspondence.

*J. C. Hatton*, for the defendant, cited *Hamelyn v. White*, 6 P. R. (Ont.) 143: "Communications between solicitor and client are privileged no matter at what time made, so long as they are professional and made in a professional

character." Also *Wilson v. Brunskill*, 2 Chancery Chamber Reports, (Ont.) 137: "In a case between vendor and purchaser, where a defendant who was called on to produce a certain letter which he refused to produce on the grounds 'that the same is and contains an opinion from the said Magrath, who was then acting as my counsel and solicitor in the matter of the purchase of the lands and premises, upon my title to the said lands and premises, and because the same is a communication between myself and my solicitor, relative to my said title,' it was held to be a privileged communication."

*R. C. Smith, contra.*

*PER CURIAM.* The petitioner was appointed commissioner to take evidence in this city in a suit of the Imperial Bank of Canada against the Guarantee Company of North America which is pending in the Court of Queen's Bench in Manitoba. The managing director of the defendants was called as a witness before the commissioner, and was asked by the plaintiff's counsel to produce letters received by him from the company's solicitor in Winnipeg relating to the suit in which the evidence was being taken. The defendant's counsel objected to the production of the letters on the ground that communications between client and solicitor are privileged. The commissioner reserved the objection for the decision of the court in Manitoba, and ordered the witness to produce the letters. The witness still refusing, the commissioner petitions this court for an order to the witness to produce the papers. The court is of opinion, upon the authorities cited, that the witness is not bound to produce the letters. The petitioner will therefore take nothing by his petition.

*Maclaren, Leet & Smith* for Imperial Bank.

*J. C. Hatton* for Guarantee Co. of North America.

### COUR DE CIRCUIT.

MONTRÉAL, Mai 1884.

*Coram* MOUSSEAU, J.

LAURIN V. LA CORPORATION DE LA PAROISSE  
DU SAULT-AU-RÉCOLLET.

*Procédure—Exception à la forme—Art. 793,  
Code municipal.*