

C. H. Campbell, K.C., A.G., and Haskin, for plaintiff. Howell, K.C., and Mathers, for defendant.

Richards, J.]

A. v. B.

[April 18.

Scandalous matter in affidavits—Disclosure by solicitor of confidential communication from client.

Plaintiff's claim was for payment of \$6,000 which she alleged defendant had received for her as the purchase money of certain real estate belonging to her which she had employed defendant to sell for her. She alleged that he had only paid over \$500 of the money. Defendant who is a solicitor of this Court applied for an order for security for costs on the ground that the plaintiff was permanently resident out of Manitoba, and in support of the application defendant filed his own affidavit in which he set forth certain communications alleged to have been made by plaintiff to him as her solicitor and which, if true, showed that she was not legally married to her alleged husband, and stated in effect that plaintiff had returned to and was living with such alleged husband who was a non-resident. On plaintiff's application to have the affidavit taken off the files of the court, it was argued on behalf of the defendant that the facts thus sworn to were relevant to the question whether plaintiff was permanently resident out of the jurisdiction or not as tending to shew that she was greatly under the influence of the alleged husband and therefore likely to remain permanently with him.

Held, allowing an appeal from the Referee that the affidavit should be ordered off the files as containing matter which plaintiff was entitled to have treated as privileged from disclosure, and which was scandalous and irrelevant to the application. The facts sought to be set up rather weakened than strengthened the case for an order for security for costs as removing the presumption arising from the duty of a wife to remain with her husband. Defendant to pay the costs of the application and appeal forthwith after taxation, such taxation to be as between solicitor and client.

Ratts, for plaintiff. Minty, for defendant.

Richards, J.]

ALLOTTAY v. ST. ANDREWS.

[April 18.

Real Property Act—Application for leave to file second caveat while first one stands.

The defendants applied for a certificate of title under the Real Property Act, R.S.M. 1902, c. 148, for a parcel of land bought in by themselves at a sale for arrears of taxes. The plaintiff filed a caveat claiming title under a former sale by the same municipality for arrears of taxes, and issues were ordered to be tried; first as to whether plaintiff had acquired a good title under the first tax sale, and, in the event of his succeeding in this,