

Robson, J.]

[September 21.]

HIME v. COULTHARD.

*Attachment—Tort—Action for enticing away plaintiff's wife and crim. con.*

An attaching order against the defendant's property cannot properly be made under rules 813-858 of the King's Bench Act, R.S.M. 1902, c. 40, upon the commencement of an action for damages for enticing away the plaintiff's wife and for criminal conversation, because,

*Held*, 1. There is not "a cause of action arising from a legal liability" within the meaning of that expression in rule 815, as the cause of action and the legal liability arose simultaneously from the tortious act. Legal liability giving rise to a subsequent cause of action is found only in contract.

2. The plaintiff could not properly make the affidavit required by rule 817, viz., that the defendant is legally liable to him in damages in the sum claimed in the action. *Emperor of Russia v. Proskouriakoff*, 18 M.R., at page 73 and *McIntyre v. Gibson*, 17 M.R. 423, followed.

3. The words in rule 817 "after making all proper and just set-offs, allowances and discounts" are not applicable in regard to torts.

*Mackay*, for plaintiff. *Ajhl* c., for defendant.

Robson, J.]

[October 1.]

STANGER v. MONDOR.

*Registry Act—Real Property Act—Effect of filing deed after application for certificate of title under Real Property Act—Priority as between such deed and an unregistered prior conveyance.*

The filing of a deed with an application for a certificate of title under the Real Property Act, R.S.M. 1902, c. 148, as one of the evidences in support of the title, does not constitute a registration of the deed under the Registry Act, R.S.M. c. 150, so as to give it priority over a prior unregistered conveyance, although the practice in the land titles office is to make certain entries in the abstract book kept under the old system and to give the deed a number. *Farmers & Traders Loan Co. v. Conklin*, 1 M.R., at pp. 188, 189, and *Renwick v. Berryman*, 3 M.R., at p. 400, followed.

*Heap*, for caveator. *Blackwood*, for caveatee.