

explanation. The plaintiff further produced a copy of a letter written to the defendant about February 3, 1884, by the pastor of the German Church at Sydenham, asking the defendant whether he intended to fulfil his promise to marry the plaintiff, and threatening that the writer would see by means of the law and the press that justice was done to his countrywoman. The defendant did not answer any of these letters. The plaintiff also produced the defendant's signet ring, and alleged that he gave it to her at the hotel at Constantinople. He, on the other hand, alleged that the ring dropped on the floor of the dressing-room, and that she picked it up and did not return it to him. At the close of the defendant's case Pollock, B., ruled that the fact of the defendant not having answered the letters was such material evidence in corroboration of the promise as was required by 32 and 33 Victoria, chapter 68, section 2, and declined to enter judgment for the defendant on the issue of breach of promise of marriage. The defendant was called, and admitted having received the letters, and that the copies produced were substantially correct. The jury found a general verdict for the plaintiff for £300 on all the issues. The defendant now moved to have judgment entered for himself on the issue of breach of promise of marriage.

*Lockwood, Q. C., & W. Graham, for defendant.*

*Thomas Terrell (E. F. C. Philips and Warra-ker with him), for plaintiff.*

Lord Esher, M. R. The first and main question to be decided in this case is a question of law, and I shall give no opinion upon any other question in dispute between the parties. The point of law is whether in such a case as this—where nothing has happened except what has happened here—the mere fact of the defendant not answering any of the letters which have been brought before us is any such evidence in corroboration of the promise to marry as is required by the statute. We have not to determine whether or not a promise to marry was given. That was a question for the jury. The question for us is, whether, according to law, the fact of the defendant not answering the letters

could be taken as any evidence of the corroboration required by the statute. Another question is whether the possession by the plaintiff of the defendant's signet ring is such evidence. The first letter put forward by the plaintiff's counsel is one written by the plaintiff to the defendant, in which she states in effect to the defendant that he had promised to marry her. He did not answer it. When one comes to think what is meant by not answering it, it is impossible to see how that could be any evidence in corroboration of the promise to marry. The argument that it was such evidence must be that not answering was an admission by the defendant of the truth of what was alleged against him in the letter. Now the allegation in the present case was that he had promised to marry the plaintiff. Suppose however the letter had charged against him some grievous offence or misconduct, and the writer had stated that unless the defendant paid something he would be exposed. The argument, if true at all, must be that by not answering such a letter the man who receives it must be taken to admit that he is guilty of the charges contained in it. Now there are cases—business and mercantile cases—in which the courts have taken notice that, in the ordinary course of business, if one man of business states in a letter to another that he has agreed to do certain things, the person who receives that letter must answer if he means to dispute the fact that he did so agree. So where merchants are in dispute one with the other in the course of carrying on some business negotiations, and one writes to the other, "but you promised me that you would do this or that," if the other does not answer the letter, but proceeds with the negotiations, he must be taken to admit the truth of the statement. But such cases as those are wholly unlike the case of a letter charging a man with some offence or meanness. Is it the ordinary habit of mankind, of which the courts will take notice, to answer such letters; and must it be taken, according to the ordinary practice of mankind, that if a man does not answer he admits the truth of the charge made against him? If it were so, life would be unbearable. A man might day by day write such letters, which, if they were not