For this reason, I apprehend, that if a secret, which is contrary to the public good, such as a design to commit treason, murder, or perjury, comes to the knowledge of an attorney, even in a case wherein he is concerned, the obligation to the public must dispense with the private obligation to the client." Two of the learned judges, who tried that remarkable case, Bowes, C.B. and Mounteney, B., expressed the same sentiments, p. 1240, 1243. See also *Gartside* v. *Outram*, 26 L. J. Ch. 115, per Wood, V.C.

In Greenleaf on Evidence, 11th ed., p. 332, note 3: "This general rule, privilege, is limited to communications having a lawful object, for if the purpose contemplated be a violation of law, it has been deemed not to be within the rule of privileged communications, because it is not a solicitor's duty to contrive fraud, or to advise his client as to the means of evading the law." *Russell* v. *Jackson*, 15 Jur. 1117; *Bank of Utica* v. *Mersereau*, 3 Barb. Ch. R. 528.

Other authorities might also be given, but I consider the above sufficiently establish my proposition. A.

[Our correspondent asks why privilege should be granted to members of the legal profession, as a right, respecting communications with their clients in criminal matters? Whole essays have been written upon this subject; at present it is enough for us to reply in the language of Lord Brougham: "It is founded on a regard to the interests of justice which cannot be upholden, and to the administration of justice which cannot go on without the aid of men skilled in jurisprudence, in the practice of the courts, and in those matters affecting rights and obligations which form the subject of all judicial proceedings. If the privilege did not exist at all, every one would be thrown upon his own legal resources; deprived of all professional assistance, a man would not venture to consult any skilful person, or would only dare to tell his counsellor half his case." *Greenough* v. *Gaskill*, 1 M. & K. 103. A. cannot surely seriously argue for a return to the old law when prisoners were not allowed counsel—he cannot mean to contend that the Statute granting them this right was a mistake and should be repealed. What proposition of A.'s do his authorities establish? That a counsel, after being retained by a person charged (for example) with murder, after having heard all the details of his story under the seal of professional confidence, is forthwith to tender himself as a witness and convict his unhappy client? The language of Mr. Baron Mounteney, in one of the cases A. cites, confutes this: "Whatever either is or by the party concerned can naturally be supposed necessary to be communicated to the attorney in order to the carrying on any suit or prosecution in which he is retained, that the attorney shall inviolably keep secret." *Annesley* v. *Anglesea*, 15 St. Tri. 1242. The question is not as to whether the retainer is or is not to be accepted, but one in which the professional relationship exists. Now, what is established by A.'s citations is just neither more nor less than what we adverted to in our former article: *ante* p. 75. We said, "If the communication is made not as between client and professional adviser, nor in the usual course of business, or for a fraudulent or illegal purpose, then it is not protected." Now, it is not in the attorney's usual or proper course of business to concoct a fraud or give advice upon the way to evade the law, or to assist a man in contravening the law. In such cases the solicitor is viewed by the court as a co-conspirator, and no privilege attaches. See *Charlton* v. *Coombs*, 4 Giff 380. So in the case from the State Trials, one of the defendant's declarations to his attorney was, (speaking of the plaintiff,) that "he did not care if it cost him £10,000 if he could get him (the plaintiff) hanged." The judges held that this was not such a communication as any man living could possibly suppose to be necessary for the carrying on of the prosecution in question. Therefore, according to Mounteney, B., the attorney was not only at liberty to disclose it, but it was his duty to make it known, as indicating an abominable endeavour to make away with a man's life. According to Dawson, B., the client went beyond what was necessary, and entrusted the attorney with a secret, *not as an attorney, but as an acquaintance*, so that the privilege did not attach. As we said before, the law is well settled on the subject, and may be found in any text book, as A.'s letter demonstrates. If, however, A. is not satisfied, and thinks that an attorney should be a competent witness in criminal trials against his own client upon a matter affecting the guilt charged, we advise him to get the point before the judges, by tendering himself on a suitable opportunity before, say, Chief Justice Hagarty or Mr. Justice Gait.—Eds. L. J.