ment acts far more commendably if he at once gives notice of his intention, than if he keeps that intention secret till the time for fulfilling the promise is come. The reason is, that giving such notice at the earliest moment tends to mitigate, while the delay in giving it necessarily aggravates the injury to the other party. It has been urged that there must be great difficulty in thus assessing damages prospectively; but this must always be more or less the case whenever the principle of *Hochester* v. *De la Tour* comes to be applied. It would equally exist where one of the parties by marrying another person gave rise to an immediate right of action. It cannot be said that the difficulty is by any means insuperable, and the advantages resulting from the application of the principle of *Hochester* v. *De la Tour* are quite sufficient to outweigh any inconvenience arising from the difficulty of assessing the damages. We are struck by the fact that the majority of the Court of Exchequer, while holding that the present action would not lie, expressed an opinion that the wrong done by the repudiation of a contract of marriage might be made the foundation of an action on the case, in which the facts should be set forth. But the rights and obligations of the parties arising here entirely out of contract, we are at a loss to see how such an action could be maintained. But be that as it may; as in such an action the damages would have to be ascertained with reference to the same facts and the same considerations as in an action brought on the contract, it seems to us by far the simplest course—the case being, as it seems to us for the reasons we have given, clearly within the decision in *Hochester* v. *De la Tour*—to hold that the present action for breach of contract may be maintained, and that in it the plaintiff is entitled to recover damages in respect of the nonfulfilment of the promise, as though the death of the defendant's father—the event on which the fulfilment was to depend—had actually occurred. We are therefore of opinion that the judgment of the Court of Exchequer must be reversed.

CORRESPONDENCE.

Attorney and Client—Privileged communications.

To the Editors of the Canada Law Journal.

Gentlemen,—I have carefully read over your observations respecting privileged communications between attorney and client in criminal matters, and you will excuse me for saying that I am not satisfied with them, and that they do not appear to bear upon this question at all. So far as such communications apply to matters of a civil nature, I agree with you that they are privileged. But the question is very different when it has reference to transactions affecting the public, and which public policy requires should not be concealed. In other words, such transactions are not privileged. The privilege which you appear to contend for, on behalf of attorney and client, does not extend to the members of any other calling or profession, and why, as a matter of abstract right, should it be granted exclusively to the members of the legal profession? The same arguments which you make use of in favour of the latter, might be used with greater force in reference to ministers of religion, because in the latter case a criminal might claim the right of unburdening his guilty conscience to his spiritual guide with a view of spiritual advice and reformation, while, in so far as members of the legal profession are concerned, such communications are solely made for the purpose of legal defence against a public demand for conviction and punishment. I do not think that the exercise of the privilege which you contend for, would be in any way advantageous, morally speaking, to the members of the legal profession, or that they should exclusively claim the privilege. Members of the legal profession are also members of society, and, as members of society, they cannot, by simply assuming their particular calling, divest themselves of their obligations to the public and claim thereby privileges which, upon considerations of public duty they ought not to possess.

In Taylor on Evidence, 3rd ed., p. 752. "If from independent evidence it should clearly appear that the communication was made by the client for a criminal purpose, as for instance, if the attorney was questioned as to the most skilful mode of effecting a fraud, or committing any other indictable offence, it is submitted that, on the broad principles of penal justice, the attorney would be bound to disclose such guilty project. Nay, it may reasonably be doubted whether the existence of an illegal purpose will not also prevent the privilege from attaching, for it is as little the duty of a solicitor to advise his client to evade the law as it is to contrive a positive fraud." And in Note 2, same page, reference is made to several cases bearing upon the subject. Also, same note, "In *Annesley* v. *Earl of Anglesea*, 17 How. St. Tr. 1229, Serjt. Tindall," in argument, lays down the rule thus: "If the witness is employed as an attorney in any unlawful or wicked act, his duty to the public obliges him to disclose it. No private obligations can dispense with the universal one, which lies on every member of society, to discover every design which may be formed, contrary to the laws of society, to destroy the public welfare.