

“Plusieurs juges ont exprimé leur opinion dans cette cause. Voici ce que le juge Cockburn :

“The relation between the client and his professional legal adviser is a confidential relation of such a nature that to my mind the maintenance of the privilege with regard to it is essential to the interests of justice and the well-being of society. Though it might occasionally happen that the removal of the privilege would assist in the elucidation of matters in dispute, I do not think that this occasional benefit justifies us in incurring the attendant risk. The question here is whether the documents of which inspection is sought are within the privilege. I think they are. It is clear that they were documents containing information which had been obtained by the plaintiff with a view to consulting their professional adviser. Two out of the three sorts of documents were actually submitted to him; as to the other it is not clear whether it was actually submitted to him or not. It is admitted upon the decisions that where information has been obtained on the advice of the party's solicitor it is privileged. I can see no distinction between information obtained upon the suggestion of a solicitor, with the view of its being submitted to him for the purpose of his advising upon it, and that procured spontaneously by the client for the same purpose. If the Court is satisfied that it was “bona fide” procured for the purpose, it appears to me that it ought to be privileged.”

“Le juge Mellor disait de son côté :

“It is conceded that information procured by the advice of a solicitor to be submitted to him is privileged. If so, I cannot understand the distinction between such information and that spontaneously procured for the same purpose . . . I do not see any sound distinction between