Would it not be well to obtain from the county judges and the profession generally their views upon this matter, and if in favour of a revision of the law, to submit the same for the consideration of the Government at the present session of the Ontario Legislature?

Picton, 31st of January, 1890.

JUSTITIA.

[We gladly publish the above not because we entirely agree with the writer, but because it is the view of one who, from his position and experience, is competent to form a good opinion on the subject. We should be glad to hear from others of our subscribers who are interested in this branch of the law, and have given consideration to its administration.—ED. C.L.J.]

Notes on Exchanges and Legal Scrap Book.

PROFESSIONAL PRIVILEGE.—The Divisional Court, in *Lowden* v. *Blakey and others* (L.R. 23 Q. B. Div. 332), have decided that "the professional privilege," which prohibits a party to an action from requiring the production by his opponent of communications between the latter and his legal advisers, is not to be narrowed down to communications as regards the conduct of litigation or the rights to property. The opinion of the late Master of the Rolls, as expressed in *Wheeler* v. *Le Marchant* (17 Ch. Div. 675), might seem so to narrow it, but the question before the Court of Appeal in that case was, whether correspondence between the defendants' former solicitors and present solicitors, and their former estate agent and present agent, was privileged or not. The order made by the court was: "Order production of the correspondence except such, if any, as the defendants shall state by affidavit to have been prepared confidentially, after the dispute had arisen between the plaintiff and the defendants, and for the purpose of obtaining evidence or legal advice for the purpose of the action." The decision of the same court in *Minet* v. *Morgan* (8 Ch. App. 361) gave a wider meaning to the term professional priviledge, as Lord Selborne and Lord Justice Mellish refused to compel a plaintiff to produce confidential correspondence between himself or his predecessors in title and their respective solicitors with respect to matters in dispute in the action, though made before litigation was contemplated, and Lord Selborne indeed expressed himself surprised to hear the question raised again. Mr. Justice Denman, in *Lowden* v. *Blakey*, expressed his opinion that Sir G. Jessel's definition was not wide enough, and he and Mr. Justice Charles held that *Minet* v. *Morgan* governed the case before them, and would not accede to the defendant's application for the production of a draft advertisement submitted to counsel by the plaintiff. *Wheeler* v. *Le Marchant* can therefore only be understood as showing, that communications between the solicitor and third person must be as regards the conduct of litigation or the rights to property, if they are to be privileged from production: (see the Annual Practice 1888-9, p. 471). It is interesting to observe that Sir G. Jessel, in his judgment in that case, lays down the rule that "Communications made to a priest in the confessional on matters perhaps considered by the penitent to be