

sounder lawyer. He nevertheless not only supported that defence at the trial and obtained a verdict upon it, but held it in the Full Court.

What should counsel for the defence in a criminal case do, if he knew of a case dead against him which the prosecution had overlooked? Mr. Showell Rogers says in a note to the article already referred to: "I lately asked a member of the Bar, a man of the highest honor, what would you do if you were defending a man on a capital charge and you were aware of a decision dead against you in point which had escaped the notice of the counsel for the prosecution and of the Judge at the trial, but which if disclosed would inevitably put the rope around your client's neck? The only answer I received, accompanied by a significant look, was 'I would rather not be placed in such a position.'"

If counsel for the accused person is not bound to bring to the attention of the Court or the prosecution evidence known to him, but of which both are ignorant, and the production of which would condemn his client, by what principle can he be bound to aid in his condemnation by assisting the prosecution with respect to the law?

"TO HIS CLIENT"

(1) "He should obtain full knowledge of his client's cause before advising thereon and give a candid opinion of the merits and probable results of pending or contemplated litigation. He should beware of bold and confident assurances to clients, especially where the employment may depend on such assurances. He should bear in mind that seldom are all the law and facts on the side of his client, and that '*audi alteram partem*' is a safe rule to follow."

(2) "He should at the time of retainer disclose to the client all the circumstances of his relations to the parties, and his interest in or connection with the controversy, if any, which might influence the client in selection of counsel. He should avoid representing conflicting interests, ~~except by consent of all concerned, given after a full disclosure of the facts.~~"

(3) "Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation."

The duty of ascertaining all the facts before advising thereon will avoid many unpleasant surprises for both lawyer and client. Every lawyer who has been in practice a few years has learned this lesson, sometimes by dearly bought experience. Clients cannot always be relied upon to relate all the circumstances, and sometimes the most material facts are only elicited by a process of cross examination. Having possessed himself of all the facts, the next duty of the lawyer is to advise his client candidly and honestly. If in his opinion the client has no case he should tell him so, and dissuade him entering into litigation that is either unnecessary or liable to be unfruitful. In