

celebrated Charles Phillips was counsel for the accused. During the trial the prisoner made a complete confession to his counsel but at the same time insisted that he continue his defence. Phillips' first impulse was to throw up his brief but finally at the urgent suggestion of his associate counsel Mr. Clarkson, he laid the matter before Baron Parke, one of the presiding Judges. Baron Parke on being told that the accused refused to release his counsel, told Phillips that he must continue to act and he did so. Courvoisier was convicted and executed. On the fact of the confession to his counsel becoming known, Phillips was severely criticised by the London Examiner, not because he did not abandon the accused, but because it said he endeavored to fasten the crime upon an innocent party, a fellow servant named Sarah Mancer, a charge, which if true, would have amply justified the criticism. He was also blamed by his legal brethren for having mentioned the confession to Baron Parke, thus not only putting the Judge in an awkward position but being unfair to the accused. Although the Examiner returned to the attack from time to time it was not until after the lapse of nine years that Mr. Phillips, then occupying an important judicial position, made any reply. A consideration of all the evidence convinces one that Mr. Phillips violated no ethical principle. He not only did not endeavor to cast suspicion upon Sarah Mancer after the confession, but, in his speech, he expressly told the jury that he did not mean to do so. The whole question of the duty of counsel after his client has confessed has been reviewed by the English Bar Council whose ruling is published in the 1917 White Book at 2433. The general conclusion is that where an accused person has confessed to his counsel, a confession "is no bar to that advocate appearing or continuing to appear in his defence, nor indeed does such confession release the advocate from his imperative duty to do all he honorably can do for his client. But such a confession imposes very strict limitations on the conduct of the defence. An advocate may not assent to that which he knows to be a lie. He may not connive at, much less substantiate a fraud. While therefore it would be right to take any objection to the competency of the Court, to the form of the indictment, to the admissibility of any evidence or to the sufficiency of the evidence admitted, it would be absolutely wrong to suggest that some other person had committed the offence charged or to call any evidence which he must know to be false having regard to the confession; such, for instance, as evidence in support of an alibi, which is intended to show that the accused could not have done or in fact had not done the act. That is to say, an advocate must not (whether by calling the accused or otherwise) set up an affirmative case inconsistent with the confession made to him." As to counsel's duty with respect to the evidence for the prosecution, "no rule can be laid down than this, that he is entitled to test the evidence given by each individual witness and to argue that the evidence taken as a whole is insufficient to amount