Few people have more tersely stated the duty of counsel than Samuel Johnson in the following dialogue with his friend Boswell:

"Boswell: I asked him whether as a moralist he did not think "that the practice of the law in some degree hurt the nice feeling of "honesty.

"Johnson: Why no, Sir, if you act properly. You are not to "deceive your clients with false representations of your opinion; you "are not to tell lies to a Judge.

"Boswell: But what do you think of supporting a cause which "you know to be bad?

"Johnson: Sir, you do not know it to be good or bad till the "Judge determines it. I have said that you are to state facts fairly; "so that your thinking or what you call knowing a cause to be bad "must be from reasoning, must be from supposing your arguments to "be weak and inconclusive. But, sir, that is not enough. An argu- "ment which does not convince yourself may convince the Judge to "whom you urge it; and if it does convince him why there, sir, you are "wrong and he is right. It is his business to judge and you are not to "be confident in your own opinion that a cause is bad, but to say all "you can for your client and then hear the Judge's opinion."

Baron Bramwell said, in *Johnson* v. *Emerson,* L.R. 6 Ex. 367, "A man's rights are to be determined by the Court, not by his attorney or counsel. It is for the want of remembering this that foolish people object to lawyers, that they will advocate a cause against their own opinions. A client is entitled to say to his counsel 'I want your advocacy not your judgment; I prefer that of the Court.'" (1)

Joseph H. Choate in an address in 1911, went to the root of the matter when he said: "It is only out of the contest of facts and of brains that the right can ever be evolved—only on the anvil of discussion that the spark of truth can be struck out. Perfect justice, as Judge Story said, belongs to one judgment seat only—to that which is linked to the throne of God—but human tribunals can never do justice and decide for the right until both sides have been fully tried."

The English rule undoubtedly is that counsel is not at liberty to refuse to defend a prisoner by reason of any preconceived notion of his own as to the accused's guilt or innocence. The canon under discussion does not make it the duty but the right to do so if he choose.

A more difficult question and one that has caused considerable discussion in England is not touched by the canon. I refer to the question of taking up or continuing the defence of an accused person after he has confessed his guilt of the crime charged.

In the Courvoisier Murder Case, 1 Townsend St.T. 244, (2) the

(1) He had previously laid down the same doctrine in Swinfin v. Chelmsford, 5 H. & N. at 900.

(2) A very full account of this controversy is to be found in Costigan's Cases on Legal Ethics, 321.