in argument to the Court or in address to the jury to assert his personal belief in his client's innocence or the justice of his cause or as to whether or not any fact or facts was or was not established by the evidence. I was a little surprised to find that the late Sir John Boyd, speaking on "Legal Ethics," 4 Can. L. Rev. 85, referred with only mild dissent to Archdeacon Paley's justification of a lawyer, even contrary to his real opinion, asserting his belief in the justice of his client's cause. Sir John says: "It is now generally perceived that there is no duty cast upon the lawyer to assert his belief in the truth or justice of his client's case even if he does believe him in the right, and to make such an assertion where he doubts or has no faith in the right or justice of the claim is to violate truth for the purpose of leading the tribunal astray. If such declarations were to be made a part of each address the jury would take their omission to be a confession that the client's cause was unworthy. Therefore, as no conscientious man could make such assertion in all cases, and the declarations of an unconscientious man would soon carry no weight, it is best that no counsel should indulge in such expressions of personal belief, and this is the course followed by the best representatives of the Bar." I know that lawyers of great prominence have not hesitated to express their own convictions, amongst them Lord Brougham, Sergeant Shee and Lord Campbell, but seldom or ever was it done without a rebuke. Erskine reprobated it, and Cockburn described it as unprecedented. The true rule as stated by Showell Rogers in "Ethics of Advocacy" 25 Law Quarterly Review 259, viz., "that it is an inflexible rule of forensic pleading that an advocate shall not, as such, express his personal opinion or belief in his client's case." "As a private adviser of his client," he says, "a lawyer is bound to express to him his individual and honest opinion." As an advocate in a public Court he ought not to express that opinion to the Court, whether it be for or against his client, and to do so is a distinct departure from his duty. Whenever an advocate asserts a thing as a fact he does so subject to the qualification—which is not the less real although unexpressed, and which the very capacity in which he appears is universally regarded as constituting an *ipso facto* implication—that he speaks according to his instructions and not of his own knowledge or belief. * * * The personal opinion of an advocate is wholly irrelevant to every issue in his client's case which must be tried and determined solely, *secundum allegata et probata;* in short, as every juror swears that he will determine it—according to the evidence." (1)

The question sometimes arises whether the obligation to deal candidly with the Court obliges counsel to mention a decision or decisions which he has discovered and which he believes to be dead against him. That it is his duty to do so, at least when the other side is not repre-

(1) The subject is discussed by the Alberta Court of Appeal in R. v. Moke [1917] 3 W.W.R. 575.