

reasoning faculties are out of joint? Would it be "fair and honourable" for him by artful advocacy to induce the jury to believe the evidence of guilt is insufficient, when he feels, apart from the private confession of his client, that it logically suffices to exclude reasonable doubt from any rational mind? Is the railroad station agent or conductor under any greater obligation to the community in the matter of apprehension and punishment of felons than the lawyer? Isn't a criminal's right to have a lawyer befuddle a jury as far removed from those hallowed phrases "law of the land" or "due process of law" as a man's right to transportation by a common carrier?

Let us go a step farther and suppose that the lawyer advises or even silently permits his guilty client to take the witness stand and swear to his innocence, and then uses the testimony as an argument to the jury to render a verdict of acquittal. Can this conduct be ethically reconciled with the ruling of the New York Supreme Court in *In re Hardenbrook*, 135 N.Y. App. Div. 634, 121 N.Y. Supp. 250? In that case, decided last December, upon argument before Justices Ingraham, Laughlin, Clarke, Houghton, and Scott, the respondent, an attorney-at-law, was disbarred for conduct exactly described in the judgment as follows:—"It is sufficient if, taking the testimony as a whole, the respondent was proved to have had direct knowledge that the client for whom he appeared, and in whose favour he asked a verdict, had sought to recover on perjured testimony, and, with such knowledge, continued the prosecution of the action, insisting upon the right of his client to a judgment although he knew that her testimony was false. If this was satisfactorily established, it would seem to follow that he had been guilty of such unprofessional conduct as to require discipline. It is not essential in such a case that the attorney or counsel took affirmative action to induce his client to swear falsely, or, in other words, suborned the perjured testimony; but if an attorney, with knowledge of the fact that the testimony upon which his client is seeking to sustain a claim before the court is false and known to his client to be false, so that his client