

permit, much less does it demand of him, for any client, violation of law or any manner of fraud or chicanery.

(6) "It is his right to undertake the defence of a person accused of crime, regardless of his own personal opinion as to the guilt of the accused. Having undertaken such defence, he is bound by all fair and honorable means to present every defence that the law of the land permits, to the end that no person may be deprived of life or liberty but by due process of law."

Lawyers are ministers of justice; that is the ideal function of the Bar, but we must understand what is meant by justice. Our Courts are Courts of law, not, as some have erroneously supposed, Courts of conscience. The casuist's code could only be enforced by Judges possessing unfettered discretion, and we know what Lord Chief Justice Camden said on that subject. "The discretion of a Judge," he said, "is the law of tyrants, it is always unknown; it is different in different men; it is casual and depends upon the constitution, temper and passion. In the best it is oftentimes caprice; in the worst it is every crime, folly, passion to which human nature is liable." Courts of Equity were for a time thought to be Courts of conscience but when so regarded met with no favor. Selden speaks of equity as "a rognish thing for which there was no measure but the successive chancellors' consciences which might vary as much as the length of their feet, a reproach which Lord Eldon repudiated and said nothing could give him greater pain than a recollection that he had done anything to justify it. ⁽¹⁾ Experience soon taught that, if the doctrines of equity were to be of any value as a system of jurisprudence, the Chancellors must be as much under the control of fixed maxims and as much bound by prior authorities as the common law Judges.

Liberty and property today are regulated in accordance with the law of the land, and the function of the lawyer is to secure for his client the protection of these laws. That is what is meant by aiding in the administration of justice; and when he succeeds in securing for him the benefit or protection of the law, in the vast majority of cases it will be found that he has obtained for him substantial justice.

The ethical principles involved in these two canons have been the occasion of a great deal of controversy. Hoffman's 12th and 13th resolutions are to the effect that he would never plead either the statute of limitations or infancy to defeat an otherwise honest demand, and no doubt he would have included the statute of frauds in the same category. In adopting these resolutions Hoffman has assumed a wisdom and a morality higher than that of the legislature by which these laws were enacted. The understanding of the profession has never been in accord with Mr. Hoffman's resolutions; but is much better and more accurately expressed in the canon. At the same time the lawyer

(1) *Gee v. Pritchard*, 2 Swan. 414.