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EDITORIALS

THE LAWYER: AN ETHICAL DICHOTOMY?

"THEY have no lawyers among them for they consider them as a sort of people whose profession it is to disguise matters."

That is the opinion of one member of society and we who are studying law as well as the lawyers must ask ourselves to what extent it is justified. The ethics of a profession are its rules of conduct. But to the legal profession its canon of ethics is something more, for the advocate must not only support the interest of his client but also perform his privileged function as a party to the administration of justice.

The layman's question which has most tormented the lawyer over the years is: "How can you honestly stand up and defend a man you know to be guilty?" or, as to civil cases, "How can you defend a case when you know your client is wrong and really owes the money sought?" One answer to these questions is found in the following colloquy attributed to Samuel Johnson by his famous biographer David Boswell:

"Boswell: But, Sir, does not affecting a warmth when you have no warmth, and appearing to be clearly of one opinion when you are in reality of another opinion, does not such dissimulation impair one's honesty? Is there not some danger that a lawyer may put on the same mask in common life in the intercourse with his friends?"

Johnson: Why, no, Sir. Everybody knows you are paid for affecting warmth for your client, and it is therefore properly no dissimulation: the moment you come from the Bar you resume your usual behaviour. Sir, a man will no more carry the artifice of the Bar into the common intercourse of society, than a man who is paid for tumbling upon his hands will continue to tumble upon his hands when he should walk upon his feet."

Yet we must not forget that the lawyer's duty is not simply one which he owes to his client. Just as important is the duty which he owes the court and society, and this is particularly applicable to civil cases where the demand that justice be achieved in the final result should be the most important consideration.