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Court Room Decorum

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regardless of whether there has been a dry hole or production has been achieved.

It can readily be seen that a tremendous tax saving can be made by one desiring to participate in the finding of oil and gas, but that in order to take the benefit of said savings great care should be exercised not only in setting up the transaction but also in drafting the necessary instruments.

COURT ROOM DECORUM*

JOSEPH H. HINSHAW, *of the Chicago Bar*

A strong desire for democracy has caused most Americans to resent a severe formality in any procedure. The reaction has been to deteriorate decorum in many of our courts, especially the lower courts; and to cause many laymen to lower their respect for both judges and lawyers. Even the "dusty foot" courts of England might not compare so unfavorably with some of our police courts.

It is difficult for a judge to change the conduct of the lawyers, because he also prefers to be democratic. For this reason many of our judges have refused to wear robes. The lawyers are his friends, and he is careful not to embarrass them by reprimands before their clients.

Every lawyer should remember that in deed and in fact he is an officer of the court, and that he has a direct duty to help look after it. He can do more even than the judge to maintain in the court room a simple, yet respectful, dignity. To this end may we not consider a few concrete suggestions?

When the judge enters the room, all should rise and wait to be invited to be seated. Except in the course of a trial, if a judge speaks to an attorney while the attorney is sitting the attorney should rise to answer the court. The proper way to address the court in the first instance is "May the Court please," not "If the Court please," and these words, of course, should be spoken while the lawyer is on his feet.

The judge will try not to tolerate personalities, and to aid in this effort to be abstract and impersonal, the lawyer should address the court in the third person, as "The Court will remember the testimony," not "You will remember, etc.," or "On the 5th instant the Court entered an order," not "On the 5th instant you entered an order." When the judge is on the bench, he should never be addressed as "You."

When the judge invites the lawyers into chambers, the lawyers should stand back and wait for the judge to enter first; and on returning to the court room, the judge should enter the court room first. In chambers, judge and counsel may be as informal as they

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please, when laymen are not present. Usually they are all good friends anyway. In chambers a good story often helps negotiations, but if levity becomes loud enough to carry to the court room outside, clients are likely to conclude that their precious rights are being disposed of in a flippant manner.

To the public, the judge is the court, and whether the lawyer may like the judge or not, he is the one who administers what justice there is in the community. The layman is not likely to respect a judge to whom the lawyers show no respect. Whatever, in relation to the public, will affect the judge adversely will also affect the lawyer adversely.

When the judge on the bench begins to speak while a lawyer is speaking, the lawyer should stop immediately, even in the middle of a sentence. Judges, of course, must be convinced. Sometimes a judge must even be induced to change in his mind. A lawyer may argue to a judge earnestly and pointedly and with all the force at his command, but to do this it is not necessary to argue in a loud voice nor in an angry tone. Most judges can hear quite well. Argument to a court usually concerns a point of law, and the more effective style is to approach the matter in an abstract way. When the court is listening to argument, he is entitled to the lawyer's whole attention, and the court should not be annoyed by the lawyer turning away from the court and toward the rear of the room, as if the lawyer sought an audience there. Such conduct may impress the layman, but it certainly will not impress the judge who must decide the matter.

A lawyer should not, while wearing an overcoat and rubbers, nor with his hat in his hand, address a court. Take off the rubbers and hang the coat on the rack. Don't throw the coat over a chair at the trial table, nor on the trial table. If no rack is provided, it is the duty of the bar to see that one is provided. The lawyer should not enter the court room, then take off his hat. He should take off his hat and then enter. He should see to it that his client does likewise, and not wait until the bailiff is obliged to force the issue. He should tell his clients that they cannot read a newspaper nor do knitting nor attend a howling baby while the judge is trying to hold court. The client should not be brought inside the rail unless he has definite business there.

A few whispers in the court room while court is in session are often necessary to a lawyer, but an extended conversation should be carried on outside. Unnecessary conversation with the minute clerk can be very annoying to the court, and may distract that court's attention when a fellow lawyer is trying hard to hold it.

If the bailiff raps for order, the lawyer should not try to show that he has a "drag" by ignoring the order or suggestion of the bailiff, or just because he thinks the judge is too polite to resort to a reprimand. It is a part of the lawyer's duty to help the court maintain order. If the bailiff is offensively officious, as is sometimes

the case, take the matter up with the judge in the chambers during a recess.

The attorney who carries inside the rail a cigar or cigarette turned to the palm of his hand, is like the little boy who holds the apple behind him. He is hiding it from no one except himself. If he puts it on the window sill, it is no ornament and will probably mar the wood before he thinks of it again. He probably would not want his friends to think that he could not afford to buy another cigar.

In the southern jurisdictions, it is often very hot in the court rooms in the summer time. In spite of the heat, the attorney should wear some kind of coat if the judge wears one. The bench is higher and hotter than the trial table. Coats should not be left off without the permission of the court.

When before the court, the attorney should not drape himself over the bar not rest on it with one elbow. If he could see himself from the rear, he would stand on his two feet and act like a lawyer, and not like a barfly.

Brief cases with lugs should not be placed on the trial table, but on the floor, where the lawyer's feet also should rest. The trial table belongs for the moment, to the lawyers who are before the court, and other lawyers should respect their rights.

Lawyers should make a real effort not to interrupt each other in argument. Sometimes an opponent is so vociferous that there is no opportunity to reply, or he deliberately intends, once he has the floor, to take up all the time of the court so that there can be no reply. The temptation is to break into such unnecessarily prolonged discourse, to talk louder than the opponent does, and thereby obtain the attention of the court. This, of course, brings on a bedlam which is no credit to the bar or the bench. When faced with such a circumstance, a decent lawyer is justified in interrupting only long enough to ask the court to assure him that he will have a turn and an equal opportunity to be heard. Usually this is sufficient and much more effective.

In metropolitan communities, there are so many court rooms that it is difficult for the bar to take effective part in their care. In many communities, however, we find really only one or two court rooms. If such a court room is ugly or dirty, and can be made respectable and cheerful by a reasonable expenditure, it is the duty of the bar to force the custodian to do his duty, or otherwise see to it that the room is presentable even if the bar members have to bear some of the expenses. It is their second home, and they should see that it is a respectable one.

These may appear to be small matters, but together they create the mental picture which is carried in the mind of the public, and they are more important to the standing of the lawyer in the community than many of us realize.