



Volume 40 | Issue 4

Article 19

June 1934

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Judge, Supreme Court of Appeals

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Recommended Citation

Haymond Maxwell, *Reciprocity--Bench and Bar*, 40 W. Va. L. Rev. (1934).

Available at: <https://researchrepository.wvu.edu/wvlr/vol40/iss4/19>

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BENCH AND BAR

RECIPROCITY — BENCH AND BAR*

HAYMOND MAXWELL**

In briefly discussing the subject which has been assigned me, I desire to forget for the time that I have any official responsibilities, and to submit my remarks purely from the standpoint of a lawyer. And in undertaking to speak on this subject I shall not suggest anything new to you gentlemen, but shall only call attention to, and lay emphasis upon, a few matters to which none of you are strangers, and to dwell briefly upon a few of the plain, simple, fundamental things without which the practice of law would be an abomination and justice an unknown quantity.

To begin with, the high standard that is prescribed for, and is required of, the practicing lawyer necessarily results in the establishing of the exacting requirement that the courts shall maintain in themselves such bearing only as is compatible with the conceptions of high minded lawyers. If it were within my power to build a model man for any useful walk in life the first ingredient I should place in the mould would be honor. If there is any individual who is without a place in the body politic, and, it may be believed, an abomination in the sight of God, it is the dishonest man. Of course, we, as lawyers, demand and require of every judge of every court that he conduct himself at all times, in both private and official life, so that there be no cause for even a suspicion of his integrity. That is the first and great requirement.

There are a few requirements that the bar demands that every judicial officer always bear in mind. He must not talk too much. Let him hold his peace. The proper application of law and procedure does not ordinarily afford necessity nor occasion for any ventilating of the judge's personal notions or predilections. A judge must never permit any litigant, attorney, nor other person to discuss with him privately any undecided case pending in his court. Such conduct is exceedingly unfair to the interests of those opposed to the persons appearing or represented at such interview. A person who thus attempts to approach a judge does so either in ignorance of the proprieties that circumscribe a judge in the discharge of his official duties or else in purposeful effort to gain an undue advantage, and, in either event, it is upon the

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assumption that the judge can be thus influenced. For his own protection, therefore, if for no other reason, must a judge decline to permit such interviews.

A judge must not be inconsiderate of other people and take advantage of his position unnecessarily to wound the feelings of any person who may have dealings in his court. He must extend to all others the same degree of courtesy that he expects from them.

A judge must not misunderstand the nature of the duties of his office. Such duties do not partake of either the legislative or the executive. It is a judge's primary duty only to interpret and apply the law as he finds it whether it happens to be in accord with his personal conceptions of what the law ought to be or not. If he does otherwise, he arrogates to himself responsibilities not his, and demonstrates the unsuitableness of his temperament for judicial service.

There are other qualifications and limitations that lawyers should and do demand of, and prescribe for, their courts, but the ones suggested are fundamental. No judge should be satisfied to exemplify less, and no bar should tolerate less.

And now as to the practitioner. As with the judge, so with him; his conduct at all times must be the very embodiment of honor. With this as the controlling principle of a lawyer's private and professional life, he will not go far astray. But in amplification of the great fundamental requisite of sterling integrity, it is well for us to keep in mind a few of the most important refinements of professional conduct. A lawyer must always remember that he is a sworn officer of the court, and although he owes a sacred duty of faithfulness to his client, no exigency must ever be permitted to place him in a position where his conduct will be at variance with the obligations of his oath. Courts exist for the furtherance of justice and lawyers are a part of the courts.

Lawyers will at all times be courteous and respectful in their associates and with the courts. Cutting and caustic remarks made by one attorney to another in the trial of jury cases or elsewhere are unbecoming the profession and serve no good purpose. Any statement of fact made by a lawyer must be a verity and absolutely to be depended upon. Court papers or other valuable documents of whatever character when intrusted to a lawyer's care must be safeguarded by him with scrupulous care. All funds, not his own, coming into his hands will be promptly and properly accounted for by him. And, of course, no lawyer worthy of the

name will ever countenance for one moment the fabrication of testimony by an unscrupulous litigant or witness, nor will any lawyer with a proper conception of his profession be a solicitor of professional business.

Not only does the profession exact of a lawyer the fundamental requirements I have suggested, but, also, it is absolutely requisite that a lawyer's private walks of life be above reproach in all particulars. It is impossible that a lawyer be dissipated, improvident or reckless outside of his profession and at the same time measure up to proper standards in his profession.

Lawyers are not engaged in their profession for a mere past-time. It is a most serious undertaking and is their means of livelihood. If lawyers were not properly compensated for their work they would turn their attention elsewhere to earn a living. But while that is true, a lawyer who loves his profession and who has a full consciousness of the duties devolving upon him, and who really appreciates the opportunities and advantages afforded him, will in the end derive his greatest satisfaction, not from the fact that his professional career has provided him a living and possibly has enabled him to obtain a modest share of material wealth, but from a realization of the fact that he has kept the faith and proved himself at all times worthy of the confidence of all who knew him and has measured up in every respect to the high standards of his profession.