

SELECTIONS.

exclude the assumption on the part of attorneys when a judge appears to differ with them, either that he is unfair towards them or that he is unwilling to be convinced that he is wrong.

It is true that we are apt when we have studied a given proposition and convinced ourselves that it is perfectly clear, to conclude that he who does not see it as we do must be wilfully blind, and are apt when our feelings are deeply enlisted, to display some heat; yet we can at all events cultivate a respect for the honesty and fairness of intent of those who, by reason of their very position, must needs disappoint one party or the other. I would further exclude the assumption by lawyers that they have no interest in maintaining the dignity of the court. They are a part of it. It is there that they must fight their battles and achieve their triumphs or suffer their defeats. Can we not learn that it is better for us to strive in a courteous and dignified manner than to wrangle in such way as to convince others that we are not worthy of their respect, by showing them that we do not respect ourselves?

It is, however, an indisputable fact that the great burthen of responsibility for maintaining the dignity of the court rests primarily upon the judge who presides. In the first place, by his method of conducting business he can encourage and promote proper conduct in those who practise before him. No observant man can fail to see the vast influence for good or ill which the bench has over the manners of the bar. No bar will permit its members to treat discourteously a courteous and fair judge. The influence and authority of his position aid him greatly. He certainly has, too, great inducements to treat courteously and hear patiently those who practise before him. Under such circumstances a judge really gets the benefit of the lawyers' aid in building up his own reputation. Not only because his reputation is necessarily a part of that of the court, but also because under such circumstances lawyers will work with a will to honestly give to a judge the benefit of their best labour in collecting all the learning bearing upon a particular point, and in aiding him to a correct conclusion in each particular case.

It seems to me that a judge must have

a little tact if he cannot, even if he is elevated to the bench without possessing much learning, with the aid of a bar properly managed and encouraged, succeed in administering the duties of his high office in a learned and dignified manner, and acquiring an enviable reputation as a judge. Beyond this, the judge must so act as to secure the hearty and industrious co-operation of his bar, or the interests of justice suffer. No one who is fit to sit upon the bench will for a moment pretend that he knows so much that it is impossible for him to receive light from any lawyer who will study his case. It is impossible for any judge to decide his cases properly without the aid of the bar. I have no confidence in cases of any difficulty whatever, decided without full argument; nay, more, I have no confidence in cases decided without full oral argument. Those courts which are bringing into vogue the practice of dispensing with oral argument are, in my opinion, doing it at the expense of the destruction of a noble profession, and the ultimate irremediable injury of the science of the law. There is, there can be, no substitute for oral argument.

Says Judge Dillon: "As a means of enabling the court to understand the exact case brought thither for its judgment—as a means of eliciting the very truth of the matter, both of law and fact, there is no substitute for oral argument. None! I distrust the soundness of the decision of any case, either novel or complex, which has been submitted wholly upon briefs. Speaking, if I may be allowed, from my own experience, I always felt a reasonable assurance in my own judgment when I had patiently heard all that opposing counsel could say to aid me, and a very diminished faith in any judgment given in a cause not orally argued. Mistakes, errors, fallacies and flaws elude us in spite of ourselves unless the case is pounded and hammered at the bar. This mischievous substitute of printers' ink for face-to-face argument impoverishes our case law at its very source, since it tends to prevent the growth of able lawyers, who are developed only in the conflicts of the bar, and of great judges who can become great only by the aid of the bar that surrounds them."