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Digest These Thoughts

North Dakota Law Review Associate Editors

YOUNG LAWYERS

As we review the many bar association bulletins, journals and pamphlets that come to the desk each month we find many fine addresses and essays that ought to find their way into our own publication. Some day, perhaps, it will be possible to increase the size of Bar Briefs to include some of them. For the present, however, we can only summarize or quote a few paragraphs. We do such quoting from an article entitled "The Young Lawyer's Opportunity," published in the September issue of the New York State Bar Bulletin:

"The young men entering the profession are to a large degree right in reference to the failure of their seniors to practice what they preach. They see the ethical standards taught in the law school and professed by many older attorneys, cast to the winds. The young attorney is bewildered; he has been misled as to the actual ethical standards obtaining in the profession as a whole. He has been told one thing; he sees and experiences another. His youth forbids him from strenuously attacking conditions as he finds them; he waits the action of older and more experienced practitioners and of the bar associations and of the courts.

"And, in this frame of mind, he complains that the ideals of the profession are not being guarded and maintained by those charged with the duty to do so.

"He expects and is entitled to equal opportunity; he should not be obliged to enter the field under the handicap of unfair competition. Maybe the older members of the Bar have failed to see their duty to the profession or else, seeing it, have been too busy or too timid to courageously and vigorously deal with the existing evils.

"And, in return, a challenge is offered to the younger generation of the profession. They must offer themselves to fight for what they seek; what is worth having is surely worth striving for. If they want equal opportunity in the field in which they have fitted themselves by diligent study, they must be willing to do their part to attain it.

"They must assist in the promulgation of fair and reasonable ethical rules which will obtain public sanction and the approval of the vast majority of the Bar and at the same time be capable of strict enforcement.

"They must assist in providing definite machinery for the prompt, direct and efficient enforcement of the rules promulgated; they must urge and actually assist in the enforcement. . .

"But, regardless of all other considerations, all attorneys should agree that the profession should be protected against unfair and unethical competition, now and in the future. Our young attorneys have a wonderful opportunity to assume the leadership for the accomplishments of the future. Possessing the ability and ideals, they need only the courage to successfully overcome that of which they justly complain."

DIGEST THESE THOUGHTS

"In my view, multiplied judicial utterances have become a menace to orderly administration of the law. Much would be gained if three-fourths (maybe nine-tenths) of those published in the last twenty years were utterly destroyed. Thousands of barren dissertations have brought confusion, and often contempt. . . Hurried opinions and long dictated ones, when not laboriously revised, generally, have no proper

place except in the waste basket."—Justice McReynolds, U. S. Supreme Court.

"The spokesman of the Court is cautious—timid, fearful of the vivid word, the heightened phrase. He dreams of an unworthy brood of scions, the spawn of careless dicta, disowned by the ratio decidendi, to which all legitimate offspring must be able to trace their lineage. The result is to cramp and paralyze."—Justice Cardozo, U. S. Supreme Court.

"It takes more time to write an opinion than to examine the record, brief and authorities, and it takes more time to write a short opinion than to dictate a long one. If, therefore, written opinions are made discretionary, with more time at their disposal the judges will be able to spend more time in conference and in discussion, which will not only improve the quality of the opinions, but will expedite their rendition."—Maurice Saeta, Los Angeles Bar.

"When a judgment or decree is reversed or confirmed by the Supreme Court, every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the Supreme Court and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature."—Sec. 101, N. D. Constitution.

FATAL TENDENCIES

"All combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are of fatal tendencies."

That, again, has been quoted from the writings of George Washington, to whom we are becoming more and more accustomed to look for words of wisdom concerning any important subject concerning government.

The statement is extremely pertinent at this time. Years ago North Dakota endeavored to safeguard the independence of our judiciary by providing for non-political endorsement and election, but here we are, in this year, 1934, again confronted with dissertations in newspapers, which reflect the foundation for the "fatal tendencies" designated by George Washington.

Frankly, we state that we prefer a judiciary that will decide a case against us, when such decision represents the honest judgment of the members concerning the law on the subject, rather than to receive favorable consideration because we were part of an association, combination or organization that had the power to "direct, control, counteract, or awe" those members.

There can be no liberty worthy of the name, for any of us, unless the intellectual independence and integrity of the courts is preserved; and that intellectual independence and integrity cannot possibly be preserved if there is the slightest justification for fear of reprisal to enter into the "regular deliberation and action" of that all-important branch of our government, the judiciary.

As officers of the courts, we lawyers can take no middle ground.