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## Fatal Tendencies

North Dakota Law Review Associate Editors

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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.

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#### 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.