

## Editorial Announcement

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# EDITORIAL ANNOUNCEMENT

## Chief Justice Vinje

Chief Justice Vinje reached more than the three score and ten years of man's allotted time and died rich in the love and affection of friends and closed a career filled with worthy and notable achievement from its beginning to its close. He was a lovable man, filled with the milk of human kindness, modest, retiring, yet firm and courageous physically, intellectually, and spiritually. He had a very unusual type of mind. Its most distinctive characteristic was orderliness. At any given moment he could bring to bear upon the solution of a problem which he was considering all that the passing years had brought him. It seemed to come arranged in an orderly fashion without confusion and in definite form. As a consequence, he wrote clearly and vigorously. His opinions were clear, forceful, and scholarly and constitute a marked contribution to the development of the law. He was not much given to what is called fine writing though he had a very keen appreciation of the niceties of language and when occasion required it, he could express himself in the language of poetry and imagery.

His was not an aggressive personality. He won what came to him on merit rather than compelled it by fighting and strategy. It is said that his nomination as circuit judge came to him as a total surprise. He did not know that his name was under consideration by the governor for appointment to the Supreme Court until the appointment had been made and so throughout his career honors and recognition came to him instead of being sought by him. He had a profound knowledge of the fundamentals of law and was greatly attached to the principles of our constitutional government but at the same time was keenly alive to and clearly recognized the necessity for adaptation and growth in constitutional as well as in municipal law.

He was possessed of an unusual power of analysis as well as a broad and sympathetic understanding. He had a discriminating appreciation of the true, the good and the beautiful in the world about him. He had a profound sense of moral and spiritual as well as legal values. He brought all of this marvelous equipment to the administration of the law. His work as a jurist principally disclosed in his opinions to be found in fifty-three volumes of the *Wisconsin Reports* will win him increasing recognition and fame as the years go by.

MARVIN B. ROSENBERY

The entire legal profession feels acutely the loss consequent to the death of the late Chief Justice Vinje.

No man could be better fitted to express the splendid attributes of the late Chief Justice Vinje than his successor, Chief Justice Rosenberry.

No greater tribute could be paid to the memory of the late Chief Justice Vinje than to point out the almost obvious fact that Chief Justice Rosenberry's expression of accomplishments could be used as a goal and an aid to achievement by all lawyers.

### Schoetz Portrait Is Unveiled

The entire Marquette University Law School, its faculty, student body, and fraternities, with the friends of the late dean, Max Schoetz of the law school, realized one of its fondest ambitions on March 28, 1929. On this day the portrait of Dean Schoetz, which had been secured through the combined work of all of his many friends, was unveiled before the entire student body of the law school, Grimmelsman Hall. Mrs. Schoetz honored the school with her presence on this occasion, and many of the late dean's personal friends were present to pay homage to his memory. The portrait which had been painted by Frank Marasco, one of Milwaukee's well known artists, was presented by Mr. J. Maxwell Murphy, a friend and associate of the late Dean Schoetz. Mr. Murphy was the strongest factor in the work of securing this portrait for the law school. In his presentation speech he referred to many of the splendid qualities of Dean Schoetz which every law student could benefit by cultivating, and expressed the desire that the portrait would always be an inspiration.

Dean Clifton Williams appropriately presented the appreciative attitude of the students and thanked all of the friends of the late Dean Schoetz for the beautiful manifestation of their feeling. The Reverend McMahon, regent of the school, gave a short talk of appreciation.

The portrait will hang in Grimmelsman Hall.

### The "Marquette Law Review" as a Legal Clinic

A little more than one year ago the Marquette Law School was honored by being the choice of the Milwaukee Bar Association as the proper place to hold a series of meetings which were termed "legal clinics." The express purpose of these meetings was, "to make it possible that a lawyer who had found occasion in his practice to make a thorough study of some special subject or phase of the law, give the benefit of such a study to his fellow members of the bar." Benjamin Poss, the president of the Milwaukee Bar Association, was the one most prominently instrumental in bringing about these "clinics."

Undoubtedly the great good that was accomplished by these meetings has carried on and is still giving very material aid to the lawyers who wisely took advantage of the opportunity to attend. It is only

reasonable, then, to presume that these same lawyers and multitudes of others look anxiously for other opportunities to benefit themselves. The MARQUETTE LAW REVIEW is one of these opportunities.

The MARQUETTE LAW REVIEW, now in its thirteenth year, has since the beginning of its publication served the purpose of a "legal clinic." It was started with the same purpose claimed by the legal clinics of last year.

At no time other than the present would it be more appropriate for the LAW REVIEW to express its appreciation for the splendid co-operation which the lawyers whom it has had connection with have afforded it. It owes its success up to the present time to this co-operation which in turn was based on the realization of the contributors that the MARQUETTE LAW REVIEW did accomplish the purpose of a "legal clinic."

At this time we wish to refresh this realization in the minds of all lawyers and welcome any contribution they favor us with which they feel will be of distinct advantage and work toward the benefit of the profession.

### One Memorable Night

After the fashion of the old Indian tribes upon the eve of the elevation of the qualified youth of the tribe to the enviable rank of warrior, the elders and sages of the great bar of the state of Wisconsin met, on the night of March 23, with those on the threshold of the great adventure, and lent their wisdom to the youth who hope soon to become the warriors of the legal profession. The scene of the meeting was a great "council chamber"—the banquet hall of the Milwaukee Athletic Club—graced with the presence of dignified supreme court justices, judges, attorneys of note, and the law school faculty.

Immediately the feast was over, Kenneth Erion, president of the Freshman class, opened the program by reciting the tradition surrounding this annual affair; he then gave a toast to the class of '29, in whose honor this banquet was held, and presented Clifford E. McDonald, who presided as toastmaster the remainder of the evening.

Out of respect to the memory of Chief Justice Vinje, who unfortunately passed away the same afternoon, the assemblage stood with bowed heads for one minute.

Clayton Schram responded to the toast of the Freshman class in behalf of the Senior Law class of which he is president. Following Mr. Schram, our own dean, Mr. Clifton Williams, addressed the seniors. His remarks were brief, pointing out the huge deluge of laws meted out by the legislative "bill factories" each year. He asserted that it was impossible for the young practitioner to master the immense bulk of these laws, and suggested codification and unification as the only practical solution to the problem.

Attorney Max Nohl, president of the Milwaukee Bar Association, one of the most entertaining speakers of the evening, spoke on the subject of "Honesty."

James Taugher, alumnus, '27, also of the Milwaukee Bar, in his own inimitable style, ridiculed the expert medical witness, and thus lent levity to the program to balance the more serious trend of the remaining speeches.

Justice Marvin B. Rosenberry, the principal speaker of the evening, outlined the traits necessary to the successful practice of the law. His words were encouraging to the seniors, but he did not attempt to deceive them as to the hardships they will encounter. The requisites of success at the bar are character, proper training, and industry, said Justice Rosenberry. However, he stated that success in the practice of the law cannot be measured by financial return. To the contrary, success, one would infer from his remarks, is the accomplishment of self-ideals—the feeling of satisfaction one experiences from rendering meritorious service. Only by hearing Justice Rosenberry speak in his straightforward, businesslike and convincing manner can one possibly appreciate the inspiration to be acquired from his address.

Justices Crownhart, Doerfler, Judges Oscar Fritz and A. C. Backus were formally presented to the audience; and a special tribute was paid to Justice Eschweiler. The deep love, respect, and the popularity which Justice Eschweiler enjoys from his present and former students was demonstrated by a deafening and lengthy applause showing their accord with the tribute of the toastmaster.

The banquet brought to a close the social activity of the law class of '29, and will remain in the minds of those who were fortunate enough to be present, both students and alumni, as one memorable night.

STEWART G. HONECK, '29

### Commercial Arbitration

The following is a talk, a bit condensed, given by Mr. Harry S. Wollheim before the Civitan Club at one of their weekly luncheons at the Milwaukee Athletic Club, March 19, 1929, the subject of which is "Commercial Arbitration."

I have been studying the subject, commercial arbitration, for approximately nine years, more or less as an avocation. Perhaps one of the reasons why I have devoted much of my time to this topic may be found in the fact that it runs along parallel lines with my own profession.

Although no one has come forward with a clean-cut definition of commercial arbitration, we shall content ourselves with the best one available. In my opinion, it is the following: Commercial arbitration is a regular and recognized method, sanctioned and governed by law

for the determination of rights and the enforcement of remedies, by which a party aggrieved may ascertain and obtain all that he is entitled to from his opponent, without instituting an action in the courts of law.

Put in the language which all understand, it is a sort of gentleman's prize fight, without a lawsuit or boxing gloves.

In foreign countries, arbitration has been used for a number of years, and with great success. It has functioned with considerable efficacy in England, and has there taken much of the burdensome appellate work from the shoulders of appellate courts.

Commercial arbitration is not to be confused with labor arbitration; it has nothing to do with labor unions, or the problems arising between employer and employee. It deals entirely with business disputes arising daily, concerning itself with a number of phases of business such as sale, price, quantity, quality, delivery, transportation, and similar factors.

Arbitration has gained ground slowly in the United States. Our statutes have not accomplished the desired end. The reason is this: If you wanted to employ the arbitration laws as existing up to ten years ago and entered into arbitration to settle any business dispute, either party would have the right to withdraw from the arbitration at any time the progress of the arbitration did not meet with their approval. That made it an impractical tool. In England, and in a number of other foreign countries, particularly Germany and Holland, once the parties enter into arbitration they cannot withdraw.

The parties who enter into commercial arbitration are called disputants, not litigants. Successful and practical commercial arbitration prohibits either party from withdrawing during the pendency or at the conclusion of the proceedings. The parties must abide the award of the arbitrator. Appeal, however, may be had, from the determination of the arbitrator, because of errors of law, the same as appeal is granted from any judgment of a lower court.

As to the number of arbitrators, the more modern method is to have one who is selected by the parties to the dispute.

Commercial arbitration has been used in New York with eminent success. Herbert Hoover, while he was Secretary of Commerce, was one of the strongest advocates of commercial arbitration. In the foreword to the work, *Yearbook on Commercial Arbitration*, prepared by the American Arbitration Association, the then Secretary of Commerce extols the merits of commercial arbitration very highly.

This book deals entirely with the progress of commercial arbitration made in the United States and classifies it by industries.

William Hayes, when appointed the official "Judge Landis" of the motion picture industry, became interested, through the efforts of the American Arbitration Association, in commercial arbitration. Applying arbitration to this industry, Hayes succeeded in avoiding almost completely the troubles of lawsuits between producers and distributors of motion pictures.

Commercial arbitration in no sense attempts to tear down the judicial structure, but, in the contrary is a positive help in the functioning of the courts.

Very often a lawsuit leaves bitter feeling in its wake in the minds and hearts of the litigants, thereby creating friction between business

men, which should not, for the well-being of trade, at all exist. Commercial arbitration, in contrast, leaves the parties, at the termination of the proceedings, amicably disposed towards each other.

Arbitration is handled like this: The parties agree to submit their dispute to arbitration, signing an agreement to arbitrate. The parties agree as to whom the arbitrator shall be. To aid them in this selection each party has an official list of arbitrators on file, men who are outstanding leaders in their line. The parties can thereby select an expert in the phase of industry around which the dispute centers itself. The proceeding is exactly as it is in a court of law. Both parties have the right to be represented by counsel. Arbitration courts have exactly the same power to subpoena witnesses and require the production of papers for examination as ordinary law courts. The only difference is that the judge who sits in the proceeding (the arbitrator) is an expert in the particular phase of industry out of which the disagreement arises.

A great many lawyers have a misconception as to the results of the prevalence of commercial arbitration. Without understanding the nature of arbitration and its effects, they oppose it, feeling that it will deprive them of necessary work. As a matter of fact, it will have just the opposite effect, and will allow lawyers to earn their fees more rapidly, efficiently, and easily.

An arbitration bill was introduced in the Wisconsin legislature on March 4, 1929, and is now before the judiciary committee. It was introduced by the American Arbitration Association in the legislatures of the various states so business men can take advantage of the salutary principles of arbitration and reap the harvest of better business.

#### BIBLIOGRAPHY ON COMMERCIAL ARBITRATION

*Suggestions for the Practice of Commercial Arbitration in the United States*, prepared by the American Arbitration Association. Oxford University Press.

*Yearbook on Commercial Arbitration*, prepared by the American Arbitration Association. Oxford University Press. Foreword by President Hoover.

*Commercial Arbitration and the Law*, by Julius Henry Cohen, a very prominent New York Lawyer (written about eight or nine years ago; annotated like a lawbook).

The report of this talk of Mr. Wollheim's clearly demonstrates that it will be to the benefit of all lawyers to follow whatever opportunities they may have to further enlighten themselves on the subject of commercial arbitration. With this in mind the LAW REVIEW takes great pleasure in announcing that the June issue of the LAW REVIEW, Vol. 13, No. 4, will contain an article on some particular phase of this subject especially interesting to the members of the legal profession. Mr. Wollheim is splendidly qualified to present the legal profession with the information which they desire being, as he is, the chairman of the Commercial Arbitration Board of Milwaukee.

RAYMOND FORD