

Editorial Announcement

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EDITORIAL ANNOUNCEMENT

Open Forum? Yes

The MARQUETTE LAW REVIEW has always had as its aim the presentation to its readers, for their consideration, new law or recent changes in old law.

Frequently these laws arise from a legal conflict in which the members of the bar are split. Insofar as the individual members of one faction or another are able to present the *law* upon the question the MARQUETTE LAW REVIEW is eager to co-operate. The MARQUETTE LAW REVIEW does not support any issue itself. It is a willing medium through which the law can be presented to the bar. Whenever the MARQUETTE LAW REVIEW presents one side of a legal matter, either based on law or giving rise to new law, the best man available is chosen to write on the particular subject and the *writer*, not the REVIEW, presents his opinion.

Anyone is welcome to do likewise, provided their opinion is given substantial foundation by reference to the *law*.

Eschweiler Bust Dedicated to School

PRESENTATION ADDRESS AT THE CEREMONIES DEDICATING THE BUST OF
JUSTICE FRANZ C. ESCHWEILER, PRESENTED TO MARQUETTE
LAW SCHOOL BY MEMBERS OF THE ALUMNI

By JAMES MAXWELL MURPHY, '26, *Member of the Milwaukee Bar*

We are met today in this Gothic hall to honor one whose admirable qualities of mind and heart secured our devotion and respect from the very moment of our meeting with him. A devotion and respect which grew steadier and sturdier as time wore on and we were increasingly warmed in the bright flame of his personality. When first we came under his sway we viewed him with the impressionable eyes of students. Students are notoriously hypersensitive and hypercritical, swift to love but swifter to hate. These are their prerogatives. Yet who in Marquette had ever heard of one who did not love Justice Eschweiler? Where is the man who would not have performed the classic sacrifice of putting a hand in the fire for him? As with the student so with the seasoned alumnus. The years have but served to solidify our devotion to him. He is no longer a mere man to us but an institution—his devotees a cult. And so we have chosen to pay him this happy tribute while he is still lusty with life, rich in the possession of mental vigor, rather than to wait, in the mournful fashion of the world, for that sad moment, when fulsome panegyrics fall upon unhearing ears. In so doing we will offend his notable humility. But what we offend we cannot impair. Modesty such as his, tempered in the fiery forge of

life, will quickly perceive that the compliment of this ceremony is as natural a manifestation of genuine affection as the filial devotion of a son for a father.

Tributes great and small are the perquisites of worldly success. Every year and every day memorials are erected to those leaders, who by word and example point the true way of life to the less intelligent and less articulate members of society. Such monuments range in grandeur from the imposing mass of a classic temple to the humbler tablet of bronze making some place or timing some event. I feel confident in stating that no one of them was ever projected and planned with a greater show of spontaneous enthusiasm than this. From the moment of its inception, contributions poured in, and what was more remarkable, such contributions were accompanied by letters so touching that they almost affected one to tears. They were composed, nearly all of them, with that simple earnestness which reveals itself in composition, where the hand is directed by the heart. Touched by their contents, I had them bound and presented them to Justice Eschweiler. It is a characteristic of the man that he has not read them to this day. Nor I fear will he ever peruse them. Since he will not learn from them of the love and loyalty which his character has commanded, I as their representative, would be remiss in my duty, if I did not give utterance to the affectionate sentiments of the hundreds of absent friends and alumni whose generosity made this bust possible.

We chose this medium as being the most appropriate one for our tribute to take and we did so with good reason. Sound precedent dictated that it should be a portrait bust. Such figures have been the symbols of man's regard for man throughout the ages. We see them in the museums and art galleries of Europe and America, dating in antiquity from ancient Greece where Sappho loved and sang. Mute but dignified reminders of the glories of the ages—links between the living present and the dead past. Nothing that the feeble hand of man could fashion has been more enduring than his effigies. In them we can trace the rise of western civilization following it through all its vicissitudes. In them are reflected the triumphs and tragedies that have accompanied human pride. Numerous iconoclastic movements have failed to destroy them. They remain the mile posts of the march of time.

We have seen then that they serve an important intellectual purpose, they also teach a moral lesson. They are constant reminders of the transitory and untenable character of human life, of its brevity and ceaseless struggle. They tend to humble us, for standing before them and tracing their often ancient legends, we are forced to the realization of our own comparative insignificance.

Scores of generations will follow us in this hall. When these supporting beams are black and hoary with age, when the tiles of this marble floor are hollowed and worn by countless footsteps, students will sit in this room. The externals of life will then have changed and the vaunted novelties of today will seem to them both archaic and amusing. But human thought and human nature will not have changed. Theirs will be the same joys and sorrows that we know. Theirs the same ceaseless struggle. They will live out the happy period of their legal education within these four walls. They will see this bronze. They will pause before it to marvel and to ponder. They will regard it with curiosity and with awe. From it they will learn the things that I have enumerated; from it they will draw inspiration to themselves; in it they will have a definite link with the always memorable past—each man according to his lights.

Educators, together with men high in public life and the private professions, constantly stress the importance of humanitarian service. They urge the youth of the land to wear the armour of idealism and walk in the path of righteousness. They adjure us to treat with scorn the mere and sometimes sordid pursuit of money. Few of them practice what they preach. The man whom we honor here today is of a different stamp. While scrupulously adhering to their doctrine, he is content to let example be his pulpiter. That his example has influenced countless young men is undeniable. But in addition he personifies the favorite American theory that the high places of the land are for him who has the courage and ability to attain them. "Through hardship to the stars," has been his motto but while he trod that rough road his hand was ever outstretched, not as is so often the case, to repulse others less bold or less skillful, but rather to lift them up and help them on their way.

Justice Eschweiler's early life contained enough struggle and hardship to gratify the heart of any contemporary purveyor of the literature of heroics. He was compelled to make his own way and he attacked it with that dogged persistence and ceaseless energy which have always been his weapons. Being an American he felt that an education was his due but he did not entertain the delusion that the world owed it to him. Michigan and Iowa State Universities were the scenes of his preparatory education and the United States railway mail service knew him for long years before he was called to the bar. Weary years they must have been. His was the arduous pursuit of a dual occupation. To perform a man's work for a part of the day, and then when the body was languid and the mind sluggish, to flog the spirit on and make it do a scholar's work as well. Some men would have been calloused, many men disheartened by such an experience. But he laid his founda-

tion true and well. Painfully bit by bit he erected the structure that was to carry his weight, until he could reach up and pluck from its stalwart branch, the fruit of his vision.

The bar received him in 1880 and he soon became one of its outstanding advocates. During the honorable career that followed his tenacity and his fearlessness captured the attention and evoked the admiration of all beholders. None understood better than he the nature of the counsellors oath. None lived more rigidly to the letter of that thrilling paragraph of conclusion which declares: "I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice." He did not need the rod of the moralist or the whip of the law to regulate his conduct. His concept of ethics springs from a mystic sense within himself and is amply illustrated by a statement I once heard him make: "A lawyer's conduct should be regulated by a sense of morality seated within himself and not by legislative enactment." A bright picture of him is best seen through the eyes of his surviving contemporaries of his period at the bar. Without exception they hold him in high affection and esteem. In 1910 he sought and received the accolade of the voters in the form of a circuit judgeship, and so satisfactorily fulfilled the duties of that exacting office that in 1916 his career was crowned with a seat upon the highest tribunal in the state of Wisconsin. There he has distinguished himself time and again by his unwavering allegiance to truth and justice. There he has made new law as well as legal history. There he provokes thought and admiration by his logical, just and often dissenting decisions. There he sits today, zealous as ever for the right, presiding over the destinies of litigants, respected and revered.

Not often can it be said of a public character: His politics is the purest thing about him. Nor is politics ordinarily a seemly subject for discussion in an address of this kind. But political parties, characters, and politics are subjects of interest to almost every lawyer. The chief offices of the state and nation are almost always in the hands of members of the legal profession. This is so because a lawyer's training is peculiarly fitting to leadership in the public service. Judge Eschweiler has long been disassociated from the hurly-burly of political strife. At that moment when he ascended the steps of the dais and the judicial mantle fell across his shoulders, his ears were closed to the cacophony of contending parties. But though Justice Eschweiler thenceforth became deaf and mute, Citizen Eschweiler's mind continued to address itself to problems of state.

From the beginning he had been of those strange purists in American politics, a convinced Democrat. A careful student of the immortal philosophy of "St. Thomas of Montecello," he lived its logic. It was

easy then for him to embrace the cause of liberalism, but his liberalism identified itself in the progressive onslaught with that faction of Democracy which held individual liberty dearer than the paternalistic panacea. He learned his Jeffersonian lesson so well that today the applied philosophy of the greatest of Democrats glows through his decisions. His reasoning is never humdrum, his opinions never dull.

What principally concerns us here however, is his association with Marquette Law College. For nineteen years he has been a devoted and honored member of the faculty. During this long period he has freely and gladly given of his time and effort to the upbuilding of the institution where we now meet. He has been ever ambitious for it, ever watchful of its interests. The satisfactory position it now holds in that smart galaxy of schools of the first class on the North American Continent, is due in no small measure to his careful counsel and sage advice.

During all these years, in fair weather or in foul, in sickness or in health, he has made his weekly pilgrimage to the "Hilltop," first from his chambers in the law courts, latterly from the distant capital. Exact-ing effort grown more difficult with the years. Sacrifice made at the expense of time and strength so that he might give of his knowledge and experience to the young men who eagerly throng his lectures. Nor does his interest in his listeners cease with the closing of his notebook. Not a man among them who has not gone or cannot go to him with problems of the most intimate nature or who does not gain from him a sympathetic ear and a benign understanding.

Marquette has not been an institution for the sons of the rich and powerful and but few of them sparsely scatter in the ranks of her students. Her favorite sons are the eager and needy. She is the foster mother of the children of the plain people. She welcomes them with open arms, secures employment for them, watches over them and pours into their thirsty minds the pure stream of her unpolluted learning. She blesses them and sends them forth on equal terms with the more favored sons of fortune's caprice. But Marquette is also aristocratic and she scorns to pander to the changing foibles of a mutable world. She dwells in the cool shade of the Gothic tradition. Her spires and towers point to God. Her destiny lies in the capable hands of men whose predecessors carried the bright torch of learning northward from sunny Salamanca to plant it upon the snow clad slopes of Upsula—the utterances of whose philosophers resounded across the plains of Europe from Innsbruck to Louvain and back again. They were the advance guard of the army of learning. Stalwart sentinels of truth—the centuries are crowded with their shades.

For reasons that are obvious, Judge Eschweiler has always been at

home in this atmosphere. He loves a struggling earnest student with an affection born of the remembrance of his own early struggles; he loves justice and hates inequality; he loves truth and despises mendacity. He perceives that the world with its pernicious belief in the survival of the fittest is grossly partial to the few at the expense of the many. He has devoted himself insofar as it was within his power, to the amelioration of such an unfair condition of things. He sees more clearly than most men the spirit of aristocracy in this institution because he is an aristocrat himself as only a true democrat can be an aristocrat.

Not one among the alumni but does not recall his classes with longing and regret. The hurried walk across the muddy yard to the old law school, the passage through its musty library and up the creaking narrow stairs. The elongated classroom with its battered benches and inadequate light. The scramble for seats near the front. The babel of voices raised in chatter as we awaited the coming of the judge . . . chatter that suddenly ceased when he made his entrance. Who does not recall his always cheery introduction to the assignment of the day, his friendly and benevolent glance; the seriousness of his expression as he explained the intricacies of the law of torts? On and on for three long hours, but never a man who wanted to leave, never a vestige of disorder. And when the time had come to part we turned away drearily, and wished for the coming of the next week when he would be back again.

He is a great man as only simple men can be great. In presenting the bust, Worshipful Dean, I can best epitomize all our feelings by pointing to the inscription on the pedestal—

Justice Eschweiler, "Beloved of the students,
their friend and counselor."

The State Bar Goes to Milwaukee

The State Bar Association is glad to return to Milwaukee this year for its annual convention after an interval of nine years, having last met there in 1920. The time of the meeting will be June 27, 28, and 29 and the place of the meeting will be the new Pfister Hotel.

For the first thirty-four years of its existence the State Bar Association met uniformly either at Milwaukee or Madison, but in 1912 the policy of meeting in various small cities about the state was adopted. This plan has proven successful and has helped to build up our membership.

However, Milwaukee commends itself to us as a meeting place for many reasons. First, it is the metropolis of the state, beautifully located on the shores of Lake Michigan, from which the cool breezes

are most likely to be quite welcome at the time of the meeting. Second, the Milwaukee Bar Association is the largest and strongest local association in the state. It is affiliated with the State Bar Association and its numbers comprise about one-third of the total membership of the state bar. As all of the members of the Milwaukee Bar Association will be on the ground, and will, no doubt, be in attendance upon our sessions owing to the convenience of our meetings, and because it is expected that Milwaukee will attract a large number of members from about the state, we are expecting by far the largest attendance at this convention of any in our history.

The program committee, headed by President Dempsey, has decided upon attracting and interesting the younger lawyers by selecting subjects of practical value to them. An unusual wealth of material has presented itself so that we think every lawyer in the state, young and old, will find therein something to interest and draw him to the meeting.

Notice particularly the three subjects selected for round table discussions: Method of Conducting Local Bar Associations, including discussion of fee bill and schedule; Congestion of Business with Supreme Court and Possible Remedies; Some Aspects of Law Office Management and Practice; and following each, three addresses by experts on very practical subjects which are seldom, if ever treated in textbooks or taught in the schools—practice before the Industrial Commission, Railroad Commission, and common errors made in filing corporation papers. In his address President Dempsey will deal with the compensation of attorneys—certainly a very interesting and vital subject to all. At least three other speakers of note will be heard. Justice Faville, of the Supreme Court of Iowa is said to be an unusually interesting and forceful speaker; likewise Charles P. Megan, of Chicago.

The banquet speaker will in all probability be the Honorable J. Ham. Lewis, of Chicago, well known for his oratory and always sure to have an interesting message which he will deliver in an interesting and compelling manner.

Last, but certainly not least, we are expecting Senator Thomas J. Walsh, the aggressive and progressive Democratic Senator from Montana, who is a former Wisconsin man, to address us, providing the extra session of Congress, now convened, does not prevent him from doing so. More definite announcement on this subject will be made later.

The program will be interspersed with informal receptions, lunches, etc., to enable members to mingle socially and become better acquainted. These will be arranged by the Milwaukee Bar Association.

At least one of the luncheons will be complimentary. These will be accompanied by music and other entertainment. Ladies are invited. A special program is being arranged for their entertainment. Mrs. George E. Morton, Empire Building, Milwaukee, is chairman of the local committee on arrangements. Nothing, within reason, will be spared to satisfy all of your expectations as to both instruction and entertainment at this greatest of all Wisconsin bar conventions. Make your reservations now and do not fail to be on hand at the time scheduled, June 27, 28, and 29, 1929.

GILSON G. GLASIER

Secretary of the Wisconsin State Bar Association