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Justice Roujet D. Marshall of the Wisconsin Supreme Court

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EDITORIAL

The stress of the present times that has affected the country has also had its effect upon the law school at Marquette University. This is readily appreciated by a glance at the ever-growing honor roll. Consequently, the *Review* has felt the pinch, and this, to a great extent, has been the cause of the delay in the publication of this number. So much of our contributors' time has been taken up by national matters that it has been impossible for them to have their articles on schedule time. We realize this fact and are extremely grateful to these men for their co-operation and assistance. We have the promise of many throughout the state for articles on timely and interesting subjects which will be published in the forthcoming issues.

Strenuous as the times have been, there are many who have not put their shoulder to the wheel and done their bit in these hours of need. This fact was apparent at the legal advisory work. Although the majority gladly and willingly gave their time for this work, there were some who could not spare an hour in their country's aid. Such men not only put the legal profession in disrepute, but are Benedict Arnolds and should be branded as such. The American Dollar is dear to their hearts, but undoubtedly to such ilk the German Mark would be just as acceptable.

In this number we are publishing an appreciation by Hon. E. V. Werner, of the services rendered by Justice Marshall while a member of the Supreme Court of Wisconsin. We are also publishing articles by City Attorney Clifton Williams and Mr. Howard A. Hartman.

It is the purpose of the *Review* to act as a medium of the bench and bar, through whose columns their opinions on questions of merit will find expression and open the way to a beneficial discussion. We, therefore, heartily extend the pages of the *Review* to the bench and bar for this purpose.

JUSTICE ROUJET D. MARSHALL OF THE WISCONSIN SUPREME COURT

On January 7, 1918, Justice Roujet D. Marshall retired from the Supreme Court of Wisconsin, after twenty-two years and five months active, conscientious and faithful service rendered to the great state of Wisconsin as one of the master builders upon Wisconsin's Temple of Justice.

His record on the Supreme Bench demonstrates the fact that he has been one of the leading factors in molding the laws and decrees of this state, which now receive national recognition by the bench and bar of America.

Justice Marshall prior to his elevation to the Supreme Bench was Circuit Judge of the Eleventh Judicial Circuit of Wisconsin. On the death of the late Chief Justice Harlow S. Orton, which occurred July 4, 1895, Justice Marshall was appointed by Governor William H. Upham to fill the vacancy. He was elected in April, 1896, to fill the unexpired term of the late Chief Justice and in April, 1897, was elected for a full term; both times without opposition.

Justice John B. Cassoday succeeded the late Chief Justice Harlow S. Orton as Chief Justice of said Court.

When Justice Marshall assumed his duties on the Supreme Bench, August 5, 1895, the personnel of the Supreme Court consisted of John B. Cassoday, Chief Justice; John B. Winslow, Silas U. Pinney, Alfred W. Newman and Roujet D. Marshall, associate justices of said Court. Since August 5, 1895, many changes in the personnel of the Appellate Court were wrought. The late Justice Alfred W. Newman, Charles V. Bardeen, Silas U. Pinney, John B. Cassoday, Robert M. Bashford, William H. Timlin, who were associate members with Justice Marshall during his term, have passed away. They were all master builders in the Temple of Justice and severally left their peculiar impress upon the jurisprudence of our state. Chief Justice John B. Cassoday died December 30, 1907, and Justice John B. Winslow succeeded as Chief Justice of the Supreme Court.

JUSTICE MARSHALL

During Justice Marshall's term of office as justice, Justice John B. Barnes and Justice Joshua Eric Dodge, both now residing at Milwaukee, Wisconsin, were his associate members on the Supreme Bench, both having resigned their office as Justice of the Supreme Court. The number of judges on the Supreme Bench were increased from five to seven by virtue of an amendment to the constitution of this state in 1903. Chief Justice John B. Winslow, Justices Aad J. Vinje, Robert G. Siebecker, James C. Kerwin, Marvin B. Rosenberry and Franz C. Eschweiler, were associated with him.

The first opinion rendered by him in the Appellate Court was in the case of *Nicholson vs. Coleman*, published in Volume 90 of Wisconsin Reports, page 639. Due to the rapid growth of manufacturing industries in the state of Wisconsin, and the progressive legislation of the state, the volume of litigation in the Appellate Court kept pace with the times and advancement of the state and nation.

Wisconsin Supreme Court Reports constitute a permanent public record from which counsel is expected to make first choice in citing precedents applicable to their case. These reports are not evidence of all the earnest, faithful and conscientious judicial labor of the members of the Appellate Court. There is, however, a co-operation on the part of these great jurists in disposing of the cases submitted. Many cases where the issues raised are controlled by elementary and fixed precedents and lower court is affirmed the case is not published in these reports. The layman will never realize nor fully appreciate the labor performed and time necessarily occupied in construing the evidence and law in each case presented on an appeal to this great court.

Since Justice Marshall served on the Bench, seventy-six volumes of Wisconsin State Supreme Court Reports have been published. The total number of volumes published up to January 1, 1918, consists of the three Pinney Reports and 165 Wisconsin Reports. As appears from these seventy-six volumes, Justice Marshall has written 1,317 opinions, and with his associate members, 14,814 cases were decided and reported, covering 51,139 pages. These records have and bear the earmarks of the labor, industry and valuable judicial services rendered by him.

June, 1917, the Wisconsin State Bar Association elected him president of the Association and many comments of praise and laudable commendation of this great jurist were current and profusely and earnestly poured from the lips of the members of

the bar. Universally it is, and has been conceded that Justice Marshall has a mind that is in the highest sense judicial; bent on giving equal and exact justice to every citizen. That his convictions of right are so strong that no mist of passion could dim his mind's vision; no temporary tumult could affect its serenity; and no thought of consequence could swerve it from its course. As one of the great master builders in Wisconsin's Temple of Justice he has attained an enviable record and reputation. His record is forever written in seventy-six volumes of the Wisconsin Supreme Court Reports, placing Wisconsin in the front rank of the American states as far as quality of its jurisprudence is concerned. On every page of his written opinions there is a convincing evidence of the moral and intellectual greatness of the author, and every volume bears witness to his constant effort to realize the ideal of equal and exact justice.

His esteemed judicial service rendered on the Supreme Bench of this state, and his enviable record has built for him a vast and splendid monument, upon which the bench and bar may gaze with admiration forever. The members of the bar may well receive constant inspiration of the highest ideals of legal principles and legal ethics gleaned of and from the opinions of this renowned exponent of legal jurisprudence. His opinions aid and assist the circuit bench and bar of this state in the administration of the law.

The painstaking and explicit manner in which he drew each opinion is forcibly demonstrated in the case of *Stafford vs. Chipewewa Valley Electric Railroad Company*, 110 Wisconsin 331-359. It was his usual and customary habit to recapitulate the points decided in a very concise, accurate manner for the purpose of definiteness and the benefit of greater facility for ready reference. This commendable manner is also prominent in the case of *Harrigan vs. Gilchrist*, 121 Wisconsin 137 to 461. Members of the bar who have not thoroughly read these cases have neglected their duty.

Justice Marshall, may he be rewarded by a self-consciousness of the actual, sincere appreciation his associates, friends, the circuit bench, the bar and the citizens of this state cherish for his valuable judicial services rendered to this commonwealth.

His worthy life and distinguished public service is a great honor to him and constitutes an important part of the history of the state of Wisconsin.

HON. E. V. WERNER.