

Four-to-Three Decisions

4-3 Alignments

Justices	Total	Case Names
Wickhem, Fairchild, Fritz, Nelson	1	<i>Merritt v. Great Northern Life Ins. Co.</i>
Fritz, Rosenberry, Fowler, Nelson	1	<i>Patterson v. Chicago, S. P. M. & O. R. Co.</i>

4-3 Membership in the Majority

Justice	Votes
Wickhem	1
Fairchild	1
Fritz	2
Rosenberry	1
Fowler	1
Martin	0
Nelson	2

4-3 Majority Opinions Authored

	Opinions
Wickhem	0
Fairchild	0
Fritz	1
Rosenberry	0
Fowler	0
Martin	0
Nelson	1
Total	2

Decisions by Vote Split¹

7-0 (or 6-0, 5-0) 292/305 (96%)	6-1 8/305 (3%)	5-2 3/305 (1%)	4-3 2/305 (1%)
<i>Wisconsin Employment Relations Board v. Milk & Ice Cream Drivers, etc.</i>	<i>Miller v. Wisconsin Dep't of Taxation</i>	<i>Scandrett v. Worden-Allen Co.</i>	<i>Patterson v. Chicago, S. P. M. & O. R. Co.</i>
<i>State ex rel. Department of Agriculture v. McCarthy</i>	<i>State ex rel. Lathers v. Smith</i>	<i>State ex rel. Department of Agriculture v. Marriott</i>	<i>Merritt v. Great Northern Life Ins. Co.</i>
<i>Du Bois v. Johnson</i>	<i>Waushara County v. Calumet County</i>	<i>Schmidt v. Milwaukee E. R. & T. Co.</i>	
<i>Fauerbach v. Dane County</i>	<i>Nick v. Holtz</i>		
<i>First Wisconsin Trust Co. v. Wisconsin Tax Com.</i>	<i>Lakelands, Inc. v. Chippewa & Flambeau Improv. Co.</i>		
<i>Friedrich v. Zimmerman</i>	<i>Oesterreich v. Claas</i>		
<i>Garrity v. State</i>	<i>Ed. Schuster & Co. v. Steffes</i>		
<i>Hoffman v. Labutzke</i>	<i>Krueger v. Industrial Com.</i>		
<i>Hromek v. Gemeinde</i>			
<i>In re Porter's Estate</i>			
<i>Morgan v. Potter</i>			
<i>Newlander v. Riverview Realty Co.</i>			
<i>Ollmann v. Kowalewski</i>			
<i>Remington v. Wood County</i>			
<i>State ex rel. Sottile v. Mensing</i>			
<i>Union Falls Power Co. v. Marinette County</i>			
<i>Ziegler v. Hustisford Farmers' Mut. Ins. Co.</i>			
<i>Estate of Joyce v. Scott</i>			
<i>State ex rel. Morgan v. Fischer</i>			
<i>Albright v. Weissinger</i>			
<i>Beck v. First Nat'l Bank</i>			
<i>Estate of Rasmussen v. Jensen</i>			
<i>Fultz v. Lange</i>			
<i>In re Massey's Estate</i>			
<i>Marathon Finance Corp. v. Matheos</i>			
<i>Allen v. Trepte</i>			
<i>Buchanan v. Wolfinger</i>			
<i>Burling v. Schroeder Hotel Co.</i>			
<i>Donovan v. Theo. Otjen Co.</i>			
<i>Estate of Briese</i>			
<i>First Nat'l Bank v. Barnes</i>			
<i>Goff v. Yauman</i>			
<i>Hartzheim v. Smith</i>			
<i>Healy v. Fidelity Sav. Bank</i>			
<i>Hoan v. Journal Co.</i>			
<i>Holzworth v. State</i>			
<i>In re Fick's Estate</i>			
<i>J. C. Penney Co. v. Tax Com.</i>			
<i>Levin v. Grant</i>			
<i>Magoon v. Motors Acceptance Corp.</i>			
<i>Pick v. Wesbar Stamping Corp.</i>			

(continued on following page)

¹ Due to rounding, the percentages do not add up to one hundred. In few instances, a justice authored a separate opinion that concurred in part and dissented in part. For this and other tables, each such vote has been categorized as either a dissent or a concurrence according to the following guidelines. If a justice's opinion dissented from the result on one or more issues, it was classified as a dissent. If the opinion concurred with the result on all issues but disputed the majority's reasoning on one or more issues, it was classified as a concurrence.

WISCONSIN SUPREME COURT DECISIONS, 1940-41

<i>State ex rel. F. W. Woolworth Co. v. State Board of Health</i>			
<i>State ex rel. Patch v. Circuit Court of Fond Du Lac County</i>			
<i>Todorovich v. Kinnickinnic Mut. Loan & Bldg. Ass'n</i>			
<i>W. H. Miller Co. v. Keefe</i>			
<i>Weber v. Barrett</i>			
<i>Whitmore v. State</i>			
<i>Hartford Accident & Indem. Co. v. Worden-Allen Co.</i>			
<i>Jeske v. Hotz Mfg. Co.</i>			
<i>Knutson v. Rock County</i>			
<i>Litzen v. Eggert</i>			
<i>Pardeeville Electric Light Co. v. Public Service Com.</i>			
<i>Banschbach v. Meuer</i>			
<i>Blake v. Madison</i>			
<i>Burroughs Adding Machine Co. v. Tax Com.</i>			
<i>Cranston v. Railway Express Agency, Inc.</i>			
<i>Eberlein v. Industrial Com.</i>			
<i>Frank v. Kluchesky</i>			
<i>Goerlinger v. Juetten</i>			
<i>International Union of Life Ins. Agents, etc. v. Wisconsin Labor Relations Board</i>			
<i>Klade v. Palmer</i>			
<i>McLoughlin v. Malnar</i>			
<i>Mead v. Richland Center</i>			
<i>Metropolitan Life Ins. Co. v. Wisconsin Labor Relations Board</i>			
<i>Miller v. Washington Nat'l Ins. Co.</i>			
<i>Miller v. Yorkshire Ins. Co.</i>			
<i>Morrison v. Board of Education of West Allis</i>			
<i>Nelson v. Madison Lutheran Hospital & Sanatorium</i>			
<i>Northern States Power Co. v. Tax Com. of Wisconsin</i>			
<i>R. F. Gehrke Sheet Metal Works v. Mahl</i>			
<i>School Dist. v. Callahan</i>			
<i>Seelig v. Ripon</i>			
<i>State ex rel. Bollenbeck v. Shorewood Hills</i>			
<i>State v. Dingman</i>			
<i>Stecher v. State</i>			
<i>Stott Briquet Co. v. Superior</i>			
<i>Tesch v. Board of Deposits</i>			
<i>State ex rel. Department of Agriculture & Markets v. Gagnon</i>			
<i>Voelz v. Spengler</i>			
<i>Bay Oil Co. v. Vilas</i>			
<i>Becker v. Smith</i>			
<i>Boynton Cab Co. v. Giese</i>			
<i>Boynton Cab Co. v. Neubeck</i>			
<i>Boynton Cab Co. v. Schroeder</i>			
<i>Fronhaefer v. Richter [237 Wis. 282]</i>			
<i>Fry v. Integrity Mut. Ins. Co.</i>			

(continued on following page)

WISCONSIN SUPREME COURT DECISIONS, 1940-41

<i>Milwaukee Accredited Schools of Beauty Culture, Inc. v. Patti</i>			
<i>Moratto v. Harper</i>			
<i>Prodoehl v. Cudahy</i>			
<i>Reynolds v. Ashland</i>			
<i>Schmallenberg v. Smith</i>			
<i>State ex rel. First & Lumbermen's Nat'l Bank v. Board of Review</i>			
<i>State v. Tucker</i>			
<i>State v. Unger</i>			
<i>Zimmer v. Sundell</i>			
<i>Zoellner v. Kaiser</i>			
<i>Carpenter Baking Co. v. Bakery Sales Drivers Local Union</i>			
<i>La Forge v. State Board of Health</i>			
<i>In re Devereaux's Guardianship</i>			
<i>Interstate Credit Corp. v. Ellsworth</i>			
<i>Ledvina v. Ebert</i>			
<i>Morse Chain Co. v. T. W. Meiklejohn, Inc.</i>			
<i>Beer v. Strauf</i>			
<i>Cleveland v. Tepaske</i>			
<i>Estate of Bryngelson v. State Bd. of Control</i>			
<i>Guardianship of Henes'</i>			
<i>Hustad's Estate</i>			
<i>Kniess v. Jefferson Const. Co.</i>			
<i>Lisbon Town Fire Ins. Co. v. Tracy</i>			
<i>Milwaukee E. R. & L. Co. v. Public Service Com.</i>			
<i>Quinn v. Ellenson</i>			
<i>Schmitz v. Schulenburg</i>			
<i>Schuetz v. Schuetz</i>			
<i>State ex rel. Fess v. Mackenzie</i>			
<i>State v. Burns</i>			
<i>State v. Crabtree</i>			
<i>Tracy v. Malmstadt</i>			
<i>Wichman v. Industrial Com.</i>			
<i>Allen-Bradley Local, etc., Workers of America v. Wisconsin Employment Relations Board</i>			
<i>Batura v. Schwersinske</i>			
<i>Losching v. Fischer</i>			
<i>Plautz v. Kubasta</i>			
<i>Van Rite v. State</i>			
<i>Archer Ballroom Co. v. Great Lakes Casualty Co.</i>			
<i>Bahr v. Evangelical Luthern St. John's Soc.</i>			
<i>Brown v. Industrial Com.</i>			
<i>Carthaus v. County of Ozaukee</i>			
<i>Central Wisconsin Trust Co. v. Industrial Com.</i>			
<i>Dekeyser v. Milwaukee Auto. Ins. Co.</i>			
<i>Geier v. Scandrett</i>			
<i>Goerke Motor Co. v. Lonergan</i>			
<i>Gulbrandsen v. Chaseburg State Bank</i>			
<i>Herde v. State</i>			
<i>Home Mut. Bldg. & Loan Ass'n v. Northwestern Nat'l Ins. Co.</i>			

(continued on following page)

WISCONSIN SUPREME COURT DECISIONS, 1940-41

<i>In re Cosgrove's Will</i>			
<i>In re Crocker's Estate</i>			
<i>In re Greenway's Estate</i>			
<i>In re Ingram</i>			
<i>Karle v. Commonwealth</i>			
<i>Mahler v. Conway</i>			
<i>Mannery v. State</i>			
<i>Marshall & Ilsley Bank v. Baker</i>			
<i>Martin v. State</i>			
<i>Morris v. P. & D. General Contractors, Inc.</i>			
<i>Neumeyer v. Weinberger</i>			
<i>Nickoll v. North Ave. State Bank</i>			
<i>State ex rel. Sanderson v. Amundson</i>			
<i>State v. Benz</i>			
<i>State v. Neveau [236 Wis. 414]</i>			
<i>Sylvester v. Milwaukee</i>			
<i>Wendt v. Starkweather</i>			
<i>Whittier v. Atkinson</i>			
<i>Zbikowski v. Straz</i>			
<i>Zimdars v. Zimdars</i>			
<i>Forecki v. Kohlberg</i>			
<i>Baum v. Bahn Frei Mut. Bldg. & Loan Asso.</i>			
<i>Evanich v. Milwaukee</i>			
<i>First Wisconsin Trust Co. v. Department of Taxation</i>			
<i>Hanson v. Engebretson</i>			
<i>Kuhle v. Ladwig</i>			
<i>Nayes v. Milwaukee E. R. & L. Co.</i>			
<i>Salmon v. First Nat'l Bank</i>			
<i>State ex rel. Schmidt v. District No. 2</i>			
<i>Barlow & Seelig Mfg. Co. v. Patch</i>			
<i>Diver v. Diver</i>			
<i>Ihlenfeld v. Seyler</i>			
<i>In re Olson's Guardianship</i>			
<i>In re Phillips' Estate</i>			
<i>In re Schoenkerman's Estate</i>			
<i>In re Simmons' Guardianship</i>			
<i>Jefferson County v. Dodge County</i>			
<i>Kirsch v. Pomisal</i>			
<i>Milwaukee County v. Industrial Com.</i>			
<i>Milwaukee County v. Waukesha County</i>			
<i>Petersen v. Jansen</i>			
<i>Ryan v. First Nat'l Bank & Trust Co.</i>			
<i>Schmidtke v. Great Atlantic & Pacific Tea Co.</i>			
<i>Spielmann v. Industrial Com.</i>			
<i>State ex rel. Joyce v. Farr</i>			
<i>State v. 20th Century Market</i>			
<i>Thoenig v. Adams</i>			
<i>Wenzel v. Roberts</i>			
<i>State v. Neveau [237 Wis. 85]</i>			
<i>Laabs v. Heitzinger</i>			
<i>Milwaukee v. West Allis</i>			
<i>State v. Aulik</i>			
<i>Winter v. Knaak</i>			
<i>Berg v. Industrial Com.</i>			

(continued on following page)

WISCONSIN SUPREME COURT DECISIONS, 1940-41

<i>Buchberger v. Mosser</i>			
<i>Bullis v. Northland Greyhound Lines, Inc.</i>			
<i>Dunck Tank Works, Inc. v. Sutherland</i>			
<i>Estate of Larson v. Larson</i>			
<i>Hotel & Restaurant Employees' International Alliance v. Wisconsin Employment Relations Board</i>			
<i>In re Breitzman's Estate</i>			
<i>In re Hahto's Estate</i>			
<i>In re Marshall's Will</i>			
<i>In re Milwaukee Commercial Bank</i>			
<i>In re Wisconsin Power & Light Co.</i>			
<i>Lee v. State</i>			
<i>Madison v. Dane County</i>			
<i>Marshall v. Dane County Board of Supervisors</i>			
<i>Martinson v. Prudential Ins. Co.</i>			
<i>Rieschl v. Wisconsin Michigan Power Co.</i>			
<i>School Dist. v. Brennan</i>			
<i>Schoonmaker v. Kaltenbach</i>			
<i>State ex rel. Regez v. Blumer</i>			
<i>State v. Van Patten</i>			
<i>Stewart v. Industrial Com.</i>			
<i>Thomson v. Public Service Com.</i>			
<i>Volland v. McGee</i>			
<i>Weinberg v. Kluchesky</i>			
<i>Wogahn v. Stevens</i>			
<i>State ex rel. Junior Ass'n of Milwaukee Bar v. Rice</i>			
<i>Acheson v. Acheson</i>			
<i>Bettack v. Conachen</i>			
<i>Estate of Christopher v. Christopher</i>			
<i>Harris v. Golliner</i>			
<i>Hull v. Pfister & Vogel Leather Co.</i>			
<i>In re Boyle's Estate</i>			
<i>In re North's Will</i>			
<i>In re Poole's Will</i>			
<i>Laabs v. Milwaukee</i>			
<i>Lake Superior Dist. Power Co. v. Public Service Com.</i>			
<i>Legault v. Owen</i>			
<i>Malzahn v. Teagar</i>			
<i>Manchuk v. Milwaukee E. R. & L. Co.</i>			
<i>Milwaukee v. Milwaukee County</i>			
<i>Nowack v. Nowack</i>			
<i>Robinson v. Krenn</i>			
<i>Schmidt v. Blankschien</i>			
<i>State ex rel. Green v. Clark</i>			
<i>Stockman v. State</i>			
<i>Grimes v. State</i>			
<i>Lasecki v. Kabara</i>			
<i>Milwaukee County v. Oconto County</i>			
<i>Green Bay v. Saunders</i>			
<i>O'Neil v. State</i>			
<i>Unmack v. McGovern</i>			
<i>State ex rel. Currie v. McCready</i>			
<i>Gutknecht v. Industrial Com. (per curiam)</i>			
<i>Marty v. State Bank of Rice Lake (per curiam)</i>			

(continued on following page)

WISCONSIN SUPREME COURT DECISIONS, 1940-41

<i>State v. Koberstein (per curiam)</i>			
<i>Ahrens v. Schneider (per curiam)</i>			
<i>Borchardt v. Lincoln County (per curiam)</i>			
<i>Choudoir v. Gruett (per curiam)</i>			
<i>Cooper v. General Casualty Co. (per curiam)</i>			
<i>Dovas v. Dovas (per curiam)</i>			
<i>Edwards v. Central Chevrolet Sales Co. (per curiam)</i>			
<i>First Wisconsin Nat'l Bank v. Bonn (per curiam)</i>			
<i>Freye v. Walters (per curiam)</i>			
<i>In re Estate of Karlson (per curiam)</i>			
<i>Kabara v. Farmers Mut. Auto. Ins. Co. (per curiam)</i>			
<i>Krause v. Ehlers (per curiam)</i>			
<i>Moretrench Corp. v. Wilke (per curiam)</i>			
<i>State v. Peck (per curiam)</i>			
<i>State v. Robbins (per curiam)</i>			
<i>Dummler v. Land (per curiam)</i>			
<i>Gross v. Mink (per curiam)</i>			
<i>In re Lake Wandawega Subdivision (per curiam)</i>			
<i>In re Will of Garfield (per curiam)</i>			
<i>Mantin Bros., Inc. v. Van Heuklon (per curiam)</i>			
<i>Schouten v. Dickenson (per curiam)</i>			
<i>Stark v. Monsted (per curiam)</i>			
<i>Drzewiecki v. Stczynski (per curiam)</i>			
<i>Dziewior v. Roth (per curiam)</i>			
<i>In re Will of Limberger (per curiam)</i>			
<i>In re Will of Quick (per curiam)</i>			
<i>Virum v. Consolidated Water Power Co. (per curiam)</i>			
<i>Wolfinger v. Bruex (per curiam)</i>			
<i>Hiltgen v. Pfeifer (per curiam)</i>			
<i>Haroldson v. Berge (per curiam)</i>			
<i>Hope v. Deerfield Auto Sales Co. (per curiam)</i>			
<i>Kirchner v. Fairmont Ice Cream Co. (per curiam)</i> [236 Wis. 666]			
<i>Kirchner v. Fairmont Ice Cream Co. (per curiam)</i> [236 Wis. 667]			
<i>In re Guardianship of Evenson (per curiam)</i>			
<i>Johnson v. Johnson (per curiam)</i>			
<i>Nabbefeld v. Nabbefeld (per curiam)</i>			
<i>Page v. Green Bay (per curiam)</i>			
<i>Quinn v. City Fruit Market (per curiam)</i>			
<i>Randem v. Industrial Com. (per curiam)</i>			
<i>Schlabach v. Knutson (per curiam)</i>			
<i>United States Fidelity & Guaranty Co. v. Waukesha Lime & Stone Co. (per curiam)</i>			
<i>Zeisler v. Dimler (per curiam)</i>			
<i>Zinser v. Zilske (per curiam)</i>			
<i>Hayward v. Real Radio Service, Inc. (per curiam)</i>			
<i>Royal Neon Electric Signs, Inc. v. Plouf (per curiam)</i>			

(continued on following page)

WISCONSIN SUPREME COURT DECISIONS, 1940-41

<i>E. L. Husting Co. v. Wisconsin Liquor Co.</i> (per curiam)			
<i>Fronhaefer v. Richter</i> (per curiam) [235 Wis. 683]			
<i>Hottensine v. Schultz</i> (per curiam)			
<i>Peters v. Rock County</i> (per curiam)			
<i>Swendsen v. Larsen</i> (per curiam)			
<i>Nissen v. Industrial Com.</i> (per curiam)			

Frequency in the Majority

These tables display how frequently each justice voted in the majority. The first table includes all cases in which a justice voted, while the second table includes only cases decided by split votes.

All Cases

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Wickhem	303	304	99.7%
Fairchild	304	305	99.7%
Fritz	296	304	97.4%
Rosenberry	304	305	99.7%
Fowler	299	304	98.4%
Martin	300	304	98.7%

Non-Unanimous Decisions

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Wickhem	12	13	92%
Fairchild	12	13	92%
Fritz	5	13	38%
Rosenberry	12	13	92%
Fowler	8	13	62%
Martin	9	13	69%

Opinions Authored²

The first table indicates how many majority opinions a justice authored in cases decided by each of the four possible majority vote totals. The second table shows how many concurrences and dissents each justice wrote. If a justice concurred or dissented without authoring an opinion, he is not credited.

Opinion Author	7-0 (or 6-0, 5-0)	6-1	5-2	4-3
Wickhem	38	3	1	0
Fairchild	39	2	0	0
Fritz	40	0	0	1
Rosenberry	46	0	0	0
Fowler	35	2	1	0
Martin	36	1	1	0
Nelson	4	0	0	1

Opinion Author	Concurring Opinions	Dissenting Opinions
Wickhem	0	1
Fairchild	0	0
Fritz	0	1
Rosenberry	0	0
Fowler	0	4
Martin	0	1
Nelson	0	0

² *Per curiam* decisions are omitted.

Agreement Among Pairs of Justices

The following tables show the percentage of decisions in which every possible pair of justices found themselves on the same side—either both in the majority or both dissenting. The first table covers all decisions; the second table narrows its focus to decisions that were not unanimous. When reading the *second* table, for instance, one finds that Justices Fritz and Fowler voted together in 15% of the decisions, while the figure for Justices Wickhem and Rosenberry was 85%.

Agreement Between Pairs of Justices—All Decisions

	Fairchild	Fritz	Rosenberry	Fowler	Martin
Wickhem	304/304=100%	294/303=97%	302/304=99%	297/303=98%	300/303=99%
	Fairchild	295/304=97%	303/305=99%	298/304=98%	301/304=99%
		Fritz	295/304=97%	292/303=96%	293/303=97%
			Rosenberry	300/304=99%	301/304=99%
				Fowler	298/303=98%
					Martin

Agreement Between Pairs of Justices—Non-Unanimous Decisions

	Fairchild	Fritz	Rosenberry	Fowler	Martin
Wickhem	13/13=100%	4/13=31%	11/13=85%	7/13=54%	10/13=77%
	Fairchild	4/13=31%	11/13=85%	7/13=54%	10/13=77%
		Fritz	4/13=31%	2/13=15%	3/13=23%
			Rosenberry	9/13=69%	10/13=77%
				Fowler	8/13=62%
					Martin