

Four-to-Three Decisions

4-3 Alignments

Justices	Total	Case Names
Fritz, Fowler, Martin, Nelson	1	<i>State ex rel. Morehouse v. Hunt</i>
Fairchild, Fowler, Martin, Nelson	1	<i>E. G. Shinner &amp; Co. v. Wrabetz</i>
Rosenberry, Fowler, Martin, Nelson	1	<i>Huebner v. Industrial Com.</i>

4-3 Membership in the Majority

Justice	Votes
Wickhem	0
Fairchild	1
Fritz	1
Rosenberry	1
Fowler	3
Martin	3
Nelson	3

4-3 Majority Opinions Authored

	Opinions
Wickhem	0
Fairchild	0
Fritz	0
Rosenberry	0
Fowler	1
Martin	1
Nelson	1
<b>Total</b>	<b>3</b>

Decisions by Vote Split<sup>1</sup>

7-0 (or 6-0)	6-1	5-2	4-3
280/303 (92%)	11/303 (4%)	9/303 (3%)	3/303 (1%)
<i>Angers v. Sabatinelli</i>	<i>Federal Paving Corp. v. Prudisch</i>	<i>Feavel v. Appleton</i>	<i>State ex rel. Morehouse v. Hunt</i>
<i>Burling v. Schroeder Hotel Co.</i>	<i>State ex rel. Halvorson v. Anderson</i>	<i>Tully v. Prudential Ins. Co.</i>	<i>E. G. Shinner &amp; Co. v. Wrabetz</i>
<i>Century Bldg. Co. v. Wisconsin Employment Relations Board</i>	<i>Clouse v. Ruplinger</i>	<i>In re Melville's Estate</i>	<i>Huebner v. Industrial Com.</i>
<i>Kitter v. Lenard</i>	<i>Kiel Wooden Ware Co. v. Laun</i>	<i>Karrels v. Karrels</i>	
<i>Olson v. State Conservation Com.</i>	<i>Wisconsin Bridge &amp; Iron Co. v. Industrial Comm'n</i>	<i>Emerson v. Riverview Rink &amp; Ballroom</i>	
<i>Pazdernik v. Pride</i>	<i>J. C. Penney Co. v. Tax Com.</i>	<i>In re Rees' Estate</i>	
<i>State ex rel. American Legion 1941 Convention Corp. v. Smith</i>	<i>Lachance v. Stuart</i>	<i>Helgestad v. North</i>	
<i>State ex rel. Disabled American Veterans Convention Corp. v. Smith</i>	<i>In re Mahoney's Estate</i>	<i>In re Hatten's Estate</i> [233 Wis. 256]	
<i>State ex rel. Teweles v. Public School Teachers' Annuity &amp; Retirement Fund Trustees</i>	<i>Crist v. Meyer</i>	<i>Central Wisconsin Trust Co. v. Chicago &amp; N. W. R. Co.</i>	
<i>Welch v. Welch</i>	<i>Estate of Johnson v. Johnson</i>		
<i>Employers Mut. Liability Ins. Co. v. Industrial Com.</i>	<i>In re Hatten's Estate</i> [233 Wis. 199]		
<i>Friedmann v. Tax Com.</i>			
<i>Kerler v. Evangelical Emanuel's Church</i>			
<i>Lechner v. Ebenreiter</i>			
<i>Walraven v. Sprague, Warner &amp; Co.</i>			
<i>Washburn v. Bayfield County</i>			
<i>Welfare Bldg. &amp; Loan Asso. v. Gearhard</i>			
<i>Wendt v. Fintch</i>			
<i>Brill v. Salzwedel</i>			
<i>Trane Co. v. Tax Com.</i>			
<i>Bechaud v. Wisconsin Tax Com.</i>			
<i>Commercial Credit Co. v. Swenson</i>			
<i>Duffy v. Scott</i>			
<i>Estate of Benjamin v. Tax Comm'n</i>			
<i>Higbee v. Chicago, B. &amp; Q. R. Co.</i>			
<i>Home Owners' Loan Corp. v. Papara</i>			
<i>In re Smith's Will</i>			
<i>Matz v. Ibach</i>			
<i>Maxwell v. Madison</i>			
<i>Meyer v. Conway</i>			
<i>O'Brien v. Dane County</i>			
<i>Odanah Iron Co. v. Industrial Com.</i>			
<i>Sater v. Cities Service Oil Co.</i>			
<i>Sevey v. Jones</i>			
<i>State ex rel. Anderson v. Barlow</i>			
<i>State v. Hunter</i>			
<i>State YMCA v. Industrial Com.</i>			
<i>Taughner v. Hardware Mut. Casualty Co.</i>			
<i>Tiemann v. May</i>			

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<sup>1</sup> 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, 1939-40

<i>Van Dyke v. Wisconsin Tax Com.</i>			
<i>Vieau v. Common Council of Chippewa Falls</i>			
<i>Yates v. Helstern</i>			
<i>Acme Brick Co. v. Jacobi-Erdman, Inc.</i>			
<i>Schmidt v. Prudential Ins. Co.</i>			
<i>Seifert v. School Dist.</i>			
<i>State ex rel. Harris v. Kindy Optical Co.</i>			
<i>Highway Committee of Jefferson County v. Guist</i>			
<i>Associated Wisconsin Contractors v. Lathers</i>			
<i>Caveney v. Caveney</i>			
<i>Chambers v. State</i>			
<i>Flottum v. Cumberland</i>			
<i>Fronczek v. Sink</i>			
<i>Ganchoff v. Bullock</i>			
<i>Hanson v. Weber</i>			
<i>In re Manegold's Will</i>			
<i>In re Maurer's Estate</i>			
<i>Kalb v. Feuerstein</i>			
<i>Kalb v. Luce</i>			
<i>Kramer v. Burlage</i>			
<i>Levy v. Industrial Com.</i>			
<i>Mathy v. Mathy</i>			
<i>McFaul v. Eau Claire County</i>			
<i>Miller v. Lange</i>			
<i>Rankin v. Tax Com.</i>			
<i>Reiher v. Mandernack</i>			
<i>Scandrett v. Industrial Com.</i>			
<i>Schubring v. Weggen</i>			
<i>Schuetz v. Wisconsin Tax Com.</i>			
<i>Standard Oil Co. v. Industrial Com.</i>			
<i>State ex rel. Carter v. Graass</i>			
<i>Tees v. Lee</i>			
<i>Wisconsin Hydro Electric Co. v. Public Service Com.</i>			
<i>Woodman v. Goodrich</i>			
<i>Anderson v. Eggert</i>			
<i>Bank of Kaukauna v. Maryland Casualty Co.</i>			
<i>Bissell v. Wisconsin Tax Com.</i>			
<i>Burant v. Studzinski</i>			
<i>Dahl v. Krause Milling Co.</i>			
<i>Gottlieb v. Racine</i>			
<i>H. Hohensee Const. Co. v. Oshkosh</i>			
<i>Hyslop v. Hyslop</i>			
<i>In re Liquidation of Anchor State Bank</i>			
<i>Kuroske v. Aetna Life Ins. Co.</i>			
<i>McCaffrey v. Lake</i>			
<i>Palmer v. Autoist Mut. Ins. Co.</i>			
<i>Pecor v. Home Indem. Co.</i>			
<i>Riley v. United Finance Co.</i>			
<i>Rusch v. Mielke</i>			
<i>School v. Milwaukee Auto. Ins. Co.</i>			
<i>State ex rel. Dorst v. Sommers</i>			
<i>State ex rel. Normal Hall, Inc. v. Gurda</i>			
<i>State ex rel. Wall v. Sovinski</i>			

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WISCONSIN SUPREME COURT DECISIONS, 1939-40

<i>State v. La Barge</i>			
<i>State v. M. Supple &amp; Sons Co.</i>			
<i>State v. Marshall &amp; Illsley Bank</i>			
<i>State v. Taubenheim</i>			
<i>Urban v. Anderson</i>			
<i>Western Condensing Co. v. Industrial Com.</i>			
<i>Williams v. Albert</i>			
<i>Banking Com. v. First Wisconsin Nat'l Bank</i>			
<i>Christian v. New London</i>			
<i>Clark v. Smith</i>			
<i>Elkey v. Elkey</i>			
<i>Estate of Hoermann v. Hoermann</i>			
<i>Felton v. Cherkasky</i>			
<i>G. M. C. Hotels, Inc. v. Hanson</i>			
<i>Hasslinger v. Hartland</i>			
<i>In re Edwards' Estate</i>			
<i>J. Romberger Co. v. Industrial Com.</i>			
<i>Narloch v. Church</i>			
<i>Rio-Hall River Union Bank v. Hollnagel</i>			
<i>Ross v. Crandon</i>			
<i>Rumary v. Livestock Mortg. Credit Corp.</i>			
<i>Schulte v. Willow River Power Co.</i>			
<i>State ex rel. Trampe v. Multerer</i>			
<i>Strelow v. Bohr</i>			
<i>Wilhelm v. Hack</i>			
<i>Winter v. Trepte</i>			
<i>Stenson v. Schumacher</i>			
<i>Axelberg v. Bayfield County</i>			
<i>Bartz v. State</i>			
<i>Bond v. Breeding</i>			
<i>Carr's Inc. v. Industrial Com.</i>			
<i>Criswell v. Seaman Body Corp.</i>			
<i>Haentze v. Loehr</i>			
<i>Hamilton v. Reinemann</i>			
<i>In re Cawker's Estate</i>			
<i>In re Hoehnen's Estate</i>			
<i>In re Ruppert's Will</i>			
<i>Jeske v. Hotz Mfg. Co.</i>			
<i>Krasin v. Almond</i>			
<i>La Crosse County v. Vernon County</i>			
<i>Lakeside Bldg. &amp; Loan Ass'n v. Rank</i>			
<i>Lange v. Darling &amp; Co.</i>			
<i>Maurer v. Fesing</i>			
<i>Osmundson v. Lang</i>			
<i>Padley v. Lodi</i>			
<i>Petition of Herman</i>			
<i>Schofield v. Rideout</i>			
<i>Schooley v. Industrial Com.</i>			
<i>Smith v. Pabst</i>			
<i>State ex rel. Gaudynski v. Pruss</i>			
<i>State ex rel. Ralph Lumber Co. v. Kleczka</i>			
<i>State v. Johnson</i>			
<i>Struck v. Vetter</i>			
<i>Banking Com. v. Flanagan</i>			
<i>Driessen v. Moder</i>			
<i>Foljahn v. Wiener</i>			

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WISCONSIN SUPREME COURT DECISIONS, 1939-40

<i>Hoffman v. Labutzke</i>			
<i>In re Holmes' Estate</i>			
<i>In re Levy's Will</i>			
<i>La Fave v. State</i>			
<i>Larson v. Wisconsin Tax Com.</i>			
<i>Lurie v. Nickel</i>			
<i>Meister v. Francisco</i>			
<i>Pennsylvania Oil Co. v. Andrew</i>			
<i>Potts v. Farmers' Mut. Auto. Ins. Co.</i>			
<i>Raddant v. Labutzke</i>			
<i>Rathjen v. Industrial Com.</i>			
<i>Restlawn Memorial Park Ass'n v. Solie</i>			
<i>Rudolph v. Ketter</i>			
<i>State Bank of Florence v. School Dist.</i>			
<i>State ex rel. Martin v. Zimmerman</i> [233 Wis. 442]			
<i>State v. Industrial Com.</i>			
<i>Thurs Box Co. v. Marathon County</i>			
<i>Umlauft v. Chicago, M. S. P. &amp; P. R. Co.</i>			
<i>United States Rubber Products v. Twin Highway Tire Co.</i>			
<i>Warnke v. Braasch</i>			
<i>Wilmet v. Chicago &amp; N. W. R. Co.</i>			
<i>Algoma v. Peterson</i>			
<i>C. Hennecke Co. v. Columbia Lodge</i>			
<i>De Baker v. Austin</i>			
<i>De Goey v. Hermsen</i>			
<i>Eckhardt v. Judevine</i>			
<i>Ford v. Whelan</i>			
<i>Fuetsch v. Fahney</i>			
<i>Handlos v. State Line</i>			
<i>Hunter v. Sirianni Candy Co.</i>			
<i>In re Siljan's Estate</i>			
<i>In re Steinkraus' Estate</i>			
<i>Kammerler v. Industrial Com.</i>			
<i>Liberty Foundry v. Industrial Com.</i>			
<i>McGill v. Baumgart</i>			
<i>Prehn v. C. Niss &amp; Sons</i>			
<i>Prudential Ins. Co. v. Byrne Realty Co.</i>			
<i>Schulz v. General Casualty Co.</i>			
<i>Seibel v. Leach</i>			
<i>Standard Surety &amp; Casualty Co. v. Spewachek</i>			
<i>State ex rel. Adams County State Bank v. Kurth</i>			
<i>State ex rel. Watter v. Industrial Com.</i>			
<i>Theilacker v. Time Ins. Co.</i>			
<i>Trustees of University Co-operative Co. v. Madison</i>			
<i>State ex rel. Martin v. Zimmerman</i> [233 Wis. 16]			
<i>Bussard v. State</i>			
<i>Grinde v. Watertown</i>			
<i>Hilgendorf v. Schuman</i>			
<i>Huebner v. Fischer</i>			
<i>In re Boyle's Estate</i>			
<i>In re Liquidation of Bank of Viroqua</i>			
<i>Johnson v. Brown</i>			
<i>Kernan v. Eau Claire</i>			

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<i>Koski v. Industrial Com.</i>			
<i>Lawver v. Joint Dist.</i>			
<i>Roick v. Roick</i>			
<i>Roseman v. Sauber</i>			
<i>Rutzen v. Mitten</i>			
<i>Schiels v. Fredrick</i>			
<i>Service Inv. Co. V Dorst</i>			
<i>State v. Hess</i>			
<i>Superior Water, Light &amp; Power Co. v. Public Service Com.</i>			
<i>Cedar Point Park Ass'n v. Lenney</i>			
<i>Drzewiecki v. Stempowski</i>			
<i>Estate of McKenzie v. McKenzie</i>			
<i>Fauerbach v. Dane County</i>			
<i>Garnsky v. Metropolitan Life Ins. Co.</i>			
<i>Geisenfeld v. Shorewood</i>			
<i>Gray v. Gray</i>			
<i>In re Asby's Will</i>			
<i>In re Farm Drainage Dist.</i>			
<i>In re Hogan</i>			
<i>In re Warner's Guardianship</i>			
<i>Industrial Com. v. Woodlawn Cemetery Ass'n</i>			
<i>Leisle v. Welfare Bldg. &amp; Loan Ass'n</i>			
<i>Milwaukee v. Public Service Com.</i>			
<i>Motor Transport Co. v. Public Service Com.</i>			
<i>Ph. Orth Co. v. New Richmond Roller Mills Co.</i>			
<i>Schlesak v. State</i>			
<i>Spence v. Industrial Com</i>			
<i>Wittig v. State (6-0)</i>			
<i>Connor v. Meuer (6-0)</i>			
<i>State ex rel. Department of Agriculture v. Marriott (per curiam)</i>			
<i>Sturm v. Chicago &amp; N. W. R. Co. (per curiam)</i>			
<i>Dakota Brewing Co. v. Lakeside Bridge &amp; Steel Co. (per curiam)</i>			
<i>Gaffney v. Schauer (per curiam)</i>			
<i>Graber v. Smith (per curiam)</i>			
<i>Horicon State Bank v. Seering (per curiam)</i>			
<i>Sage-Fifield Lumber Co. v. Industrial Com. (per curiam)</i>			
<i>Smith v. American Auto. Ins. Co. (per curiam)</i>			
<i>Weise v. Gorecki (per curiam)</i>			
<i>Wellenbeck v. Wellenbeck (per curiam)</i>			
<i>Hoffmann v. Fichaux (per curiam)</i>			
<i>Creamery Package Mfg. Co. v. Industrial Com. (per curiam)</i>			
<i>Kuester v. Wisconsin Public Service Corp. (per curiam)</i>			
<i>Mielke v. Markman (per curiam)</i>			
<i>Burdick v. Chicago, M. S. P. &amp; P. R. Co. (per curiam)</i>			
<i>In re Will of Lynn (per curiam)</i>			

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WISCONSIN SUPREME COURT DECISIONS, 1939-40

<i>National Household Distributors, Inc. v. Tremel (per curiam)</i>			
<i>Pierce v. Marrion (per curiam)</i>			
<i>Rohde v. Olson (per curiam)</i>			
<i>Simon v. Gauthier (per curiam)</i>			
<i>Koehler v. Roth (per curiam)</i>			
<i>Strassburg v. Strassburg (per curiam)</i>			
<i>Funk v. S.S. Kresge Co. (per curiam)</i>			
<i>In re Gebhard's Estate (per curiam)</i>			
<i>Oliszewski v. Consolidated Water Power Co. (per curiam)</i>			
<i>Vanderheyden v. Bounsall (per curiam)</i>			
<i>Angel v. Dolan (per curiam)</i>			
<i>Boyea v. Boyea (per curiam)</i>			
<i>Chippewa Valley Sec. Co. v. Consumers Credit Corp. (per curiam)</i>			
<i>Cody v. Perry (per curiam)</i>			
<i>Heldeman v. Wisconsin Power &amp; Light Co. (per curiam)</i>			
<i>Madsen v. Hansen (per curiam)</i>			
<i>Rathje v. Weseman (per curiam)</i>			
<i>Steffke v. Reinemann (per curiam)</i>			
<i>Arnold v. Rock (per curiam)</i>			
<i>Eggert v. Meils (per curiam)</i>			
<i>In re Estate of Daritz (per curiam)</i>			
<i>In re Estate of Ullrich (per curiam)</i>			
<i>La Frenier v. Scandrett (per curiam)</i>			
<i>Lincoln County Co-operative Shipping Ass'n v. Industrial Com. (per curiam)</i>			
<i>Peterson v. Glim (per curiam)</i>			
<i>Anderson v. Nelson (per curiam)</i>			
<i>Glass v. Megan (per curiam)</i>			
<i>Hanson v. Nelson (per curiam)</i> [232 Wis. 665]			
<i>Hanson v. Nelson (per curiam)</i> [232 Wis. 666]			
<i>In re Will of Phillips (per curiam)</i>			
<i>Masiakowski v. Industrial Com. (per curiam)</i>			
<i>Ewan v. Zettler (per curiam)</i>			
<i>Van Eperen v. Bongers (per curiam)</i>			
<i>Walter W. Oeflein, Inc. v. Hertting (per curiam)</i>			

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	297	302	<b>98%</b>
Fairchild	299	303	<b>99%</b>
Fritz	292	303	<b>96%</b>
Rosenberry	298	303	<b>98%</b>
Fowler	294	303	<b>97%</b>
Martin	301	302	<b>99.7%</b>
Nelson	300	303	<b>99%</b>

## Non-Unanimous Decisions

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Wickhem	18	23	<b>78%</b>
Fairchild	19	23	<b>83%</b>
Fritz	12	23	<b>52%</b>
Rosenberry	18	23	<b>78%</b>
Fowler	14	23	<b>61%</b>
Martin	22	23	<b>96%</b>
Nelson	20	23	<b>87%</b>



Opinions Authored<sup>2</sup>

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)	6-1	5-2	4-3
Wickhem	28	2	1	0
Fairchild	33	0	3	0
Fritz	37	0	1	0
Rosenberry	35	3	2	0
Fowler	34	3	1	1
Martin	37	1	0	1
Nelson	26	2	1	1

Opinion Author	Concurring Opinions	Dissenting Opinions
Wickhem	0	2
Fairchild	0	2
Fritz	0	0
Rosenberry	0	1
Fowler	1	7
Martin	0	0
Nelson	0	0

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<sup>2</sup> *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 30% of the decisions, while the figure for Justices Wickhem and Rosenberry was 74%.

Agreement Between Pairs of Justices—All Decisions

	Fairchild	Fritz	Rosenberry	Fowler	Martin	Nelson
Wickhem	297/302=98%	290/302=96%	296/302=98%	288/302=95%	295/301=98%	294/302=97%
	Fairchild	292/303=96%	296/303=98%	292/303=96%	297/302=98%	296/303=98%
		Fritz	293/303=97%	287/303=95%	292/302=97%	289/303=95%
			Rosenberry	289/303=95%	296/302=98%	295/303=97%
				Fowler	292/302=97%	295/303=97%
					Martin	298/302=99%
						Nelson

Agreement Between Pairs of Justices—Non-Unanimous Decisions

	Fairchild	Fritz	Rosenberry	Fowler	Martin	Nelson
Wickhem	18/23=78%	11/23=48%	17/23=74%	9/23=39%	17/23=74%	15/23=65%
	Fairchild	12/23=52%	16/23=70%	12/23=52%	18/23=78%	16/23=70%
		Fritz	13/23=57%	7/23=30%	13/23=57%	9/23=39%
			Rosenberry	9/23=39%	17/23=74%	15/23=65%
				Fowler	13/23=57%	15/23=65%
					Martin	19/23=83%
						Nelson