

## Opinion of the Court.

*Mr. Eugene Williams* for both petitions.

MR. JUSTICE BRADLEY delivered the opinion of the court.

Leave to file a motion for rehearing in this case is asked for on the ground of clerical error in the opinion. A motion for rehearing was made at the last term upon precisely the same brief now sought to be filed, and notwithstanding the alleged misconception in the opinion of the point made by the plaintiff in error, the court was satisfied with the conclusion it had reached, and that no modification of the judgment was required, and no rehearing was necessary or called for. The motion was therefore denied. The persistent renewal of the application at this time, after the close of the term at which judgment was rendered, and especially upon the same reasons once overruled, is not in order, and does not recommend itself to the favorable consideration of the court.

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MARSHALL *v.* UNITED STATES.

## APPEAL FROM THE COURT OF CLAIMS.

No. 57. Argued November 1, 1888. — Decided November 19, 1888.

*Marshall v. United States*, 124 U. S. 391, is affirmed on rehearing.

THIS case was heard at October Term 1887, and the judgment below was affirmed. 124 U. S. 391. A petition for rehearing was granted April 30, 1888, 127 U. S. 786, and the cause was reargued at this term.

*Mr. W. D. Davidge* for appellants.

*Mr. Assistant Attorney General Howard* for appellees.

MR. CHIEF JUSTICE FULLER, on the 19th of November, 1888, announced that a majority of the court adhered to the views expressed by Mr. Justice Harlan in the opinion of the court in this case delivered at the last term, affirming the judgment of the Court of Claims.

*Affirmed.*

## Argument for the Motion.

MR. JUSTICE HARLAN stated that he now believed that that opinion was wrong and that he dissented from the judgment of the court.

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RADFORD *v.* FOLSOM.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF IOWA.

No. 1014. Submitted November 5, 1888.—Decided November 26, 1888.

The final decree in a suit in equity, entered October 10, 1885, adjudged and decreed that there was due to the administratrix of J. F. a sum named in the decree, and that if, within ninety days from that date the court should be satisfied that a certain other sum named as paid for the purchase of notes, etc., had inured to the benefit of J. F. or his estate, that sum should be credited on the amount so decreed to be paid; *Held*, that for the purpose of an appeal the date of the decree was October 10, 1885.

THIS was a motion made by the administratrix of Jeremiah Folsom, deceased, to dismiss an appeal. The reasons for the dismissal, given in the motion were:

“That the decree appealed from was made and entered of record in the Circuit Court of the United States for the Southern District of Iowa, Western Division, on the 10th day of October, 1885;

“That the appeal in the above entitled cause was not taken until the 30th day of December, 1887, more than two years after the entry of the decree, as aforesaid.”

*Mr. H. H. Trimble* and *Mr. Joseph G. Anderson* for the motion, submitted on their brief.

This motion is based on § 1008 of the Revised Statutes, providing that no decree of a Circuit Court, in equity, shall be reviewed in the Supreme Court on appeal unless the appeal is taken within two years *after the entry of such decree*. That the appeal in this case was taken more than two years after the entry of the decree is plain. The decree was entered