



# Society Update

The Official Publication of the Michigan Supreme Court Historical Society

Summer 2016

## PORTRAITS OF JUSTICE

### *James Valentine Campbell*

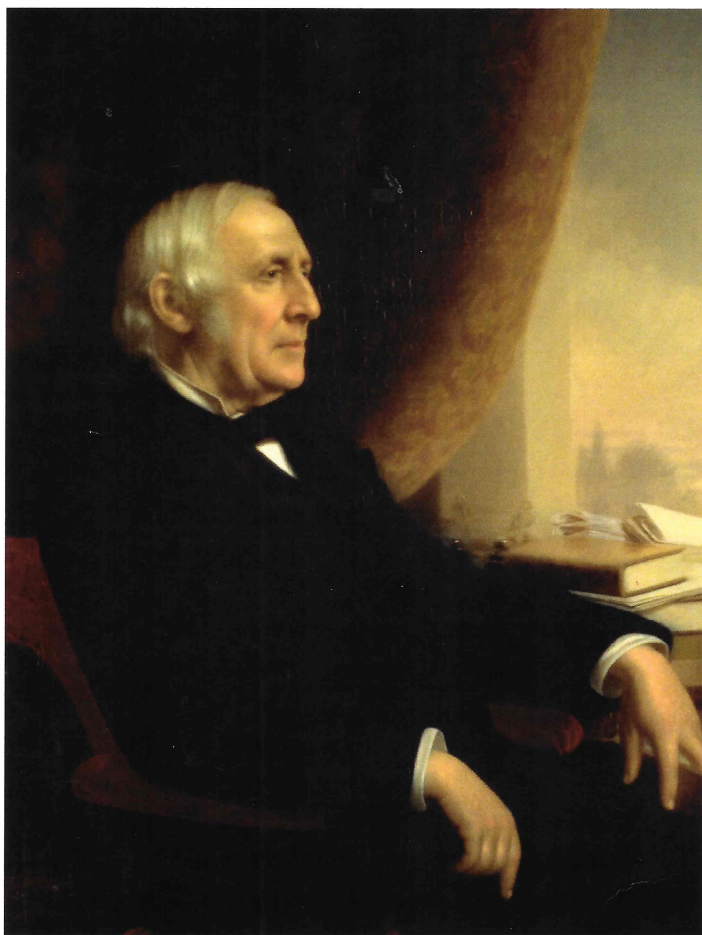
Written By Bruce Courtade

When the University of Michigan opened its Law School in 1859, Michigan Supreme Court Justice James V. Campbell was asked not only to join the faculty and serve as its first dean, but also to offer his thoughts on the need for a school devoted to the training of lawyers. In pertinent part, he wrote:

“Habits of mind must be formed; and they can only be formed by some regular and continued training. And it must either be the generous and easy training of early life, when the faculties are pliant, and the mind, free from care, is able to act without bias or obstacle; or it must be the rugged and dangerous training of professional labor, where every advance is at the cost of infinite toil, attended often with mortifying mistakes and painful exposures, which render the life of the aspirant anything but a pleasant one. ... No man can succeed in life without great and constant toil; but the success of any effort depends very much on the skill with which every exertion is made available.

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If there is any professional pursuit which demands the strongest exertions of all the intellectual faculties, it is the Law.<sup>1</sup> ”



Justice James V. Campbell's portrait hangs in the first floor of the Hall of Justice beside the individual portraits of the other Big Four justices. All were painted by Lewis T. Ives, a prominent portrait artist of nineteenth century Detroit.

Without realizing it, Justice Campbell might have provided the best self-portrait one might imagine of one of our Supreme Court's "Big Four"—a man who, while serving as the longest-sitting Justice in the history of that Court, also focused on scholarly endeavors, including publication of one of the most-acclaimed books on the history of Detroit and the State of Michigan and writing numerous poems, many of which focused on life in frontier Michigan and his beloved city of Detroit.<sup>2</sup>

Justice Campbell was not a Michigan native. His father, Henry M. Campbell, was a judge in Buffalo, New York and moved the family to Detroit in 1826, when James was only three years old. He would remain in Detroit (except for a short time when he attended college in New York) until he died in March 1890. During that lifetime, Detroit grew from a city of several hundred inhabitants to a "metropolis," and Michigan grew from roughly 9,000 inhabitants to more than 2 million.<sup>3</sup>



Justice Campbell was not a “builder” in the traditional sense: he did not build any of the homes or buildings that changed the face of his beloved city. However, as a lawyer, teacher, jurist, husband, and father, Campbell’s influence on the foundation of Michigan’s jurisprudence is undeniable. Admitted to the Bar in 1844 after graduating from St. Paul’s College in Long Island, New York, in 1841, Campbell started a law practice with Samuel T. Douglass, who married Campbell’s sister, Elizabeth, seven years later. Douglass was then elected to the Michigan Supreme Court in 1852 – a position that he held until Campbell ousted him in an election to fill a seat on the newly-reconfigured Supreme Court just five years later.

Campbell was first elected to the Supreme Court in 1857, when he was just 35 years old.<sup>4</sup> Along with Benjamin Graves (who had been appointed in 1857), Isaac Christiancy (who also took office in 1858) and Thomas M. Cooley (elected in 1865), Campbell formed “the Big Four” Justices famously depicted in the oil painting prominently displayed in our Hall of Justice. (Campbell is depicted on the far left of that painting). Campbell immediately became known as a wise, ever-learning justice, exuding the “soul of tolerance and magnanimity.”<sup>5</sup> His style of “vigor and versatility” flowed through his writings in every branch of the law.<sup>6</sup> In taking on the matters that would shape the foundation of Michigan law, Campbell’s opinions in more than 70 volumes of the Court’s reports governing municipal law, equitable rights and remedies, and the Constitution are the incontrovertible proof of his status as a veritable Michigan pioneer.

Campbell’s work on the Court did not dissuade him from his other pursuits. In 1859, he was chosen as a Marshall Professor of Law in the University of Michi-

gan Law Department, serving as the first dean of the law school.<sup>7</sup> Campbell taught for 25 years, becoming known to his students as a professor whose oration was like his writings, smooth and flowing from beginning to end.<sup>8,9</sup> Justice Henry Brown remarked that Campbell seemed to shun attention, preferring instead to devote himself to literary pursuits.<sup>10</sup> His research on the State of Michigan was eventually gathered into a book, *Outlines of the Political History of Michigan*, and his essays on the polity of the Protestant Epis-

copal Church were widely acclaimed.<sup>11</sup>

Justice Campbell died suddenly at his home in Detroit on March 26, 1890, while still a member of the Supreme Court. The state Bench and Bar had held a meeting at the Detroit Opera House the next day, adopting a series of resolutions in his honor, to be presented at the opening of



The Big Four by artist John Coppin. Justice Campbell is shown on the far left. Justice Benjamin Graves is standing, Thomas M. Cooley is in the center, and Isaac P. Christiancy is on the far right. The attorneys are not known.

the Court’s term a few days later.<sup>12</sup> At that special session, before a standing room-only audience, the Supreme Court chambers were draped with a shroud of mourning, and Governor Cyrus G. Luce issued a proclamation extolling his extraordinary service to the State of Michigan. Judge Henry B. Brown was one of many speakers that day, noting his departed friend’s “amiable temper, unblemished integrity ... innate love of justice and that delicate appreciation of what justice demands which we call the judicial temperament, and ... distrust [of] any change which savored of an encroachment upon time-honored principles of justice.”<sup>13</sup> Although the death of his wife two years earlier had left him greatly saddened, his colleague and Chief Justice John Champlin noted that he remained intellectually vital until his death: “His death was befitting his great life. He passed away peacefully and painlessly, mind and body together; and escaped that



dreaded experience which many endure who reach the evening of their age when the mind dies often and the body once.”<sup>14</sup>

Lawyer. Justice. Educator. Historian. Poet. Beloved spouse and parent of seven. The longest serving Michigan Supreme Court Justice of all time. Any one of these would be a fine legacy for any Michigan attorney. But James Valentine Campbell accomplished all of them, and the people of Michigan are better served for his efforts.

And, particularly as it relates to Michigan’s lawyers, Justice Campbell’s words from an 1863 address to University of Michigan law students serve as a timeless reminder, a clarion call, for any who might wonder why one studies and engages in the profession of the practice of law:

“ You have not come here merely to pass away quietly and pleasantly your leisure time, nor have you labored here only to acquire some useful information. Why then have you given your diligent attention so long and so carefully?

It is because you are to go for us to serve and defend the public, as ministers of the law. Your duty will be to aid in preserving society in peace and order; to enforce to your utmost the rules of right and justice; to redress private wrongs and public wrongs. The community will look to you for counsel and guidance, as interpreters of the law which governs them, and which they may justly expect you will be able to explain. ... You will soon be sworn to obey and defend the laws, and it will be your duty to use all your influence and all your efforts, to preserve society from the terrible evils which must always follow, when it is overthrown or disregarded. If the sentinels fail, what will become of the army?



Photo courtesy of the University of Michigan

What is this law?

It is “the golden chain which binds the universe to the throne of God;” which binds together in one common bond all civilized nations, making of one blood all the kingdoms of the earth; which binds together governments, and states, and all communities, and parents and children, by one sacred bond of protection and obedience. By this is bound together all human society, whereby man is raised from the brutal state of a solitary savage, and made to yield that base liberty to obtain the advantages of knowledge and civilization.”<sup>15</sup>

The fact that these words are as relevant today as they were when they were written 153 years ago, by a man who came to Michigan before it was a State and who devoted his life to the study and practice of “the Law” as the best way to assure that justice, is almost (but not quite) as amazing as the life of their author, “Big Four” Justice James V. Campbell.



**Bruce A. Courtade** is a litigator with Rhoades McKee in Grand Rapids, Michigan. He is a past president of the State Bar of Michigan, and a current member of the Board of Directors of the Michigan Supreme Court Historical Society. He wishes to acknowledge

the significant contributions to this article made by Julie Blindauer, a second-year law student at Notre Dame and summer associate at Rhoades McKee, without whose efforts this submission would not have been possible.

*Endnotes for this article can be found on page 7 of this newsletter.*



## Justice Joan Larsen's Remarks on Justice Scalia from the Society Annual Luncheon April 14, 2016



Michigan Supreme Court Justice Joan Larsen speaking at the Society's Annual Luncheon. Justice Larsen clerked for Justice Scalia from 1994-95.

I am delighted to be here for my first Historical Society luncheon. I very much appreciate Charles Rutherford's invitation to speak with you today. I am, as you know, the newest member of the Michigan Supreme Court. I am grateful for the opportunity to see many old friends and meet many new ones.

Charles suggested that I spend my time today offering a few words about U.S. Supreme Court Justice Antonin Scalia, for whom I was privileged to clerk. While the Nation is consumed with the question of how and when to fill his seat, what I'd like to do today is to step back a bit and reflect on what his service on the Court meant to the fabric of the law and also to the lives of those privileged to know him.

First, the law. I am a law geek. The best evidence of that is not that I was a law professor for nearly 15 years. It is that I have a favorite Westlaw headnote. It's true. It reads:

Where [the] legislative history is ambiguous, [the] court will look to the statutes themselves to find the legislative intent.<sup>[1]</sup>

I knew you would laugh. You and I are lawyers. We find this funny in the same way that my kids still think it's hilarious when I serve them pancakes for dinner. It's funny because it seems backwards.

The fact that that headnote is a sure-fire laugh line in a crowd of lawyers is a measure of Justice Scalia's effect on the law. It comes not from some rogue lower court, but from an opinion of the U.S. Supreme Court itself, written 15 years before Justice Scalia's arrival.

Justice Scalia pretty much single-handedly inverted the way the legal culture thinks about texts. He turned the interpretive method upside down; or perhaps he put it back on its feet. As Justice Elena Kagan noted at Harvard Law School last November, "we are all textualists now."<sup>2</sup>

Of course, there are still healthy differences of opinion among jurists. Although we agree far more often than not, and more than you might think, my colleagues on the Michigan Supreme Court do not always see cases the same way. But our different opinions of legal questions and answers should not affect the way we treat one another as colleagues or the way we treat the litigants in our courtroom.

In her tribute to Justice Scalia, his dear friend and fellow opera devotee Justice Ginsburg observed that "toward the end of the opera *Scalia/Ginsburg*, tenor Scalia and soprano Ginsburg sing a duet: 'We are different, we are one,' different in our interpretation of written texts, one in our reverence for the Constitution and the institution we serve."<sup>3</sup>

Justice Scalia, famously, never let legal disagreements stand in the way of friendship. Judicial philosophy stopped when the writing was over, and he would take in an opera with Justice Ginsburg or go hunting with Justice Kagan even after writing a vigorous dissent to one of their opinions.

Justice Scalia often told us: "I attack ideas, not people." While he certainly never shied away from aiming his sharp pen at an idea, he believed that the people positing those ideas were to be taken in good faith. He would sometimes joke: "you'd be surprised how many really good people have really bad ideas." I'm sure his colleagues on the Court often thought the same of him. But that distinction – between ideas and people – was important to him, although it seems



sadly to have fallen increasingly out of favor in the rough and tumble of contemporary government and politics.

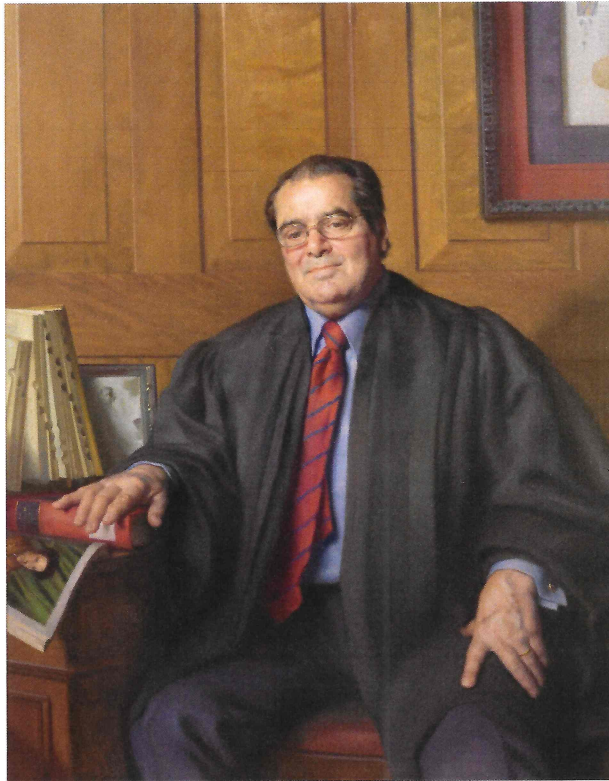
Clerking for Justice Scalia taught me, more than anything, what it means to work hard to get the law right. Indeed, his most valued clerks were the ones who would argue with him about why his initial thinking might be wrong.

It took me a few months to learn this. I began my clerkship, as you might imagine, terrified. But I pretty quickly figured out that Justice Scalia loved a good debate – it made him better. It certainly made me better. And once I got over my fear (or got good at hiding it) we developed a nice rapport. I could tell him when I thought he was wrong on the law (which happened sometimes). And I could tell him when I thought his pen was a little too sharp (which happened a little more than sometimes).

My proudest moment as his clerk was convincing him, after two sleepless nights spent with dusty old books, that a criminal defendant should win a case that none of the justices originally thought he should win. I'm pretty sure that was the moment he was most proud of me, too.

He held us, and himself, to very high standards. And he was sometimes impatient when we fell short of the mark. But he was always quick to forgive; to teach; and to move on.

As much as he loved the work of the Court, the Justice also loved to play. We once had a beer tasting in chambers, when the Justice's questions at oral argument revealed that he didn't know the difference between a porter and a pale ale. He was more of a Chianti man and would often take us to lunch at his beloved A.V. Ristorante Italiano, where he would or-



Justice Scalia's official portrait. Nelson Shanks, Collection of the Supreme Court of the United States.

der a pizza with extra anchovies.

He treated us clerks like his family, and his annual law-clerk gathering — a black-tie dinner, with a comical roast of the Justice and a reading of some of his best zingers from opinions past — was our family reunion. He and his wife, Maureen, took a personal interest in our lives, our careers and our children, whom the Justice referred to as his “grandclerks.” We still plan to hold our reunion this year, even in his passing.<sup>4</sup>

I will close by telling you about the last time I saw Justice Scalia in person. It was in November, after I had just been appointed to the Michigan Supreme Court, at a large event in DC. And he took the time to find me in the crowd. And with a big embrace and a twinkle in his eyes, he called me “Justice.”

I think about that moment a lot. And it reminds me to try to bring the best of what I learned from him into the daily work of our Court – to be a good mentor to my clerks; a good friend to my colleagues; and to try my best to get the law right.

Thank you.

## Endnotes

<sup>1</sup> *Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 91 S. Ct. 814, 28 L. Ed. 2d 136 (1971).

<sup>2</sup> See <http://today.law.harvard.edu/in-scalia-lecture-kagan-discusses-statutory-interpretation/> for a video of Justice Kagan's lecture.

<sup>3</sup> See [http://www.supremecourt.gov/publicinfo/press/pressreleases/pr\\_02-14-16](http://www.supremecourt.gov/publicinfo/press/pressreleases/pr_02-14-16) for the tributes of all current and retired justices, including Justice Ginsburg's.

<sup>4</sup> The preceding four paragraphs contain anecdotes that are also included in Joan L. Larsen, “What I Learned from Justice Scalia,”



# Exploring Careers in the Law 2016



Future justices of the Michigan Supreme Court on the bench.



Justice Richard Bernstein speaking to the Exploring Careers in the Law participants.

Each summer, the Michigan Supreme Court Learning Center partners with the Historical Society to offer Exploring Careers in the Law, a moot court program for high school students. This year, 21 students from as close as Greater Lansing and as far away as Metro Detroit, Flint, Midland, Grand Rapids, and Stevensville came to the Hall of Justice on July 18-22 to participate.

The students played the roles of justices and attorneys to prepare and present a moot court problem based on *People v Radandt* (No. 150906). The Michigan Supreme Court heard this case in March 2016 but had not yet issued an opinion by the time of the program.

Throughout the week students practiced lawyering skills: research, writing, and public speaking. They met with legal professionals and members of the judiciary, including Justice Richard H. Bernstein, to learn about the legal issues. They also worked closely with law students and attorneys to develop their arguments and court opinions. The week culminated in oral arguments in the Supreme Court courtroom, capped by a decision from the moot court justices.

After spending a week with these bright, highly motivated students, Learning Center staff feel assured that the legal profession will remain in good hands in the coming decades.

## 2016 Society Member Contribution Form

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Please detach this form and mail to: Michigan Supreme Court Historical Society, 1st Floor Hall of Justice, 925 W. Ottawa Street, Lansing, MI 48915. *Thank you!*



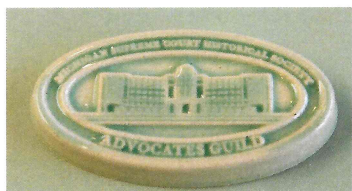


Mike Murray is seen here during construction of the Hall of Justice.

## From the Hall of Justice to the Pulpit Former MSC Chief Commissioner Becomes Priest

Michael Murray served as a Michigan Supreme Court Commissioner from 1980-2003, and was Chief Commissioner from 2002-2003, during which time he also served as the Project Director for the Hall of Justice transition team. Mr. Murray, who was pursuing a Master's Degree in Theology at the time left state service on December 30, 2003. From 2006-2012, Murray served on the Board of Directors of the Society. In June of this year he was ordained as a Catholic priest. Father Mike can be found at Saint Thomas Aquinas and Saint John's Student Parish in East Lansing, Michigan.

## Advocates Guild Dinner Announced for October 5, 2016



This year's Advocates Guild Dinner will take place on Wednesday, October 5th, 2016. The dinner is open to members of the Michigan Supreme Court Historical Society Advocates Guild. Attendees enjoy a rare chance to speak and dine with the Justices of the Court, the Court's Chief Clerk, and lawyers who practice before the Court. This opportunity to relax is coupled with the chance to see areas of the courthouse that are rarely open to anyone except for members of the Court and their staff. We hope you will mark your calendars and come.

This year, tickets will cost \$150.00. After many years of not increasing our price, we are forced to do so because of increases in costs. The price includes an elegant dinner in the gorgeous rotunda, a peek behind the curtain to see the Court's conference room and robing room, an individual photo of each attendee with all of the justices, and a memorial tile from Pewabic Pottery. Because the rotunda is small, we can accommodate a limited number; when invitations are sent out shortly, be sure to respond right away.

## End notes for Campbell: Portrait of Justice

<sup>1</sup> James Valentine Campbell, *On the Study of Law: An Address at the Opening of the Law Department of The University of Michigan*, October 3, 1859, pp. 13-14, 38, (available online at [https://books.google.com/books?id=fxTiAAAAMAAJ&printsec=frontcover&source=gb\\_VisViewAPI#v=onepage&q&f=false](https://books.google.com/books?id=fxTiAAAAMAAJ&printsec=frontcover&source=gb_VisViewAPI#v=onepage&q&f=false)).

<sup>2</sup> Examples of Justice Campbell's poems can be found in Farmer, Silas. *The History of Detroit and Wayne County and Early Michigan: A Chronological Cyclopaedia of the Past and Present*, (Detroit: Silas Farmer & Co, 1884), at page 337 (a previously-unpublished "fireside poem" which describes in great detail the common dress of Detroit colonists at the time of Cadillac); page 350 (a delightful poem describing winter activities on the frozen waters of the Detroit River); and pages 369-372, containing his epic "Cassina," a romantic remembrance not of a long-lost lover, but of the "Cass House," a home reputed to have been built as early as 1702 before being moved to Larned, between First and Second Streets, once owned by Governor Cass, which was demolished in 1882. Silas Farmer's *The History of Detroit and Michigan, or The Metropolis Illustrated: a Chronological Cyclopaedia of the Past and Present*, Silas Farmer & Co. (1884), at pages 369-372.

<sup>3</sup> <https://www.census.gov/dmd/www/resapport/states/michigan.pdf>

<sup>4</sup> <http://www.micourthistory.org/special-sessions/memorial-exercises-on-death-of-justice-campbell/>

<sup>5</sup> Id.

<sup>6</sup> <http://www.micourthistory.org/special-sessions/presentation-of-the-portrait-of-the-honorable-james-v-campbell-2/>

<sup>7</sup> <http://www.cam.tripod.com/hmc/id3.html>

<sup>8</sup> <https://www.law.umich.edu/historyandtraditions/faculty/Pages/default.aspx>

<sup>9</sup> <http://www.micourthistory.org/justices/james-campbell/>

<sup>10</sup> Id.

<sup>11</sup> <http://www.cam.tripod.com/hmc/id3.html>

<sup>12</sup> <http://www.micourthistory.org/special-sessions/memorial-exercises-on-death-of-justice-campbell/>

<sup>13</sup> <http://www.micourthistory.org/special-sessions/memorial-exercises-on-death-of-justice-campbell/>

<sup>14</sup> Id.

<sup>15</sup> *Closing Remarks of Prof. J. V. Campbell to the Graduating Class of the Law Department*, March 21, 1863, The University of Michigan (Ann Arbor: 1863), copies of which may be found online at Google Books: [https://books.google.com/books?id=hb23gtGqmAMC&pg=PP4&lpg=PP4&dq=If+any+man+attempts+to+correct+evils+or+redress+real+or+fancied+grievances+by+violence,+the+law+steps+in+and+bids+him+to+forbear&source=bl&ots=WCpx8M8Dtp&sig=Hqg93TwGsyTli\\_mhja186JnYiYM&hl=en&sa=X&ved=0ahUKewjM88zj\\_NzNAhU3IMKHSHYazMQ6AEITAB#v=onepage&q&f=false](https://books.google.com/books?id=hb23gtGqmAMC&pg=PP4&lpg=PP4&dq=If+any+man+attempts+to+correct+evils+or+redress+real+or+fancied+grievances+by+violence,+the+law+steps+in+and+bids+him+to+forbear&source=bl&ots=WCpx8M8Dtp&sig=Hqg93TwGsyTli_mhja186JnYiYM&hl=en&sa=X&ved=0ahUKewjM88zj_NzNAhU3IMKHSHYazMQ6AEITAB#v=onepage&q&f=false).





MICHIGAN SUPREME COURT  
HISTORICAL SOCIETY

1st Floor, Hall of Justice  
925 W. Ottawa Street  
Lansing, MI 48915

### ***Mission Statement***

The Michigan Supreme Court Historical Society, a non-profit 501(c)(3) corporation, collects, preserves, and displays documents, records, and memorabilia relating to the Michigan Supreme Court and the other Courts of Michigan, promotes the study of the history of Michigan's courts, and seeks to increase public awareness of Michigan's legal heritage. The Society sponsors and conducts historical research, provides speakers and educational materials for students, and sponsors and provides publications, portraits and memorials, special events, and projects consistent with its mission.

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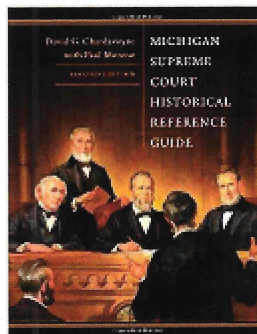
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The book can be purchased from MSU Press, Amazon, or anywhere books are sold!

Have you purchased a copy yet???

*Society Update* is published quarterly by the Michigan Supreme Court Historical Society. Writing submissions, article ideas, news, and announcements are encouraged. Contact the Society at: 1st Floor Hall of Justice, 925 W. Ottawa Street, Lansing, MI 48915 Phone: (517) 373-7589 Fax: (517) 373-7592

E-mail [CARRIESAMPSON@MICOURTHISTORY.ORG](mailto:CARRIESAMPSON@MICOURTHISTORY.ORG)

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