

Issue Paper



PAPERS EXAMINING CRITICAL ISSUES
FACING THE MICHIGAN LEGISLATURE

TWO AMENDMENTS

by

**Michael Siracuse
Fiscal Analyst**

October 2025



THE SENATE FISCAL AGENCY

The Senate Fiscal Agency is governed by a board of five members, including the majority and minority leaders of the Senate, the Chairperson of the Appropriations Committee of the Senate, and two other members of the Appropriations Committee of the Senate appointed by the Chairperson of the Appropriations Committee with the concurrence of the Majority Leader of the Senate, one from the minority party.

The purpose of the Agency, as defined by statute, is to be of service to the Senate Appropriations Committee and other members of the Senate. In accordance with this charge the Agency strives to achieve the following objectives:

1. To provide technical, analytical, and preparatory support for all appropriations bills.
2. To provide written analyses of all Senate bills, House bills and Administrative Rules considered by the Senate.
3. To review and evaluate proposed and existing State programs and services.
4. To provide economic and revenue analysis and forecasting.
5. To review and evaluate the impact of Federal budget decisions on the State.
6. To review and evaluate State issuance of long-term and short-term debt.
7. To review and evaluate the State's compliance with constitutional and statutory fiscal requirements.
8. To prepare special reports on fiscal issues as they arise and at the request of members of the Senate.

The Agency is located on the 8th floor of the Victor Office Center. The Agency is an equal opportunity employer.



Kathryn R. Summers, Director
Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536
Telephone (517) 373-2768
www.senate.michigan.gov/sfa

ACKNOWLEDGMENTS

The author wishes to express his appreciation to Nicole LaMar and Megan Williams, Senate Fiscal Agency Administrative Assistants, for their assistance in formatting and finalizing the paper.

Please contact [Michael Siracuse](#), SFA Fiscal Analyst, with any comments or questions on this paper.

TABLE OF CONTENTS

	Page
INTRODUCTION	1
FIRST AMENDMENT	9
SECOND AMENDMENT	11
AFTER THE CONVENTION	24

INTRODUCTION

Michigan voters will have an opportunity to call for a constitutional convention in the 2026 general election. If approved, Michigan voters would, within six months, elect delegates from each representative and senatorial district in the state; a total of 148 (110 House/ 38 Senate). Those delegates would then be responsible for the construction of a new constitution, which, if adopted by a majority of delegates, would also require majority voter approval in order to replace Michigan's current constitution. Prior calls for a convention on the ballot were defeated in 1978, 1994, and 2010. The constitutional requirement that places the opportunity for a convention on the ballot originated from the constitution of 1850. Since that time there have been two constitutions approved by the voters: the 1908 constitution and the current constitution of 1963.

It took nearly ten months to complete Michigan's current constitution; the delegates met from October 3, 1961 through August 1, 1962. It was approved by the voters April 1, 1963 by a slim margin (810,860 for / 803,436 against). The process of creating a new constitution is not only long, but laborious. Constitutional construction requires informed policy discussion conducted with full transparency, as demonstrated by the transcribed passage, below. The purpose of this Issue Paper is to illustrate the complexity of debate surrounding a change to a section of the Constitution related to the financial independence of the judicial branch.

The adoption of Michigan's constitution in 1963, in addition to other changes, replaced Section 6 of Article VII with Section 7 of Article VI. The former language was as follows:

The supreme court may appoint and remove its clerk, a reporter of its decisions and a court crier, each of whom shall perform such duties and receive such salary as shall be prescribed by law; and all fees, perquisites and income collected by the clerk shall be turned over by him to the state treasury and credited to the general fund. No justice of the supreme court shall exercise any other power of appointment to public office.

The replacement language proposed to the constitutional delegates by the Committee on Judiciary, prior to amendment, was as follows:

The supreme court may appoint and remove its staff and shall have general supervision of the staff of the court and control of the expenditure of the funds appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Two amendments to this language were discussed on the record before the convention delegates. Both amendments concerned the financial independence of the judicial branch of Michigan's government. One was adopted, the other was not. What follows is an edited [abbreviated] version of the discussion of two amendments to the new Article VI, Section 7.¹ Before presenting the edited discussion, below are the players:²

¹ Knapp, Austin C., *State of Michigan Constitutional Convention 1961: Official Record*, p. 1307, 1962.

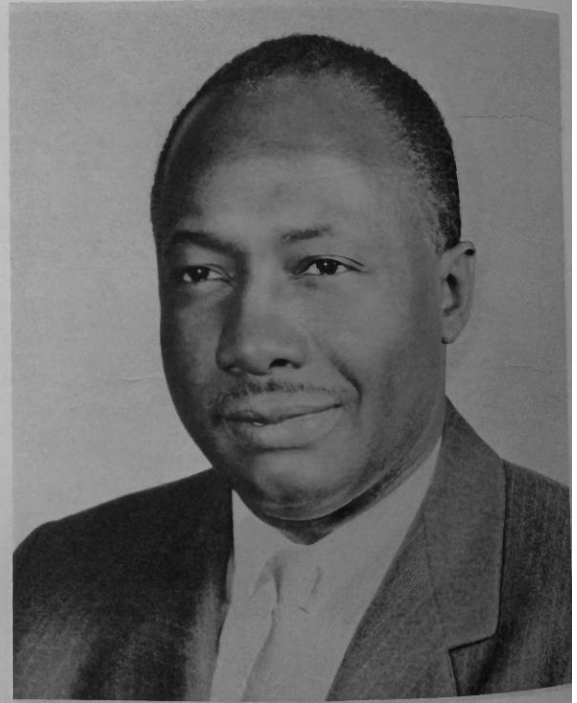
² Though none participated in the discussion on section f, there were 11 women delegates out of 144 at the 1961-62 Constitutional Convention.

RICHARD H. AUSTIN

RICHARD H. AUSTIN

Wayne 6th District

Democrat of Detroit; Committees on Finance and Taxation (2nd Vice Chairman); Style and Drafting; Emerging Problems. Certified Public Accountant. Born May 6, 1913 to Richard H. and Lelia Hill Austin in Stouts Mountain, Alabama. Moved to Michigan in 1925. Graduated, Detroit Cass Technical High School, 1931; B.C.S., Detroit Institute of Technology, 1937; attended Wayne State University. Wayne County Board of Supervisors (1962); State Board of Equalization (1962-...); Michigan Tax Study Committee (1957-59); Detroit City Income Tax Study Committee (1960-61); Director, Detroit Urban League (1958-...); President, Booker T. Washington Business Association (1961-...); Director, Michigan Association of Certified Public Accountants (1961-...); Director, Southeastern Michigan Metropolitan Community Research Corporation (1962); President, Detroit Council for Political Education (1961-...). Member, Kappa Alpha Psi; American Institute of Certified Public Accountants; Greater Detroit Board of Commerce; Economic Club of Detroit. Married to Ida B. Dawson; one daughter: Hazel I. (1943).



D. HALE BRAKE



D. HALE BRAKE

25th Senatorial District

Republican of Stanton; Committees on Finance and Taxation (Chairman); Local Government. Attorney and farmer. Born March 5, 1891 to David and Bertha Hale Brake in Caledonia, Michigan. Graduated, Fremont High School, 1911; A.B., Albion College, 1916; J.D., University of Michigan, 1922; J.D. (honorary), Detroit College of Law, 1953; LL.D. (honorary), Hillsdale College, 1960. Prosecuting Attorney, Montcalm County (1927-31); State Senator (1935-42); State Treasurer (1943-54). Founder and President (1943-61), Institute of Local Government; Director, Education Division, State Association of Supervisors (1961-...). Member, Delta Tau Delta; Masons; Rotary. Member, Congregational Church. Married to Marjorie Valentine; three children: Valentine (1918); John (1932); and Donald (1937).

ROBERT JOHN DANHOF



ROBERT JOHN DANHOF
23rd Senatorial District

Republican of Muskegon; Committee on Judicial Branch (Chairman). Attorney. Born August 24, 1925 to Nicholas J. and Joan Buter Danhof in Grand Rapids, Michigan. Graduated Zeeland High School, 1943; B.A., Hope College, 1947; LL.B., University of Michigan, 1950. Assistant United States Attorney, Western District of Michigan (1960-61). Board of Directors, Junior Chamber of Commerce (1952-53; 1959-60); Secretary, Muskegon County Bar Association (1952); President Muskegon Chapter, Hope College Alumni association (1955); member, State Bar of Michigan; American Bar Association; University of Michigan Alumni Association; Alen-side Civic Association. Deacon and Elder, Reformed Church in America (1952-55; 1957-60); Board of Directors and President, Christian Home for the Aged (1954-60). Married to Marguerite DenHerder; three children: William J. (1949); Kenneth R. (1953); and Carol M. (1960).

TOM DOWNS

TOM DOWNS

Wayne 4th District

Democrat of Detroit; Vice President; Committees on Emerging Problems; Legislative Powers. Attorney, Michigan AFL-CIO. Born July 11, 1916 to George and Elisabeth Seiling Downs in Spokane, Washington. Moved to Michigan in 1934. Graduated, Spokane (Washington) Lewis and Clark High School, 1933; B.A., University of Michigan, 1938; LL.B., University of Michigan, 1940. Served as Seaman 2/c, United States Navy, World War II; discharged 1944. Member, Michigan Employment Security Commission (1949-...); Executive Board, Michigan United Fund (1958-...). Member, Michigan State Bar Association. Member, Unitarian-Universalist Church. Married to Alice Elizabeth Mohrmann; four children: Timothy (1942); Elizabeth Laura (1945); Catherine Alice (1952); and Sarah Georgiana (1954).



WILLIAM DAVID FORD



WILLIAM DAVID FORD

Wayne 19th District

Democrat of Taylor; Committees on Judicial Branch (2nd Vice Chairman); Local Government. Attorney. Born August 6, 1927 to Robert and Jean McGhee Ford in Detroit, Michigan. Graduated, Melvindale High School, 1945; attended Wayne State University; B.S., University of Denver (Colorado), 1949; LL.B., University of Denver, 1951. Served as Aviation Ordnance 3/c, United States Navy, discharged 1946; First Lieutenant, United States Air Force Reserve, discharged 1958. Taylor Township Justice of the Peace (1955-57). Melvindale City Attorney (1957-59); Taylor Township Attorney (1957-62). Precinct Delegate (1957-62); Vice Chairman, Taylor Democratic Club (1957-62); Executive Board Member, 16th Congressional District Democratic Organization (1958-62). President, Taylor Rotary Club (1961-62); President, Down River Bar Association (1961-62). Member, Taylor Township Businessmen's Association; Taylor Parent-Teachers Association; Masons; Moose; Phi Delta Phi; Michigan Bar Association; Detroit Bar Association; American Bar Association; National Institute of Municipal Law Officers. Recipient, Junior Chamber of Commerce Distinguished Service Award (1962). Member, St. Paul United Church of Christ, Taylor. Married to Corrine Helene Sletten; three children: William David, Jr. (1948); Margaret Helene (1949); and John Phillip (1953).

WILLIAM FREDERICK HANNA



WILLIAM FREDERICK HANNA

Muskegon 2nd District

Republican of Muskegon; Committees on Legislative Organization; Style and Drafting. Attorney. Born January 12, 1920 to William J. and Mabel Young Hanna in Marne, Michigan. Graduated, Ravenna High School, 1937; B.S., Western Michigan University, 1941; LL.B., University of Michigan, 1948. Served as Lieutenant, United States Navy in the Pacific; discharged 1945. Muskegon County Board of Supervisors (1953-55); Justice of the Peace (1961-..); Muskegon Heights Assistant City Attorney (1949-53). Muskegon County Republican Committee (1949-61). Director and President, Muskegon Junior Chamber of Commerce (1949-51); Director and President, Greater Muskegon Community Fund (1951-53); Director, Muskegon Salvation Army Board (1951-53); Director, Young Men's Christian Association Men's Club (1961-..). Trustee, Lake Harbor Methodist Church (1958-60). Married to Leola M. Ferris; five children: Mary Kay (1952); William Lester (1953); John Robert (1955); Nancy Louise (1956); and Thomas Richard (1961).

J. EDWARD HUTCHINSON

J. EDWARD HUTCHINSON

8th Senatorial District

Republican of Fennville; Vice President; Committees on Style and Drafting (1st Vice Chairman); Miscellaneous Provisions and Schedule. Attorney. Born October 13, 1914 to Marc and Wilna Leland Hutchinson in Fennville, Michigan. Graduated, Fennville High School, 1932; A.B., University of Michigan, 1936; LL.B., University of Michigan, 1938. Served as Captain, United States Army; discharged 1946. State Representative (1947-50); State Senator (1951-60). Chairman, Allegan County Republican Committee (1960-61); Chairman, 4th Congressional District Republican Committee (1960-61); Chairman, Republican State Convention (1952); Delegate, Republican National Convention (1948). Member, Masons; American Legion. Married to Janice Caton.

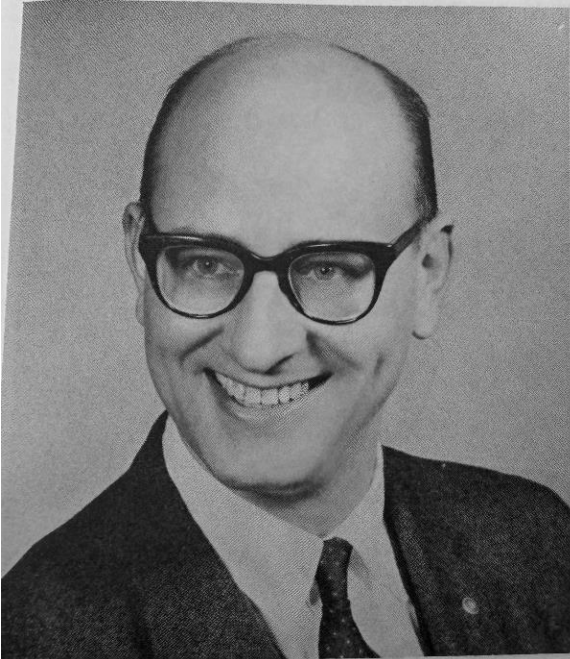


RAYMOND L. KING

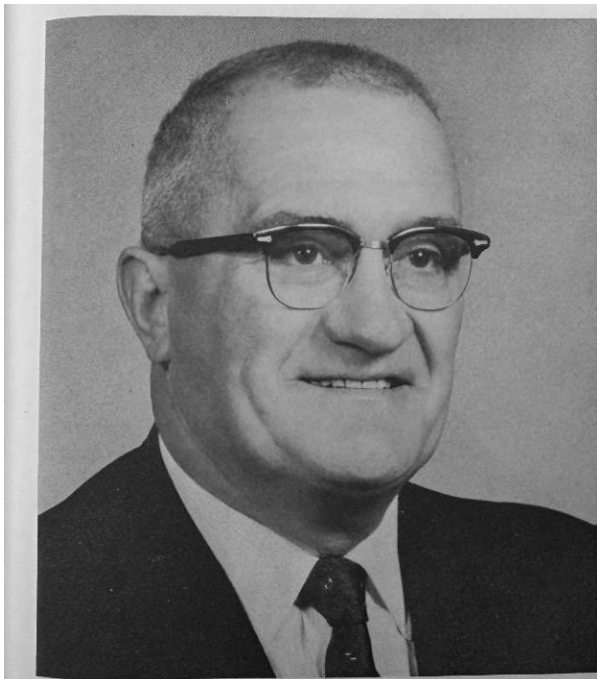
RAYMOND L. KING

Oakland 2nd District

Republican of Pontiac; Committees on Executive Branch; Emerging Problems. Attorney. Born September 1, 1929 to Samuel and Doris Lamprey King in Braintree, Massachusetts. Moved to Michigan in 1957. Graduated, New Hampton (New Hampshire) High School, 1947; B.A., University of Maine, Orono, Maine, 1952; LL.B., Boston (Massachusetts) University, 1957. Served as S/Sgt., United States Air Force; discharged 1952. Oakland County Republican Committee (1960-...); Pontiac Regional Campaign Director (1960-61); Precinct Delegate (1960-...). President, Boston University School of Law Class of 1957; President, Herrington Hills Homeowners' Association (1959); Vice President, American Law Students Association (1956). Member, Theta Chi; Elks; Kiwanis; American Legion; Oakland County Bar Association; State Bar of Michigan; American Bar Association. Unitarian. Married to Jean Ellen Peters; three children: Deborah Rae (1952); David Winslow (1954); and Kathryn Mae (1959).



ARTHUR J. MADAR



ARTHUR J. MADAR

Wayne 1st District

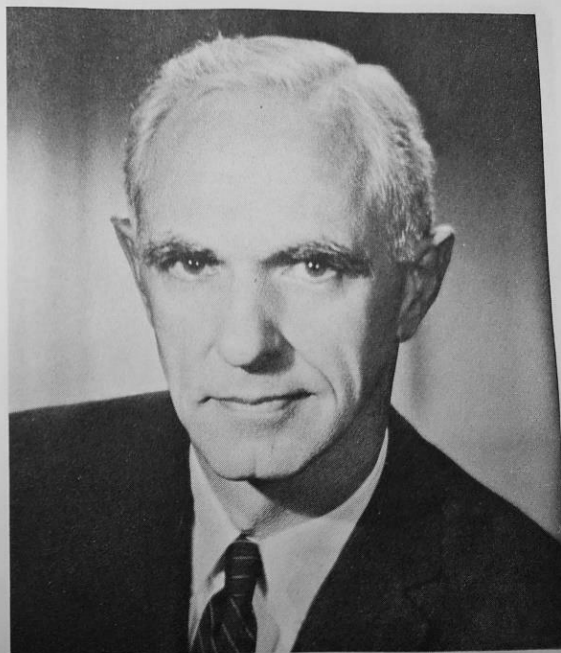
Democrat of Detroit; Committees on Local Government; Public Information, Health Inspector. Born May 25, 1905 to Paul and Anna Seman Madar in Hastings, Pennsylvania. Moved to Michigan in 1923. Attended Sykesville (Pennsylvania) High School. Served as 1st Lieutenant, United States Army; discharged 1945. Board of Trustees, Pension System, Detroit City Employees (1961-62); Detroit Rent Control Board (1947); Detroit Food Conservation Commission (1947-49); Michigan Council for National Defense (1948-52); Board of Governors, Detroit Employees Death Benefit Fund (1961-..); Vice President, C.O.P.E., 14th Congressional District (1959-62). President, Community Home Owners Association (1947-48); Post Commander, AmVets; District Commander, AmVets; State Commander (1947-48); National Senior Vice Commander, AmVets (1946-47); Board of Trustees, Mack Avenue Businessmen's Club (1961); President, Harper Civic Association (1947-62); President, East Side Federation of Civic and Businessmen's Associations (1947-62). Recipient, AmVets Merit Award (1948); Outstanding Service Award, Association of Bedding and Furniture (1962). Member, Park Drive Ravendale Association; American Legion; Gratiot Avenue Improvement Association; Holy Name Society; St. Vincent DePaul. Member, St. Matthew's Roman Catholic Church, Detroit. Married to Clara Barbara Dettloff.

JOHN BUTLIN MARTIN

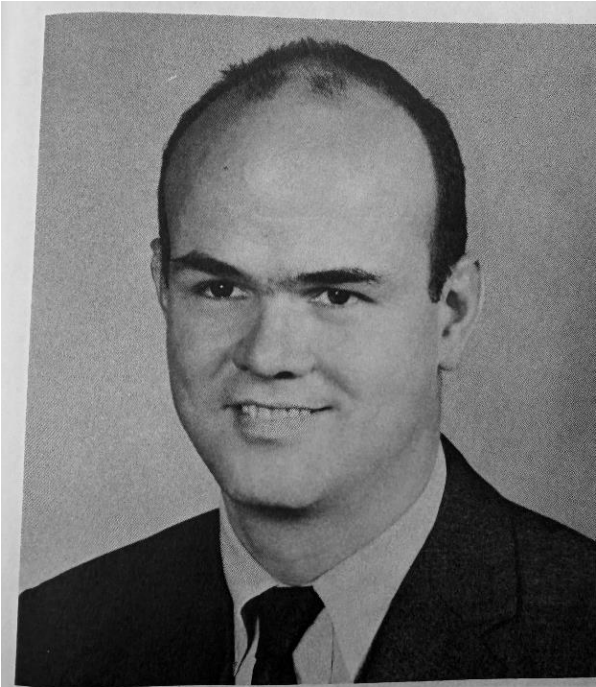
JOHN BUTLIN MARTIN

17th Senatorial District

Republican of Grand Rapids; Committee on Executive Branch (Chairman). Attorney. Born October 3, 1909 to John Butlin and Althea Winchester Martin in Grand Rapids, Michigan. Graduated, Grand Rapids Central High School, 1926; A.B., Dartmouth College, Hanover, New Hampshire, 1931; B.Litt., Oxford (England) University (Rhodes Scholar), 1933; J.D., University of Michigan, 1936. Served in U.S. Naval Reserve, discharged as Lieutenant Commander, 1946. State Senator (1948-50); State Auditor General (1950-54). Deputy Director, National Office of Civil Defense (1942-44); Assistant to Chairman, Securities and Exchange Commission (1936-37); Deputy Director, Ohio Division of Securities (1938-41); Republican National Committee (1957-..). President, Grand Rapids Rotary (1957-58); President, Kent County Mental Health Center (1956-57); Chairman, Michigan Crime and Delinquency Council (1960-..); Vice Chairman, Michigan Commission on Aging (1960-..). Member, American Legion; Veterans of Foreign Wars; AmVets; Grange; Farm Bureau; Phi Beta Kappa; Grand Rapids Bar Association; Michigan State Bar Association; American Bar Association. Trustee, Fountain Street Baptist Church, Grand Rapids (1958-59). Married to Helen Hickam; four children: Mrs. Judith Hartig (1938); Richard H. (1936); Gillian (1941); and Suzanne (1947).



RICHARD CAMPBELL VAN DUSEN



RICHARD CAMPBELL VAN DUSEN

Oakland 4th District

Republican of Birmingham; Committees on Rules and Resolutions (Chairman); Finance and Taxation. Attorney. Born July 18, 1925 to Bruce and Helen Campbell Van Dusen in Jackson, Michigan. Graduated, Deerfield (Massachusetts) Academy, 1943; attended Central Michigan University; B.S., University of Minnesota, 1945; LL.B., Harvard University (Massachusetts) 1949. Served as Lieutenant (j.g.), United States Navy in the Pacific; discharged 1946. State Representative (1954-56); Chairman, Republican State Convention (1956); Oakland County Republican Committee (1954-..); Director and Vice President, Boys' Republic, Inc. (1958-..); Director, Big Brothers of Oakland County (1955-..); Director, Michigan State Chamber of Commerce (1961-..); Director, Birmingham Athletic Club (1958-61); Assistant Secretary, Institute for Economic Education; Director, University Club of Detroit. Clerk of the Vestry, Christ Church Cranbrook (Episcopal) Bloomfield Hills. Married to Barbara Congdon; three daughters: Amanda (1952); Lisa (1954); and Katherine (1957).

Although referred to as the Constitutional Convention of 1963, the convention began on October 3, 1961, and adjourned on August 1, 1962.



Chairman Van Dusen: ... the secretary will read section f.



Secretary Chase: Section f:

The supreme court may appoint and remove its staff and shall have general supervision of the staff of the court and control of the expenditure of the funds appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff, except that the salaries of the justices of the supreme court shall be established by law. All fees, perquisites and income collected by the clerk shall be turned over by him to the state treasury and credited to the general fund. No justice of the supreme court shall exercise any other power of appointment to public office, except as otherwise provided herein.



Chairman Van Dusen: For an explanation on section f the Chair recognizes the chairman of the committee, Mr. Danhof.



Mr. Danhof: Mr. Chairman, I should like at this time to yield to the vice chairman of the committee for the explanation of this section, Mr. Ford.



Chairman Van Dusen: Mr. Danhof yields to Mr. Ford.



Mr. Ford: ... This is a new section, replacing and simplifying section 6, article VII of the Constitution of 1908. It extends the appointive power of the supreme court and its supervising control to its entire staff, instead of limiting it to the officers named in section 6, article VII of the constitution of 1908. The language that does that, if we can go through this together, is the first sentence, of course, which has 2 subjects covered in it. One, the appointment of the staff, and the second is the control of expenditure within the budget allocated to the court.

...I think, really, all this section does that is at all startling or new is to adopt the concept that when the court has money appropriated to it for its operation by the legislature, once the money has been appropriated the court itself will have control over the amount of wages paid to its employes [sic], and so on and so forth, within the limits of the budget.

This would in some ways make it, as we are informed by representatives of that court, more readily possible for the supreme court to govern its housekeeping affairs and to handle matters of personnel over there.

... I would like to yield for question in the hope that the chairman can answer them.

THE FIRST AMENDMENT



Chairman Van Dusen: The Secretary will read the first amendment proposed to section f.



Secretary Chase: Mr. Austin offers the following amendment: 1. Amend page 2, line 15, after "control of" by inserting "the preparation of its budget recommendations and"; so that the sentence will read: The supreme court may appoint and remove its staff and shall have general supervision of the staff of the court and control of the preparation of its budget recommendations and the expenditure of the funds appropriated for any purpose pertaining to the operations of the court..."



Chairman Van Dusen: On the amendment the Chair recognizes Mr. Austin.



Mr. Austin: Mr. Chairman and members of the committee, I think we will have a little change of pace now. We nonlawyers have a subject that we can discuss. I have suggested this amendment because there is a question that needs to be answered, and I felt that the best way to get an answer was to propose this amendment.

...The question, of course, is whether the preparation of the budget for the supreme court shall be left to the executive department or shall it be left to the legislature. It seems to me that we must in this article include something that will indicate that the budget for the judiciary is under the control of the judiciary. It is quite possible that if we do not provide for budget control in the judiciary, it is possible that either of the other 2 branches may be able to exercise some indirect control over the judiciary through budget manipulation.

Now in deleting the language that was deleted the other day, the objections raised were that we objected to the assignment of functions to the administrator in the constitution, and that the language we had was rather rigid for the constitution. No reference was made at the time to the need to include any authority for budget preparation for the Judiciary. The committee on judicial branch apparently saw the need for including some language of this sort, and now that it has been deleted from the paragraph from which it was deleted, it is my feeling that we can insert it at this point.

....On page 2, line 17 of Committee Proposal 46 you will find this language: "The governor's power to reduce expenditures shall not apply to the legislative and judicial branches or to those services for which funds are mandated by this constitution." I am particularly concerned about the exclusion here of the power of the governor to reduce expenditures for the judicial branch. If the governor is not to have this power, then who is to have the power?



Mr. Austin continued: This is another reason why I feel that we must include in this paragraph of section f of Committee Proposal 91 some reference to the preparation of budget, and instead of suggesting that the budget be prepared by the department, that is, by the judiciary, I am suggesting that budget recommendations be prepared by this department, and, of course, they would be forwarded to the governor for inclusion in his executive budget.

I hope that I have made clear what my intention for including this amendment is, and I will yield now for any questions.



Chairman Van Dusen: Do you desire to yield to the chairman of the committee, Mr. Danhof, Mr. Austin?



Mr. Danhof: Mr. Mr. Chairman, members of the committee, Mr. Austin brought this to my attention last Friday. I told him at that time I personally could not see any particular objection. ...I have not talked to the full membership of my committee, except a few who are in my immediate area. They agree to assent.

This endeavors to do what we are trying to accomplish for the supreme court, and what small amounts of money it gets in proportion out of the general budget; that is, that the court will submit a budget, it will be scrutinized by the legislature, and when the appropriation is made they can at least transfer within the amount of the appropriation. It also gives them the supervision over its staff.

I personally can see no objection to the amendment, especially in light of the action taken the other day wherein the other budget suggestion was taken out of an earlier part of this particular committee proposal. I would urge the adoption of the amendment.



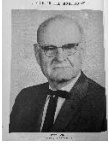
Chairman Van Dusen: Mr. Ford.



Mr. Ford: I think what Mr. Austin has done has amplified the real intention of the committee, and I would support the amendment to the committee proposal.



Chairman Van Dusen: The question is on the amendment offered by Mr. Austin, which the secretary will read.



Secretary Chase: Mr. Austin's amendment:

1. Amend page 2, line 15 after "control of" by inserting "the preparation of its budget recommendations and"; so that the sentence will read:

"The supreme court may appoint and remove its staff and shall have general supervision of the staff of the court and control of the preparation of its budget recommendations and the expenditure of the funds appropriated for any purpose pertaining to the operation of the court...."

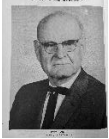


Chairman Van Dusen: Those in favor of the amendment will say aye. Those opposed will say no. The amendment is adopted.

THE SECOND AMENDMENT



Chairman Van Dusen: The Secretary will read the next amendment.



Secretary Chase: Messrs. Brake and Hutchinson offer the following amendment:

1. Amend page 2, line 17, after "court" by inserting "subject to the general accounting laws of the state"; and after "staff" by changing the comma to a period and striking out "except that" in line 18; so that the language will then read:

...expenditure of funds appropriated for any purpose pertaining to the operation of the court subject to the general accounting laws of the state or the performance of activities of its staff. The salaries of the justices of the supreme court shall be established by law.



Chairman Van Dusen: On the amendment, Mr. Brake. Mr. Brake yields to Mr. Hutchinson.



Mr. Hutchinson: Mr. Chairman, I originated this amendment, and when we adjourned on Friday, and when we hadn't gotten down here, and I knew I couldn't be here this afternoon, I asked Mr. Brake if he would offer it because I couldn't conceive that we would not have gotten this far by the afternoon session. But we didn't, and I am back, and I can explain it myself.

I offer it, even now since Mr. Austin's amendment has been adopted, for the reason that I feel it is now necessary to make clear that the control of the expenditure of appropriated funds to the court will be subject to the accounting laws of the state. You see, the supreme court is the final arbiter as to what the constitution says, and even when it is a party to the controversy, in a sense, because it has to interpret what its own powers are, from which decision there apparently is no appeal, in this area particularly the constitution is what the supreme court says it is.

Now, if we have seen fit to spell out the fact that the control of the budget preparation shall be in the hands of the court itself, then if we don't follow along and say that the control of the expenditures shall be subject to the accounting laws, perhaps the court will conclude that they are not. The expenditure should be subject to the accounting laws because they should be subject to the allotment procedure which is within those laws.

What I mean is this, ladies and gentlemen of the committee, when the legislature appropriates money, this simply amounts to an authorization to expend money out of the treasury. Now, the actual expenditure of the money is something that is within the executive branch operations. The several departments of the government have to go, under present law, to the state administrative board seeking an authority to withdraw from the treasury in accordance with the appropriation.

The procedure is, ordinarily, that the appropriation is allotted quarterly, so that the administrative board each quarter allots, presumably, 25 per cent of the total appropriation, and during that 3 month period the department involved may withdraw up to that amount of its total appropriation.

In cases where there is a justification for a departure from an even division into even quarters, why, the ad board may permit, for instance, the expenditure of 1/3 of the whole appropriation in a 3 month period instead of 1/4 of it if in another quarter the matter can be adjusted.

...Now I don't mean to dispute for a moment the idea of a lump sum appropriation to the court. I can see wisdom in a lump sum appropriation. But I think we should be concerned lest in times of restricted cash flow through the treasury the court might embarrass the treasury by demanding to take all of its whole appropriation out at one time, when there might not be sufficient cash there to accommodate them. I don't mean to say that they are not reasonable men. I think that they are.



Mr. Hutchinson continued: I think that by and large the court will be as cooperative as though they were actually subject to the executive branch.

On the other hand, we don't know what the situation will be in the future, and I sincerely hope that the committee will see fit to make this matter subject to the accounting procedure of the state, just as it has seen fit to provide that it shall be subject to the budgetary procedures of the state.



Chairman Van Dusen: The question is on the amendment offered by Mr. Hutchinson, on which the Chair will recognize the chairman of the committee, Mr. Danhof.



Mr. Danhof: Mr. Chairman, Mr. Hutchinson, let me first state that it was not the intent of the committee that there should be no post audit of any of the appropriations that might be given to the court....I can state, and I think without qualification, that the committee was firmly of the opinion that the legislature or the auditor or the auditor general, whatever we have, would have the right at the end of the fiscal year to come in and audit the account and the books and the records of the supreme court.

The only thing that appears to me is this: Mr. Hutchinson refers to the fact that the court should be subject to the allotment proceedings of the accounting laws of this state lest the court, by reason of its appropriation, raids the treasury. I think, in the first place, we are talking about an appropriation which, in the light of the general appropriation and expenditure of this state, is a very, very small percentage. The court operates with 8 men.

A delegate [Not pictured]: We will have 9.



Mr. Danhof: Well, we haven't gotten that far yet. We might only have 7. Now, last week this committee passed without worrying about a lump sum or allocation, the power to the regents of the University of Michigan to draw anywhere from \$35 to \$40 million out once the appropriation is made. Now, however, the supreme court must go hat in hand to the ad board and say, "Please give us our 90 day allotment."



Mr. Danhof continued: Now, I don't envision that the supreme court, or the administrator who is going to run this, is such a poor politician that he does not want to get along with either the members of the legislature or the administrative board, and I am sure that he will do everything possible to keep a smooth operation going under the golden dome across the street; because each and every year he is going to have to go back to the same legislature to get his appropriation.

But to make it subject to the general accounting laws of the state, therein lies what I think is the great danger; because if we do that the general accounting laws may change to demand a line by line budget and again a line by line expenditure, and this can very definitely fall under the accounting laws of this state.

Now, if the committee wishes to put in there what it did for the universities, who are going to spend some \$40 to \$50 million, for this massive appropriation of the court, which will probably never exceed a couple of hundred or three hundred thousand, we will have no objection. We do think that the court is an independent branch of the government; that it should be given its appropriation; that the 8 justices of this court should be at least trusted to expend it with reasonable diligence and following what their budget is, and we do feel that they should have more authority than they have now so that if they do not find what they need for salaries, but they need additional equipment, they can at least move it around within the appropriation.

I am sure that the chairmen of the appropriation committees of the 2 houses, if they go too far astray on any particular item, that is, if they overestimate salaries and underestimate books, will cut them back the following year.

I would urge the defeat of this amendment, but would be willing to state that if we could draft language relative to a post accounting audit, perhaps this would be agreeable, in line with what we have done with the universities that we adopted last week. Thank you.



Chairman Van Dusen: The gentleman from Pontiac, Mr. King.



Mr. King: Mr. Chairman, ladies and gentlemen of the committee, I would like to ask a question of Mr. Hutchinson. My question is, what constitutes the general accounting laws of the state?



Chairman Van Dusen: Mr. Hutchinson.



Mr. Hutchinson: Mr. Chairman, on that I would like to yield to Mr. Brake. I don't think there is a man in the room that is better qualified to answer than he.



Chairman Van Dusen: Mr. Hutchinson yields to Mr. Brake.



Mr. Brake: Mr. King, ladies and gentlemen, principally just this: the vouchers of the supreme court would go through the regular channels, the same as any other department of state government. When it comes to allotment, they would not need to go to the administrative board hat in hand at all.

The even quarterly allotment would be made as a matter of course. If the supreme court wanted to spend 1/2 of its appropriation in 3 months, then it would have to ask permission, the same as any other department of state government. This is simply a matter of keeping the procedure uniform and orderly. It doesn't mean commingling of funds, it doesn't mean taking any money away from the supreme court, or anything of the kind.



Mr. King: Is it my understanding then that—well, let me put it this way, the general accounting laws of the state, of course, consist of a great many laws which are subject to amendment each and every session of the legislature, isn't that so?



Mr. Brake: This wording occurs over and over and over again. It simply means you follow the regular procedures.



Mr. King: Would you object if we change your amendment to read subject to the allotment laws of the state. Or laws regarding allotment?



Mr. Brake: Well, that isn't all there is to it. It is a matter of presenting their vouchers to the department of administration which orders the issuance of the checks. That is included as well as the allotment.



Mr. King: Do you conceive of any possibility that the legislature could infringe upon the separation of powers?



Mr. Brake: When the legislature has made the appropriation, that is the appropriation. They can't do anything about that. That is covered by the accounting procedures.



Mr. King: Don't you think a post audit would satisfy the requirement that you feel is necessary?



Mr. Brake: That is something entirely different. There should be a post audit of everything. That isn't what this covers at all.



Mr. King: One more question, Mr. Chairman. What percentage of the state budget do you think is consumed by the supreme court?



Mr. Brake: A very, very small part. It is a matter of having the same orderly procedure everywhere. It isn't a matter of saving any money.



Mr. King: Thank you.



Chairman Van Dusen: The vice chairman of the committee, Mr. Ford.



Mr. Ford: I want to support the statement made by Mr. Danhof. It is our view that what Mr. Hutchinson and Mr. Brake would do now would be to provide a means whereby the legislature could take away, intentionally or unintentionally, the kind of fiscal independence, even though we are talking about a very small part of the state budget, that we are trying to give to the supreme court.

They have an awful lot of trouble over there where they hire a person for one job and they have to hire them with a classification of some other kind. They are dealing with professional people that they bring into the court from time to time, and it was the view of the committee that once they have established the need for funds, and the legislature has appropriated it, we could trust the supreme court to spend the money during the year understanding that when they account—at the end of the year when they come back asking for their new appropriation, if they abuse it in any way the legislature can take care of it.



Mr. Ford continued: It would seem to destroy everything we have tried to do if we place back into the hands of the legislature the possibility of adopting any kind of accounting procedure during the actual using of the funds that would take this independence away from the court, and I would oppose the amendment.



Chairman Van Dusen: The gentleman from Detroit, Mr. Austin.



Mr. Austin: Mr. Chairman, I just asked Mr. Brake a question privately, and I think I will ask it here on the floor, because I think maybe this answer ought to be in the record, because I am not clear on it. When the committee passed Committee Proposal 37 from the finance and taxation committee this language was included, "No money shall be paid out of the state treasury except in pursuance of appropriations made by law."

Of course, my question is—before I ask my question I would like to comment on something else that was said a little earlier about audits, because when I sit down I know that I will yield the floor. In regard to audits, I would like to call to Mr. Danhof's attention that we do now provide in the constitution that all accountings—that the legislature shall provide by law for the annual accounting of all public moneys; the legislature shall provide by law for the audit of state and county accounts by competent state authorities. I merely wanted to point out that we have already provided for the audit of any state accounts, and this would include the supreme court as well as any others.

Now, to get back to my question: I would like to know why this language "no money shall be paid out of the state treasury except in pursuance of appropriations made by law" would not cover what we are interested in in this proposal. We are saying here that we would like the—I can't read this—subject to the general accounting laws of the state.

It would appear to me that if the appropriation for the supreme court is made in accordance with the section that we have already agreed upon, that at the time the appropriation is made the law which makes the appropriation would in some way indicate how the money is to flow to the judiciary which is to receive the money. If that isn't the case, I would like to have it explained.



Chairman Van Dusen: Mr. Brake.



Mr. Brake: The provision that we have approved in the committee here, Mr. Austin, simply provides that the money appropriated to the supreme court will be available for the supreme court to spend. It doesn't say how.

Mr. Ford talks as if the legislature would have to pass some special accounting laws so that the supreme court could spend its money. That isn't the case at all. Those laws are already there. They need not be changed. It is just a matter of having the supreme court put its vouchers through the regular channels; making any change in the allotment they need from one quarter to the other, the same as everybody else does. It doesn't take any money away from them; it doesn't keep them from spending it; it doesn't take the control away from them.



Chairman Van Dusen: Mr. Austin, do you wish to pursue your point further?



Mr. Austin: I yield the floor.



Mr. Hutchinson: Mr. Chairman, might I respond further?



Chairman Van Dusen: Mr. Hutchinson.



Mr. Hutchinson: I would like to respond this way to Mr. Austin's question: Mr. Austin says, well, the appropriation act of the legislature will probably say in so many words that this appropriation shall be expended in accordance with the general accounting laws of the state. He thinks it will be taken care of at the legislative level, and I would agree with him but for the fact that here we are writing something into the constitution, and the constitution would supersede anything that the legislature might say in its appropriation act, and even though the legislature might say in its appropriation act—and this would be the general government appropriation act, which would include something for the supreme court as well as something for the other agencies of the government—even though that act might say that these moneys shall be subject to the general accounting laws—these appropriations shall be expended only in accordance with the general accounting laws of the state, the point is that here we have it in the constitution that the supreme court shall have control of the expenditure of the funds appropriated, and there aren't any constitutional strings applied, and if the issue arose before the supreme court, and the supreme court was called upon to interpret what its constitutional power was, as opposed, if you please, to the statutory directions of the legislature and the general accounting laws of the state, who is to say that the supreme court might not say: well, the constitution is silent on the matter, and doesn't put any conditions on that, and it has given us the absolute control of the expenditure.



Mr. Hutchinson continued: So we will control it, and we won't go to the state administrative board seeking allotments, and we won't comply with the general accounting laws of the state because the constitutional writers said that in this particular field we weren't forced to comply with it.

Now, that, I think, is the answer to your question, sir. It is simply that here we are writing a constitutional provision which would, by interpretation, supersede anything that the ordinary processes might require, and you felt it necessary to write into the constitution assurance that their budgetary procedures would be taken care of by them, and I think that it is equally important that we make sure that the other end of the procedure likewise is constitutionally proved for under these circumstances.



Chairman Van Dusen: The gentleman from Muskegon, Mr. William Hanna.



Mr. Hanna: Mr. Chairman, a question to Mr. Danhof. Mr. Danhof, in this matter you have "control the expenditure of funds appropriated." Is it your understanding that the supreme court would run a checking account independently of the general warrant system?



Chairman Van Dusen: Mr. Danhof.



Mr. Danhof: Do I think that they would? No, I don't think they would. As I said, I think they are intelligent people who want to comply with this system, and would go along with it. I can't conceive, assuming that this is going to be one of the duties given to the administrator, that he would do anything other than go with the particular usual state procedure.



Mr. Hanna: Would you say that the supreme court could ignore central purchasing?



Mr. Danhof: It might.



Mr. Hanna: Do you think they should?



Mr. Danhof: I don't know, but they might. It is possible that there are things that they may wish to expend on their own. Again, maybe they have to go out and purchase their own books. I don't know.



Mr. Hanna: Is there any reason why they shouldn't be required to write a purchase order and go through ordinary purchase procedure?



Mr. Danhof: They are not a branch of the executive, Mr. Hanna. They are an independent branch, and again this seems to be a discriminatory tactic against the court.



Mr. Hanna: Doesn't the legislature, when it buys its supplies, have to go through central purchasing?



Mr. Danhof: Only if they desire, I presume. They probably could say they didn't have to.



Mr. Hanna: Do you interpret this language to mean they could issue their own warrants on the state treasury without any going through of the usual administrative procedure and having the warrant signed by the appropriate member of the budgetary control department.



Mr. Danhof: Could or would?



Mr. Hanna: Could they?



Mr. Danhof: Yes, the same as the University of Michigan or Michigan State University can for \$40 million or more.



Mr. Hanna: Do you conceive of the supreme court as an independent body corporate that could be sued in its own name?



Mr. Danhof: I envision it as a separate branch of government that eventually should be given the right to run its own house.



Mr. Hanna: Could it charge sufficient fees at the local court level with which to run its own operations, and thus not go to the treasury for appropriation?



Mr. Danhof: If you would read the second to the last sentence you will find that all fees and income must be turned over and credited to the general fund. They can't keep any money.



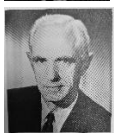
Mr. Hanna: Well, this is inconsistent with your first position.



Mr. Danhof: No, because we do want control by the legislature which has to appropriate the money. Therein lies the control. The legislature, if it goes too far, would undoubtedly take steps to cut their budget, the same as it can do—it has the final say as to what is going to be appropriated. The court can't make its own appropriation. All we ask is that once it is justified in appropriations, it be given the right to spend the money within its own particular branch.



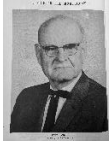
Chairman Van Dusen: The gentleman from Grand Rapids, Mr. Martin.



Mr. Martin: Mr. Chairman, I have been voting consistently with the committee to support what I thought were full and adequate powers for the court to manage its own affairs, but I do want to indicate my agreement with Mr. Brake and Mr. Hutchinson with respect to this particular amendment. I think it simply says, in effect, that the court shall follow the same orderly procedures in obtaining its funds and making expenditure that other portions of the state government should follow. I don't think it will hinder the court in any way from using the money or spending the money in the way it sees fit. So I think the amendment is a proper one, and can do no harm, and perhaps can do some good in keeping the general procedures of handling the funds aligned with the procedures for the rest of state government. I would support the amendment.



Chairman Van Dusen: The question is on the amendment offered by Delegates Brake and Hutchinson, which the secretary will read.



Secretary Chase: Messrs. Brake and Hutchinson have offered the following amendment:

"Amend page 2, line 17 after "court" by inserting "subject to the general accounting laws of the state"; and after "staff" by changing the comma to a period and striking out "except that" in line 18; so that the language will then read:

...expenditure of the funds appropriated for any purpose pertaining to the operation of the court subject to the general accounting laws of the state or the performance of activities of its staff. The salaries of the justices of the supreme court shall be established by law."



Chairman Van Dusen: Mr. Downs.



Mr. Downs: Mr. Chairman, I rise in support of the committee report, and wish to express my agreement with Chairman Danhof. I think in all our discussion about the various branches of government it is time to remind ourselves again that we are talking about the supreme judicial power of the state of Michigan. We are not talking about an administrative branch or an administrative branch of an executive branch handling millions of dollars that we want to watch very carefully. Rather we are talking about the body that we look to as the deliberative thought provoking body that should not necessarily be tied down by routine and administrative channels, though certainly if they want to they can.

I would imagine from a legal viewpoint that if, for some reason, the legislature did not appropriate money for the pay of constitutional officers they could mandamus the state treasury to get it. I think that is as unlikely to happen as it is that members of the supreme court would capriciously or on whim spend the money. I think at some point, although building in safeguards if very proper, we should certainly respect a certain dignity of the office of both the legislature and the court, and I for one am satisfied that the legislature would not attempt to deny the pay of judicial officers, just as I am equally convinced that the judicial officers of the state would not spend the money capriciously.

I think the stand which is already explained by Delegate Austin is more than adequate, and I therefore urge opposition of the amendment and support of the committee report.



Chairman Van Dusen: The gentleman from Detroit, Mr. Madar.



Mr. Madar: Mr. Chairman, after listening to the interchange between Mr. Austin and Mr. Brake—rather Mr. Hutchinson—I thought that we ought to vote against the amendment, and then I listened to Mr. Danhof, and I listened to Delegate Downs, a couple of attorneys discussing it, and it sounds to me as if possibly the judiciary ought to have rights to do something on an administrative matter that no one else has a right to do; that they ought to be solely in charge of their own funds and do just as they wish and please. But so far as I am concerned, I don't think that the judiciary and the educational departments, or any other group, has any right to do these things, and they should submit vouchers the same as I or anybody else must do in spending public funds. I am in favor of the amendment.



Chairman Van Dusen: The question is on the amendment offered by Delegates Brake and Hutchinson. Does anyone desire to have it read further? Those in favor of the amendment will say aye. Those opposed will say no. The Chair is in doubt. Those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.



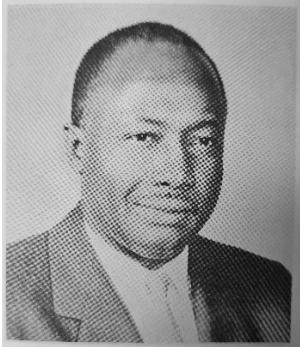
Secretary Chase: On the adoption of the amendment, the yeas are 53; the nays are 60.



Chairman Van Dusen: The amendment is not adopted. Are there further amendments to section f? If not it will pass.

Section f, as amended, is passed.

AFTER THE CONVENTION



RICHARD H. AUSTIN

After the convention, Richard Austin unsuccessfully ran for Congress in Michigan's 1st congressional district in 1964 but lost in the primary. He ran for Mayor of Detroit in 1969 but lost to Democrat Roman Gribbs. In 1970 he was elected to serve as Secretary of State, a position he held until 1995. Richard Austin was the first Black person to be elected to statewide office in Michigan [excepting the Supreme Court]. In his time as Secretary of State, Austin supported the enactment of seat belt and child safety seat laws, introduced mail-in vehicle registration, and pioneered automatic voter registration for driver license applicants. Richard Austin died in Detroit in April 2001. In 2005, the Treasury Building in Lansing was renamed the Richard H. Austin building by the State Legislature.



D. HALE BRAKE

Delegate Brake's service as a delegate at the convention marked the end of a distinguished career in public service that included ten years served as State Treasurer. In the early 1960s he wrote and published several books, including an analysis of the 1963 constitution, and an outline on the structure and functions of county government. David Hale Brake has a park named in his memory in Stanton, Michigan. He died in 1979.



ROBERT JOHN DANHOF

At the conclusion of his participation in the constitutional convention, Robert Danhof was appointed legal counsel to Governor George Romney in 1962. In 1969, Danhof was appointed to the Michigan Court of Appeals, for which he also served as chief judge, until his retirement in 1992. Robert Danhof died of cancer in 2013 in East Lansing.



TOM DOWNS

Tom Downs specialized in election law after the convention. He would also serve on the Michigan chapter of the American Lung Association, the National Council of Commissioners on Uniform State Laws, the Michigan Law Revision Commission, the Michigan Political History Society, the Michigan Council for the Arts, and as an adjunct professor at Cooley Law School. He died in East Lansing in 2007.



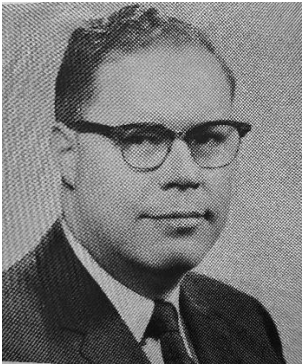
WILLIAM DAVID FORD

Unrelated to the Henry Ford family, or President Gerald Ford, Willam David Ford served in the Michigan Senate from 1962 to 1964. He was elected to Congress in 1965, serving until 1995, in that time serving as chairman of the House Committee on Post Office and Civil Service and the Committee on Education and Labor. Congressman Ford was known for his support of workers and educational opportunities. The Federal Direct Student Loan Program was named in his honor in 1994. Mr. Ford passed away in 2004 and is buried at Arlington National Cemetery.



WILLIAM FREDERICK HANNA

Delegate Hanna served as a District Court Judge in Muskegon and a Prosecuting Attorney in Oceana County until his retirement in 1983. He died in 2009.



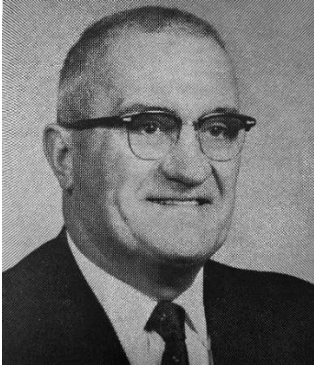
J. EDWARD HUTCHINSON

Following the convention, Jesse Edward Hutchinson was elected to congress from Michigan's 4th congressional district, where he served from 1963 until 1977. He was the ranking Republican on the Judiciary Committee during the impeachment hearings of Richard Nixon. He voted against impeachment in committee but later supported impeachment on the House floor. Hutchinson returned to Fennville after retiring from Congress, and later died in Naples, Florida in 1985.



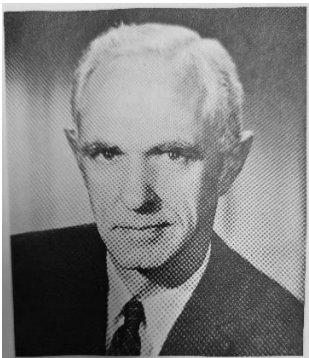
RAYMOND L. KING

Raymond King moved to West Branch after the convention and served for six years as Ogemaw County Prosecutor. Subsequently, he served as Ogemaw County Probate Judge. King passed away in 2021 in West Branch, Michigan.



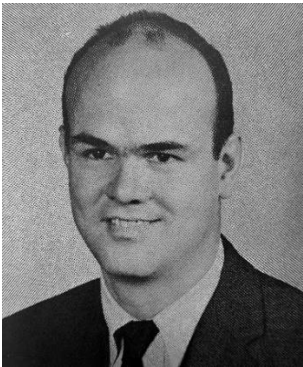
ARTHUR J. MADAR

Arthur Madar followed up the constitutional convention as an alternate delegate to the Democratic National Convention in 1964. He was a member of AMVETS and the American Legion. He died in Detroit in 1968.



JOHN BUTLIN MARTIN

John B. Martin passed away in 1989.



RICHARD CAMPBELL VAN DUSEN

Richard Van Dusen worked as an aid on George Romney's successful gubernatorial campaign and was appointed legal advisor to Governor Romney while in office. He was confirmed as undersecretary of the U.S. Department of Housing and Urban Development when Romney served as HUD secretary. Between public service appointments he frequently returned to private practice at Dickinson Wright, for which he often presented argument in front of the Michigan Supreme Court. Van Dusen was a strong proponent of professional diversity. After his death of heart failure in 1991, the Michigan Senate passed Concurrent Resolution 236 to honor his career.