

HOUSE CONCURRENT RESOLUTION NO.33

The Speaker, on behalf of the entire membership of the House of Representatives, offered the following resolution:

1 A concurrent resolution of tribute for the Honorable Stephen
2 J. Markman.

3 Whereas, It is a privilege to recognize Justice Stephen J.
4 Markman as he completes his service on the Michigan Supreme Court.
5 Justice Markman has served the state's judiciary, the legal
6 community, and the people of our state with distinction during his
7 lifetime of public service; and

8 Whereas, Justice Markman brought a wealth of experience from
9 the state and federal levels, as well as the private sector, when
10 he arrived at the Supreme Court in 1999. He served for seven years
11 as chief counsel of the United States Senate Subcommittee on the
12 Constitution and as deputy chief counsel of the United States
13 Senate Judiciary Committee. Justice Markman was appointed by

1 President Ronald Reagan to serve as a U.S. Assistant Attorney
2 General in 1985, when he led the Department of Justice's Office of
3 Legal Policy, which is the principal policy development office
4 within the department and coordinates the federal judicial
5 selection process. President George H. W. Bush appointed Justice
6 Markman to serve as U.S. Attorney for the Eastern District of
7 Michigan in 1989. After his term as U.S. Attorney ended in 1993,
8 Justice Markman practiced law at Miller, Canfield, Paddock, and
9 Stone until he was chosen to serve on the Michigan Court of Appeals
10 in 1995. He served on the Court of Appeals until Governor John
11 Engler elevated him to the Supreme Court in 1999; and

12 Whereas, Following his appointment to the Supreme Court, the
13 people of Michigan elected Justice Markman three times, first to a
14 partial term in 2000 and then to full terms in 2004 and 2012. His
15 colleagues later selected him as Chief Justice for the 2017-2018
16 session; and

17 Whereas, During more than two decades on the state's highest
18 court, Justice Markman was a thoughtful and hardworking arbiter of
19 the state's constitution and laws. He left his mark on the state
20 and the legal community, writing thorough and well-argued majority,
21 concurring, and dissenting opinions during his time on the bench.
22 His contributions have also extended outside of his appointed and
23 elective offices, penning numerous articles and book chapters,
24 teaching constitutional law at Hillsdale College, and assisting
25 Ukraine with the development of its most recent constitution on
26 behalf of the U.S. State Department in the 1990s; and

27 Whereas, Throughout his time on our highest court, Justice
28 Markman contributed immensely to the application of criminal
29 sentencing guidelines in cases such as *People v Kimble*, 470 Mich

1 305 (2004), and *People v Francisco*, 474 Mich 82 (2006), where he
2 penned pivotal opinions on Michigan's criminal sentencing scheme,
3 including providing in *Kimble* that "a sentence that is outside the
4 appropriate guidelines sentence range, for whatever reason, is
5 appealable"; and

6 Whereas, Justice Markman has demonstrated throughout his
7 tenure strong support for the constitutional foundations of
8 federalism and the separation of powers, as well as a reverence for
9 the legislative branch of government, as evidenced most recently in
10 the landmark decision ruling in support of state constitutional law
11 in the case challenging gubernatorial emergency powers. In this
12 opinion, Justice Markman restored the constitutional balance of
13 power while noting the importance of co-equal branch communication
14 and cooperation, and in doing so "left open many avenues for the
15 Governor and Legislature to work together to address" the COVID-19
16 Pandemic; and

17 Whereas, Justice Markman's instructive opinions have guided
18 both practice and the law. In this vein, his dissent while on the
19 Court of Appeals in a 1997 Headlee Amendment case about determining
20 what is considered a tax or a fee under the constitutional
21 provision became the building blocks for the Supreme Court in *Bolt*
22 *v City of Lansing*, 459 Mich 152 (1998) and the Legislature's
23 subsequent amendment of the law; and

24 Whereas, Justice Markman has written impactful dissenting
25 opinions while on the bench, like his strong defense of the best
26 interests of children in his dissenting opinion in favor of the
27 "one-parent doctrine" in *In re Sanders*, 495 Mich 394 (2014), or the
28 resounding dissent he wrote in support of self-defense in *People v*
29 *Richardson*, 490 Mich 115 (2011), stating:

1 "This Court must continue to speak strongly and clearly on
2 the right of self-defense, particularly with regard to the
3 sometimes difficult and insecure environments of some of
4 our state's largest cities; and because the instructional
5 error here was far from harmless, implicating a
6 quintessential right of a free society, on which the Second
7 Amendment of our Constitution is predicated—the right of
8 personal self-defense—I respectfully, but very strongly,
9 dissent."

10 ; and

11 Whereas, Justice Markman's contributions have positively
12 changed the way laws are interpreted, resulting in a more faithful
13 application of the law. Notably, on the calculation of days and
14 time in *Haksluoto v Mt Clements Regional Med Ctr*, 500 Mich 304
15 (2017), Justice Markman wrote for the majority, "There is no
16 principled reason to treat the last day differently from any other—
17 the abacus bead does not slide over until the day is over,"
18 ultimately holding that the statute of limitations period is tolled
19 when a notice of intent is filed on the last day of the limitations
20 period; and

21 Whereas, Justice Markman's work on the Supreme Court and his
22 steadfast commitment to our state will be missed. His principled
23 efforts and commitment to the rule of law will offer guidance to
24 those who follow him into the legal field and the state's judiciary
25 for years to come. Perhaps most importantly, his respect for the
26 Legislature as an institution and the rule of law has
27 unquestionably improved state government and, by extension, our
28 society as a whole; now therefore, be it

29 Resolved by the House of Representatives (the Senate

1 concurring), That we offer this expression of tribute to commend
2 and thank the Honorable Stephen J. Markman for his notable
3 contributions to our state; and be it further

4 Resolved, That copies of this resolution be transmitted to
5 Justice Markman as evidence of our gratitude and best wishes.