

POINTS OF VIEW

Ruling: For public universities, the benefits exceed the risks

"Open Meetings Act hinders vital higher education hiring"

The news media buried it, so you probably missed it. But to Michigan universities, it was certainly the most important event of the year.

I'm referring to the ruling of the Michigan Supreme Court that it's unconstitutional to apply the state's Open Meetings Act to university governing boards seeking a new president until a vote on a final candidate is taken at a formal meeting.

The 6-1 decision, announced last month, arose from a lawsuit filed in 1993 by the Detroit News and the Lansing State Journal against the Michigan State University Board of Trustees. The newspapers argued MSU violated the Open Meetings Act when it carried out a secret search process that would end selecting current President Peter McPherson.

The Court reasoned that the Michigan Constitution explicitly gives the power to control the workings of universities to their respective governing boards, not to the Legislature. The Open Meetings Act, however, is a creation of the Legislature. Therefore, university boards are not required by the OMA to keep presidential searches open, although any formal meetings to officially select a president must be open to the public.

The Court's key finding: "The Legislature does not have power to regulate open meetings for the (university) defendant in the context of presidential searches, i.e., it is institutionally unable to craft an open meetings act that would not, in the context of a presidential selection committee, unconstitutionally infringe the governing board's power to supervise its institution."

During the years I served on the University of Michigan Board of Regents, I was involved in searches for two presidents, James Duderstadt and Lee Bollinger. In both cases, the university was sued by the news media for violating the Open Meetings Act. So I've got some direct experience with this issue.

Over the years, various OMA court rulings made it tough on public university boards to find good presidential candidates. I recall a sitting university president and an excellent potential candidate for the U-M presidency telling me, "I admire your university and I'd love to be its president. But under no circumstances will I let my name be considered. Why? Because the way your Open Meetings Act has been interpreted makes it certain my interest will become public. And that would damage my presidency here, whether I'm selected or not."

Michigan became known nationally in the higher education community as a state with a crazy Open Meetings Act. Able people with university leadership experience increasingly refused to let their names go forward in Michi-



PHILIP POWER

gan university presidential searches. For example, not one sitting university president allowed his or her name to be considered during the Regents' last search for a new U-M president.

The constraints forced on boards by the courts could be absurdly restrictive. During the Bollinger search process, members of our board were ordered by a circuit judge not to interview candidates, check out their backgrounds with references or even talk informally among ourselves without the public being present.

The public policy issues involved go far beyond momentary inconvenience. Able and experienced university leaders are a scarce resource, and competition to recruit them is fierce. Restrictively applying the OMA to presidential searches systematically disadvantages Michigan public universities in competing with private schools for hard-to-find leadership talent.

The recent Supreme Court decision resolves this tangled situation. University boards in Michigan may now conduct searches for new presidents in private, opening up the process to the public only at a last, formal board meeting at which a final vote is taken. Our public universities can now compete on a level playing field for talented and experienced education leaders.

The risk, of course, is that university boards might now try to use the Court's ruling as an excuse for keeping secret a slew of things now firmly in public view. Eastern Michigan University, for example, announced last month that its search for a successor to President William Shelton will be entirely closed. And some experts are worried that the application to public universities of other beneficial laws — the Michigan Freedom of Information Act, for example — might be threatened.

But, on balance, the gain for our public universities — arguably Michigan's crown jewels — far exceeds the risks.

Phil Power is chairman of HomeTown Communications Network Inc., the company that owns this newspaper. He welcomes your comments, either by voice mail at (734) 953-2047, Ext. 1880, or by e-mail: at ppower@homecomm.net

Godfather by another name

Poker is a fine, old American tradition.

In this country, we have come to recognize games like baseball and football as more than just interesting contests. These days we venerate them as cultural icons (distinctly American events that help define us as a people, that have become a part of our national identity).

Poker ought to get equal billing. While no one individual is given credit for inventing the pastime, historians trace the game to New Orleans where it first became popular in the early 1800s. From there it spread up the Mississippi, on riverboats, of course, and throughout this Old West.

Today there is hardly a one of us who hasn't played it at one time or another.

Ante up a dime to a hand of Seven Card Stud and you feel like you should be slapping the trail dust off your vest while pouring yourself a shot of rot gut. Lay a big quarter bet drawing to an outside straight and it makes you want to check your six shooter in case some varmint comes up with a flush.

And oh, by the way, this national ritual is still illegal in the State of Michigan.

That's right: Play for pennies around the kitchen table and you are technically in violation of the law. Throwing down nickels and dimes with your poker pals at your regular Saturday night home game could net you a misdemeanor conviction and a \$500 fine.

What kind of sense does that make in a state hell-bent on expanding gambling opportunities? From tribal casinos up north to three new casinos coming to Detroit, wagering of all kinds is widely available here. And the latest development is that the State Lottery Commission is concerned that the new Detroit gambling houses will cut into its proceeds, so it is proposing new games. Under consideration is a statewide, Vegas-style Keno game, with drawings every seven minutes throughout the day.

State Sen. David Jaye, R-Washington Township, noticed a similar discrepancy with sports betting. Putting up \$5 with a friend over a handshake on the outcome of the Super Bowl could get you in similar trouble with the law. Throwing a buck into the March Madness office pool technically makes you a criminal in Michigan.

Jaye proposed legislation this year to legalize such small wagers. Senate bills 422 and 423 would allow you get a little action on a sporting event, as long as the bet doesn't exceed \$5 and the potential winnings don't exceed \$1,000.

Apparently, there are no similar advocates



MIKE MALOTT

of kitchen-table card games in Lansing because no other bills have been offered to legalize low stakes, home poker gatherings.

Even so, Jaye's idea has been met with a collective yawn in the Capitol, in part because it is Jaye who's proposing it. But lawmakers also say they aren't interested because, they argue, putting a dollar limit on how big a bet has to be before it becomes illegal would require a periodic review to adjust the amount for inflation. Or they would have to install some "cost of living" formula in the bill to allow the betting limit to occasionally ratchet upward.

Cops don't bust such low stakes games anyway, legislators argue. That's not really true, considering police broke up a low-level poker game in Novi and a sports betting party in Royal Oak just last year. I predict that as Michigan residents get more used to gambling, there will be more such incidents in the future. At this point, cops have to decide what is illegal gaming and what is so small that lawmakers really didn't intend to have officers bother with it.

More bizarre yet is the fact that while poker in the privacy of your own home for nickels and dimes is still technically illegal, you can go play that game in a casino card room for stakes that are a lot higher. Poker games requiring bets of \$10 to \$40 are commonplace in casinos. Of course the casino takes 5 percent of every pot, and the government gets its cut through taxation, or "compacts" in the case of tribal gaming houses.

In the old days, there was another name for the guy who said what gambling games you could play and who made that decision based on whether he could get a cut of the action. He was referred to as "the godfather." Now it is Michigan state government that fills that role.

Mike Malott reports on the local implications of state and regional events. He can be reached by phone at (248) 349-1700 or by e-mail at mimalott@homecomm.net

Heslop's 24th Anniversary Sale
China & Gifts
Take an additional 10% off Heslop's everyday low prices on select merchandise!

It's Heslop's 24th Anniversary! What better way to celebrate than by giving you your favorite department store the lowest prices on select merchandise? It's our 24th Anniversary Sale!

Only \$29.95 *Green*
Alden's Broom, Broom, all right!

Thursday, July 15-Sunday, July 25

Metro Detroit:
Dearborn Heights, The Heights • (313) 274-8200
(Ford Rd. between Inland and Beach Dvys.)
Livonia, Morris Five Plaza • (734) 522-1850
(On corner of Five Mile Rd. and Meridian)
Novi, Novi Town Center • (248) 349-8090
Rochester, Meadowbrook Village Mall • (248) 375-0923
St. Clair Shores • (810) 770-4142
21429 Mack Ave. (North of Eight Mile Rd.)
Beverly Heights, Eastlake Commons • (810) 247-8111
(On corner of Hall Rd. and Hayes Rd.)

Troy, Oakland Mall • (484) 589-1433
West Bloomfield, Orchard Mall • (248) 737-8080
(Orchard Lake and 15 Mile Rd.)

Outstate:
Ann Arbor, Colonnade • (734) 761-1002
(On Eisenhower Pkwy. west of Briarwood Mall)
Grand Rapids, Breton Village Mall • (616) 957-2145
(Breton Rd. and Burton Rd.)
Okemos, Meridian Mall • (517) 349-4008

INTRODUCE THE BRIDE-TO-BE TO HESLOP'S BRIDAL REGISTRY THE BRIDAL REGISTRY OF CHOICE

Short-term Stays Available!

Seniors get the care they need and the respect they deserve at Sunrise Assisted Living.

Call or visit a Sunrise Assisted Living community to meet our dedicated, caring staff and experience a truly home-like quality care alternative for seniors.

Our residents benefit from:

- Wellness program supervised by licensed nursing staff
- 24-hour caregiving staff and security
- Individualized service plans to meet specific care needs of residents
- Incontinence management program
- Three delicious meals a day and snacks
- Activities, social programs and weekly excursions
- Scheduled transportation
- Weekly housekeeping and laundry service

Visit or Call Today!

Farmington Hills North:
248-538-9200
(Information Center open!)
29681 Middlebelt Road
Farmington Hills

Northville:
734-420-4000
(Information Center opening August 99!)
16100 Haggerty Road
Northville

Rochester:
248-601-9000
(Now open!)
500 East University Drive
Rochester

SUNRISE ASSISTED LIVING

No appointment necessary. Walk-ins are welcome!