Political fact of life

Some conflict of interest inevitable

By TIM RICHARD

Few elected officials in Michigan are full-time policymakers. State legislators, Wayne County commissioners and Detroit councilmen can live on their salaries, but the overwhelming majority of local officials meet once or twice a month and get a few pay at best.

And so, with the citizen-politician so widely distributed, it is a fact of life that some officials will run into occasional conflicts of interest, that is, they will be called on to make official decisions which could benefit their private interests.

In some cases the conflict is so substantial that it becomes impossible for the person to hold office any more. In most, it is sufficient for the official to abstain from voting on an issue where his interests conflict.

SCHOOLCRAFT COLLEGE trustees recently ran into two such questions of conflict. They involved trustees Mark McQuesten, a sometime student there, and Gerald Cox, whose wife is on the payroll.

Attorney W... Hoppe of the firm of Miller, Canfield, Paddock and Stone gave the trustees different answers in each case.

McQuesten's case was the most minor, yet it proved thus the trickiest to deal with.

McQuesten earned an associate degree from Schoolcraft several years ago and is now in the working world. He is taking one course currently.

In 1969 Attorney General Frank J. Kelley ruled it would be a violation of the state constitution for a doctoral student to serve on the governing board of a state university.

The reasoning is subtle. Using a 19th century State Supreme Court decision in the case of two black students who were denied readmission to a private Grand Rapids college, Kelley ruled that such a student is in a contractual relationship with the college.

Because of this substantial contract, Kelley ruled a doctoral student could not serve on the board of a university he was attending.

KELLEY LEFT unanswered two other questions: What about undergraduate students? And what about part-time students?

Hoppe's opinion last week answered both.

"It would be a conflict of interest for a member of the board of trustees of Schoolcraft College to be a student at the college."

At that point in the letter it looked as if McQuesten was in trouble, either as a student or trustee, but Hoppe had more to say.

The legislature distinguished between substantial conflicts and "de minimum" conflicts. In McQuesten's case, he said the conflict was the latter. "The election of an individual class . . . seems unlikely to represent a conflict of interest. The election of one class would most likely be in the de minimus category rather than in the category of contracts sufficiently substantial to represent an illegal conflict of interest."

McQuesten was safe at the plate.

BUT DR. COX had to abstain from voting on ratification of the collective bargaining contract between the college and the Faculty Forum, which this year for the first time represents part-time instructors.

Said Hoppe: "Financial interests of business associates or family members could represent prohibited conflicts of interest on the part of public officials.

"In the instant case (Cox), the spouse's part-time teaching position represents more than a token pecuniary interest, and could well be viewed as a substantial interest. Participation in the approval of the collective bargaining agreement by the interested board member has the appearance of impropriety and could subject the action of the board of trustees to legal challenge.

"Although the results of such a challenge are not certain, it is possible that it would be successful.

"Although there is no clearly correct legal conclusion, in our opinion a member of the Schoolcraft College board of trustees should not vote on a resolution relating to a collective bargaining agreement covering the trustee's spouse."

COX WAS flustered over the matter. He noted that it had been no secret when he ran for the board that his wife was a part-time instructor.

Moreover, he noted that only in the last year did part-time faculty vote to unionize, and this was the first time for him that the problem had arisen. He refrained from voting.

THERE IS A FOOTNOTE of irony to the McQuesten case involving the student trustee.

While it's apparently wrong for a college student to serve on the board of a college from which he's taking courses toward a degree, the attorney general has found no such problem for a student in a K-12 school district.

Thus, a college student cannot serve on the college board, but a high school student may serve on a K-12 district board. That's what the attorney general says, and his opinions have the force of law until the legislature legislates or the courts rule otherwise.