The Case Study asks the interesting question: “Is it desirable for a former lawmaker to profit from his or her legislative connections and expertise?” Answers to this question require an inquiry into the meaning of the term “public interest,” the expectations the Founders had for those who would become involved in public service, and the nature of representation. These factors shape the kinds of reforms individuals need to consider as they ponder the relationship between current and former lawmakers.

Time and space do not allow for an exhaustive discussion of the “public interest.” Political scientists contend with this term frequently because it can assume so many meanings. However, the “public interest” is not always obvious. First, the public interest may simply be defined in opposition to what a special interest wants. A particular industry, trade association, or single-issue group may want a specific benefit or result from government. If a special interest desires this particular benefit, but does not receive it, then the public interest prevails. Second, the public interest is often thought to be nothing more than the aggregation of the people’s preferences. These preferences are mainly known through public opinion polls or other mechanisms designed to measure attitudes toward public policy and government. Whenever a large number of people express their preferences for a particular policy, policy makers and politicians equate the result with the public interest. Finally, the public interest can be ascertained by philosophical or logical inquiries. The inquiries can be either inductive or deductive. Most of these inquiries assume that you can arrive at an understanding of what is in the public’s interest, even if individual citizens or a majority of citizens may disagree.¹

These distinctions are important. The arguments about the desirability of public officials engaging in lobbying activities after they leave
office implicitly or explicitly assume there is a public interest that may or may not be violated by the practice. The desirability of the practice hinges on the particular notion of the public interest being used. For example, the argument that politicians assist special interest groups simply asserts that these interests must somehow differ from what more “ordinary” or “public” interests would want. They may also assert the policy differs from what a majority of individuals may have stated in a public opinion poll. In this case, they often argue that the public interest should prevail but cannot because of the influence of “lobbyists” on the conduct of government or because citizens do not know what was occurring and cannot change the course of policy.

The idea that the work of former representatives subverts the public interest — however it is defined — often leads citizens to mutter to themselves that “It’s all political.” This familiar phrase conveys the disgust and disapproval individuals express when they believe somebody receives something for the wrong reasons or something contrary to their own or the public’s interests. When political considerations seem to override considerations based on merit or efficiency, individuals often dismiss the political considerations as inappropriate. While political considerations can and do lead to bad public policy, this is not always the case. It may also be the case that the bonds between former members and current members may, under some conditions, result in better overall public policy. However, the public shows a distinct dislike to the ways in which public policy is shaped. The more individuals know about Congress and its operations, the less they approve of what it does. Therefore, it is doubtful that the public would ever approve of this form of policy making if offered the chance to ban it.

Furthermore, the dismissal of political considerations and of these kinds of relationships altogether may ignore the pragmatic and prudent approach the Founders used as they constructed the Constitution. James Madison argued that individuals would be attracted to Congress out of a mixture of motives. He knew some would be drawn to public service out of a sincere desire to serve. Yet he never forgot that these individuals would also have their own particular interests. Madison states, “Duty, gratitude, interest, ambition itself, are the cords by which they will be bound to fidelity and sympathy with the great mass of the people.” Individuals enter public service with a variety of talents, aims, virtues, and vices. Given these considerations, perhaps the question about the relationships between former and current lawmakers should be narrowed. Individuals can profit from all kinds of experiences. Students profit from
their internships. Business people profit from experience in one company that they take to another company. The real question is the particular kind of profit and whether or not it compromises the achievement of a particular notion of the “public interest.”

Reforms designed to minimize the relationship between current and former lawmakers should also consider the nature of representation. Madison argued, also in *Federalist #57*, that “the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people.” If members of Congress desire reelection, and there is significant evidence they do, then they must strive diligently to meet the needs of individuals who vote and support them. This holds true for both Representatives and Senators. More competitive elections would help members of Congress pay closer attention to constituents, would publicize the activities and records of members, and would promote ethical behavior favored by constituents. If more voters were aware of the activities, dealings, and relationships of their representatives, then representatives would be more careful about engaging in any questionable behavior, perhaps including meeting with former members of Congress or other “super lobbyists.” Competitive elections engage more citizens, receive more publicity, and inform voters better than other kinds of elections. If more challengers had the means and the opportunity to face incumbents, the culture of Washington, D.C., might change significantly.

The relationship between citizens and their government is complex. The desirability of restricting the activities of those individuals who once served the public depends on the particular notion of the public interest the citizenry embraces. Madison did not assume that those who serve the public would necessarily do so with pure motives. He placed his faith in frequent elections that could control the behavior and activities of members. Those elections and their competitiveness provide significant protection against the pathologies of democracy.

**NOTES**


