OBSERVATIONS ON “SERVICE IS ITS OWN REWARD?”

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I found the Jowers/Peterson article on lobbying reform is well written and topical. It speaks to an important public issue, but misses the underlying reasons why the practice is becoming more common. I also respectfully disagree with the conclusion that the practice is an ethical threat to democracy.

I must first point out the bias in my response to the concern about legislators becoming lobbyists. My bias results from serving in the Michigan State Senate for twelve years prior to becoming a college president. To many academics, this tenure as a politician raises questions as to my objectivity on issues such as this. However, it gives me a rather unique perspective to speak to the issues raised in the article.

I offer a few observations about why the transition of legislator to lobbyist doesn't cause me great concern. The first observation speaks to the nature of data compared to personal influence.

Shortly after leaving the Michigan State Senate I had a significant learning moment. It occurred after I had just led a two hour focus group comprised of ten of the most highly educated and talented Michigan legislators. The topic of the focus group was what data was helpful to them in making decisions about education policy.

It was the intent of the funding organization (a non-profit organization) to understand what data would be helpful to Michigan legislators in setting intelligent public policy. We had a great conversation. However, at the end of the meeting, Senator Vern Ehlers, now in Congress, called me aside. “Bill,” he said, “you know that what matters most is not the specific data but what data is given by people whom legislators view as credible and trustworthy.”

The combination of accurate data and reliable source is important in structuring debate on policy issues. However, Congressman Ehlers included the observation that the source needed to be “trustworthy.” It is
this element that leads to so many ex-legislators becoming successful lobbyists: they are trusted by their colleagues.

This observation explains a lot when thinking about how academics respond to political issues. We (academics) want to believe that rational arguments and sound data can determine the outcome of public policy debates. We are distressed, as are Jowers and Peterson, to learn that it may not be the data alone, but rather who informs policy-makers about issues that may be far more important.

Congressman Ehlers’ observation explains why former legislators are in such high demand as lobbyists: they are viewed by policy-makers as credible and trustworthy purveyors of information. From my experience, good lobbyists are able not only to share information but place the information into the context that is most helpful to the politician. In this day and age of hyper-partisanship, unfortunately much of the information is defined in that context.

Academics I know often want data to play the key role in setting policy, not ex-politicians. However, I can attest to the fact that legislators get buried in data and information. The data is often contradictory and confusing. Academics often speak in language that average politicians don’t understand. Legislators need credible people to assist them in placing information within understandable “paradigms.”

The second observation is that “special interests” and “interest group” representatives are essential to the operation of democratic government. Political science literature is rich with discussion over how our citizens are represented in the democratic process. The public not only has elected representatives to work for them, but has the constitutional right to organize and advance its private agendas. State capitals and Washington are filling up with special interest groups ranging from American Association of Retired Persons to Zoological Association of America.

It is easy to criticize the power of “special interests” and feel they are much more powerful than individuals. This concern is not new. The best known example of public concern was expressed by President Dwight Eisenhower when he warned the nation of the power of the “military industrial complex.” Fifty years later, we are still concerned with special interests controlling our government. The current concern, as articulated by Kevin Phillips in “American Dynasty” and “American Theocracy,” is the influence of the oil industry through the Bush family.

While abuses have been evident at the state and federal level for years, the right to organize by special interests and lobby the legislature
must be vigorously protected. The issue lies not in the existence of special interests, but rather the response to their pleas.

These special interests are quick to hire knowledgeable insiders to interpret the world to legislators. Is this bad? Is it unethical? I argue that it is neither bad nor unethical in and of itself. It is how the power relationship develops that is the cause for concern.

The third observation is that the “public interest” is extremely hard to first identify and then use in politics. There are two prevailing thoughts about how to operationalize the concept of “public interest.”

One approach, reflected by the philosophy of Jeremy Bentham defines the “public interest” as the sum of individual interests. Thus, robust competition among private interests leads to the expression of the larger public interest. Under this belief, the answer to the authors’ concern about the ethic of special interests (and hiring former legislators) is to increase the power of competing special interests.

Under the Bentham perspective, the ethics issue is the imbalance in wealth between corporations able to hire the best, brightest, and most credible, and non-profit organizations who can’t compete financially. An even playing field, it is argued, is needed to provide that all interests are represented.

The second approach to “public interest” is Jacques Rosseau’s view that the “public interest” rises above individual interests to reflect “universally shared private interests.” These universal interests might include such issues as the environment (global warming), peace and religious toleration.

The promotion of the “public interest” is challenging for politicians. An interest transcendent enough to be categorized as “public” will quickly be adopted by all political activists, thereby eliminating it as useful in defining politics.

To a large degree this has happened in America and throughout the world. As Thomas Friedman points out in “The World is Flat” and in “Lexus and the Olive Tree,” there is an increasing acceptance of free market principles and strong legal structures protecting private property and individual rights. The difference between Republican and Democratic activists is not very great when evaluated based on broad philosophic approaches to government.

Does the fact that former legislators become lobbyists really diminish the public interest? I suspect it does to some degree in that private interests are given more visibility. However, it does not appear to me that
the differences between parties or between most candidates are significantly different on issues defined as reflecting the public interest.

The fourth observation is that the electronic age is destroying the geographic basis of representation. This was first pointed out to me by Alvin Toffler in a private conversation in 1991. Toffler suggested that state legislatures were likely not to survive in their present form for more than 50 to 75 years.

Congress and the state legislatures are organized on the principle of individuals representing geographic areas. My old Senate District included Ingham County Michigan. Broadly speaking, my task was to represent the “special interests” of that part of the world. There were some interests that were clearly geographic in nature: Michigan State University, a large number of state employees and the home of General Motor’s Oldsmobile manufacturing plant. However, most issues that I had to vote on were not geographic based.

The Internet has facilitated cross-district communication that is often motivated by economic issues. Thus, legislators of today, with their websites, Blackberrys, etc., are open to communication from anyone, regardless of where they live. I believe a relatively small percentage of legislative communication occurs in the neighborhood across the backyard fence. Instead the bulk of lobbying and communication is based on economic interests and is often independent of geography.

As issues become more technically oriented and complex, the role of the “lobbyist” becomes more important. It is the task of the lobbyist to define and explain to the generalist legislator how legislation affects the world. Given the silence of district communication and feedback, the lobbyist becomes an increasingly important player in the process.

I periodically teach a course on the legislative process. One of the major outcomes of the course is to give students a feel for the type of decisions legislators are asked to make. The choices are typically between competing goods (i.e. funds for schools or funds for mental health) rather than choices between good and evil.

Many students naively believe an ethical legislator will simply choose good over evil. He/she will make that choice based on their moral compass of what they view as the public good. Unfortunately, this view is naïve. The choices are difficult and usually complex, thereby empowering the lobbyist to help define the issues.

The reader can tell I am a supporter of the legislative process. I believe relatively few truly bad pieces of legislation get adopted. The outcomes tend to be reasonable. The difficulty lies in the process. Like the
old saying, “you should never watch sausage or legislation being made,” the internal process is not pretty.

The ethical issues are less structural than they are issues of personal integrity and leadership. We need to empower individuals who have personal integrity and are intelligent and sensitive enough to know when they are being lobbied, by whom, and for what reasons. We also need to empower federal employees to stand up to abusive legislators who violate boundaries to separate executive from legislative functions.

I reach the conclusion that the practice of former legislators becoming lobbyists may not be “ideal” but it is not unethical nor is it necessarily contrary to democracy.