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## Editor's Introduction

### *Lobbying the Congress*

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This issue of *Extensions* addresses the role of lobbyists in influencing the policies and practices of our government. In his article "From the Framing to the Fifties: Lobbying in Constitutional and Historical Contexts," Burdett Loomis of the University of Kansas reminds us that the practice of lobbying has been central to our political system from the Founding forward. The context in which the lobbying trade has been plied has, however, varied across eras in American politics. In assessing the role and effect of the lobbying industry today, we need to assess the contextual factors that shape lobbying practices and the government's response.

Jim Thurber helps us understand the current situation. In "Lobbying, Ethics, and Procedural Reform: The Do-Nothing 109th Congress Does Nothing about Reforming Itself," Thurber provides indicators of the effects of lobbying on public policy, assesses proposed reforms, and reviews procedural developments in the Congress that have contributed to partisan polarization and policy gridlock. While direct connections between lobbyists' influence and congressional practices are sometimes hard to establish, it seems reasonable to conclude that the lobbying industry has been an important component of the power game that has given rise to the extraordinary procedures by which the Republicans have sought to govern the House.

Jonathan Salant brings to the subject the instincts of a hard-nosed journalist. In "The Lobbying Game Today," he offers a cost/benefit analysis of lobbying as a business proposition, and finds that lobbying yields are among the most profitable forms of business investment. The network of relationships developed around the lobbying industry have, to some degree, reflected the growth of government; but it appears plain that lobbying has itself contributed to that growth, especially in government contracting. Salant indicates that current lobbying practices and relationships may prove incestuous, even where these are perfectly legal.

Joel Jankowsky is a prominent Washington attorney whose law firm is among the leaders in government policy representation. He speaks with the voice of a career practitioner, and from the perspective of one who has watched the evolution of the practices of government representation over the past three decades. In his article, "Lobbying and Lobby Reform: A Practitioner's Viewpoint," he makes it clear that career professionals have a strong stake in lobbying reform: both their reputations and their effectiveness depend upon public acceptance of the legitimacy and importance of interest representation in the councils of government. Jankowsky has been active in the Bryce Harlow Foundation (<http://www.bryceharlow.org/>). Named in honor of the former Oklahoman who served in the Eisenhower and Nixon administrations, and later as head of government relations for Proctor and Gamble, the Harlow Foundation aims to promote a sense of

professionalism among lobbyists. Its members believe that their profession can only benefit from governmental and public acceptance of their integrity and legitimacy. These professionals define the ideal of service to country by representation of its many legitimate interests.

Bryce Harlow plied his trade during what Burdett Loomis calls the period of the “Textbook Congress.” I first learned about interest groups and lobbying in the late 1960s and early 1970s, when the template provided by congressional scholars might have been drawn to describe Bryce Harlow. I learned that lobbyists were seasoned Hill veterans, often having served as members or staff members of Congress for decades. I learned that Congress relied upon them for their expertise. I learned that lobbyists played an important fiduciary role in representing the interests of important constituencies. I learned that central to their effectiveness was the reliability of their information and their integrity. In short, I learned that the lobbying profession was pretty much as Joel Jankowsky characterizes it.

I knew at that time (the late 1960s and early 1970s) that there was a role for campaign contributions in the lobbying game, and effective lobbyists would give and guide contributions to members of Congress before whom they had legislative interests. In those days, however, legislators did not routinely demand contributions from lobbyists as a condition of doing business, as James Thurber describes today’s practices. I also understood that lobbyists sometimes would be accused of using their access to members of Congress to exercise undue influence. One recalls the case of Nathan Valoshen operating from Speaker McCormack’s office, or the Koreagate Scandal. The scale of the Abramhoff enterprise is, however, stunning by comparison. According to Jonathan Salant’s reporting, Abramhoff’s scamming was but a malignant variation of a cancer that has spread in somewhat more benign forms through the halls of Congress. As they say, the real scandal lies in the legal, rather than the illegal, activity.

For example, James Thurber informs us that since the Republicans gained their congressional majority in 1995, the number of earmarks has increased from 4,000 to almost 13,000 and the total dollar value from \$25 billion to over \$60 billion annually. We read elsewhere that the total number of registered lobbyists has increased from around 12,000 to around 36,000 during the same period. I assume that many of these lobbyists are younger persons who first served an (all too brief) apprenticeship on the Hill. I also assume that many of them are involved in obtaining earmarked appropriations for their clients. It seems reasonable to suppose that they or their firms are actively involved in the campaign contributions game. And it seems reasonable to conclude that there is a relationship between the growth of the lobbying industry, the high level of federal spending, the high reelection rates of members of Congress, and, at least in some cases, the fact that members of Congress leave office with a much higher net worth than when they entered.

Joel Jankowsky describes a lobbying profession that is both highly honorable and very necessary to the effective functioning of our government. Burdett Loomis indicates that lobbyists have always plied their trade in Washington, sometimes with unfortunate results. This system needs lobbyists, but it needs the sort of lobbyists that Jankowsky describes. Today, a bad system has captured too many otherwise good people, and it is important that the Congress do something about it.

Unfortunately, Congress often seems incapable of reforming its own practices and folkways. As Thurber and Jankowsky describe, efforts to bring about fundamental reform failed in the 109th Congress. Reform is tough business because members of Congress do not believe that they are acting unethically. They, after all, cannot be bought for the price of a meal or a skybox seat at a football game. Or, for a privately funded junket to a foreign land. And never for a campaign contribution.

If members of Congress are reluctant reformers, one easily imagines that many lobbyists do not want reform to go too far either. After all, they are professional and responsible and they know where to draw the line between communication and influence-peddling. They value a culture in which policymakers can socialize and otherwise interface with them and their clients in order to foster a sense of

trust and mutual understanding. They know that in an ideal world, this kind of interaction would not raise ethical questions because ethical people do not require a lot of formal rules and regulations. Any concern about the larger public interest can be addressed through provisions for transparency. Excessive restrictions on lobbying activities and interactions between lobbyists and policy makers actually harm the public interest, by depriving policy makers of needed information and advice about public policy.

So, the good and well-intentioned on both sides of this relationship struggle to define its parameters. Last summer I happened to catch a congressional hearing on proposals to reform congressional policies affecting travel paid for by external entities. This concern was triggered by the Abramhoff-sponsored golf junkets. The parsing of technicalities in this discussion was, I thought, quite remarkable. What constitutes a legitimate legislative purpose? How might Congress's competencies be diminished by discouraging travel opportunities? Isn't it important to encourage members of Congress to interact with important constituencies by attending conferences, retreats, and the like? And if we think these are useful and important goals, then how can we frame travel policies to differentiate these useful and legitimate functions from purely recreational or social activities? After all, we don't want to go too far.

Perhaps some things could be settled on principle rather than by assessing effects. Members of Congress and their staffs should buy their own meals and their own tickets to sporting events. They ought not be allowed to accept any gifts from those with business pending before the Congress. They ought to pay for their own travel or else have the Congress pay for it. Given the amount of money that this Congress spends, it would be a mere pittance for the House and the Senate to require that all business related travel of any sort be both pre-cleared by the leadership of each party (or an office created for this purpose) and also paid for by public dollars. The cost of this would be lost in the rounding error in the federal budget. Congress ought to do less earmarking and make all of it transparent. One feels certain that members of Congress, lobbyists, and the political system will all survive in such a cleansed environment, and the public interest requires it.

The revolving door that ushers former members and staff members of Congress into the lobbying industry is vexing. On the one hand, Congress and clients can benefit from their knowledge of public policy and congressional procedures and folkways. On the other hand, why should persons be allowed to profit from public service, especially by plying influence rather than policy? Reform proposals have focused on extending the moratorium on lobbying from one year to two years for former members and top staffers. It is well understood that these former public servants dramatically increase their incomes by jumping into the industry. At the top, it is not unusual for former members to earn well over \$1 million per year by rainmaking for law firms, public relations firms, or starting their own lobbying firms. If this is not profiting from public service, what is? A lifetime ban would not be unreasonable, a two-year restriction barely adequate to its purpose. And such restrictions should apply to staff as well as members.

The election of Democratic majorities for the 110th Congress enhances the prospects for reform because the Democrats made an issue of public corruption during the campaign and promised reform if elected. It seems unlikely that their reform package will go as far as my list of principles would dictate. And, it seems unlikely that reforms addressed only to gifts, earmarks, travel, and the like would make much difference. Campaign finance, a messier thicket, will still ensnare the government, and influence will find other paths to power. But doesn't it seem that the government simply ought to do the right thing sometimes? Long ago, two House Speakers from Texas – Cactus Jack Garner and Sam Rayburn – offered contrasting lessons on governmental mores. Garner traveled from Texas to Washington and back in a fancy railroad car provided to him by the company; Rayburn thought it sufficient to purchase a ticket. Who is better remembered today?

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