CITIZENSHIP AND DEMOCRACY: THE ETHICS OF CORPORATE LOBBYING

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Business Ethics Quarterly, Volume 6, Number 2, 1996, pp. 253-9

Book Review
The Lobbyists: How Influence Peddlers Work Their Way in Washington
Jeffrey H. Birnbaum
New York: Times Books, 1993

While government relation is an important dimension of business activity, there is little discussion in the business ethics and corporate social responsibility literature regarding the goals and methods of business efforts to influence public policy decisions. Most business ethics texts and anthologies do not include the topic at all. Most "business and society" texts describe corporate political activity, but do not include any significant discussion of ethical guidelines to be followed.

There has been a growing interest in American society in recent years in government ethics, in clarifying and articulating standards of behavior for government officials and candidates for elective office. At all levels of government, ethics laws are becoming more detailed and mechanisms are being put in place for both education and enforcement. In 1992 the federal Office of Government Ethics published its "Standards of Ethical Conduct for Employees of the Executive Branch" and in 1993 began annual mandatory ethics training for employees of all departments of the Executive Branch. Since 1990 at least 15 states have passed major ethics legislation. In recent years, Chicago, New York City, and Los Angeles have adopted comprehensive ethics laws (by the City Council, by the approval of a new charter, and by a ballot proposal respectively). All three cities now have active Ethics or Conflict of Interest Boards and full-time staff.

Efforts to clarify standards of government ethics appear to be based largely on one fundamental principle of public service: government decision-making should put the public good above private interests. The details regarding financial disclosure, avoidance of possible conflicts of interest, restrictions on certain future employment, and limits on campaign contributions are various efforts to protect this commitment to promote the public good over private interests.

While more and more attention has been focused on ethical principles and standards for those in government service, very little has been done in a systematic way to clarify and articulate standards of ethics for those who seek to influence government officials and election

outcomes. There have been legal restrictions placed on the acceptance of campaign contributions and on the acceptance of gifts from lobbyists, it is true, but as an outgrowth of government ethics, not as an outgrowth of lobbying or citizenship ethics.

The chapter on "Business in the Political Process" in Business, Government, and Society (Steiner and Steiner, 1994) closes with a hypothetical case regarding a U.S. Senate campaign and the offer of a large oil company to run, on their own, $350,000 worth of media ads for one of the candidates (a legal practice). As the case is written, the primary ethical issue is the one faced by the candidate (whether to accept massive support from a particular company). Students are not led to ask whether the company should refrain from such an undertaking. One discussion question does ask whether such independent expenditures by corporate PACs should be curbed, but asking the question whether such actions should be curbed defines the issue as one facing legislators and the public, not as an issue facing the company or the PAC. The case study recognizes that political candidates might, for ethical reasons, choose to refuse campaign assistance that is legal. It does not seem to recognize as clearly that businesses might, for ethical reasons, choose to forgo political activity that is legal and designed to further their goals.

As the above case suggests, many people recognize that conscientious politicians need to wrestle with how to prevent themselves from being unduly influenced by private interests (their own private interests or someone else's private interests). As a society, we are able to identify many of the ethical issues regarding good government and can articulate what is at stake. There seems to be no similar facility in recognizing and raising the ethical issues faced by conscientious managers regarding their firm's Political Action Committee or lobbying activities.

In The Lobbyists, Jeffrey Birnbaum, a veteran Wall Street Journal reporter, has provided an inside look at how corporate lobbyists operate in Washington. The book is an opportunity and an invitation to reflect upon the ethics of corporate lobbying.

The Story of Modern Day Corporate Lobbyists

During the 101st Congress (1989-1990), Birnbaum observed nine powerful lobbyists, nine men who allowed themselves to be followed for all or part of the two years as they went about their work of trying to influence Congress. The book was originally published in 1992. The 1993 version is only slightly updated and revised.

Birnbaum describes his book as telling "the story of the modern-day corporate lobbyist." (p. 4) It is an intriguing story. Individual personalities and specific episodes are described in some detail, and these little stories, taken together, tell the big story. The details need not engage us here; the big story can be briefly summarized.

Sometimes the public's concern about undue influence is expressed as a fear that powerful corporations and their lobbyists "buy" votes in Congress through their campaign contributions and through the "wining and dining" of legislators. The reality, as described in The Lobbyists, is more subtle.

Birnbaum compares the lobbyists' trade with the board game "Go:" the object is to surround the opponent completely and to cut off any avenue of escape. "Blocking the decision-maker at every turn is the object of any successful lobbying campaign. Equally important is not to allow the decision-maker to know that he or she is being entrapped." (p. 4) Lobbying is powerful, but it is also discreet.

Lobbyists are successful in affecting the political process because they are successful in becoming an important part of the process. They provide lawmakers with information that lawmakers cannot get easily otherwise; lobbyists contribute and raise money that legislators need for re-election; they assist staff in drafting or revising legislation; they accompany lawmakers at many social and speaking events; they become friends with legislators. "The fact that lobbyists are everywhere, all the time, has led official Washington to become increasingly sympathetic to the corporate cause." (p. 4) Some lawmakers are, in effect, largely shut off from other perspectives.

Lobbyists sometimes become an important part of a legislator's lifestyle. From hunting weekends to business investments to campaign fund-raising to shaping legislation, many legislators and corporate lobbyists spend time together around common interests. The fact that many lobbyists were formerly employed in the federal government also contributes to the close relationships that have developed between lawmakers and corporate lobbyists.

The focus in The Lobbyists is on the actual ways in which corporate lobbyists do their work. Because of that, it is easy to get focused on the methods used to influence legislation. It is important to remember, though, that lobbyists are not setting their own agenda; they are employed by corporations and trade associations to work for particular business interests. As Wayne Thevenot, one of the lobbyists featured by Birnbaum, said about a disagreement between two business groups about proposed legislation: "I don't have a dog in that fight, and don't have a position. I will have a position as soon as I have a dog." (p. 32) Discussing socially responsible lobbying with an exclusive focus on hired lobbyists is like discussing socially responsible advertising with an exclusive focus on advertising agencies. A good starting point for thinking about lobbying ethics may be reflection on the appropriate role and goals of corporations in their political activity.

Ethics and Corporate Political Activity

Political activity by business is often discussed in terms of the "right" to be involved politically. "Business has a legitimate right to participate in a political process, just as consumers, labor unions, environmentalists, and others do." (Frederick, Post, and Davis, 1992) The implication is that business should be involved in political activity precisely because there are others who are active and who are expressing other points of view.

Defenders of corporate Political Action Committees sometimes make reference to James Madison's comments on special interests in The Federalist Papers:

American democracy depends on active and diversified participation by special interests. As long as many interest groups are active in the system, they will check one another and in that way, one or a few select groups cannot dominate the system. (Quoted in Ford, 1994)

One can agree that democracy thrives when different points of view are being publicly advocated and yet not conclude that the system of lobbying and campaign financing that has evolved contributes to a healthy democracy. A question that may need much more attention is the question of what sorts of interests a business should pursue and promote through its political activity.

Mark Sagoff often makes a distinction that may be relevant here. He points out that our role as consumers is not the same as our role as citizens. In acting as consumers, we seek to acquire what we want for ourselves; each follows his or her own conception of the good life. In acting as citizens, on the other hand, we work with others to promote the good society. (Sagoff, 1986) In the terms used in discussions of public service ethics, to act as a consumer is to seek one's private interests; to act as a citizen is to seek the public good. To act conscientiously as a citizen is to be willing to subordinate private interests to the public good.

Seeking one's private interest is appropriate at times, but always or frequently acting as a consumer when one should be acting as a citizen is a threat to the well being of the whole community. Shaping public policy is one of those activities more appropriately understood as citizen activity than as consumer activity. As was pointed out above, we recognize this clearly in government ethics, where public service responsibilities are largely defined as putting the public good above private interests. When individuals and organizations seek to shape public policy, they should, it would seem, hold themselves to the same standard of putting the public good above private interests. When a business makes the decision to try to shape public policy through lobbying, it becomes involved in activity where, it could be argued, decision-making should be directed by the public-good-over-private-interests understanding of responsibility. While business decisions are generally made in the pursuit of private interests, lobbying and

other political activity should, perhaps, be understood as a different type of activity, an activity to be governed by different goals and standards.

Birnbaum reports that Robert Malott, the CEO of FMC Corporation, quoted the comment of Reginald Jones, former CEO of General Electric, to explain why he was in Washington on a lobbying trip: "I can do more for General Electric by spending time in Washington and assisting in the development of responsible tax policy than I can by staying home and pricing refrigerators." (p. 197) The question that needs to be examined more deeply is whether one should be pursuing the same goals in lobbying as in managing the daily business of the company. Is the public good being served by lobbying undertaken as an extension of normal business activity?

Responsibility for Good Government

Businesses are involved in the political process because the decisions made in the political arena have significant consequences for business enterprises and for the economy. Unless businesses express their interests clearly and forcefully, it is argued, public policy that affects business may be too much influenced by other groups, such as labor unions, consumer groups, and environmentalists.

This interest-group model of democracy provides us with the image of a legislator surrounded by special interest groups, each of which is trying to persuade him or her that their concerns need to be addressed. The legislator is expected to listen to these various groups, but to rise above all the special interests and to act, almost heroically, for the public good.

Good government does require that public servants put the public good above private interests, but the burden should not be placed all on the government official. Government ethics rules can be very helpful in reminding public servants of the need to protect against undue influence on the part of those promoting private interests, but it seems unrealistic to expect that public officials will (be able to) act for the public good when they are surrounded by groups and individuals seeking private interests.

If organizations and individuals reduce citizenship activity to the pursuit of private interests, all the ethics rules in the world are not likely to produce good government. In a real sense, politicians in a democratic society mirror that society. If the interest groups that lobby the government are simply pursuing their private interests, the best that can be expected of government officials is that they be independent in judging what interest to endorse. The independent endorsement of one private interest over another is not, however, to be equated with working for the public good. As was noted above, the responsibility of public servants is to

work for the public good, not private interests, whether those private interests are their own or someone else's.

Democracy and Unequal Power

Even those who raise no question about the corporate pursuit of private interests in lobbying may recognize that democracy and the good of society are threatened when some interests groups have much more influence than others. As William Frederick and his co-authors put it:

The principal danger arising from corporate political activity is that corporations may wield too much power. If that power were to "tip the scales" unfairly in favor of business and against the many pluralistic interests in society, both business and society would be losers. (Frederick, Post, and Davis, 1992)

Birnbaum's story strongly suggests that corporate lobbyists do have undue influence in promoting the interests of their clients. As was noted earlier, they dominate the attention of legislators by their constant presence. In addition, one of the major avenues to access is to make campaign contributions; many of the details in Birnbaum's story relate to campaign fund raising. The connection between contributions and influence is clear.

Few lobbyists entered the fray in Washington without first making sure they had a ready hoard of dollars to spread around. PAC and personal political contributions were expected of anyone who wanted to get his point across. Though money rarely bought votes outright, it did buy the lobbyist the chance to make his views known, a chance not everyone had. Access to the powers that be was

In the discussion of the danger of corporations wielding too much power, Frederick and colleagues conclude that a "careful use of business influence is therefore an ideal goal to be worked for...." (Frederick, Post, and Davis, 1992) In the corporate lobbying efforts chronicled in The Lobbyists, there is little indication of a goal to avoid undue influence. Indeed, if it is appropriate to consider interest-group democracy as a contest among groups representing different private interests, then there is no reason to do anything other than to seek to "win."

In order to limit lobbying to a "careful use" of influence, it would seem that a corporation (or any other organization) must acknowledge that there is a public good that they are responsible for promoting, a public good that is not equated with their private interests and that, at least at times, supersedes their private interests. Understanding lobbying as an extension of the business pursuit of private interests inspires no reason to limit one's influence. Understanding lobbying as a citizenship responsibility to work for the good of the larger

community might, on the other hand, be more compatible with voluntary restraints on the use of influence and power.

Not Martyrdom, But a Vision

Birnbaum describes the persistent pursuit of campaign money as bothersome even to many lobbyists. They, too, are caught up in a system they think they cannot control. Campaign fund-raising functions are an important opportunity to be seen and to make an impression and lobbyists think, therefore, that they have no real choice. As Wayne Thevenot said about the possibility of passing up a fund-raising reception:

It's a hell of a risk to take. And we're part of the process. I don't write the campaign-financing rules. But it's the system, and I'm not going to play the martyr and try to change it singlehandedly. I'm just going to play it until they change it. (p. 169)

Some who read The Lobbyists may conclude that what is described is simply the way the system works; one might as well learn to play successfully in this arena until the rules change. Others may react differently: the system as it is presently working is not acceptable; it benefits the powerful and the wealthy at the expense of others.

Those of us who think that The Lobbyists, along with other such accounts of the influence of powerful interests in Washington, makes a compelling case for change are not necessarily asking individuals or corporations to be martyrs. What is needed, though, may be a new vision, an understanding that things could be different. Addressing the ethics of corporate lobbying is not just thinking about how to maintain some personal integrity in a potentially corrupting system. It is also thinking about how corporations should, ideally, understand their proper role in the political process. Until the vision changes, the rules of the game are not likely to change.

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