

LOBBYING

*I was asked to address the Chaminade, Graduate Business Administration class of "Hogan Entrepreneurs" on being a lobbyist, a few weeks ago. Here is what I said. You will appreciate it. Incidentally, a lot of my remarks are stolen from the public speeches and thoughts of a truly great American, Senator Robert Byrd of West Virginia.
-John Radcliffe, Honolulu, Hawaii
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It can only be done in a democracy of some sort. It can't be done in an autocracy. Citizens in our Republic, and at the state and local levels, make their interests known by electing sympathetic legislators and by petitioning for or against specific legislation. This right is absolutely guaranteed by the First Amendment to the Constitution and it is called lobbying.

In the late 1770's, the first lobbyists in America were shipwrights concerned about tariffs, merchants desiring an end to taxes on molasses, federal clerks demanding an increase in pay, military officers seeking reimbursement for personal funds expended during the Revolution; and of course, chambers of commerce, taxpayer committees, veterans, and state legislatures themselves. Lobbying began at the congressional level as soon as this country was formed. In those days, committees of citizens, sometimes large committees, were not consigned to the lobby of the legislature, they were admitted to the Senate and House floors to present their petitions. But that, naturally, caused trouble, and was a practice soon ended and lobbyists were shown the door to the Chamber.

In fact, some of the very first lobbyists in the US were also newspaper writers, which, I assume, helped. It also helped that these denizens of the press were also allowed seats on the floor of the House and Senate---many of these folks, in contravention of promises not to---in fact did lobby members directly---Well, what can you say, huh? They saw their opportunity and they took it. This practice has also been stopped by the right honorable righteous members. . For example, today, some 200 plus years

later, the press is only permitted to be RIGHT NEXT to the floor.

In the late eighteenth century there was already widespread suspicion that large, well financed, special interests were receiving special attention from government. At that time, the very worst, the most distrusted, the most despised, special interest was the Bank of the United States, a private bank chartered by the federal government. A number of sitting US Senators served as bank directors, clearly in flagrant conflict of interest. Here is a part of a letter from one, the very famous Senator Daniel Webster, of Massachusetts, writing from Washington, to Nicholas Biddle, the President of the Bank:

“Since I have arrived here, I have had an application to be concerned, professionally, against the Bank, which I have declined, of course, although I believe that my retainer has not been renewed, or refreshed, as usual. If it be wished that my relation to the Bank should be continued, it may be well to send me the usual retainer.”

So. There is a relationship between government and enterprise. This ought not be surprising to anyone smarter than Jack—of the Beanstalk Fairy Tale.

Of course, President Andrew Jackson, who was one of America’s first populists, took the Bank on, removed government funds from it, and vetoed all efforts to extend its charter—killing it.

One of the most important aspects of lobbying is supplying information, both to legislators and the general public. Lobbyists analyze bills, prepare arguments in defense of the interests of clients, draft speeches for legislators, contact committee members on issues, organize and orchestrate grassroots campaigns, and, in general, provide a valuable service that cannot be provided in any other way—except by government bureaucrats—who have their

own specific interests—which are often themselves “special.”

There are, I would say, always about three categories of professional lobbyists:

- The occasional lobbyist, who goes to the legislature to promote or oppose some specific pieces of business. These are the least effective. Real lobbyists need access and must have credibility.
- The lawyer/lobbyists, who are practiced in some aspects of law and who are “smooth.” These folks are all right and often give an impression of competence and being in the “know.”
- The long-term contract lobbyist, who has established a significant paying clientele, and who has, over time, earned both access and credibility, built by years of consistent and intelligent practice—and above all-- fairness.

Those latter individuals, like myself, have devoted a lifetime to knowing the arcane business of business, taxation, legislation, legislative time tables, process, content, practice, etc.

There are some so-called rules. You might think that I would be cavalier and say that “The first rule is, that there are no rules.” But there are rules. Immutable, definite, ones. If you want to last, never lie. Do not shade the truth. Do not over-emphasize your argument. Do your research thoroughly and fairly. Give the legislator both sides of the argument. BE FAIR.

So far I have been emphasizing credibility. Credibility grows out of ability. Let me move on to access. Access grows out of relationships.

You can be smart as a whip, but without real access, go home.

Speaking of that, historically, most legislators are away from home—a lot.

In most capitols, the legislators have had to travel long distances to get there. They often live away from their families, or bring them along, but they are, by their nature, driven to do the peoples business. Which means that many don't get good meals, or the kind of decent treatment that many other citizens receive naturally. Again, to return to our history, legislators, men, who often lived in boarding houses, often several to a bedroom, who ate group meals prepared by strangers for the mass of them. Incidentally, these meals were described as “messes.” Lobbyists soon concluded that legislators might appreciate an evening out at a decent restaurant.

By the 1850's America was beginning to be the world's economic engine, and one of the great manufacturer's of the age was Samuel Colt, who wanted and needed the patent for his famous revolver extended by the maximum seven years. To achieve this, Colt hired lobbyists who, of course, among other things, presented pistols to various members and their families, including on at least one occasion an eleven year old boy. Women were more often given Parisian gloves, but all were treated to various feasts and galas I only tell you this to enunciate this epigram of Colt's chief lobbyist at the time, who is reported to have said:**To reach the heart,
Or get the vote,
The surest way,
Is down the throat!**

And food and drink and camaraderie are a part of life, are they not? But the arts of persuasion are sometimes twisted by some, and when entertainments and gift giving becomes more and more elaborate, the heavy hammer of “reform” comes down and puts an end to it. For awhile. The history of lobbying is replete with

cycles of scandal, and it is this that creates the false impression that everything is a quid pro quo.

Everything is not a quid pro quo. Almost all of the work lies in solving problems with common sense and understanding. The lobbyist's role is often to supplement the capabilities of legislators and staff. Lobbying certainly is about "who you know, but it is also, most definitely about "what you know." Lobbyists bring specific knowledge to the table that legislators, on their own, often do not have.

In Hawaii, with 3,000 bills in the hopper each year, with hundreds of competing interest—labor interests, corporate interests, the very young, the very old, the very poor, the "otherwise abled," interest groups of all types—lobbyists help legislators shape priorities by reminding them of the needs of the specific groups that employ the lobbyist.

But what about the quid pro quo? Frankly it is something for the lobbyist and the legislator to both guard against. I have advised legislators NOT to accept campaign funds or other benefits from certain entities—because it might be bad for them and their relationships with their voters down the line. But ethics and good judgment can be bent by anybody, and there have been hundreds of scandals over the 230 years since lobbying in America began. These things often begin innocently. There is nothing wrong with a good meal and some scintillating conversation while business is discussed. But then comes the competition to do more—make it "better." The harm often insinuates itself slowly, via elaboration, and that gives rise to "expectations," and from there, trouble is derived.

Lobbying today, is a heavily regulated industry both in Hawaii, and nationally—and it is about to get more regulated because of the

national shenanigans typified by Jack Abramhoff, a Republican lobbyist who is, or was, closely tied to former House Majority leader, Tom DeLay. But as I said, scandals come and scandals go. For myself, and those that I do business with, the temptation to go wrong, is always overcome by what would happen if accusations were made. And in Hawaii, the mere appearance, just the perception, of wrong doing can be enough to ruin a person for life.

In that regard, I like the speech that Governor Lingle gives when her appointees are sworn in. She congratulates them and she warns them,

“Don’t do anything wrong. Don’t get arrested. Don’t get so much as a parking ticket, because if you do anything wrong, it will reflect on me, on this government, and on all our people. Not just you. Just don’t.”

I like what I do. I would feel bad if I couldn’t do it. There are rules to abide by, and even the dull-witted can usually follow them, and almost any non-sociopath appreciates right from wrong.

Lobbying in Hawaii, which has representative government, is about credibility and access, and both of those are commodities that need to be earned. The more you have, the better you do. Once lost, they are gone. Once lost, they are not recoverable.

I have not yet talked much about the process of lobbying. And process is essential. First, good lobbyists must read every bill and every resolution every Session. Every year, there are about 3,000 bills that begin the process toward becoming a law. That requires a lot of reading. But you have to know what is there. More importantly, the lobbyist has to understand why the bill is there. Who put it in? What is the problem? Why this solution?

A good lobbyist knows every legislator and, if possible, the staff

members in all the offices—and maybe even the families of both. You have to understand also, that the legislator has constituents and constituencies. And you ought to know them and appreciate them.

You have to know and understand the process of legislation: the committee structure, the legislative calendar, the internal rules of each House. You have to know the functions of the offices of the clerks of the two houses, and you need to understand the offices of the Sergeants-At-Arms and the Legislative Print shops. You need to understand the workings of the seventeen departments of government and the regulatory agencies.

And (access again) you to need to have friends in all of those places. And that does not take into account, the governments of the four counties, where all of this applies all over again.

A lobbyist's hours are long, the work can often be hard and intense, the stress levels are very high, and if you fail, your clients are likely to fire you. It is a very quality oriented, results oriented, business. I once toured the Waterford Crystal factory in Ireland. There the glass is made, blown, etched, created from beginning to end. Each piece must be absolutely flawless, perfect, and there are many, many, separate steps in the process, all controlled by different artisans, but in the end—if the piece is not perfect, the piece, or even hundreds of pieces, is destroyed and no one who worked on it gets paid. That is a higher standard! Lobbying is not quite like that, and sometimes jobs are multiple year endeavors, but for a contract lobbyist, success must happen—or else.

Of course, if you succeed, your client may no longer feel the need to keep you.

Many clients are, however, endlessly wrapped up in government

due to taxation and regulation issues. There is sometimes long-term employment possibility because of that.

A word about clients. Lots of people see lobbyists and think —“Hey, I think that I would like a job where all I have to do is schmooze, and eat at nice restaurants.”

Uh huh. That’s true. That part is EASY. Getting and keeping clients is the hard part. This is not a business like say—law, where you sort of, well, advertise. Other than, perhaps, having a webpage, most, I would say all, lobbyists in Hawaii do no advertising whatsoever. People have to find us. It is therefore good to take on the “hard to represent.” Because then the others who come along will ask: who represents the tough to represent ones- and how do they do?

Everything comes to a lobbyist by way of word of mouth. You start out by trying. The best way is to help somebody. You get known by having done good work. If you are not a winner, nothing comes your way. If you lose, you are out of business. If you tout yourself, you run the risk of puffery, and that will boomerang. Neither can the art be easily transferred to another, because the capital acquired, grows out of the individual lobbyist’s talent, credibility and access. It isn’t easy.

Lobbying is an ever changing enterprise because something new is always happening. Take technology. The Internet has revolutionized lobbying—for the better, in my view. Now, anybody anywhere can instantly read legislative matter as it actually happens. All of the measures go on the state website instantly—all the committee reports, hearing notices, etc. are right there. People in New York or Atlanta, Georgia, Washington, D.C. or wherever, can go to the Net and see some craziness or wonderment about to happen in Hawaii that will impact their business, and find that they have an immediate need for a lobbyist. Nothing wrong with

that picture.

And as legislatures get more sophisticated, lobbyists get more sophisticated as well. I note that the state legislatures also tend to move like a flock of electronic swallows. Legislators from Maine to Hawaii are electronically tied together—and similar legislation moves in many of them the same ways. Lobbyists now have to keep on top of these nationally connected political movements and machinations.

I started out as a union/political organizer in the days when technologically speaking, all you needed was a pay phone, a roll of dimes, and a good memory. Today I need a Blackberry, a bunch of computers, an infrastructure, a staff, and few tech jockeys, just to stay in the game.

Lobbying is not “just as American as apple pie,” it is even more essential. Without it, more bad is accomplished than good—and that’s a fact.

