

Lobbying as Information, Bribery and Intimacy (and why it's good for democracies)



Fulbright Flinders University Lecture Series 3

Professor Burdett Loomis

Distinguished Chair in American Political Science



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I am delighted to present the lecture delivered by Professor Burdett Loomis as part of Flinders University's involvement in hosting the Fulbright Flinders University Distinguished Chair 2013 in American Political Science.

Flinders University is renowned for its strong international links with universities and research institutions across North America and Asia. A key strategic priority is intensifying the University focus on our engagement with Asia across education, research and community partnerships.

Professor Loomis' lecture "Lobbying as Information, Bribery and Intimacy" recommends more transparency in lobbying but argues that the representation of interests should be part and parcel of a modern democratic state.



Professor Phyllis Tharenou
 Executive Dean
 Faculty of Social & Behavioural
 Sciences Flinders University

The Faculty of Social and Behavioural Sciences is pleased to continue supporting and hosting the Fulbright Flinders Distinguished Chair. Each distinguished scholar contributes to the comparative political analysis of Australia and the United States, and adds significantly to the teaching and research profiles of the Faculty.

Through events such as lectures and colloquia, these scholars provide an invaluable resource to undergraduate and postgraduate students across the Faculty, and continue to help foster research links between Flinders and universities in the United States.

As part of the Distinguished Chair program the Faculty supports a series of publications that provide a worthy record of the work each Distinguished Chair achieves whilst at Flinders University. The publications provide a resource for future students and will contribute to the ongoing dialogue and cooperation between the United States and Australia.



Professor Don DeBats
 Head, American Studies
 Flinders University

The scholars who have held the Fulbright Flinders University Distinguished Chair in American Political Science have established an enviable record of addressing important issues of public policy, both domestic and foreign, in our two nations. Professor Loomis advances this stellar record, reminding us that public trust in government rests on transparency. He challenges us to find ways to impose this same principle upon lobbying, a practice he argues that while necessary for effective government, is also an activity which participants, on both sides, often prefer to cloak in secrecy.

His answer begins with the fundamental point that transparency will come more easily if we surrender our self-satisfied cynicism that posits the Abramoff example as the rule in the lobbying of government, rather than a rare exception. Accepting lobbying as a legitimate activity will allow us, especially in Australia, to impose on lobbying the regulatory requirements that will yield the transparency that democratic and effective government requires.



Tangerine Holt
 Executive Director
 Australian-American
 Fulbright Commission

The Distinguished Chair Program is viewed as among the most prestigious appointments in the Fulbright Scholar Program with approximately 40 Fulbright Distinguished Chairs across 15 countries. The Australian-American Fulbright Commission is pleased to support the publication of the principal public lecture of each of the Fulbright Flinders University Distinguished Chairs in American Political Science. During his national Fulbright lecture series which was coordinated by the Fulbright Commission, Professor Loomis shared insights on the impact of lobbying policy, practice and regulation. Needless to say his expertise, knowledge, openness to new ideas and engaging personality made this series all the more exciting. This publication is a valued and highly regarded resource written by a Fulbright Scholar who engaged Australians on a contemporary issue by asking challenging questions while developing new knowledge in this area.

Professor Burdett Loomis



*Fulbright Flinders University Distinguished
Chair in American Political Science
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In my Fulbright Flinders lecture, I seek to paint a picture of how lobbying, a much-maligned enterprise, is almost certainly an inevitable practice in democracies and may well be a positive element in making policy in representative systems. To be sure, lobbyists, whether in the United States or Australia, receive little respect. They are seen as “influence peddlers,” who frequently deal at the edges of ethics and legality to benefit the so-called “special interests” that employ them.

To be sure, there is some truth to this characterization, as the notorious American lobbyist Jack Abramoff demonstrated in the early 2000s. But he was a flamboyant exception, not the rule.

Rather, what lobbyists generally do is to provide information to decision-makers. This comes in various forms, and generally improves the quality of public policy-making. At the same time, democracies must guard against too-cosy relationships between lobbyists and policy-makers; hence, there must be extensive transparency in their relations. The United States has moved fairly far down this path, but Australia – a land in which cosy relationships between interests and policy-makers is often the norm – needs far better reporting requirements, so as to reassure the public that lobbying is not undercutting the core values of representative government.

Burdett Loomis has been a political science professor at the University of Kansas since 1979. He earned his Ph.D. from the University of Wisconsin (Madison) in 1974, and served as an American Political Science Association Congressional Fellow in 1975-6, working for Rep. Paul Simon (D-Ill.). He won a Kemper Distinguished Teaching Award in 1996 and established the University of Kansas Washington Semester program in 1984, which has given more than 600 Kansas students the opportunity to work in D.C.

*A widely regarded expert on U.S. politics, he has published more than 30 books in various editions, including *The New American Politician*, *Time, Politics, and Policy: A Legislative Year*, *The Sound of Money*, and eight editions of *Interest Group Politics*. His most recent work includes the edited volumes *The United States Senate: From Deliberation to Dysfunction* and *The Guide to Interest Groups and Lobbying*. In 2011, Loomis helped found *Interest Groups & Advocacy* and currently serves as a co-editor.*

A long-time contributor to National Public Radio, he has written regular columns for several newspaper chains. He served as Kansas Governor Kathleen Sebelius' director of administrative communication in 2005, and was the interim director of KU's Robert J. Dole Institute of Politics from 1997 through 2001.

Loomis has served as a Fulbright Senior Scholar in Argentina and has lectured on American politics for the State Department in Brazil, Mexico, the West Indies, Malaysia, Singapore, Iraq, China, Taiwan, Nepal, Bangladesh, Brunei, and Indonesia. In 2013, he served as the Fulbright Flinders University Distinguished Chair in American Political Science in Adelaide, Australia.

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The stereotypical lobbyist



Around the world, lobbyists have a bad name. They are seen as corrupt, unethical, and self-interested, often working against the public good. They represent so-called “special interests,” and allegedly have little concern for good public policy, as long as they and their clients emerge victorious. This is a powerful image, and although it does possess some elements of truth, it is more a caricature than accurate portrait.

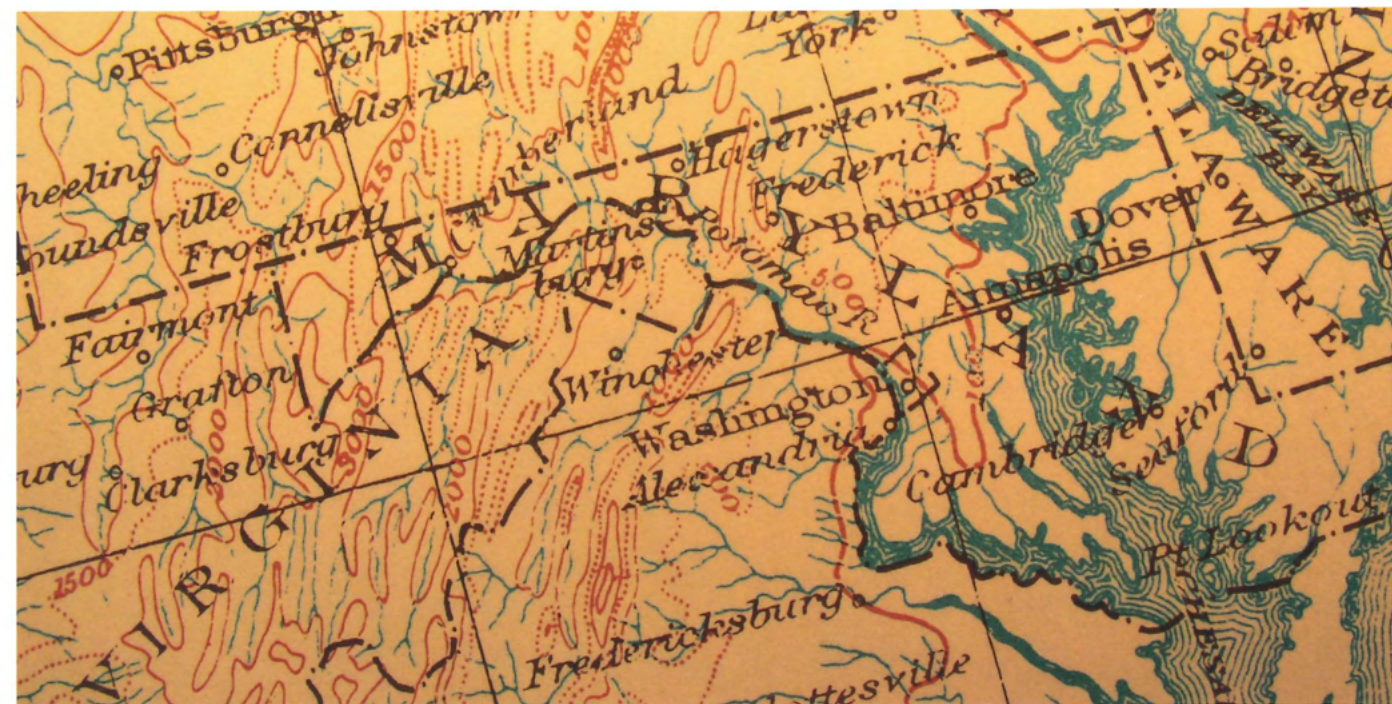
The stereotypical face of lobbying in the U.S. is Jack Abramoff (Stone, 2010). Influence peddler par excellence, he rose to power in the 1990s and early 2000s. Abramoff owned a restaurant in which many Members of Congress found it difficult to pay for expensive meals. And he took them on expensive trips, most notably a legendary Scottish golfing extravaganza. In return, he was able to lobby these same members and was paid handsomely to do it. Eventually convicted for fraud and tax evasion, he spent almost four years in jail. In all, thirty-one people were convicted in the Abramoff scandal, including several members of Congress, some staffers and quite a few lobbyists. For much of America and the rest of the world, that's what lobbying in the U.S. is all about.

Australia has a different face of lobbying, a far more public one than Abramoff's “insider” persona.

As it opposed a huge prospective tax increase, the Australian mining industry developed an extensive, expensive public advertising campaign, which created a powerful core narrative: “This is our story – the Australian story.” This approach was highly effective in influencing the public opinion and subsequently parliamentary policy-making, to the point that the Rudd-Gillard governments produced a much-reduced and poorly-designed mining tax. So that's the overarching stereotype of lobbying in Australia: big industry, big money and advertising to influence the public at large. But let's get back to the American story and examine the development of lobbying in more detail.

‘So that's the overarching stereotype of lobbying in Australia: big industry, big money and advertising to influence the public at large.’

The development of lobbying



In the U.S. lobbying starts in the 18th Century, with attempts to influence both state legislatures and the Crown. By the 1780s, merchants, land speculators, and religious groups actively sought to affect policies.

Consider one of my favourite lobbyists, the Rev. Manasseh Cutler, who began influencing American legislators before the framers wrote the Constitution. Cutler represented a group of Ohio Territory land speculators, and in 1787 he journeyed to New York to lobby the Continental Congress (Loomis, 2011). There, in only 22 days, he cut a deal that gave the speculators a wonderful bargain, so that they were paying only pennies on the dollar, mostly in depreciated revolutionary war debt, to buy up huge amounts of Ohio acreage.

Cutler returned home a hero, and of course his company was extremely pleased. So how did he do this? One major strategy was to provide solid information to the lawmakers. In essence, he demonstrated to them how they could accomplish their goal of settling the newly acquired Northwest Territory. He provided them with information and a story on how to make sure people came to settle that vast expanse of land. In short, Cutler provided a narrative that convinced lawmakers that his company could encourage large-scale settlement of this newly acquired territory.

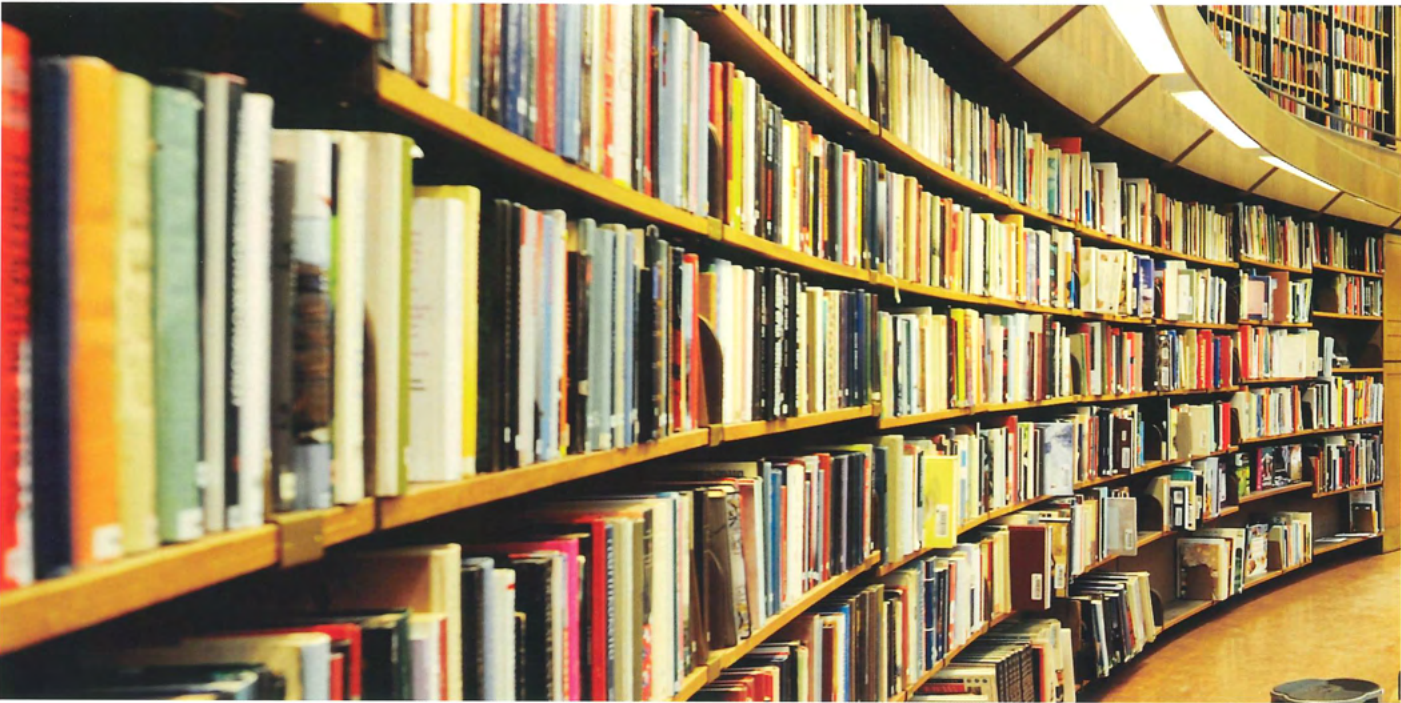
Was there any bribery? Possibly. It is unclear. But certainly he had great access. He had attended college with some of the members of the Continental Congress, and he knew others from past experiences. Despite coming from the hinterlands, he was very much an insider, a precursor to many contemporary lobbyists. And Cutler had something that one historian called “complaisance” (Loomis, 2011). In short, he had a winning way, a little bit like Jack Abramoff, even though he was a man of the cloth. Cutler truly knew what he was doing and he understood the rules of the game.

Even so, over the next several years he was forced to return and renegotiate the deal a couple of times. Finally, he helped create a special legislative committee and lobbied vigorously in the Senate. When the crucial restructuring legislation came up for a vote, there was a tie, and Vice President John Adams cast the deciding vote. Cutler had won, and after five years of his lobbying, the Ohio Company emerged victorious in its bid to control a vast amount of land for pennies per acre.

Cutler's success came in large part through his effective use of information. It is surely possible that some favours were exchanged, but his well-informed plan was certainly the key. In addition, he presented himself most comfortably to legislators whose social backgrounds resembled his. He lobbied not only the Continental Congress, but he also returned to communicate to members of the initial post-Constitution Congress. Remarkably, Cutler engaged in a version of modern lobbying, even as the country's institutions were still in the process of being established.

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Lobbying: What is it?



So what is lobbying? That may seem like a stupid question – but in the immortal words of Potter Stewart, the late U.S. Supreme Court Justice, who in answering the question of “What is pornography?”, replied “I know it when I see it”, so too with lobbying. Basically, lobbying means attempting to affect public policy, either to produce a change or to maintain the status quo (Baumgartner et al, 2009). There are many different ways to do this. Much lobbying relates to the provision of useful information to decision-makers. This can be seen as a subsidy to legislators, administrators, and regulators (Hall and Deardorff, 2006). At the same time, most citizens and some scholars see lobbying as a type of exchange (Godwin, Ainsworth, Godwin, 2013). For instance, if you give me this (political support or financial backing), I’ll give you that (a favourable policy result). Or in the case of Jack Abramoff, I’ll give you a nice trip to Scotland for golfing, sight-seeing, excellent whiskey, and luxurious accommodations and you’ll help me with policies that will benefit my clients (Stone, 2007). The varied ploys used by lobbyists include insider access-driven strategies à la Abramoff, outside strategies that seek to change public opinion, à la Australian mining ads, or grassroots tactics that link affected constituents with legislators.

Broadly, I will argue that lobbying and lobbyists are useful – and probably essential – to any system of democratic politics. That does not mean that lobbying is well-understood or that lobbyists are popular or that no self-interest is involved. Quite the reverse. Very few citizens understand that the information provided by interests, through lobbyists, can be most valuable in producing policies that actually work, even as these policies may provide benefits to particular groups. More than that, the public sees lobbyists in overwhelmingly negative terms; this has always been so, but the public’s disdain has grown in recent years (Table 1), to the point that President Obama adopted policies that severely limited lobbyists’ participation in government. (Thurber, 2011)

Basically, lobbying means attempting to affect public policy, either to produce a change or to maintain the status quo (Baumgartner et al, 2009).

1 There are many studies here, and surprisingly little consensus. For good summaries see: Baumgartner and Leech, 1998; and several articles in Grossman, ed., 2014, among many others.



Information is important, but it is rarely provided in a vacuum. In the U.S., lobbying activities are also often accompanied by large-scale fund raising, which is arguably significant in helping organized interests gain access to legislators. Is such fund raising a big part of lobbying’s effectiveness? Perhaps, but not necessarily. The empirical research is mixed ¹. One thing is certain: politicians do not want to go against big money, and if we cannot clearly trace policy results or congressional votes directly to campaign funding, reasonable evidence indicates that campaign funds do produce effort and attention from American legislators, whose time is always limited (Hall and Wayman, 1990).

In the initial Fulbright Flinders lecture, in 2012, Howard Schweber discussed the many forms of representation. It was a fascinating speech, and I learned a great deal. In the second lecture Malcolm Feeley talked about private prison entrepreneurs, a major phenomenon in the U.S., and even more so in Australia. In addressing representation and entrepreneurship, respectively, they were talking about affecting policies. They examined how private forces affect public policy or, in some instances, how public policy affects the private sector. So they were really addressing lobbying in one way or another, albeit indirectly.

Table 1. Ethics scores for selected occupations

Ethics Rating:	High	Average	Low
Nurses	81%	16%	1%
Judges	47%	37%	4%
Members of Congress	9%	32%	57%
Car Salespeople	7%	42%	49%
Lobbyists	7%	9%	61%

(Gallup, 2010)

So why lobby?



This question sounds stupid, but it is anything but; many firms do not lobby, and a surprising number of businesses lobby very little. Many large companies, such as Microsoft and Google, rejected any need to lobby in their early years (Hart, 2002). “We don’t want to deal with Washington”, was their approach. Eventually, of course, they had to, because there are so many government policies that affect them. Indeed, they have become major lobbying forces in Washington, in Europe, and in Asia – anywhere their interests may be challenged.

In the end, most interests do lobby. At least in the United States, interests lobby because they can: the Constitution’s first amendment protections of speech, petition, and assembly combine to keep governments from restricting most lobbying (Loomis, 2006). Within this context, the normal notion behind lobbying is that you “want something”, and this perceived need is taken by the lobbyists and interest groups to various governmental entities. “We want something” is the basic premise of lobbying in many ways.

This demand-side characterization contains a great deal of truth. Certainly, private interests often want something from the government, be it a policy change or the continuation of the status quo. But I suggest that an equally powerful reason for lobbying is that governments need lobbyists. The causal arrow goes the other way. Thus, Members of Congress, bureaucrats, or even the president will say: “We want to develop this policy, and we need help from X or Y or Z”. So, when Barack Obama wanted to make broad changes to American healthcare policy, he contacted the health insurers and the drug companies and tried to make a deal. And that was very successful – at least for the drug companies, who benefitted greatly from the arrangement (Jacobs and Skocpol, 2012). Obama here learned from Bill Clinton’s 1993 experience, when the pharmaceutical industry fought his reforms tooth and nail.



Often the government even subsidizes lobbies. Now this might be difficult to believe, but I want to convince you of it: lobbies help government officials get it right. For the most part, an organized interest may want something particular. But very often it simply wants the policy to be predictable and not harmful (Hansen, 1991). The lobbies want a policy not to be botched, because if it is, they’ll have to come back again and again to make repairs. They don’t want the policy to be so complex that they cannot make it work. So now, with healthcare for example, much of the lobbying is not about getting the policy package passed, but trying to get it right, which is extraordinarily difficult. In many ways government officials solicit the participation of lobbyists and the groups they represent, as they seek in concert to pass and implement complex policies. Still, on many occasions groups embrace complexity, for example on tax policies, where every set of simplification reforms is followed by lobbying for particular provisions that will benefit narrow interests (Alexander, Mazza, and Scholz, 2009).

Lobbying is inevitable. Even within totalitarian regimes and authoritarian regimes, it is almost everywhere: some lobbying of one sort or another, often among elites from different sectors, such as agriculture or the military. Those of us from western democracies might not recognise such actions as lobbying, but it is there. Moreover, lobbying is natural. What is the alternative? Suppression? James Madison, perhaps the seminal thinker about interests in American politics, convincingly argued that suppression does not work (Madison, 1787).

Madison’s framing of the U.S. Constitution was brilliant: divide things up, separate powers among three branches of government and two Houses of Congress. With so many venues, and so many places where policy is made, it becomes difficult to concentrate power. Such a structure invites lobbying, as the Rev. Manasseh Cutler demonstrated at the founding of the American Republic.

Overall, certainly in the U.S.A. over 225 years, and in most western democracies, the state has grown, the stakes have grown, and the complexity of policies has increased, all of which have led to more opportunities for lobbying and a greater perceived need to lobby. In this vein, the shape of government definitely affects lobbying. The American separation-of-powers system differs greatly from a parliamentary system. In such a system, interests must lobby the government, which is very different from lobbying the American administration or Members of Congress in Washington, where power is far less concentrated. Authoritarian regimes are different again. With these, an interest might not be able to lobby in a conventional sense, but within the government various interests continually seek preferred policy outcomes.

“We want something” is the basic premise of lobbying in many ways.

Is lobbying equitable?



The short answer is clearly “no”, lobbying is not equitable, and the inequality is spread as might be expected. Business is privileged in almost every country, and certainly in any capitalist country (Schattschneider, 1960; Lux, et al. 2011). Still, that scarcely means that business interests automatically prevail.

That said, money is important. Why? It’s fungible. If you need to buy inside access, you can buy inside access. If you need to buy a lobbying campaign, a survey of public opinion, an outside campaign, pro-mining ads, or anything else, you buy that. Money is important precisely because of its flexibility, and there are plenty of options. Consider the AARP (formerly the American Association of Retired People), which has a tremendous membership base: 37 million or so. If you breathe and you are over 50 (yes, 50), they will try to enlist you as a member. But while AARP has this huge membership, it is difficult to mobilise even a portion of those members. Occasionally, AARP’s lobbying will represent almost all these people on a given issue, and when this happens the organization is very powerful, in that their membership’s interests can be furthered with considerable amounts of spending to promote their message.

In sum, the structure of government often affects whose voice will most likely be heard.

The context in which lobbying takes place also affects outcomes. The media context will be different in different nations. In the U.S., we don’t have much of a partisan press. Of course there’s Fox News, but that’s really more of an exception². Great Britain has a partisan press of long standing. Australia is somewhere in the middle.

In the U.S., we have constitutional protections surrounding lobbying. Other nations tend to have less constitutional protection and other institutional arrangements. For example, many European nations operate in various modes of corporatism, with its formal representation of multiple interests. This generates a series of questions, including: Who gets to sit at the table? Who are the peak organisations? And who has a voice in policy decisions? In sum, the structure of government often affects whose voice will most likely be heard.

2. Still, Fox may well help mobilise large segments of the population that are identified with the right-wing Tea Party in the U.S. (Skocpol and Williamson, 2011).

Voice, not equality

Regardless of the political system, lobbying at its heart is about providing interests with voice (Schlozman, Verba, and Brady, 2012). All voices won’t be equal, and money does matter. Still, all interests can hope to be heard, and thus the structure of the political system determines how lobbying will be conducted. In western democracies, interests across the board generally have some voice. Someone speaks for the disabled in Australia. The poor in the industrialized nations or historic victims of discrimination in U.S. and elsewhere will have advocates both inside and outside government making their case.

The mining industry and the urban poor won’t speak on equal terms, necessarily, but each has voice. In the U.S., for years Senator Edward Kennedy served as a champion of the excluded and the less fortunate; through him these interests had a real voice. If one looks only at the most powerful American interests in the 1950s and 60s, largely business groups, it is difficult to see why the U.S. would have moved against segregation as quickly and forcefully as it did in this era. But civil rights groups and their allies in Congress combined to fundamentally alter American society (Sundquist, 1968).

Giving more of a voice to the excluded and the relatively powerless continues to be a goal of many politicians in the 21st Century. And it’s not easy, as we can see in the use of social media. Although just in its infancy, social media offer great potential for loosely organized groups to communicate with those in positions of power. President Obama is trying to move social media campaigning from an electoral context to an interest group context. This shift appears to be a difficult one, in that mobilizing large numbers of people to vote appears considerably simpler than getting them to lobby on a specific issue, especially over time.

Conversely, social media may well provide even more advantages to well-heeled U.S. lobbyists, who can bring immediate pressure to bear from their group members. Consider this scenario: a lobbyist for the emerging “green” widget industry is sitting in a committee meeting in the U.S. Capitol. Suddenly an amendment is brought up that would hurt this segment of the widget industry. He immediately tweets a call for communications from 300 of his members, many of whom respond immediately by getting in touch with their respective congressional offices.

These offices, in turn, text the committee members who are considering the amendment and express their opposition. Within a few minutes, the lobbyist has generated a targeted, grass-roots campaign that might well derail the amendment. In short, those with resources and power will also be able to use new media to their advantage.

The U.S. has 30,000 lobbyists, about 30,000 interest groups, and a tremendous body of interests being represented (LaPira and Thomas, 2014). It’s likely that almost every significant interest is represented – but are they represented equally, with the same effectiveness and impact? There is a great deal of research on this subject, but by and large, those with the most resources retain significant advantages, either because they can influence a particular decision or because cumulatively, over the years, they have produced a policy status quo that serves them well (Baumgartner, et al., 2009). That does not mean that those with resources necessarily win; they do not, in that the status quo remains difficult to alter, which may serve most interests quite well.

Regardless of the political system, lobbying at its heart is about providing interests with voice (Schlozman, Verba, and Brady, 2012).

Why so much lobbying?

Overall, in the last 80 years in most western democracies, the reach of government has become larger, and larger again. In the U.S., government is far more extensive than ever before, with four trillion dollars in spending, along with highly complex policies, regulations, and taxation rules. The U.S. is a free market system, but one that is awash in government spending, lengthy regulations, and highly complicated tax laws. Such a system virtually begs for extensive lobbying, in that even small changes in laws, rules, or regulations can produce immense consequences for particular interests. In fact, for many large interests, such as investment banks, complexity is a great advantage, in that they can employ their substantial resources to use detailed rules and regulations to their advantage (Alexander, Mazza, Scholz, 2009).

The stakes are high. Although most lobbying comes to naught, or merely defends the status quo, it is usually rational for corporations to invest in lobbying. A firm might lose several times in a row on various issues, but then win on a subsequent issue, to the extent that it would make the overall investment well worth the cost. So it's worthwhile – even essential – to keep playing the game. For any individual case, the outcome might not be positive, but if an interest treats lobbying as a repeating series of games and continues to play, the return on investment can be tremendous. Moreover, much American lobbying, as a recent study concludes, works to sustain the status quo (Baumgartner, et al, 2009). We often focus on changing policies as a goal of lobbying, but at least as much of it is designed to retain current, well-understood policies³. Again, those currently advantaged are the ones who seek this outcome, which is easier to achieve than creating policy change.

There are great incentives in American politics to seek rent, or, in other words, get something extra from the government. While many interests – think farmers in the U.S. – have been successful rent-seekers for a long time, this activity reduces the overall productivity of the economy. Rent-seeking lobbying grew steadily from the 1980s through the early 2000s, as many interests, such as colleges and universities among others, sought funding for specific projects through the legislative process. As Robert Kaiser (2007) details, lobbying firms became specialists at obtaining funds for hundreds of American institutions of higher learning, both private and public⁴.

With large budget deficits, growing debt, and far fewer targeted appropriations, such outcomes have been reduced in the last few years, but not entirely eliminated. In addition, the power of the status quo that underlies current policies remains very powerful, and thus preserves the benefits of those who have won benefits in the past.

Lobbying is ubiquitous. In Washington DC, as noted, there are about 30,000 lobbyists and 100,000 in overall lobbying industry, although these are hard numbers to pin down (LaPira and Thomas, 2014). They are spending \$7-9 billion a year – and that's not including lobbying in the 50 states, which is substantial (Gray and Lowery, 1996). In short, organized interests in the U.S. certainly have concluded that lobbying pays off (Lux, Crook, Woehr, 2011). Such calculations are also becoming more widely valid in other democracies and in the European Union (Burson-Marsteller, 2013). At the same time, the range of targets in the American separation-of-powers system is very large; parliamentary systems with fewer regulatory bodies present far fewer targets and may well produce a smaller lobbying "industry" within a so-called corporatist framework in which peak societal interests are formally represented (see Siaroff, 1999).

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³ This can cause its own problems, in that group-influenced policies are piled one on another, year after year. Groups seek to defend these policies, and the overall effect is to make change increasingly difficult. Jon Rauch explores this phenomenon in *Demosclerosis* (1994) and *Government's End* (2000).

⁴ Such actions seem unthinkable in Australia, where post-secondary lobbying takes place in far more muted and private ways, often well within the educational bureaucracy. In the U.S. individual institutions, alone or in coalitions, frequently lobby in highly aggressive and public ways.

Why do governments need lobbyists?

What? Governments need lobbyists? Yes, largely because of the scope and complexity of policies. Regardless of their resources, government officials still need information. The U.S. is the best-staffed government in the world, and Congress is supported by a huge bureaucracy. Nevertheless, decision-makers still need more information because there are so many difficult and politically charged policies.

Elected and appointed governmental officials are always anxious about how policies will play out, and this includes their political implications. Such information is what lobbyists provide to the government, as they offer sophisticated and often individualized information to legislators about how they and their constituents may be affected by proposed legislation. As articulated by political scientists Richard Hall and Alan Deardorff (2006), lobbyists provide legislators with information "subsidies" that help them do their work, while ultimately benefiting the lobbyists, and the interests they represent, as well.

Although the American experiment of health care reform might seem a questionable example here, in fact a multitude of lobbyists did provide information crucial to both passing and implementing these complicated and politically difficult reforms. To be sure, lobbyists and organized interests seek advantages in the policies that are ultimately adopted. But they also desire that policies work well, and are thus less costly for a wide range of interests to comply with. So lobbyists and groups end up subsidizing the work of legislators, bureaucrats, and regulators, who subsequently benefit from getting things right. The U.S.'s recent troubled health care reforms provide a tough case for this idea of subsidizing good public policy. These were extraordinarily complex policies to implement, so passing health care reform legislation was very difficult (Jacobs and Skocpol, 2012). It took a lot of negotiation, compromise, and pressure to produce what was certainly a flawed piece of legislation.

In the short run, the American health care experiment may appear a failed one, in terms of getting things right. But that may be largely because passing the reforms meant that many accommodations needed to be made to pass the legislation and because many decisions were delegated to the Health and Human Services bureaucracy when implementing this extraordinarily complex law. Lobbyists for hundreds of interests took part in both the passage and the implementation phases, and their ammunition was not campaign contributions or bribes but *information*, crucial to making the entire package politically and substantively viable.

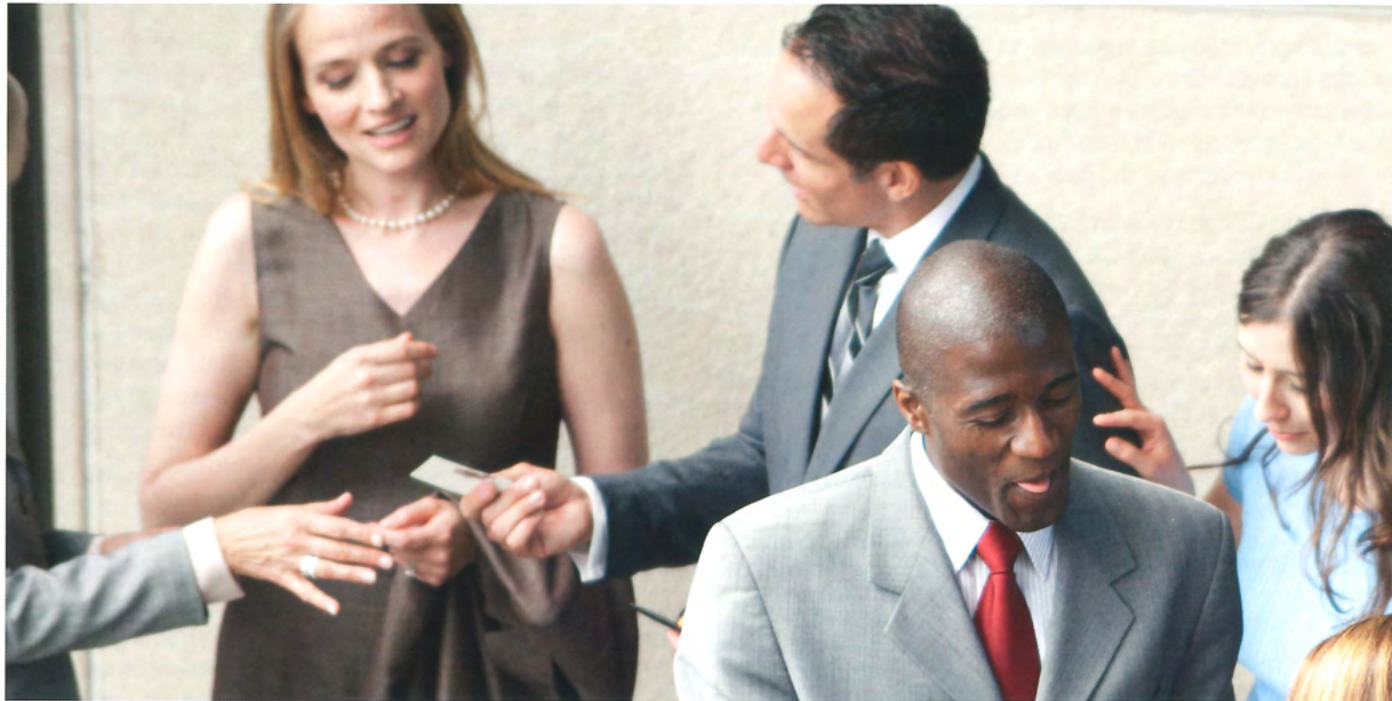
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Getting complex legislative changes right is hard. I am no expert on the mining tax but I would argue that the Gillard government might well have improved the viability of the mining tax if it had invited some lobbyists into the room to get the design and details right. That may seem naïve, but consider what ultimately happened – a combined policy and political debacle that severely injured Labor's reputation.

If we are going to have lobbying – if, as I have suggested, lobbying is both inevitable and potentially a good thing for democracies – then what should the rules be? In most western democracies, lobbying is omnipresent and implicitly accepted. In the U.S., lobbying is an aspect of the nation's explicit constitutional protections of speech, association and petition. Indeed, James Madison, who thought most deeply about how interests participate in politics, largely expected and accepted the idea that lobbying would be a natural part of the new nation (Yoho, 1995; Loomis 2011).

What is needed is transparency: about who lobbies, who are the targets of lobbying, what are the subjects being lobbied on and how much is being spent. Such rules are straightforward, although not necessarily easy to adopt or implement.

Why transparency?



Democracies should collect and make available information on lobbying, and we can make a good case for transparency. If you have more transparency you will have less corruption and less appearance of corruption. Information about lobbyists becomes accessible to many people, including citizens, academics, and journalists. In the U.S. lobbyist-related data are reasonably easy to access and use. By design, the U.S. registration process allows journalists and academics to perform complex big-data analysis that can tease out important patterns that individual case studies may miss. Registering and reporting have been going on there for 17 years now. Changes to the lobbyist registration law in 2007 generated more kinds of information, which is being used effectively by both journalists and scholars to provide more insight into what works, who's lobbying and with what impact, as well as specifying the impact of influence-oriented spending. If we're getting serious about this data, then who's a lobbyist?

Who's a lobbyist?

There are about 12-13,000 lobbyists registered with the U.S. Senate, but most serious estimates place the number at about 30,000 in Washington⁵. The registration rules contain all kinds of loopholes. For instance, if an individual lobbies for less than 20 percent of his time, he need not register. So-called "strategists", who just tell people where to lobby, don't have to register. People who do grassroots lobbying are excluded – and advertising doesn't count. So, for all the data we collect, a lot of lobbying is formally ignored, although some scholars are beginning to develop a more accurate picture of the true size and scope of the lobbying profession (LaPira and Thomas, 2014).

⁵ Almost all American states require lobbyists to register, although the rules differ substantially across the fifty states. In any given year, about 40,000 such lobbyists may register in state capitals.

The Australian Fulbright Chair in American Political Science is intended to have a comparative focus, and I have spent some time during my tenure looking at lobbying in Australia, where lobbyists have been required to register since 2008. But because of exemptions relatively few of the people who lobby actually do register. For example, in-house corporate lobbyists are exempted, even if they lobby full-time for their firm. Lobbyists for trade groups: exempt. Religious lobbyists: exempt. Grassroots lobbyists: exempt. Lobbyists who employ advertising: exempt. In the end, relatively few people are required to register. I took a quick look at the allegedly 20 most powerful lobbyists in Australia (Knott, 2011); of those 20 only six were registered. In other words, you could drive one of those big mining trucks through that exemption loophole.

U.S.A./Canada

The U.S. and Canada, taken together, have the best registration system currently existing, with Canada's probably being the most complete. The EU's system is also fairly good, and the trend in western democracies is to require more registrations of lobbyists. In the U.S. and Canada, not only do lobbyists have to register who they are, but what they are lobbying for: the subject matter, stated in fairly specific terms. Those who are part of a big coalition have to list their membership and the identities of the other members – and that's very important, given the prevalence of coalitions in American lobbying.



Lobbyists must disclose how much money is spent, and any political contributions made. They have to disclose their lobbying target and make the disclosed information useable and accessible for journalists and academics. Another requirement calls for an accounting of the people who take the revolving door from the public sector to the private sector, which has been the subject of increasing numbers of academic studies and journalistic analyses, given the access that such individuals enjoy.

Australia

In Australia, people who formerly worked in the public sector and then took up lobbying have to identify themselves. These data are accessible in a spreadsheet, and the names of the clients are revealed. That sounds good, but there are grave limitations: there is nothing more, nothing about the nature of the lobbying activities nor the amounts spent. If a lobbyist decides to stop lobbying, she simply takes her name off the list. The register is not user-friendly: for instance, you can't find out who was on the lobbying list in Canberra one or two years ago in that the list is a document that is continuously revised. In all, apart from the revolving door regulation, Australian federal lobbying rules have none of the elements that characterize powerful registration and reporting systems for lobbying, and the exemptions are far too numerous. As of May 2013, there were 625 lobbyists registered in Australia with its population of 23 million. To give you a little context, my home state of Kansas, with 2.8 million people, has itself about 600 lobbyists registered.

If you have more transparency you will have less corruption and less appearance of corruption. Information about lobbyists becomes accessible to many people, including citizens, academics, and journalists.

Why should we care about trust and transparency?

Citizens do care about trusting their governments: this is an extraordinarily important issue around the world these days and certainly significant in most Western countries. Governments everywhere are not trusted and are often perceived not to operate in the public interest. In turn, such a lack of trust increases the difficulties inherent in governing. The less trust a government can rely on, the more it must make deals to pass legislation and spend resources to implement its policies. High trust allows for much less friction in governing. We care about transparency because of the need to prevent undue influence or its appearance, and we ought to understand who lobbies and what they get out of it. Many lobbyists, in fact, are perfectly happy to go through registration and disclosure, so long as it is not too onerous, because they are at ease with their role within the process of governing.

Trust in Government: The United States

Trust in Government Again Near All-Time Low

% saying they trust federal government to do what is right just about always/most of the time



PEW RESEARCH CENTER Oct 9-13, 2013. Line represents a three-poll average. Data from Pew, Gallup, CNN, ABC/Washington Post, CBS/New York Times, and National Election Survey.

We care about transparency because of the need to prevent undue influence or its appearance, and we ought to understand who lobbies and what they get out of it.

This graph shows the long term decline in trust in the U.S. national government. By 2013 just 19% felt that the federal government would do what is right just about always or most of the time. In contrast, Australia seems to look good, with the local councils trusted at almost 60%, state governments 51%, and the federal government completely trusted by 58%.

Another survey, taken in 2012 for an international consulting firm, shows more trust in the U.S. than Down Under. My sense is that Australians do not so much distrust their government as find it frequently irrelevant. The result is not necessarily distrust, but it is not active trust either.

What all this adds up to is that substantial transparency is necessary. Transparency means extensive reporting on who lobbies, for what interests, on what issues, and how much is spent. We simply need to get past the narratives of lobbying, such as the mining company story, the insiders' story and so on. Lobbying presents thorny issues in every democracy, and transparency helps us determine who gets represented, how, and with what results. Transparency is not real until consistent, detailed data are made accessible. If the information is "out there", journalists and academics can help citizens understand what their elected government is doing. In complex societies with extensive government intervention into the economic and personal lives of their citizens, little could be more important.

In this sense, now we should talk about national context one last time. In the U.S. there is a huge economy, massive government spending, and a large, extensive lobbying industry. Trying to get a "handle" on that through reporting by lobbyists is essential, and we would understand things a lot better if an effective registration system were in place. In Australia, far more than in the U.S., politics are "cosy": everybody knows everybody else, often with a multitude of connections (Loomis, 2013). Australia's challenge is somewhat different than that of the United States. Its very cosiness requires transparency, so that citizens — aided by journalists and scholars — can understand the relationships between organized interests and those who govern.

In the end, whether government is large or somewhat smaller, more transparency in lobbying and the representation of interests should be part and parcel of a modern democratic state.



Q&A

Can you comment on the differences between commercial lobbyists and non-commercial lobbyists (the Heritage Foundation, etc.)?

It's an interesting point: where does a think tank with a point of view come in? It's not quite a lobbyist, but it provides a lot of information for lobbyists. I think what you see there are many and various degrees. How much reporting would you want from those think tanks? (After all, they already do a fair bit through the tax system.) But you might want some more integrated reporting and that's one of the issues we're dealing with in the U.S. right now. All these organised social welfare groups and Tea Party people were in the campaigns – but they're also lobbying. Because of free speech, and because money is speech under the courts' interpretation, there are many ways to transform institutions. It's hard to pin down, because you really have to be careful about limiting speech too much. So how do you define lobbying? It's extremely important, but I don't have a great answer. In the U.S. now, think tanks are seen as a somewhat different category: they're clearly created to push an agenda, but they don't directly lobby. That said, the Heritage Foundation under former U.S. Senator Jim DeMint, has become a far more aggressive political actor than it was for much of its existence.

I'm very interested in your views about lobbying in China?

It strikes me that lobbying is going to occur in any nation where there are complex policies. There's vicious lobbying in China, I guarantee you. The military, the agricultural people, the infrastructure, environmentalists... What's fascinating is to see how they're trying to deal with social media (by turning it on/off), and how they deal with art, which is very powerful in China. Often when you can't lobby directly, you turn to the arts. As China's huge middle class develops, one of the things that middle class people will want is more political freedom.

Transparency: the information can be hard to get. How is this public resource being used?

Certainly people are taking advantage of the laws that have been created and certainly they're pushing for more openness. One example is the Sunlight Foundation. But I do think that, compared to Australia, there is a general norm of more openness in the U.S.: the right to know is upheld. Yes, hundreds of millions of dollars are being spent on campaigns, and these millions can't be tracked. But I think, in general, the tendency is to be quite open. And I think also, that this openness leads to some brutal public fights and disputes. And here I want to go back to the cosiness of politics in Australia, the attitude that "we've been all right so far, why do we need this?"

How do you become a lobbyist? How do you learn?

There are programs that teach leadership in lobbying, but it is really hard to teach and hard to learn. You can only learn to avoid the big mistakes. There are programs for lobbying: in the journal I edit, someone just proposed a symposium for one issue on the theme of 'learning to lobby'. The most substantial number of lobbyists first work in government and then go to the private sector. I do think that the best lobbyists are those who not only learned their subject matter really well but also have a personality and some skills beyond anything you can teach. The appeal is that it's quite lucrative, you can do good and you can do well – and they love the game. Many lobbyists spend their lives playing politics, both for profit and for personal satisfaction.

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