

## Chapter 7

### Interest Groups and Corporations

#### What positive functions to interest groups serve?

- Congressional staffs short on manpower get help.
  - Many Congressmen know nothing about highly technical subjects.
  - Ideally, they listen to summaries by advocates on both sides.
  - Like a judge listening to attorneys arguments.
  - They listen to both sides, then decide.
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- Theoretically, and in many instances only theoretically, interest groups perform an important service.
  - Not every interest group plies the politicians with donations.
  - Some just offer a reasoned explanation of what they are advocating.
  - Congressional staffs are overworked.
  - The world and virtually all issues have become increasingly more complex, more technical.
  - Few, if any, individuals could master the multitude of fields of expertise that come into play with legislation and the management of government.

#### **Some groups employ truly objective experts.**

When an expert whose reputation is sound weighs in on an issue that's important.

- Lobbyists direct politicians to such experts.
  - In some instances they truly educate the politicians.
  - They inform the politicians about the potential success of the legislation.
  - Inform the Washington politicians as how a particular state might have dealt with the problem.
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- Once again one litmus test for the objectivity of an interest group is whether the members of the group benefit financially from what they are advocating.
  - Environmental groups do not personally benefit from the effort to protect the environment.
  - Not all efforts to increase profits are inherently wrong, just when that effort is done at the expense of the common good, or in an unjust or illegal manner.
  - Businesses have a right to lobby to improve the conditions of the marketplace, and that might include unreasonable regulations, but not if it harms to common good.
  - And most importantly, not if the regulations corporations find intrusive are the remedy for abuses by businesses where there is a proven track record of corporate misconduct.

### **What negative impact do lobbyists have?**

- The impact of campaign contributions
  - The desires of the majority are ignored in favor of the contributions of the few
  - Even when they are not making large contributions they can distort the politician's perception.
  - Special interest group's extreme positions.
  - Politicians become converts to a cause.
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- You often here in the mainstream media such casual observations as "The National Association of Whatever Manufacturers" is in conflict with the labor union which serves that industry.
  - They are described as equal parties in some debate, some conflict, some negotiation.
  - Little note is given to the fact that the association represents about one twentieth to one-tenth the number of people as does the union.
  - What cultural bias allows small groups of an affluent and powerful elite to hold equal (or more powerful) status with more populous organizations of less powerful and affluent people.
  - What is the common good?

### **What Has Changed?**

- The consensus is that the interlocking relationship of Congress with lobbyists has become critical.
  - Once only a part of the game has become the whole game.
  - Politicians have become open that without a contribution they will not listen to you.
  - The people's interest are being supplanted by the interests of the contributors.
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- As congressional districts have become more populous it has become increasingly necessary for politicians to use the mass media for campaign purposes.
  - The mass media, particularly the electronic media, is very expensive.
  - In short, the cost of campaigning has grown exponentially in the last two generations, that is, since the advent of television.
  - Politicians need to be either personally wealthy or have access to money.
  - The interest groups fill that financial need.

## Alleged Reforms

- Term limits would worsen the situation because no member of congress would gain independent experience, the lobbyists would be dominant.
  - The Power of the expert lobbyist would increase as experienced and knowledgeable members of Congress are forced to retire just when they become experiences.
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- Throughout the 1970s and 1980s the Republicans pushed for term limits.
  - They abandoned this effort when they took control of both houses of Congress in 1994.
  - Term limits would have given greater power to the lobbyists.
  - Just when a member of Congress would begin to become knowledgeable in a specific field they would be forced to step down and be replaced by someone who'd have to learn all of the information anew.

## The Voters are Responsible

- If the people do not hold the politicians accountable for being so influenced by lobbyists and special interest groups the people are to blame for the state of affairs.
  - When barely 50% of the voters participate in any election, with most local elections well under that federal figure, non-voting voters increases the power of lobbyists.
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- "We have met the enemy and he is us" in the cartoon strip *Pogo*, by Walt Kelly.
  - This is a parody of Commodore Oliver Hazard Perry's famous report of victory, "We have met the enemy and they are ours..." after the defeat of the British squadron on Lake Erie in the War of 1812.
  - The voters have created the need for expensive advertising.
  - If the electorate was informed, simplistic or misleading advertising slogans would have little impact.
  - How informed are the "undecided" voters?
  - Some undecided are so because they are weighing what they believe to be the lesser of two evils.

## The Problem

- It's not that the problem is that our elected officials listen to lobbyists.
- The problem is that they listen to lobbyists because the lobbyists contribute

large amounts of money to the politicians campaign.

- In many instances they seem to listen to lobbyists more than to the people.
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- It is a legal form of bribery.
  - Lawyers are the largest group on both houses of Congress.
  - Lawyers are required to represent whoever hires them.
  - 36% of the House of Representatives are lawyers.
  - 53% of the Senate are lawyers.
  - This averages out to 39% of all Congress as lawyers.
  - The professional practices of attorneys, that is, an advocate for hire, seems to have taken over the entire political system.

### **What solutions are there to the dilemma?**

- The Supreme Court has rule that campaign contributions are a form of free speech.
  - The Founders did not anticipate that there would be such expenses involved in gaining office.
  - Ultimately the people choose elected officials.
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- The best solution is for the electorate to become so informed that they vote out elected officials who sell their votes to the highest paying interest group.
  - The problem is that politicians rich in campaign donations from powerful interest groups can hire sophisticated public relations firms who can artfully obscure the real issues and misrepresent the facts.
  - A second solution might be for the government to help candidates with the cost of advertising on television.
  - The airwaves are owned by the people. The broadcast networks only have licenses to use the people's airwaves.

### **One Solution:**

- Make all contributors public along with their place of work or if privately employed, their primary clients.
- Give the people the information they need to let them decide if their politician was bought.
- Non-voters can't contribute. No ten year olds contributing; no foreign nationals.

- Congress can try to regulate itself by putting strict limits on who can contribute to campaigns.
- Then enforcing those regulations without partisan double standards.

### **Another Solution**

- Public financing of elections.
  - Give politicians an alternative source.
  - This is done in the presidential elections.
  - Public support has strings attached
  - Some candidates will reject the money the associated strings.
  - Free television time for all candidates. TV is campaign's biggest expense.
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- The public has a problem when public monies are spent on a political candidate they oppose.
  - One possible solution would be to force television stations as part of their broadcast licenses to provide a certain amount of prime time free television air time to candidates during the three or four weeks before the election.
  - The problem with this system is free air time seems to bring forth fringe party candidates, with no chance of winning, who insist that they are eligible for the same amount of free air time as the two major political parties.

### **McCain-Feingold**

- Restricts the use of "soft money."
- "Soft money" is money spent on issues by political parties and political organizations which really advocated the election of one candidate over another.
- You simply can't say "Vote for Candidate X" in a "soft money" ad.
- You can say "vote for someone who supports this issue."

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- This was a sincere and bi-partisan effort to curb the negative impact of current campaign financing practices.

### **McCain-Feingold Passes**

- The "Bipartisan Campaign Reform Act of 2001" passed the Senate 59-41 on April 2, 2001.
- This was the official name of the bi-partisan effort which began as McCain-

Feingold.

- Almost immediately loopholes were found in what is called.

### **Loopholes in McCain-Feingold**

- Interest groups called 527s are formed.
  - **527 Group** – A tax-exempt group organized under section 527 of the Internal Revenue Code to raise money for political activities including voter mobilization efforts, issue advocacy and the like.
  - This loophole effectively negated the impact of the McCain-Feingold reform.
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- These 527s were one of the major sources of funding for both major parties during the 2004 election.

### **Who's To Blame**

- The lobbyists, special interest groups, and political action committees are merely filling a void created by an apathetic electorate.
  - One reason the electorate claims that they don't vote is that money controls the political process.
  - The chicken or the egg conundrum.
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- Also, the politicians who most benefit from the interest group money are adamant that their source of campaign financing would still benefit them.
  - Many politicians won by less than a 5% vote margin in campaigns that they out spent their opponents 3 to 1.
  - In those elections the interest group money was the difference in the outcome.

### **History of The Corporation**

- The corporation was devised in Europe during the 17<sup>th</sup> Century to protect investors in commerce from total losses which would wipe out personal wealth.
- A ship sinking with a valuable cargo would leave all the owners paupers.
- It was intended to protect investors.
- It was a legal person, a legal fiction.

- The fundamental reason for creating the legal fiction of a commercial entity that is like a person was to stimulate investment.
- During the past 100 years it has become a way to avoid accountability.
- In New York State you cannot even find out who comprises a corporation when dealing with one.

### **Corporations in America**

- The corporation was invented early in the colonial era as a grant of privilege extended by the Crown to a group of investors, usually to finance a trade expedition.
- Corporate charters (licenses to exist) were granted for a limited time and could be revoked promptly for violating laws.
- Corporations were held to strict standards.

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“The Crown” is the official term for the monarch of England.

### **Early Corporate Regulations**

- Corporations could engage only in activities necessary to fulfill their chartered purpose.
- Corporations could not own stock in other corporations nor own any property that was not essential to fulfilling their chartered purpose.
- Corporations were terminated if they exceeded their authority or caused public harm.

### **Early Corporate Accountability**

- Owners and managers were responsible for criminal acts committed on the job.
  - Corporations could not make any political or charitable contributions nor spend money to influence law-making.
  - For 100 years after the American Revolution, governments tightly controlled the corporate chartering process.
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- The practice of corporations acting to avoid any accountability by actual persons was not part of the original practice.

## **Regulatory Sea Change**

- The growth of major business such as the railroad industries, corporations become powerful, more powerful than some state and local governments.
  - The Industrial Revolution created more & more powerful businesses.
  - These powerful businesses effectively removed all controls on corporate behavior.
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- Industrial giants were able to wield political power during their earliest stages of development.
  - That power became almost insurmountable once the industrial giant reached the pinnacle of power and wealth.
  - Republican President Theodore Roosevelt challenged the industrialists' powers.

## **Corporations & the 21<sup>st</sup> Century**

- Politically powerful they are proceeding to deregulate the corporate environment.
  - Many corporations are not democratic, they are plutocracies or dictatorships.
  - No one individual in the corporation is responsible for corporate malfeasance.
  - A legal fiction created to promote investment now avoids accountability.
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- The myth is promoted that corporations need no regulatory environment because the marketplace does all the necessary regulating.
  - Numerous examples of corporate fraud which took advantage of deregulation and/or existing lax regulations which fleeced billions from investors proves that regulations are necessary in any form of human interaction.
  - “If men were angels, no government would be necessary.” (James Madison).
  - The term “self-regulating marketplace” implies that collectively in commerce men act justly, wisely, and in the interest of the common good.
  - In other words “self-regulating marketplace” presumes in commerce men collectively are angels.