A Matter of Influence: Law School Conference Tackles Lobbying and Campaign Finance

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A matter of influence

Law School conference tackles lobbying and campaign finance

Suny Buffalo Law School was the site of the nation’s first-ever conference on the intersection between lobbying and campaign finance. The conference, called “Under the Influence? Interest Groups, Lobbying, and Campaign Finance,” was organized by Associate Professor Michael Halberstam and Daniel Tokaji of Moritz College of Law. Tokaji is co-editor of the Election Law Journal, which expects to publish articles that arise from the March 8-9 conference.

Topics included the influence of outside money on state and local election contests and legislatures; the impact of the Supreme Court’s recent First Amendment decisions on state authority to regulate state and local campaign spending and lobbying activity; the incentives provided by the tax code for corporate political spending; the possibility of public funding for lobbying efforts; and the promise and limits of disclosure.

Six panel discussions over the two days, with comments by respondents and spirited discussion by those in attendance, made up the formal work of the conference. A sampling of the ideas presented:

Richard Briffault, professor at Columbia Law School: “You do have a line of cases in the 19th century which acknowledge the legitimacy of legal professional services in aiding people in presenting their claims but are very troubled by the elements of personal solicitation and influence more generally. … Both campaign finance and lobbying were reframed around the First Amendment model, beginning in the 1950s.”

Zephyr Teachout, associate professor at Fordham University Law School: “I think one of the reasons we avoid the issue of lobbyists is that lobbying takes money and laundered it into power through information and reason. We really value information and reason, and we don’t want to say that anything that comes out looking like information and reason is bad.”

Frank R. Baumgartner, professor of political science at the University of North Carolina at Chapel Hill: “If we want to improve democracy, the issue is not who’s going to win or can you purchase an outcome in Congress. I think you can, unfortunately, when it’s a micro-issue. But in the sample we studied, when it’s these big public policy changes, we don’t see it.”

Craig Holman, government affairs lobbyist for Public Citizen: “I left NYU in 2002 and became a lobbyist for Public Citizen. What I learned quickly was that I wasn’t able to get a whole lot done. Lobbying was really, at that time, done by K Street lobbyists using the type of tools of influence peddling that weren’t available to Public Citizen—the money-in-politics kind of issues, not only campaign fundraising and bundling, but revolving door activities, giving gifts, providing free travel. These were the tools of influence peddling that really dominated back then. It was tremendously frustrating, and I recognized that is not how it was supposed to be. Lobbying is supposed to be about providing information in order to help lawmakers make wiser decisions.”

Lee Drutman, senior fellow at the Sunlight Foundation: “We studied registered lobbying. There are people who don’t register and try to structure their time in a way that doesn’t require them to register under the [Lobbying Disclosure Act]. That’s a hard thing to know.”

Heather Gerken, professor at Yale Law School: “Both campaign finance regulations and lobbying regulations are designed to deal with the problem of political influence, and both require us to regulate a shape-shifter. In politics, we’re rarely regulating stable legal entities. Instead we’re oftentimes regulating a loose collection of interests that can take different forms as circumstances dictate. So each time a court or legislature tries to regulate a particular kind of political institution, political adversaries find a new outlet to channel their energies.”

Nicholas W. Allard, dean of Brooklyn Law School: “Whatever is done can always be undone. That probably was the most important lesson I learned working on Capitol Hill. That is a great safeguard that’s in the system. Even if there’s a quick fix or money has some kind of an impact, it’s a dialogue that goes on forever. The only basis for sustained results is the natural preference and leg up that the status quo has, and also that there be a legitimate public policy basis for the decision or the outcome. You may disagree with the policy or the outcome, but if there isn’t a credible legitimate public policy basis for the result, it’s going to be undermined a lot more easily.”

Also participating in the conference were SUNY Buffalo Law Professors James A. Gardner and Martha T. McCluskey, and Associate Professors Matthew Dimick and Stuart Lazar.

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