

Old Country Lawyer, February 2009  
Special Groundhog Day Issue  
Foreign Policy, the Re-set Button, and Lobbyists

For the past forty years political opponents have painted Democrats as impractical academics who find the use of military force so distasteful that we might be bullied into not defending either Principle or Interest. Foreign princes should not be deluded to caricature President Obama or Secretary Clinton as creatures of either a mythical Effete East or an equally mythical Wild West. Secretary Clinton has pointedly affirmed that the United States is now playing Diplomacy with a full tool kit. Both the President and the Secretary of State spent formative time in Chicago, and appear to have internalized the guidance of a Chicago philosopher of eighty years ago, "You get a lot more with a kind word and a gun, than with just a kind word," attributed to Alphonse Capone.

President Obama demonstrated that Great Lakes Rust Belt toughness runs in his family when he described his daughters' incredulous reaction to the timid response of Washington officials to adverse weather, "In Chicago, we NEVER close school. We go outside for RECESS." The President's parental pride burst through even his customary carefully-guarded countenance.

Some of the President's nominees for Cabinet posts have withdrawn from consideration in what some observers consider an elevation of Purity of Process over Effectiveness in Government. President Obama commendably performed one of his campaign pledges in announcing his policy to keep lobbyists out of government office. It immediately became apparent that this policy limits the pool of nominees for appointment to those offices, to only those persons presently employed in government or academia. Any individual who has advanced specialized knowledge in a field of interest to government, and is not employed either by government in applying that knowledge or in academia in teaching that knowledge, WILL be employed in advising private clients as to how to best influence government to use that knowledge. The President's policy now prohibits those individuals from taking a position in government where that specialized knowledge might be applied to actually implement the public policy which was advocated. This demonstrates the ethical dilemma faced by those who would authentically bring a moral standard, other than "the greatest good for the greatest number", into the political process - does one keep the best person for the job, Tom Daschle, from getting the job, Secretary of HHS, because that person used his recent employment outside government to try to guide that government in a particular direction? Apparently, one does.

But, even morally pure Democrats win a satisfying victory sometimes. In 2004, Ken Salazar opened a speech during his campaign for United States Senate with the phrase, "When my family first came to this country four hundred years ago," and from that point, this writer has been an enthusiastic fan. That enthusiasm was reinforced on February 4, 2009, when Secretary of the Interior Salazar

cancelled a group of oil and gas leases that the preceding administration had auctioned off a few weeks before leaving office, which leases would have permitted drilling adjacent to Canyonlands and Arches National Parks and Dinosaur National Monument in Utah. Secretary Salazar's legal excuse for the cancellations was that the environmental impact studies had not been completed as required by law. Thank God the re-set button works.

Much of the recent discussion of "lobbyists" promotes the position that "Lobbyists have acquired too much influence in the past forty years." I now dredge up another lengthy quotation from an individual who was once considered a leading candidate for President of the United States before his unexpected early demise, concerning lobbyists, which far predates that:

"Under the Constitution of the United States, there are but two houses of Congress, the Senate and the House of Representatives, and most people residing within the jurisdiction of its laws suppose this to be the extent of the legislative body; but to those acquainted with the internal working of that important branch of the government, there is still a third house of Congress, better known as the lobby. True, its existence is neither provided for nor recognized by law; yet it exists nevertheless, and so powerful, although somewhat hidden, is its influence upon the other branches of Congress, that almost any measure it is interested in becomes a law. It is somewhat remarkable that those measures which are plainly intended to promote the public interests are seldom agitated or advocated in the third house, while those measures of doubtful propriety or honesty usually secure the almost undivided attention of the lobby. There are few prominent questions connected with the feeble policy of the government which can and do assemble so powerful and determined a lobby as a proposed interference with the system of civilian superintendents, agents, and traders for the Indians." (General George Armstrong Custer, United States Army, *My Life on the Plains*, May, 1872)

One should not expect a complete reform of the lobbyist system in a very short time, and one might hope that the attempt to reform does not sacrifice from public service too many such well-qualified individuals as Tom Daschle.

- Christopher J. Mallin, Old Country Lawyer