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to good government

The Ethical Times

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The Evolution of “Public Trust” from the Sheriff of Nottingham to Today’s Public Servant

By
Clare Wiseman

Until the 18th century, the idea that government officials could have competing interests that pit their private needs against the duties of their positions did not widely exist in the way it does today. It was taken for granted that people in such positions would, in executing their public duties, also use that power and authority to advantage themselves personally. One might argue that self-dealing was woven into the structure of some governments.

The story of Robin Hood is a classic example of self-dealing by government officials. While the actual characters may not have existed, the circumstances that drove our hero Robin to steal from the rich to give to the poor were common in the English feudal system. In order to wage wars, build castles, protect the borders, and do all the other things a king must do, rulers needed money. Generally, they got the money through taxation. At the time, however, it wasn’t easy for rulers to assess the wealth of all of their subjects and tax them accordingly. Such a census would be enormously costly and time-consuming; it would take years to conduct and be outdated by the time it was completed. Therefore, rulers relied on what was called “tax farming” to generate income from their subjects. This meant that the king delegated the responsibility of collecting taxes to private individuals with local knowledge about the taxpayers in a given region.

During the days of Robin Hood, lands in England were divided into shires and the kings designated a “reeve” to administer each shire, the “shire-reeve” or “sheriff.” In addition to maintaining order, the sheriff was the designated tax farmer of his shire. The position of sheriff was not a paid position, but an honor given by the king. In order to keep the position, the sheriff had to collect a sufficient amount of taxes from his shire’s tenants to keep the king happy. But just like the king, the sheriff needed to generate income for himself as well, by tacking on an extra cost to his tenants when he collected their taxes.

Tax farming naturally created a tension between the needs of the ruler/state and the needs of the sheriff (not to mention the needs of the tenants). Because the sheriff needed to create income for himself, it was in his best interest to collect the greatest amount of money he could from his tenants in the shortest amount of time (at least this seems tempting from a short-term point of view.). An

unscrupulous sheriff, like that of Nottingham, could over-tax the common folk to the point of starvation. This kind of mismanagement not only leads to harm of individual tenants, but creates a need for heroic outlaws like Robin Hood (at best), or (worse) leads to bloody peasant revolts.

The 18th and 19th centuries saw the rise of industrialization and democratization in Western Europe. Through the emergence of strong democratic practices, including the spread of public elections, citizens demanded more accountability and transparency from their government officials. And, industrialization brought unprecedented power and ambition to countries that were rapidly emerging as “world powers.” Projection of power and influence of this magnitude (for better or for worse) required a new kind of government official: one who put the interests of the public before his/her private interests, guided by a set of ethical standards. We call this person a “public servant.” With the concept now in place that profiting personally from one’s government service represents an abuse of power, laws were enacted that attempted to curtail some of the most flagrant of these abuses. At the federal level in the United States, this included a patchwork of conflict of interest laws dating back to 1853. These were anti-bribery laws and prohibitions against such things as federal employees representing private interests before the government.

In the mid-20th century, the federal government updated and consolidated its conflict of interest law. These updates included prohibitions dealing with post-government employment (revolving door polices), outside compensation for official services, and recusal from official matters in which a person has a financial interest.

One widely publicized matter illustrated the public’s growing concern that public servants should be held to a higher standard. In 1953 President Eisenhower nominated the head of General Motors, Charles E. Wilson, to serve as Secretary of Defense. Wilson was asked during his confirmation hearing whether he would be able to make decisions that went against GM’s interests. Wilson was widely reported as responding that yes, he could but he would not see the need to because “what is good for General Motors is good for our country.” In fact, the actual quote was “for years I thought what was good for our country was good for General Motors, and vice versa.” Neither the Senate nor the press was pleased with Wilson’s declaration that his private financial interests were entangled in his pending government position. The Senate refused to confirm Wilson until he sold off his substantial stock holding, totaling \$7 million (\$2.5 million of which was GM stock).

Conflict of interest regulations assure the public that its government officials, unlike the Sheriff of Nottingham, serve the public's interest. Just as important, these regulations also function as a guidepost for government officials. Conflict of interest regulations make public servants aware of situations that might pit their personal needs against their government responsibilities so that those situations can be avoided, preventing such conflicts from occurring in the first place. Should you ever need guidance, you can reach the Conflicts of Interest Board's Legal Advice Unit 9am-5pm, Monday-Friday by calling 212-442-1400.

For an in-depth look at NYC's conflict of interest law history, read [The Legislative History of Chapter 68 and the Board Rules](#).

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Recent Enforcement Cases

▶ A former Executive Deputy Agency Chief Contracting Officer ("ACCO") for the New York City Department of Transportation ("DOT") paid a \$5,000 fine for, within one year of leaving City service, appearing twice before DOT on behalf of his new private-sector employer. On two separate occasions the former Executive Deputy ACCO admitted that he contacted his former subordinates to request then-confidential information regarding technical proposals and engineering reports, as well as then-confidential information regarding whether his new private sector employer had been shortlisted for a procurement. The City's conflicts of interest law prohibits former public servants from communicating with their former City agency for one year after leaving City service.

▶ An ACS Child Protective Specialist paid a \$500 fine for, without authorization and for a personal, non-City purpose, driving an ACS vehicle from her office in Manhattan to her home in Brooklyn. The City's conflicts of interest law prohibits using City resources, such as a City vehicle, for any non-City purpose.

▶ A NYCHA Assistant Resident Buildings Superintendent was fined \$1,000 and placed on one-year probation to resolve both conflict of interest law violation and DOHMH disciplinary charges. The public servant solicited and received two loans: (1) a \$600 loan from a NYCHA resident, repaid in installments; and (2) a \$100 loan from a NYCHA subordinate, repaid within one week. The City's conflicts of interest law prohibits public servants from using their City positions for personal advantage, which includes soliciting or accepting loans from subordinates and other individuals over whom the public servant has power or authority.

▶ A DOHMH Agency Attorney III agreed to pay a \$2,000 fine for using his DOHMH computer during his City work hours to access and/or save twenty-four documents relating to his outside, compensated work as an immigration attorney. The City's conflicts of interest law prohibits employees from using City time or City resources to perform work for their private businesses. Half of the \$2,000 fine has been paid to the Board and the other half will be paid to DOHMH for disciplinary charges.

▶ A DOHMH City Research Scientist 4A agreed to pay a fine of \$2,000 and served a two-day suspension, valued at approximately \$838, to resolve both conflict of interest law violation and DOHMH disciplinary charges. On forty-two occasions the Research Scientist used her DOHMH computer during her City work hours to visit the website associated with her private business and she sent four emails on behalf of her private business from her DOHMH computer and email account during her City work hours. The City's conflicts of interest law prohibits employees from using City time or City resources to perform work for their private businesses.

▶ An ACS Child Protective Specialist Supervisor I will serve a sixty-day suspension to resolve his conflicts of interest law violations as well as two separate sets of ACS disciplinary charges. On three occasions, the Supervisor accessed the New York State Central Register's confidential database, CONNECTIONS, to learn the status of an ACS

child protective investigation in which he had a personal interest. The City's conflicts of interest law prohibits employees from using confidential City information to advance their private interests. □

Congratulations! to the winner of the Conflict of Interest Board's February Public Service Puzzler contest.

Seamus Moloney, Center Manager, McCarren Play Center at the Department of Parks & Recreation.

Stay tuned for Mr. Moloney's bio and the next addition of the Public Service Puzzler in early March.



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*Interested in more information?
Get in touch with COIB's Training & Education Unit to arrange a class in Chapter 68 for you and your staff.
Contact Alex Kipp, Director of Training,
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