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MAY 13 1975

THE WHITE HOUSE

WASHINGTON

May 13, 1975

MEMORANDUM FOR: WILLIAM SKIDMORE

FROM: WILLIAM J. BAROODY, JR. /S/

SUBJECT: Testimony of Deputy Attorney General
on S. 774 and S. 815 Replacing Federal
Regulation of Lobbying Act of 1946

The draft statement supplied seems designed to defend and protect the Justice Department's lengthy explanation concerning the lack of enforcement under the 1946 Act. The statement complains that S. 774 would vest the entire criminal enforcement authority in the Federal Election Commission. Furthermore, Justice would not be able to prosecute any violation, civil or criminal, unless the Commission consented, and there is doubt cast on Justice's authority to control Supreme Court litigation.

I do not take issue with these positions, but to confine comment on the lengthy and far reaching provisions of this legislation to an appendix seems to dismiss them as unimportant. They are anything but.

There are briefly three major points which I feel should be emphasized:

- A. Legislation should not extend to the Executive Branch.
- B. The definition of what constitutes lobbying should be made more specific, particularly because we are dealing with a criminal law.
- C. Record keeping and report requirements should be kept to the minimum to avoid unnecessary burden and casting a chill on communication.

Justice argues that the definition of the "Policy Making Process" should be pared back so as to reach only lobbying intended to enlist the support of officers and employees in the Executive Branch for or against a legislative program or otherwise to influence the legislative process. This does not appear to go far enough. No justification is offered by the proponents of S. 774 and S. 815 why regulation of lobbying ought to be extended to the Executive Branch in the first place. There is no historical precedent. This seems an attempt at blanket coverage, sweeping direct and indirect lobbying under control of this legislation so that realistically speaking, it could be said that the bulk of citizen communication with the Federal government would give rise to registration and reporting requirements and attach the stigma of "lobbyist" to vast numbers of the public.

I strongly recommend that Justice testify in favor of legislative branch coverage only. The resulting reduction in paperwork, Federal and private, would be huge; and industry is constantly complaining about the "Federal paperwork burden."

The Justice Department testimony endorses the reporting requirements of Section 6 of S. 815. These cover slightly more than 2-1/2 pages (61 lines) of the bill and seem quite excessive. A lobbyist would have to record and report: (1) each aspect of the policy making process he sought to influence; (2) each Federal officer or employee he tried to influence; (3) the subject matter of each oral and written communication in which an opinion is expected or which contains information on policy-making. The sheer burden of doing so argues against the requirement.

I think the "Policy Making Process" concept should be abandoned and the definition of lobbying strictly limited so that in fact only overt attempts to directly influence legislation are covered. This makes the definition understandable, lessens the reporting and record keeping requirements, and avoids turning off a great deal of communication which is essential if both the Executive and Legislative Branch are to be able to do their job effectively.

✓ cc: John Marsh



LOBBY LAW NEWEST 'CLEAN GOVERNMENT' TARGET

The federal lobbying law, unchanged since 1946, has become a major target of the "clean government" movement and its allies in Congress.

Within the past year, advocates of change have succeeded in revising election laws and persuading congressional committees to hold most of their sessions in public. Changing the lobby law may be even harder to accomplish.

There is general agreement that the 1946 Federal Lobbying Act (Title III of the 1946 Legislative Reorganization Act—PL 79-601) tells the public very little about the scope of lobbying in Washington. For one thing, an organization is not required to register unless it considers lobbying its "principal purpose." Any lobby group is free to consider its own work to be outside the requirement, as the National Association of Manufacturers did at one time, even though it maintained a permanent lobbying staff.

As interpreted by the Supreme Court in 1954, the lobbying law requires those who register to report only the expenses involved in their personal contacts with members of Congress. It does not include the money spent on grassroots lobbying campaigns aimed at persuading constituents around the country to contact the members. As a result, the quarterly reports lobbyists file tend to list the trivia of their work—cigars, lunches and cab fare—and leave out the salaries and other expenses large organizations commit to the job.

If somebody does manage to violate the mild strictures of the law, it is unlikely that he will be punished. The Secretary of the Senate and Clerk of the House collect lobby registrations and reports, but have no power to enforce the rules against violators. The Justice Department, which does have the power, only acts on complaints; it does not seek out violators. Since 1972 only five cases have been referred to Justice; there have been no indictments. (*Background on the lobby law, 1974 Weekly Report p. 1947*)

Honored in the Breach

"The 1946 law is more honored in the breach than anything else," said Sen. Robert T. Stafford (R Vt.), the Senate's leading advocate of a new lobby law. "I don't think anybody pays much attention to it."

Stafford and Sen. Edward M. Kennedy (D Mass.) have introduced a comprehensive new lobby bill (S 815) which would expand the definition of the word lobbyist and require those who register to keep and submit detailed records of their activity.

A similar bill (HR 15) has been introduced in the House by Rep. Tom Railsback (R Ill.), who says the existing law reaches only a fraction of those who lobby in Washington. "Many people who should be registered are not," he argued. "They may be obeying the law, but that's because the law was virtually decimated by the Supreme Court decision."

Under the Stafford bill, lobbyists no longer would be legally free to decide for themselves whether they wanted to file. There would be a complex, three-part definition of

lobbying, and anyone who fit in any of the three categories would have to register.

A lobbyist would be someone who spends at least \$250 per quarter or \$500 per year on lobbying, or someone who receives at least that much for work of which lobbying is a substantial part, or someone who makes at least eight separate oral communications with members or employees of Congress or the executive branch in a quarter.

At the end of each quarter, the Stafford bill would require the lobbyist to file a public report listing each federal employee he sought to influence, identifying each conversation he had while lobbying, and providing the names of all persons whom he persuaded to engage in lobbying in his behalf.

The lobbyist would have to disclose his total income—not just his lobbying income—plus his total expenditures and an itemized list of all lobby expenditures of more than \$10. Lobbying expenditures would include the money used for research, advertising, office space and mailings, rather than just the costs of person-to-person lobbying.

The Stafford bill has a strong gift disclosure provision. Lobbyists would be required to disclose all expenditures to congressional or federal employees which exceed \$25. A group of smaller gifts made together also would have to be disclosed if their aggregate value was more than \$100.

The Stafford measure would turn enforcement authority for the lobby law over to the new Federal Elections Commission, created in the 1974 campaign law. The commission would investigate alleged violations and bring civil actions to stop them. Stafford would punish ordinary violations with fines of up to \$1,000, and willful violations with fines of up to \$10,000 or imprisonment for up to two years. (*Elections commission story, Weekly Report p. 649*)

The Railsback bill differs slightly from S 815. There would be no oral communications test in the definition of lobbying, no requirement for itemizing lobbying expenditures of more than \$10 a quarter and no requirement that the lobbyist identify the subject matter of each lobbying communication.

Both bills, however, would expand lobby coverage to contacts with the executive branch, which is not included in the 1946 act. The Railsback proposal is bolder on this issue than Stafford's, requiring executive branch employees to keep records of the lobbyists who contacted them and subjects they discussed.

Public Image

The sponsors of the different lobby bills differ on what they would accomplish. Stafford does not feel the privilege of lobbying is being abused under existing law or that Congress is dominated by lobbyists, but simply that changes are needed to boost public confidence.

"Whenever anything is done in private, even if it is justified, it creates the impression that something is wrong," Stafford said. "We may do quite a bit of good by

Cong. relations

September 13, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF
FROM: JACK MARSH

On this Lobbying Report, I am more interested in a summary of what the bill seeks to do.

Thanks.

JOM/dl



RED TAG

THE WHITE HOUSE

WASHINGTON

September 12, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF
THROUGH: VERN LOEN *VL*
FROM: CHARLES LEPPERT, JR. *CLJ.*
SUBJECT: Status Report on Legislation to
Regulate Lobbying

This is in response to your request for a status report on legislation to regulate lobbying.

H. R. 15, "the Public Disclosure of Lobbying Act of 1975," was introduced in the House of Representatives on January 14, 1975, co-sponsored by Rep. Tom Railsback (R. -Ill.) and Rep. Bob Kastenmeier (D. -Wisc.). A number of identical bills have been introduced with one hundred and fifty-five co-sponsors (See list attached).

On September 11, 1975, the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary before hearings on H. R. 15. Only members of Congress testified on the legislation on September 11th and the hearings continue on September 12.

A copy of H. R. 15 is attached.

Attachment

RED TAG

THE HOUSE
WASHINGTON

OCT 7 1975

M

October 6, 1975

MEMORANDUM FOR:

JACK MARSH

THRU:

MAX L. FRIEDERSDORF *M.L.*
VERN LOEN *VL*

FROM:

CHARLES LEPPERT, JR. *CLJr.*

SUBJECT:

Summary and Status Report of H. R. 15,
a Bill to Regulate Lobbying and Related
Activities

Attached is a brief summary of the legislation as requested and a background memorandum on the bill which was provided to the Republican Members of the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee.

Note that paragraph "F" of the brief summary and "page 7" of the background memorandum set forth the "logging" requirements for Executive branch employees.

The status of H. R. 15 is that the Subcommittee has held five public hearings on the bill. Subcommittee Chairman Walter Flowers (D-Ala.) has asked counsel to seek a consensus from the Subcommittee Members on the provisions of a draft bill prior to any mark-up session of the subcommittee. Counsel informs me that both Democrats and Republicans on the subcommittee have problems with H. R. 15 which has the support of and is the product of Common Cause.

I. H. R. 15 (H. R. 1734)

A. Definitions

1. *Defines "lobbyist" to be a person who receives or expends over \$250 in any quarterly filing period, or \$500 during four consecutive filing periods.
2. Excludes from the definition of "lobbying" the following:
 - a. An appearance before a congressional committee or the submission of a written statement thereto or to an executive department or agency at the request of such department or agency. (Apparently does not exclude oral communications made to an executive agency or department made at the request of said entity.)
 - b. communications or solicitations by a federal officer or employee
 - c. communications or solicitations through the normal course of business of any news, editorial view, advertising or like matter by:
 - (1) periodical distribution to the general public;
 - (2) radio or television broadcast; or
 - (3) a book publisher.

B. Must file notice of representation within 15 days showing—

1. identification of lobbyist;
2. identification of person retaining the lobbyist and the financial terms agreed to;
3. the decisions to be influenced;
4. identification of anyone solicited by lobbyist to engage in lobbying and the financial terms of such arrangement.

C. Records—must disclose:

1. total income received by lobbyist;

*The apparent intent is to make these dollar amounts disjunctive rather than conjunctive. However, the drafting of section 2(10) could be construed to mean the contrary. (See p. 4A)

2. total expenditures of lobbyist and itemization thereof;
 3. identification of each person from whom income is received, but in the case of a voluntary membership organization, the name of a member need not be disclosed unless he contributes more than \$100 to the organization during the quarterly filing period including the three preceding quarterly periods.
- D. Reports—must disclose
1. All the information required in 2 and 3, supra;
 2. identification of each federal officer or employee with whom the lobbyist communicated during the filing period;
 3. A copy of any written communication used by the lobbyist to solicit others to lobby.
- E. Effect on Tax Status—The various reports required by this Act are not to be considered by the IRS.
- F. Executive Logging—
1. All executive branch employees in grades GS-15 or above, or in any of the executive levels under title 5 must log all oral and written communications which express an opinion or contain information relating to pending decisions.
 2. These records shall include:
 - a. name and position of the official contacted;
 - b. date communication received;
 - c. identification of person from whom the communication was received;
 - d. summary of the subjects discussed;
 - e. copies of any written communications;
 - f. description of action taken by official, if any.
- G. Commission
1. Sets up Federal Elections Commission as administrator of Act,
 2. Powers of Commission:
 - a. subpoena power;

- b. may hold hearings and conduct investigations.
- c. Commission is the primary enforcing agency. It may prosecute both civil and criminal violations.

H. Duties of Commission

1. develop forms;
2. create filing and indexing system;
3. make notices and reports available to public inspection;
4. retain records for 10 years;
5. summarize reports and put in Federal Register;
6. make audits and field investigations.

I. Sanctions

1. Willful failure to file notice of representation—\$5,000, 2 yrs. imprisonment, or both.
2. Falsification of any notice of representation or report—same as 1.
3. Falsification of any communication to influence legislation—same as 1.
4. Failure of executive official to log or falsification of such log—same as 1.



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 KENNETH H. KLES

September 4, 1975

MEMORANDUM

TO: Congressman Carlos J. Moorhead
 Congressman Thomas N. Kindness

FROM: Alan Coffey *ac*

SUBJECT: Background on Lobby Disclosure Legislation

On Thursday, September 11, the Subcommittee on Administrative Law and Governmental Relations will begin hearings on H.R. 15 and other related Lobby Disclosure bills. It is expected that the entire hearing on that day will consist of testimony from the House sponsors and co-sponsors, including Congressman Railsback, Chairman Rodino and Congressman Kastenmeier. On Friday, the 12th, the tentative plan is to hear witnesses from the Department of Justice, the General Accounting Office and Federal Energy Administration. Hearings will follow on September 18 and 19 with the witnesses at that time being from major interest groups including: Common Cause, Chamber of Commerce, the AFL/CIO and the Wilderness Society. Additional hearings are planned but not yet scheduled.

Consequently, I thought that the following preliminary analysis might be useful for you to have at this time. Specifically, the purposes of this memorandum are: (a) to identify the most notable loopholes in the existing Federal Regulation of Lobbying Act (2 U.S.C. §261-70; 60 Stat. 839-842); (b) to outline the major features of the Railsback-Kastenmeier bill (H.R. 15); and (c) to discuss possible Constitutional arguments that could be used against provisions in H.R. 15.

A. Loopholes:

(1) Under the existing law an organization must "solicit, collect, or receive" funds to come under the coverage of the statute. So, an organization which merely expends its own funds in a lobbying effort, avoids coverage under the law.

(2) Under the "Principal Purpose" doctrine enunciated in the U.S. v. Harriss, 347 U.S. 612(1954), an organization must have as its main purpose the influencing of legislation before Congress to come under the ambit of the statute.

(3) The 1946 law applies only to attempts to influence legislation. It does not cover attempts to influence decisions or rulemaking by the Executive Branch or Federal regulatory agencies.

(4) The existing lobby statute does not cover efforts to influence legislation by personnel in the Executive Branch or lobbying which may be done by other government officials (i.e. state and local government).

(5) There is little or no enforcement provided for in the 1946 law. It merely requires that lobbyists, who come under the coverage of the statute, register and file periodic reports with the Clerk of the House and the Secretary of the Senate. Their's is a custodial function; there is no requirement that they investigate into the accuracy of the reports.

(6) The Harriss decision also interpreted the 1946 law to mean that there must be direct communication or contact with a member of Congress for an act to constitute lobbying. Consequently, the general view is that contact with Congressional staff members or the generation of a grass roots lobbying effort (such as a letter writing campaign) does not constitute coverage under the 1946 law.

B. Public Disclosure of Lobbying Act of 1975 - H.R. 15

(1) Lobbying - is "a communication or the solicitation or employment of another to make a communication with a Federal

officer or employee in order to influence the policymaking process".¹ Section 2(9). This definition aims at filling a much criticized loophole in the existing law by covering indirect lobbying as well as direct communications. In U.S. v. Harriss, 347 U.S. 612(1954), the Supreme Court interpreted the 1946 Law to mean that there must be direct communication or contact with a member of Congress for an act to constitute lobbying.

(2) Lobbyist - One must meet both income and expenditure tests. They are: (A) receives income of \$250 or more for lobbying during a quarterly filing period (a calendar quarter); (B) receives income of \$500 or more for lobbying during four consecutive filing periods; (C) spends \$250 or more for lobbying during a quarter (personal travel expenses excepted); and (D) spends \$500 or more for lobbying in four consecutive filing periods.² Section 2(10)(A)-(D).

(3) Exceptions - "Lobbying" in H.R. 15 does not include the following: (A) testimony before a Congressional Committee or an appearance before or the submission of a written statement to an Executive agency at its request; (B) any communication

¹"Policymaking process" is defined in Section 2(2) of the bill as "any action taken by a Federal officer or employee with respect to any bill, resolution, or other measure in Congress, or with respect to any rule, adjudication, or other policy matter in the executive branch." The aim is clearly to cover lobbying not only before the Congress but in the Executive Branch as well. However, this definition raises Constitutional questions of due process and overbreadth, due to the vagueness of phrases like "any action taken" and "other policy matter" in a criminal statute. Is one on notice as to what type of conduct is covered and forbidden? Connally v. General Construction Co., 269 U.S. 385, 391(1925); Grayned v. City of Rockford, 408 U.S. 104,108-9(1972).

²The intent of the sponsors was to have each of the four tests apply in the disjunctive so that if they fell under any of the four categories, you had to file as a lobbyist. However, the way the bill is drafted these four criteria can be read to mean a conjunctive test, i.e. that one must meet all four criteria before he has to file.

or solicitation by a Federal officer or employee;³ (C) any communication or solicitation within the normal course of business by newspapers, periodicals, radio and television, or by book publishers.⁴ Section 2(9)(A)-(C). Regarding exception "(C)" for the media, it should be noted that "advertising" is included along with "news" and "editorial views". Presumably advertising is included so as to make it clear that a newspaper would not have to register as a lobbyist just because it carries an advertisement intended to influence some aspect of the policymaking or political process.⁵

(4) Registration - Within 15 days after becoming a lobbyist, one must file a "notice of representation" with the Federal Elections Commission. The Commission is the designated enforcement agency under H.R. 15. This notice of representation must include the following (as well as any additional information

³Note that lobbying by State or local officials is not an exception. So, for example, a mayor who repeatedly contacts HUD regarding his city's urban renewal application would have to register as a lobbyist. Lobbying by such officials is excepted in the Kennedy-Stafford bill (S. 815) and in the Metcalf bill (S. 2068).

⁴This exception, however, does not extend to publications of a "voluntary membership organization" like the Farm Bureau, the Chamber of Commerce or the Sierra Club. Solicitations or communication by such groups would be forms of indirect lobbying under H.R. 15 and would be covered.

⁵The Subcommittee may want to consider a number of additional exceptions, so as to eliminate many of the potential First Amendment arguments against the bill. For example, Senator Metcalf's bill (S. 2068) includes the following exceptions:

- "A communication by an individual, acting solely on his own behalf, for redress of his grievances or to express his own opinion;"
- "A communication by an attorney of record on behalf of any person made in connection with any criminal investigation or prosecution of such a person;"
- "A communication which relates to the status, purpose, or effect of a decision."

the Commission might prescribe): (1) the lobbyist's identity; (2) the identity of his employer or identity of those on whose behalf he will perform his services; (3) a description of the financial terms and conditions under which he is retained; (4) list each aspect of the policymaking process he expects to seek to influence, who will be contacted, the form of communication to be used, and what his position will be;⁶ (5) identify each person expected to act as an agent for the lobbyist, including the financial arrangements and those aspects of the policymaking process the agent-lobbyist is expected to seek to influence; (6) in the case of a voluntary membership organization, the approximate number of members and a description of the methods by which the decision to lobby is made. Section 3(1)-(6).

(5) Recordkeeping - Each lobbyist is required to maintain certain records, which will be available to the Commission for inspection for at least a period of two years from the date of recording. They shall contain the following information: (1) total income received by the lobbyist and the amount attributable to lobbying;⁷ (2) identification of each person from whom income is received and how much (in the case of voluntary membership organization, the identity of the individual member need only be recorded if it exceeds \$100 during the quarterly filing period);⁸ (3) the total expenditures, itemizing

⁶Here again, due process-vagueness problems are raised. Does a lobbyist always know in advance what issues he will seek to influence and what persons he will have to contact? Can one reasonably be expected to comply with this requirement? A criminal penalty--a \$5,000 fine and up to 2 years imprisonment--can be imposed for a knowing willful violation of Section 3 requirements. See Section 10(a) of the bill.

⁷Why total income received and not just the income attributable to lobbying?

⁸The listing of members contributing \$100 or more in a quarter, which is also required in the reporting provisions (Sec. 5), raises Constitutional questions with regard to associational freedom and the right to privacy. In a number of decisions the Supreme Court has found the requirement of disclosure of membership lists to violate the First Amendment. NAACP v. Alabama, 357 U.S. 499(1958); Bates v. Little Rock, 361 U.S. 526(1960); NAACP v. Button, 371 U.S. 415(1963); Gibson v. Florida Legislature Committee, 372 U.S. 539(1963). The test laid down by the Court is: whether or not there is a substantial relationship between the information sought (i.e. the list) and a compelling, overriding state interest, so as to justify such an intrusion into the First Amendment rights of speech, press, association, and petition.

each expenditure made, to employ lobbyists for research, advertising, staff, offices, travel, mailings, and publications; (4) each expenditure made directly or indirectly to or for any Federal officer or employee. Section 4.

(6) Reporting - Within fifteen days after the end of a quarterly filing period, each lobbyist must file a report with the Commission covering his activities within that quarter. Each report shall contain the following information (in addition, the Commission shall prescribe any other information it feels necessary): (1) lobbyists' identity; (2) the identity of each person⁹ on whose behalf the lobbyist performed services during the quarter (but in the case of a voluntary membership organization, the listing should include only those who contributed \$100 or more during the quarter);¹⁰ (3) each decision of the policymaking process the lobbyist sought to influence during the quarter;¹¹ (5) the identity of each Federal officer or employee with the lobbyist communicated during the quarter; (6) a copy of any written communication, used by the lobbyist to solicit others to lobby and the approximate number of persons contacted; (7) copies of the records required in Section 4, pertinent to the quarterly period in question. Section 5(1)-(7).

(7) Tax Status - Section 6 contains a disclaimer that none of the registration, recordkeeping and reporting requirements of this legislation should be taken into consideration by the Internal Revenue Service in determining whether or not a specific organization deserves preferred tax status. The present educational and charitable exemption and deduction provisions prohibit the granting of preferred tax status to any organization which carries on substantial political activities, such as attempting to influence

⁹"Person" is defined in Sec. 2 as "a corporation, company, association, firm, partnership, society, or joint stock company, as well as an individual". Note that the definition does not specifically mention a union.

¹⁰See footnote #8 regarding the Constitutional questions raised by requiring what amounts to a partial membership list.

¹¹How is "decision" to be interpreted by the lobbyist? "Decision" is not defined anywhere in the bill. Again, the language is vague and raises due process questions.

legislation.¹²

(8) Logging - Each official or employee of the Executive Branch who is grade GS-15 or above, or is designated as being responsible for making or recommending decisions affecting the "policymaking process" must maintain detailed records or oral or written communications received directly or indirectly expressing an opinion or containing information with respect to such policy matters. The records shall contain at least the following information: (1) the name and position of the official or employee who received the communication; (2) the date upon which the communication was received; (3) an identification, so far as possible, of the person from whom the communication was received and of the person on whose behalf such person was acting in making the communication; (4) a brief summary of the subject matter or matters of the communication, including relevant docket numbers if known; (5) in the case of communications through letters, documents, briefs, and other written material, copies of such material in its original form; and (6) a brief description, when applicable, of any action taken by the official or employee in response to the communication. Section 7(a)(1)-(6).

Each agency in the Executive Branch is responsible for assuring that the records prepared pursuant to this provision are placed in the appropriate case files, within two working days after the communication is received. Also these records shall be made available for public inspection. Section 7(b) and 7(c).

(9) Administration and Enforcement - The Federal Elections Commission¹³ is made the administrator of the Act and is also

¹²Int. Rev. Code of 1954, Sec. 170(c)(B)-(D), Sec. 501(c)(3), as amended, Tax Reform Act of 1969, Pub. L. No. 91-172, Sec. 201 (a)(1)(B), 83 Stat. 549.

¹³The Federal Elections Commission was established under Section 310 of the "Federal Election Campaign Act Amendments of 1974". (P.L. 93-443). The Constitutionality of its powers and the method of appointment of the Commissioners is currently under court challenge. Buckley, et. al. v. Valeo, et. al., Civil No. 75-0001(D.C. Cir., 1975).

given the primary civil and criminal enforcement responsibility under it. Included among its powers: (1) the power to compel answers to written interrogatories; (2) power to subpoena witnesses, and to compel testimony and documentary evidence; (3) the power to initiate civil and criminal actions for the purpose of enforcing provisions of the Act.¹⁴ Section 8(a)-(7); Section 8(b) and Section 8(c).

The duties of the Commission include: (1) development of all necessary forms as well as rules, regulations and guidelines for compliance; (2) create a filing and indexing system; (3) retain the records of the notices and reports for ten years; (4) make notices and reports available for public inspection; (5) summarize the reports received and put in the Federal Register; (6) conduct investigations to ascertain whether any lobbyist has failed to comply fully and accurately; (7) make audits and field investigations; and (8) recommend additional legislation to carry out the purposes of the Act. Section 9.

(10) Criminal Penalties - (1) Knowing and willful failure to file notice of representation--\$5,000, 2 yrs. imprisonment, or both; (2) Falsification of any notice or representation or report--\$5,000, 2 yrs. imprisonment, or both; (3) Falsification of any communication to influence legislation and executive decisions--\$5,000, 2 yrs. imprisonment, or both; (4) Failure of executive official to log or falsification of such log--\$5,000, 2 yrs. imprisonment, or both. Section 10(a)-(d).

(11) Miscellaneous - Section 11 repeals the 1946 statute and Section 12 provides that the Act take effect on the date of enactment (However, the recordkeeping requirements under Section 5(a) would not begin until the regulations are issued.).

¹⁴Section 8(c) states that the Commission is the "primary civil and criminal enforcement agency" under the Act and that the Justice Department has no authority to enforce any civil or criminal violation of the Act unless the Commission consents. To vest exclusive enforcement in the Commission may violate the doctrine of separation of powers. Ponzi v. Fessenden, 258 U.S. 254, 262(1922), Myers v. U.S., 272 U.S. 52, 164(1926); Springer v. Philippine Islands, 277 U.S. 189, 202(1928); Humphrey's Executor v. U.S., 295 U.S. 602 (1935); U.S. v. Cox, 342 F. 2d 167, 171(5th Cir., 1965).

C. Constitutional Questions Raised by Lobby Disclosure Legislation

(1) Right to Petition - Lobbying has been judicially recognized as an exercise of the First Amendment right to petition the Government for the redress of grievances. U.S. v. Harriss, 347 U.S. 612(1954); Liberty Lobby v. Pearson, 390 F.2d 489(1968). Consequently, any interference with, or modification of those rights must be closely scrutinized to determine whether the limitation on these rights is reasonable, necessary and justified by the national interest.

So, for example, one might argue that the "Logging" provision in Section 7(a) of H.R. 15 serves to discourage government officials from communicating with private parties regarding important policy matters. It could inhibit the access of private interest groups and even individual citizens to public officials. Does the discouragement of such communications serve a national interest? Is such a deterrent to the exercise of First Amendment rights reasonable?

(2) Due Process - H.R. 15 and, in fact, all of the lobby disclosure bills pending before our Subcommittee contain criminal penalties. Thus, the language of the bills cannot be vague or broad, or there is a violation of the Due Process clause. The Constitutional requirement of definiteness is violated by a criminal statute that fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden under the statute . . . no man should be held criminally responsible for the conduct which he could not responsibly understand would be proscribed and forbidden. Connally v. General Construction Co., 269 U.S. 285, 291(1925); Jordan v. DeGeorge, 341 U.S. 223, 230-232(1951); Grayned v. City of Rockford, 408 U.S. 104, 108-9 (1972).

H.R. 15 contains phrases like "any action taken", "other policy matter", and "attempts to influence the policymaking process." Is a person clearly on notice as to what conduct the bill covers and what is forbidden?

(3) Freedom to Associate - Section 4(2) of H.R. 15 requires that a voluntary membership organization supply a list of its

individual members that contribute \$100 or more during a quarterly reporting period to the Federal Elections Commission (e.g. enforcement agency). While, admittedly, this requirement would probably result only in a partial membership list, it still raises Constitutional questions regarding the rights of privacy and associational freedom. In a number of cases, the Supreme Court has found the requirement of disclosure of membership lists to violate the First Amendment. NAACP v. Alabama, 357 U.S. 499(1958); Gibson v. Florida Legislative Committee, 372 U.S. 539(1963), et. al. There must be an overriding public interest to justify such an intrusion.

(4) Unlawful Delegation of Executive Powers - H.R. 15 would place the primary criminal enforcement authority in the Federal Elections Commission. The Commission is, at least partially, a legislative body, since a majority of its members are appointed and removable by Congress (the President nominates only two of its members). P.L. 93-443. Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. Springer v. Philippine Islands, 277 U.S. 189, 202(1928). The prosecution of offenses against the United States is an executive function within the exclusive prerogative of the Attorney General. Ponzi v. Fessenden, 258 U.S.254, 262(1922); U.S. v. Cox, 342 F.2d 167, 190(5th Cir., 1965). The argument that the powers and composition of the Commission violates the doctrine of separation of powers is one of the issues now being litigated in Buckley, et. al. v. Valeo, et. al., Civil No. 75-0001(D.C. Cir., 1975).

AFC:mk
Enclosure

THE WHITE HOUSE
WASHINGTON

Date: 9-15-75

TO: Chas. Tepper

FROM: Max L. Friedersdorf

For Your Information _____

Please Handle _____ ✓

Please See Me _____

Comments, Please _____

Other

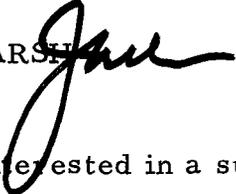
57087

THE WHITE HOUSE

WASHINGTON

September 13, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF

FROM: JACK MARSH 

On this Lobbying Report, I am more interested in a summary of what the bill seeks to do.

Thanks.

RED TAG

THE WHITE HOUSE

WASHINGTON

September 12, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF
THROUGH: VERN LOEN *VL*
FROM: CHARLES LEPPERT, JR. *CLJ.*
SUBJECT: Status Report on Legislation to
Regulate Lobbying

This is in response to your request for a status report on legislation to regulate lobbying.

H. R. 15, "the Public Disclosure of Lobbying Act of 1975," was introduced in the House of Representatives on January 14, 1975, co-sponsored by Rep. Tom Railsback (R. -Ill.) and Rep. Bob Kastenmeier (D. -Wisc.). A number of identical bills have been introduced with one hundred and fifty-five co-sponsors (See list attached).

On September 11, 1975, the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary before hearings on H. R. 15. Only members of Congress testified on the legislation on September 11th and the hearings continue on September 12.

A copy of H. R. 15 is attached.

Attachment

94TH CONGRESS
1ST SESSION

H. R. 15

IN THE HOUSE OF REPRESENTATIVES

3

JANUARY 14, 1975

Mr. RAILSBACK (for himself and Mr. KASTENMEIER) introduced the following bill; which was referred to the Committees on the Judiciary and Standards of Official Conduct

A BILL

To regulate lobbying and related activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Public
5 Disclosure of Lobbying Act of 1975".

6 DEFINITIONS

7 SEC. 2. As used in this Act, the term—

8 (1) "person" includes a corporation, company,
9 association, firm, partnership, society, or joint stock
10 company, as well as an individual;

11 (2) "the policymaking process" means any action



1 taken by a Federal officer or employee with respect to
2 any bill, resolution, or other measure in Congress, or
3 with respect to any rule, adjudication, or other policy
4 matter in the executive branch;

5 (3) "Federal officer or employee" means any offi-
6 cer or employee in the legislative or executive branch,
7 and includes a Member of Congress, Delegate to Con-
8 gress, or the Resident Commissioner from Puerto Rico;

9 (4) "income" means the receipt or promise of any
10 consideration, whether or not legally enforceable;

11 (5) "expenditure" means the transfer or promise
12 of any consideration, whether or not legally enforceable;

13 (6) "quarterly filing period" means any calendar
14 quarter;

15 (7) "voluntary membership organization" means
16 an organization composed of individuals who are mem-
17 bers thereof on a voluntary basis and who, as a condition
18 of membership, are required to make regular payments
19 to the organization;

20 (8) "identification" means in the case of an indi-
21 vidual, the name, address, occupation, principal place
22 of business, and position held in that business, of the
23 individual, and in the case of a person other than an
24 individual, its name, address, principal officers, and
25 board of directors, if any;



1 (9) "lobbying" means a communication or the
2 solicitation or employment of another to make a com-
3 munication with a Federal officer or employee in order
4 to influence the policymaking process, but does not
5 include—

6 (A) an appearance before a congressional
7 committee, subcommittee, or joint committee or
8 the submission of a written statement thereto or
9 to any Federal executive department, agency, or
10 entity at the request of such department, agency, or
11 entity;

12 (B) any communication or solicitation by a
13 Federal officer or employee; or

14 (C) except with respect to a publication of
15 a voluntary membership organization, any com-
16 munication or solicitation through the distribution
17 in the normal course of business of any news, edi-
18 torial view, letter to an editor, advertising, or like
19 matter by—

20 (1) a periodical distribution to the gen-
21 eral public;

22 (2) radio or television broadcast; or

23 (3) a book publisher;

24 (10) "lobbyist" means, with respect to any quar-



1 first becoming a lobbyist, and each lobbyist who has filed
2 such a notice and has been inactive as a lobbyist for three
3 consecutive quarterly filing periods shall also file a notice
4 of representation when that lobbyist again becomes a lobby-
5 ist. The notice of representation shall be in such form and
6 contain such information as the Commission shall prescribe,
7 including—

8 (1) an identification of the lobbyist;

9 (2) an identification, so far as possible, of each
10 person on whose behalf the lobbyist expects to perform
11 services as a lobbyist;

12 (3) a description of the financial terms and con-
13 ditions on which any lobbyist who is an individual is
14 retained by any person, and the identification of that
15 person;

16 (4) each aspect of the policymaking process which
17 the lobbyist expects to seek to influence, including any
18 Government agency, committee, or Federal officer or
19 employee, with which contact is to be made, the form
20 of communication used, and whether for or against a
21 particular measure;

22 (5) an identification of each person who, as of
23 the date of filing, is expected to be acting for such
24 lobbyist and to be engaged in lobbying including—



1 (A) any financial terms or conditions of such
2 person's so acting; and

3 (B) the aspects of the policymaking process
4 such person is expected to work at influencing; and

5 (6) in the case of a voluntary membership organi-
6 zation, the approximate number of members and a de-
7 scription of the methods by which the decision to engage
8 in lobbying is made.

9 RECORDS

10 SEC. 4. Each lobbyist shall maintain for not less than
11 two years after the date of recording records which shall be
12 available to the Commission for inspection and which con-
13 tain the following information:

14 (1) The total income received by the lobbyist,
15 and the amount of such income attributable to lobbying.

16 (2) The identification of each person from whom
17 income is received and the amount received, but in the
18 case of a voluntary membership organization a contribu-
19 tion during any quarterly filing period from a member
20 need be recorded only if the contributions to such or-
21 ganization from such member are more than \$100 during
22 that quarterly filing period, or during that quarterly fil-
23 ing period combined with the three immediately preced-
24 ing such periods.

25 (3) The total expenditures of such lobbyist for
26 lobbying, itemizing any expenditure made—



1 (A) to employ lobbyists (and the amount re-
2 ceived by each lobbyist so employed) ; and

3 (B) for research, advertising, staff, offices,
4 travels, mailings, and publications.

5 (4) Each expenditure made directly or indirectly to
6 or for any Federal officer or employee.

7 REPORTS

8 SEC. 5. Each lobbyist shall not later than fifteen days
9 after the last day of a quarterly filing period file a report
10 with the Commission covering that lobbyist's activities dur-
11 ing that quarterly filing period. Each such report shall be
12 in such form and contain such information as the Commis-
13 sion shall prescribe, including—

14 (1) an identification of the reporting lobbyist;

15 (2) an identification of each person on whose
16 behalf the reporting lobbyist performed services as a
17 lobbyist during the covered period, but not including
18 any member of any voluntary membership organization
19 on whose behalf the lobbyist performed such services,
20 if the member contributed not more than \$100 to the
21 organization during the covered period or during that
22 period combined with the three immediately preceding
23 quarterly filing periods;

24 (3) an identification of each person who acted as



1 a lobbyist on behalf of the reporting lobbyist during the
2 covered period;

3 (4) each decision of the policymaking process the
4 reporting lobbyist sought to influence during the covered
5 period, including bill numbers where relevant;

6 (5) an identification of each Federal officer or
7 employee with whom the reporting lobbyist communi-
8 cated during the covered period in order to influence
9 the policymaking process;

10 (6) a copy of any written communication used by
11 the reporting lobbyist during the covered period to solicit
12 other persons to lobby, and an estimate of the number
13 of persons to whom such written communication was
14 made; and

15 (7) copies of the records required to be kept by
16 the reporting lobbyist under section 4, to the extent
17 such records pertain to the covered period. f

18 EFFECT OF FILING ON CERTAIN DETERMINATIONS UNDER
19 THE INTERNAL REVENUE CODE OF 1954

20 SEC. 6. Compliance with the filing requirements of this
21 Act shall not be taken into consideration in determining, for
22 purposes of the Internal Revenue Code of 1954, whether a
23 substantial part of the activities of an organization is carry-
24 ing on propaganda, or otherwise attempting, to influence
25 legislation.



1 RECORDS OF OUTSIDE CONTACTS

2 SEC. 7. (a) All officials and employees of the executive
3 branch in grades GS-15 or above in the General Schedule,
4 or in any of the executive levels under title 5 of the United
5 States Code, or who are designated by any person to whom
6 this subsection otherwise applies as being responsible for
7 making or recommending decisions affecting the policymak-
8 ing process in the executive branch, shall prepare a record
9 of each oral or written communication received directly or by
10 referral from outside parties expressing an opinion or con-
11 taining information with respect to such process. The records
12 shall be in such form and contain such information as the
13 Commission shall prescribe, including—

14 (1) the name and position of the official or em-
15 ployee who received the communication;

16 (2) the date upon which the communication was
17 received;

18 (3) an identification, so far as possible, of the person
19 from whom the communication was received and of the
20 person on whose behalf such person was acting in mak-
21 ing the communication;

22 (4) a brief summary of the subject matter or mat-
23 ters of the communication, including relevant docket
24 numbers if known;

25 (5) in the case of communications through letters,



1 documents, briefs, and other written material, copies of
2 such material in its original form; and

3 (6) a brief description, when applicable, of any
4 action taken by the official or employee in response
5 to the communication.

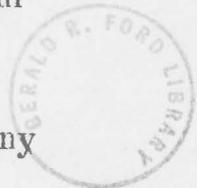
6 (b) Each agency in the executive branch shall assure
7 that records prepared pursuant to subsection (a) of this
8 section shall be placed, within two working days of the date
9 when such communication was received, in the case file of
10 the rulemaking or adjudication to which the communication
11 related. If the communication related to matters for which
12 there was no such case file, the records of such communica-
13 tion shall be placed in a public file which shall be maintained
14 in the same location as the case files.

15 (c) Each agency in the executive branch shall assure
16 that records filed pursuant to subsection (b) of this section
17 shall be made available for public inspection in a convenient
18 location within the agency. A comprehensive index of such
19 records by subject matter and, when applicable, docket num-
20 ber shall be maintained and made available for public
21 inspection in such location.

22 POWERS OF COMMISSION

23 SEC. 8. (a) The Commission has the power for the pur-
24 poses of this Act—

25 (1) to require, by special or general orders, any



1 person to submit in writing such reports and answers to
2 questions as the Commission may prescribe; and such
3 submission shall be made within such reasonable period
4 and under oath or otherwise as the Commission may
5 determine;

6 (2) to administer oaths;

7 (3) to require by subpoena, signed by the Chair-
8 man or the Vice Chairman, the attendance and testi-
9 mony of witnesses and the production of all documen-
10 tary evidence relating to the execution of its duties;

11 (4) in any proceeding or investigation to order
12 testimony to be taken by deposition before any person
13 who is designated by the Commission and has the power
14 to administer oaths and, in such instances, to compel
15 testimony and the production of evidence in the same
16 manner as authorized under paragraph (3) of this sub-
17 section;

18 (5) to initiate (through civil proceedings for in-
19 junctive relief and through presentation to Federal
20 grand juries), prosecute, defend, or appeal any civil or
21 criminal action in the name of the Commission for the
22 purpose of enforcing the provisions of the Act through
23 its General Counsel;

24 (6) to delegate any of its functions or powers,
25 other than the power to issue subpoenas under paragraph



1 (3), to any officer or employee of the Commission; and

2 (7) to make, amend, and repeal such rules as are
3 necessary to carry out the provisions of this Act.

4 (b) Any United States district court within the juris-
5 diction of which any inquiry is carried on may, upon peti-
6 tion by the Commission, in case of refusal to obey a sub-
7 pena or order of the Commission issued under subsection (a)
8 of this section, issue an order requiring compliance there-
9 with. Any failure to obey the order of the court may be pun-
10 ished by the court as a contempt thereof.

11 (c) Notwithstanding any other provision of law, the
12 Commission shall be the primary civil and criminal enforce-
13 ment agency for violations of the provisions of this Act.
14 Any violations of any such provision shall be prosecuted by
15 the Attorney General or Department of Justice personnel
16 only after consultation with, and with the consent of, the
17 Commission.

18 DUTIES OF THE COMMISSION

19 SEC. 9. It shall be the duty of the Commission—

20 (1) to develop forms for the filing of notices of
21 representation, and reports pursuant to sections 3 and
22 5 of this Act and to furnish such forms to lobbyists
23 upon request;

24 (2) to develop forms for the filing of records of out-
25 side contacts under section 7;



1 (3) to prepare a manual setting forth recommended
2 uniform methods of bookkeeping and reporting and to
3 furnish such manual to lobbyists upon request;

4 (4) to develop a filing, coding, and cross-indexing
5 system consonant with the purpose of this Act;

6 (5) to make the notices of representation and
7 reports filed with it available for public inspection and
8 copying, commencing as soon as practicable but not
9 later than the end of the second day following the day
10 during which it was received, and to permit copying of
11 any such report or statement by hand or by duplicating
12 machine, as requested by any person, at the expense of
13 such person, provided that the charge does not exceed
14 actual marginal cost, but no information copied from
15 such reports and statements shall be sold or utilized by
16 any person for the purpose of soliciting contributions
17 or for any commercial purpose;

18 (6) to preserve the originals or copies of such
19 notices and reports for a period of ten years from date
20 of receipt;

21 (7) to compile and summarize, with respect to
22 each filing period, the information contained in such
23 notices, and reports in a manner reflective of the dis-
24 closure intent of this Act and in specific relation to—

25 (A) the lobbying activities and expenditures

1 pertaining to specific legislative or executive
2 actions, including the identity of the lobbyists
3 involved and of the persons in whose behalf they
4 are acting; and

5 (B) the lobbying activities and expenditures
6 of persons who share an economic, business, or
7 professional interest in the legislative or execu-
8 tive actions which they have sought to influence;

9 (8) to have such information, as so compiled and
10 summarized, published in the Federal Register within
11 fifteen days after the close of each filing period;

12 (9) to have each notice of representation which
13 is filed by any lobbyist published in the Federal Reg-
14 ister within three days after each such notice was
15 received by the Commission;

16 (10) to ascertain whether any lobbyist has failed
17 to comply fully and accurately with the disclosure
18 requirements of this Act and promptly notify such per-
19 son to file such notices and reports as are necessary to
20 satisfy the requirements of this Act or regulations pre-
21 scribed by the Commission under this Act;

22 (11) to make audits and field investigations with
23 respect to the notices, and reports filed under the pro-
24 visions of this Act, and with respect to alleged failures
25 to file any statement or reports required under the pro-



1 not more than \$5,000 or imprisoned for not more than two
2 years, or both.

3 (c) Any person who knowingly and willfully falsifies or
4 forges all or part of any communication to influence legis-
5 lative or executive action shall be fined not more than
6 \$5,000 or imprisoned for not more than two years, or both.

7 (d) Any Federal officer or employee of the executive
8 branch to whom section 7 applies who knowingly and will-
9 fully falsifies, forges, or fails to file any record as required
10 by such section shall be fined not more than \$5,000, or
11 imprisoned not more than two years, or both.

12 REPEAL OF FEDERAL REGULATION OF LOBBYING ACT

13 SEC. 11. The Federal Regulation of Lobbying Act (60
14 Stat. 839-842; 2 U.S.C. 261 et seq.) and that part of the
15 table of contents of the Legislative Reorganization Act of
16 1946 which pertains to title III, also known as the Federal
17 Regulation of Lobbying Act (60 Stat. 813), are repealed,¹
18 effective on the date on which the regulations to carry out
19 this Act first become effective..

20 EFFECTIVE DATE

21 SEC. 12. The provisions of this Act shall take effect upon
22 the date of its enactment, except that any person required
23 by section 5(a) to maintain records shall not have any
24 duties or obligations under this Act to maintain such rec-
25 ords until the date on which the regulations to carry out
26 this Act first becomes effective.....



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PRITCHARD

West Virginia
HECHLER

Wisconsin
BALDUS
CORNELL
KASTENMEIER*
REUSS

* Indicates Members of
the Judiciary Committee

***Indicates Members
of the Subcommittee

10
20
7/8
1/31

Lobbying: powerful, elusive...and growing



Lobbying in Washington has grown, not lessened, in the period. A small army of lobbyists representing causes to milk outnumber congressmen and senators combined one, and may spend as much as \$1 billion a year. First

By Peter C. Stuart
Staff correspondent of
The Christian Science Monitor

Washington
even in air

This newspaper examined for six weeks the little-seen world of Washington lobbying, from the inner offices of lobbies, both humble and plush, to the crowded "Members Only" eleva-

gate and since — 374 in 1971-72, 799 in 1972-73, and nearly 1,000 last year, an all-time record.

The actual number of registered and unregistered lobbyists — reliably estimated a decade

powerful, elusive...and growing all the time

Lobbying in Washington has grown, not lessened, in the post-Watergate period. A small army of lobbyists representing causes that range from guns to milk outnumber congressmen and senators combined by some 20 to one, and may spend as much as \$1 billion a year. First of four articles.

By Peter C. Stuart
Staff correspondent of
The Christian Science Monitor
Washington

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gate and since — 374 in 1971-72, 799 in 1972-73, and nearly 1,000 last year, an all-time record.

The actual number of registered and unregistered lobbyists — reliably estimated a decade

'A right, not to be abused'

Lobbying reform: a new drive to close the

Rules governing lobbying in Washington are studded with prospects to close them seem brighter now as lobby reform Action could come as early as this year, experts believe

By Peter C. Stuart
Staff correspondent of
The Christian Science Monitor

Washington

— or does not report — is left pretty much up to him or her. Strict constructionists report only taxi fares to Capitol Hill and luncheon tabs with congressmen, waiving everything else as "infor-

— Extend coverage to the executive branch;
— Enforce the rules by empowering the year-old Federal Election Commission (or the GAO or an entirely new agency) to investigate possible

How

Reform: a new drive to close the loopholes

Rules governing lobbying in Washington are studded with loopholes — but prospects to close them seem brighter now as lobby reformers gain strength. Action could come as early as this year, experts believe. Last of four-parts.

By Peter C. Stuart
Staff correspondent of
The Christian Science Monitor

Washington

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— Extend coverage to the executive branch;
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How to keep track of the trackers?

Where do lobbyists lobby? The answer to this question is to log outside contacts — the Consumer

The new lobbying: whirring computers, flo

Computers and pressure from the grass roots (such as 600 huge coal trucks in Washington to protest strip-mining controls) are working together in a new wave of lobbying in the United States. Second in a four-part series.

By Peter C. Stuart
Staff correspondent of
The Christian Science Monitor
Washington

indirect lobbying to people [asking them] to write their congressmen. . . . I used to be able to keep track of the lobbyists of the Liquor Goods Association by the postcards I got from



U.S. Chamber of Commerce computers whir and flash. . . .

obbying: whirring computers, floods of mail

Computers and pressure from the grass roots (such as 600 huge coal trucks in Washington to protest strip-mining controls) are working together in a new wave of lobbying in the United States. Second in a four-part series.



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U.S. Chamber of Commerce computers whir and flash, . . .

Photos above and left by R. Norman Matheny, staff photographer
. . . as lobbyists aim for mail like this on Capitol Hill

The new lobbyists: persuaders in the pub

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By Peter C. Stuart
Staff correspondent of
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By R. Norman Matheny, staff photographer

Jerome Waldie: once a Congressman, now a lobbyist

Lobbyists with built-in advantages:

Controlling Washington lobbyists

The series on lobbying by Washington correspondent Peter C. Stuart, just concluded in the Monitor, shows that federal government in the United States is far from entirely "of the people, by the people, for the people."

While the emergence of consumer groups, environmental organizations, and "citizens' lobbies" has broadened the scope of influence on lawmakers and those who set policy, special interests to an increasing extent are making their voices heard — and heeded — on issues important to all Americans.

Sophisticated techniques now are employed to muster pressure on members of Congress that far outweighs the constituency such lobbying represents. It is hard to imagine, for instance, lawmakers ignoring that vast majority of Americans favoring strict gun control without the well-orchestrated, though relatively small, pro-gun lobby. Many lobbyists rotate in and out of Congress and executive positions, making use of relationships and experience gained at public expense to serve

private interests. Most lobbies pour ever-increasing sums into campaign coffers.

Present lobbying laws are woefully inadequate and seldom enforced. No one knows for sure how many lobbyists stalk congressmen or executive agencies, and all but a tiny percentage of the money they spend pushing their views goes unreported.

Hopefully, all of this may change with the new spirit of reform on Capitol Hill. Proposed legislation would put teeth into lobbying laws and broaden their applicability. Needed, as the newspaper series pointed out, are a broader definition of "lobbyist," full financial disclosure, and control of lobbying activity in the executive branch as well as Congress. Some agency of government should be given the resources and the right of imposing stiff penalties to ferret out and dissuade violators.

As lobbyist John Gardner of Common Cause said: "Lobbying is not wrong in itself. But it is wrong to lobby secretly, wrong to deceive the public, wrong to use money in ways that corrupt the public process."