

Proposed by

OLC 78-1516

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14 April 1978

MEMORANDUM FOR THE RECORD

SUBJECT: H. R. 8494, Lobbying Disclosure Bill

1. On 16 March 1978, I provided a copy of this bill as reported from the Judiciary Committee to [redacted] OGC, and asked for his comments. I told him that I had reviewed the bill and felt it would not affect the Agency.

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2. On 23 March 1978, [redacted] informed me that he agreed that the bill would not affect the Agency.

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Lobbies

Committee Approves Lobby Disclosure Bill

The House Judiciary Committee has ordered reported legislation requiring annual registration and quarterly reporting by major paid lobbying organizations.

Approval of the bill (HR 8494) on a voice vote Feb. 23 left its supporters predicting enactment of a lobby disclosure law by the end of the 95th Congress.

The Senate Governmental Affairs Committee has completed hearings on more comprehensive lobby disclosure bills but has not yet scheduled a date to begin drafting a final version. The House Judiciary bill is far less stringent than bills that both the House and Senate passed in the 94th Congress but that never made it through a conference committee. (*Background, 1976 CQ Almanac pp. 477-486*)

HR 8494 would repeal the 1946 Federal Regulation of Lobbying Act, which is largely unenforceable and has allowed large organizations such as the U.S. Chamber of Commerce and the Mobil Oil Corp. not to register as lobbies. HR 8494 would require registration by organizations that spend \$10,000 a year lobbying and make about one contact a week with legislators during a year.

The bill does not cover individuals who seek to make their views known to their elected officials, does not cover communications between a member and organizations in his district, and exempts from the registration and reporting requirements most small organizations that devote little time or money to lobbying.

An amendment offered by Rep. Don Edwards, D-Calif., eliminated a highly controversial provision of the bill that would have required disclosure of major solicitations to generate grass-roots letter-writing campaigns.

The exclusion of this and several other hotly disputed provisions make the committee bill more controversial for what it does not include than for what it does. Floor fights are anticipated over amendments to address these omissions.

Committee Action

The major debate in the Judiciary Committee was over the "threshold" for determining which organizations should be covered by the lobbying law. Debate focused on the amount of expenditures and the number and kinds of communications that should trigger registration.

The committee finally agreed on a formula that would require registration by: 1) any organization which spends \$2,500 in any quarterly reporting period (\$10,000 a year) to lobby or to draft lobbying communications, or 2) any organization that spends \$2,500 a quarter for lobbying and employs one or more persons who lobby 13 or more days per quarter or two or more persons who lobby seven or more days per quarter.

The final threshold appeared to satisfy most groups, except for paid professional lobbyists who are hired by an organization to lobby for a limited amount of time on a particular issue. These lobbyists fear they will lose business as a result of the amendment, which they argue sets up a double standard that will intimidate organizations not to

use the services of professional lobbyists as a way to avoid the registration requirement.

Indirect Lobbying

When the committee bill goes to the House floor, amendments are expected to be offered to cover the grass-roots letter-writing campaigns that were eliminated from coverage by the committee.

The American Civil Liberties Union (ACLU) and other private lobbying groups opposed a provision in HR 8494 as reported by the Judiciary Subcommittee on Administrative Law and Governmental Relations. (*Subcommittee action, 1977 Weekly Report p. 1607*)

The disputed provision would have required lobbyists to disclose mailings and ads bought in various media to encourage the public to pressure Congress on an issue.

These groups argued that the provision was unconstitutional because it would inhibit people from petitioning the government, a right provided by the First Amendment. The provision was eliminated on a 26-8 vote.

But Common Cause and its supporters in the House hope to replace the provision on the House floor. "This is the single most glaring omission of the bill," said Common Cause legislative director Mike Cole, arguing that organized mail campaigns are "the growth area of lobbying today."

Grass-roots mail lobbying campaigns were highly visible prior to the recent House vote defeating the creation of a consumer protection agency and an effort last year to expand picketing at construction sites. A conservative Virginia mass mail operation representing several lobbying organizations last fall sent out three million appeals for money to defeat the Panama Canal treaties. Similarly, the current Senate debate over expansion of the National Labor Relations Act has seen millions of pieces of mail from unions and business management flooding Capitol Hill.

Identifying Contributors

Common Cause also hopes to include a provision in the House bill requiring disclosure of the names of contributors of more than \$3,000 a year to lobbying organizations and a broad approximation of the amount contributed. This provision was not offered in the Judiciary Committee, apparently because there were not enough votes to pass it.

Common Cause argued that the provision is intended to let the public know which individuals are spending significant amounts of money to influence legislation and the extent to which legislators are representing their constituents' interests, as distinguished from the interests of organizations spending money to influence the legislators.

The disclosure provision is strongly opposed by the ACLU and numerous other membership organizations, which argue that disclosure would lead to harassment and embarrassment of member contributors. A contributor to a liberal cause, opponents argued, might be fired by a conservative employer while a contributor to a minority rights organization or a politically unpopular organization might be subjected to ostracism or harassment.

Tongsun Park Returns

After months of intensive U.S. pressure on the South Korean government, lobbyist Tongsun Park will appear before the House Standards Committee Feb. 28 to answer questions concerning Korean influence-peddling on Capitol Hill.

Park reached agreement with the Justice Department in December 1977 to testify under a grant of immunity from prosecution. Subsequent negotiations resulted in his agreement to testify before congressional committees.

Park fled the United States in 1976 amid mounting controversy over his role in making payments to U.S. congressmen.

Park has denied ever acting as an agent of the South Korean government of President Park Chung-Hee, insisting that whatever he did in Washington was aimed at advancing his own personal business interests.

Executive Branch Lobbying

An effort may also be made on the House floor to include limited executive branch lobbying disclosure requirements. Common Cause is supporting a provision in one of the Senate bills that would apply disclosure requirements to lobbying on large federal contracts. "This is the most controversial and fertile area for disclosure," argued Cole.

But there was widespread agreement on the Judiciary Committee to limit the new lobby bill to the legislative branch and there will be efforts to keep the bill intact on the floor, as well as efforts in the Senate to similarly limit the scope of the bills.

Business lobbies are likely to seek an amendment to the House bill to cover lobbying by unpaid volunteers for registered lobbying organizations. The provision is designed to cover lobbyists such as Ralph Nader, who do not get paid for their lobbying but are frequently in evidence making their views known on Capitol Hill. But efforts to cover Nader and other "volunteers" have all failed in the past and there is little reason to believe they will be successful this year. ■

—By Alan Berlow

Lobby Registrations

December

Agriculture and Environment

Environmental Policy Center, Washington, D.C. Lobbyist Peter Carlson, Washington, D.C. Filed 12/19/77. Legislative interest—"...Water resources management, rivers and wetlands preservation."

Citizens' Groups

Citizens for Government Fairness, El Centro, Calif. Filed for self 12/9/77. Legislative Interest—"Exemption of the Imperial Valley from the 1902 Reclamation Act."

First Pro-Life Congressional District Action Committee, Cumberland, R.I. Filed for self 12/19/77. Legislative interest—"All proposed Human Life Amendments."

National Rifle Association of America, Washington, D.C. Lobbyist—Benjamin R. Fern, Washington, D.C. Filed 12/6/77. Legislative interest—"Conservation, recreation and firearms legislation."

National Taxpayers Union, Washington, D.C. Filed for self 12/5/77. Legislative interest—Health care legislation: HR 54, HR 8891, HR 6894, HR 3330, HR 6982, HR 3329, S 1683, S 1391, S 1470, S 3." Lobbyist—Sally F. Cromwell, Washington, D.C.

Public Citizen-Congress Watch, Washington, D.C. Lobbyist—Robert F. Furniss, Washington, D.C. Filed 12/1/77. Legislative interest—"Airline Regulatory Reform: S 689-support, HR 8813-support."

Second Pro-Life Congressional District Action Committee, Narragansett, R.I. Filed for self 12/19/77. Legislative interest—"All proposed Human Life Amendments, HJ Res 121, HJ Res 405, HJ Res 132, SJ Res 178, SJ Res 140."

Corporations and Businesses

American Sign and Indicator Corp., Spokane, Wash. Lobbyist—Gwen A. Anderson, Washington, D.C. Filed 12/12/77. Legislative interest—"Legislation relating to small business legislation, environmental matters, Highway Beautification Act (USC Title 23) and energy matters."

Burlington Northern Inc., St. Paul, Minn. Lobbyist—John C. Knott, Casper, Wyo. Filed 12/27/77. Legislative interest—"Generally to support such pending or proposed legislation as Burlington Northern Inc. believes to be in its interest and in the interest of a sound national transportation policy; and to oppose legislation that they believe to be contrary to such interest."

Calista Corp., Anchorage, Alaska. Lobbyist—Birch, Horton, Bittner & Monroe, Washington, D.C. Filed 12/6/77. Legislative interest—"All legislation affecting Alaska natives."

Clearfield Bituminous Coal Corp., Indiana, Pa. Lobbyist—O'Melveny & Myers, Washington, D.C. Filed 12/15/77. Legislative interest—"Bills amending federal black lung statutes: HR 4544, S 1538 and possibly others."

Continental Air Lines Inc., Los Angeles, Calif. Lobbyist—James T. Lloyd, Washington, D.C. Filed 12/13/77. Legislative interest—"S 689, HR 8813, Aviation Reform Legislation; supporting modifications in pending legislation."

The Dow Chemical Co., Midland, Mich. Lobbyist—Lynette B. Lenard, Washington, D.C. Filed 12/7/77. Legislative interest—"Legislation affecting or of interest to the Dow Chemical Co."

International Paper Inc., Washington, D.C. Lobbyist—Beveridge, Fairbanks & Diamond, Washington, D.C. Filed 12/5/77. Legislative interest—"Congressional action which would clarify congressional intent regarding accounting procedures under the Energy Policy and Conservation Act. Interest centers upon section 141 of HR 4018, the Electric Utility Rate Reform legislation within the proposed National Energy Plan."

Mt. Airy Refining Co., Houston, Texas. Lobbyist—Blum, Parker & Nash, Washington, D.C. Filed 12/6/77. Legislative interest—"...Preserving small refiner bias treatment under pending energy legislation, for Haskell, Dole amendment to HR 8444."

Texas Eastern Transmission Corp., Houston, Texas. Lobbyist—Vinson & Elkins, Washington, D.C. Filed 12/6/77. Legislative interest—"...Natural gas industry, including interests in the National Energy Act, HR 8444."

Texas International Airlines, Houston, Texas. Lobbyist—Verner, Liipfert, Bernhard and McPherson, Washington, D.C. Filed 12/1/77. Legislative interest—"Tax legislation; specifically, investment tax credit availability to air carriers."

Union Oil Co. of Calif., Los Angeles, Calif. Lobbyist—Thomas F. Hairston, Los Angeles, Calif. Filed 12/16/77. Legislative interest—"Legislation affecting petroleum industry."

U.S. Industries Inc., New York, N.Y. Lobbyist—Olwine, Connelly, Chase, O'Donnell & Weyher, New York, N.Y. Filed 12/7/77. Legislative interest—"1977 Technical Corrections Bill (HR 6715)."