

Topical discussion
on the registration of lobbyist
Minutes Extracts — Mexico Session (April 1986)

The President noted that the Association had agreed earlier in the week to hold a spontaneous topical discussion at the suggestion of Mrs. Lever (Canada) on the subject of the registration of lobbyists. He was grateful for circulating a short note on the subject.

Mrs. Lever (Canada) said that the registration of lobbyists was a current issue in Canada. The government had circulated a paper for public discussion and it was being considered by a parliamentary committee which would reach a conclusion soon. A wide range of points of view had already been expressed.

There was no single definition of a lobbyist. The United States Federal Regulation of Lobbyists Act 1948 had defined a lobbyist as any person engaged for pay or for any other consideration for the purposes of attempting to influence the passage or defeat of legislation in the United States Congress. In Australia, this definition was of a person or company who for personal or other advantage represents a client in dealings with the government or other officials. There was a feeling in Canada that the public should know who was seeking to exert influence in the corridors of power. It was known that there was public registration of lobbyists in the United States, Australia, the Federal Republic of Germany, but she would be interested to know what the practice was in other countries.

The options being considered in Canada were:

1. self regulation of the lobbyists themselves (combined with the refusal by government officials to deal with lobbyists who were not registered under such a system.) Such an arrangement would not have any public means of enforcement, nor would there be any incentive for lobbyists to operate in public. A voluntary system would also not guarantee the public a right to know who was seeking to lobby parliament and the government.
2. legislation to regulate lobbying and define who was affected by it. It would regulate lobbyists behaviour and dictate how approaches could be made to government.
3. government directive or code of conduct. There was already a conflict of interest in post-employment code for public office holders with disciplinary powers against public employees. The government could instruct its officials not to deal with lobbyist who did not conform with the code of conduct.

The President said that this subject was in some respect the other side of the coin of the issue of the declaration of the financial interest of Members of Parliament which had been discussed earlier in the week. It was a subject of growing concern for all parliaments.

Mrs. Nersesian (USA) asked when a decision would be taken in Canada.

Mrs. Lever said that the parliamentary committee would report towards the end of June and a decision would be made soon after that.

Mrs. Nersesian (USA) said that the use of the word "lobbyist" in the United States derived from the name of the room outside the Chamber in which people wishing to speak to Members of Congress would wait. The Office of Public Records of the Senate was responsible for implementing the 1946 legislation for the regulation of lobbyists. Details kept included the name, address, type of business client, estimate of time to be spent on a new client, or time spent on an existing client, the nature of the client's business and the item of legislation involved. Any changes in this had to be reported. Even the cost of lunch given for a staff member had to be specified and the client's own expenditure had to be notified. Such filings of information were made public four times a year and created great interest among other lobbyists. The publication ran to 40 pages.

It was estimated that one seventh of the people in the Washington DC area were lawyers and a large proportion of them were potentially lobbyists. Staff of the Senate who left to become lobbyists were governed by an ethical consideration set down by the Ethics Committee under which they could not lobby the Senator or Committee for whom they had worked on an issue on which they had worked within one year of leaving the Senate's employment.

The *President* commented that it was unlikely that any other parliament received such lobbying attention as the United States Congress.

Mrs. Rayner (USA) said that the House of Representatives had an office of records and registration similar to that in the Senate. Their records of campaigns, personal finance, and lobbying activities were available for inspection and were published quarterly. They were broken down into regular, late and new filings for information. If a lobbyist did not spend any funds in the previous quarter he made only a token registration. These records were related only to the lobbying of Congress and not to the lobbying of the Executive Branch. They were also only confined to direct contact with Members of Congress and did not include lobbying of voters in congressional districts to persuade them to contact their congressman on particular issues.

Mr. Cumming Thorn (Australia) said the arrangements in Australia were under government regulation and did not directly involve parliamentary staff. Lobbying was a mushrooming industry in Australia but not yet up to the United States or Canadian scale. It should be noted that lobbying was a two-way process with individuals providing information both from clients to parliament and from parliament to clients in return for a fee. Most lobbying was carried out through government departments rather than with parliament.

Mr. Roll (Federal Republic of Germany) said that the Bundestag had adopted a registration system in 1972 which was now part of the Rules of Procedure. There was a public list of all associations representing interests vis-à-vis the Bundestag. This was kept by the President and contained the names and address of lobbyists. Only registered associations were meant to be heard at public meetings of parliamentary committees but this was not strictly enforced. Access to the Bundestag

buildings was also limited to registered associations. The list was published annually but it was not regarded as very important.

Mr. Hjordal (Denmark) said there was no lobbying problem in Denmark, It was obvious that various organisations sought to maintain contacts with Members of Parliament and some Members of Parliament had posts in various institutions and corporations. There was no registration and each Member's parliamentary activity was carried out on his own responsibility. A parliamentary group could discipline one of its Members if it wanted to, **but** there had been no serious incident in Denmark and the issue was left to the good judgement of Members.

The *President* said that lobbying of the United Kingdom Parliament was not as advanced as it was in some other countries. It was a problem which was easier to recognise than to do something about. Every citizen had the right to lobby as individual MP and parliament collectively and he was entitled to use paid help to make his representations more effective. It was the methods used by lobbyists which caused anxiety, particularly with technologically advanced and organised bodies operating in this field. They tended to make substantial demands on parliamentary facilities and in some ways made it harder for parliament, faced with such sophisticated pressure, to determine the general will on a particular proposal.

Three select committees had looked at this matter in 1969, 1974 and 1984-5. On each occasion the same conclusion had been reached: against formal registration of lobbyists. The reason for this was that there was concern about not getting a comprehensive list and thereby giving privileged access to those lobbyists who had registered. There was a trade association of lobbyists in London which was a respectable body with codes of conduct and itself wanted a register but it did not include everyone engaged in this activity. The problem was not so great as to compel registration at this stage.

He did not feel that the situation in the House of Commons with regard to lobbyists was entirely satisfactory and would welcome a questionnaire and report by the Association on this subject. In view of the general spread of lobbying he thought it was a subject likely to become of increasing importance in the future.

Mr. Kabulu (Zaire) said that the existence of lobbyist was a normal part of activity in a democracy and had not yet reached abnoxious proportions in Zaire. That might be partly because there were not so many economic interests to be defended.

Mr. Masya (Kenya) said that lobbying was not very advanced in developing countries but interests affected by a particular proposal would mobilise on specific occasions rather than undertake a continuing lobbying activity. He would welcome a questionnaire and report on the subject.

Mr. Ndiaye (Senegal) agreed with *Mr. Masya*.

Mrs. Nersesian said there was a tendency to regard lobbying as a pestilence but it should be remembered that parliament benefitted from the presentation to it of well-researched information setting out the advantages and disadvantages of a

proposed course of action. In the United States lobbying had become part of the legislative process and could be regarded as having a beneficial role.

The *President* agreed that it was essential that legislators should be fully informed of the implications of the various proposals on which they had to vote.

Mr. Charpin (France) said that lobbying was not a problem in France. He wondered if the definition of "lobbyist" meant just a professional acting as an agent between parliament and a company or union or did it include the representative of the company or the union. Such organisations often asked their public relations officer to present papers to parliamentary groups.

The *President* said the question of definition was essential. This was a matter which could be brought out in a questionnaire. He would like to know how successful the definition adopted in the 1946 United States legislation had been in classifying lobbyists.

Mrs. Nersesian said that a company's own public relations officer would fall within the definition of a lobbyist.

Mr. Hadjoannou (Cyprus) said that on that definition there were no lobbyists in Cyprus but there were some pressure groups who asked to give their views to parliamentary committees.

Mr. Kabulu said that the use of lobbyists in this context should be confined to lobbying of parliament and not to the lobbying of government.

Mrs. Lever said that the Canadian study on this issue related to all areas of government and administration, i.e. ministers, officials, Members of Parliament. The nature of the country's constitution inevitably determined where lobbyists would seek to bring pressure. Naturally, in the United States, Congress had a pre-eminent role but in many other countries it was recognised that the government administration was where many of the initial decisions were taken. One of the problems about registration of lobbyists was that many of those engaged in the activity were lawyers and they enjoyed confidentiality for their discussions with the clients; accountants were in the same position and might be reluctant to declare their client's activities. Similarly, consultants might say that they were not making representations to Members of Parliament on behalf of their clients but were providing information to their clients on which the clients might wish to make representations to Members of Parliament. She was grateful for the opportunity to hear about the practice in other countries and would be willing to take the subject further by means of a questionnaire.

The *President* thanked *Mrs. Lever* for her contribution and said that, if she would be prepared to produce a draft questionnaire on the subject, it could be considered at the autumn session in Buenos Aires.

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