

# **Lobbying and the Registration of Paid Lobbyists**

a discussion  
paper



**LOBBYING AND THE REGISTRATION  
OF PAID LOBBYISTS**

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**Consumer and Corporate Affairs Canada**

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## **PREFACE**

On September 9, 1985, the Prime Minister announced in the House of Commons a package of seven major initiatives on public sector ethics. One of these components was the registration of paid lobbying activity. He stated that the registration of paid lobbyists and identification of their clients would "... enable persons who are approached by lobbyists for Canadian corporations, associations and unions, and by agents on behalf of foreign governments and other foreign interests, to be clearly aware of who is behind the representation".

This discussion paper reviews the history of previous lobbyist registration attempts in Canada; discusses registration requirements in other countries; presents several options for implementing a registration system; notes a number of issues that will require resolution; outlines a possible registration system for Canada, and poses a number of questions for consideration.

The implications of regulating the practice of lobbying should be thoroughly considered prior to finalizing proposals for legislation. This paper is intended to serve as the basis for a public debate and it is my hope that all Canadians with an interest in the outcome will participate actively in the discussions.

A handwritten signature in black ink, reading "Michel Côté". The signature is fluid and cursive, with a large initial "M" and a stylized "C" for "Côté".

Michel Côté  
Minister of Consumer and Corporate Affairs  
and Registrar General of Canada

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## LOBBYING AND THE REGISTRATION OF PAID LOBBYISTS

### 1. INTRODUCTION

The Government is examining possible alternatives for the content of legislation dealing with the registration of paid lobbyists. The purpose of this paper is to assist in the consultation process leading to possible legislation. It considers the options, issues and implications of various approaches to the subject, discusses the experience of other countries in dealing with the lobbying issue, and describes a framework for an approach that might be suitable for Canada. The paper brings into focus those people whose profession is to assist clients in representing their views to Government, whether they are known as lobbyists, government relations consultants, public affairs advisors or by any other name.

#### 1.1 Definition of Lobbyist

There is no one precise definition of the term "lobbyist". In the literature, a variety of interpretations can be found. The following section outlines some of the more relevant definitions.

The only place where "lobbyist" is defined in legislation is in the United States, where the Federal Regulation of Lobbying Act of 1946 states that a lobbyist is:

"Any person who shall engage himself for pay or for any other consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Congress of the United States..."

In Australia, under the guidelines for the registration of Lobbyists, a lobbyist is defined as:

"... a person (or company) who, for financial or other advantage, represents a client in dealings with Commonwealth Government Ministers and officials."

In his speech to the House of Commons on January 28, 1977, the late Walter Baker said:

"I think of a lobbyist as someone who seeks, by means of contacts with persons of power or influence, to have a significant effect on executive or legislative actions to be taken by the Government of Canada. Lobbyists may act directly for themselves, or on behalf of organizations which hire professionals to make their case. Lobbyists are, in short, special interest and pressure group publicists or their representatives."



The definition used in Mr. Baker's Private Members' Bill and in the recently tabled Bill sponsored by the Honourable James McGrath, Bill C-248, An Act to Register Lobbyists, of June 28, 1985 reads as follows:

"... "lobbyist" means any person who, for payment, attempts to influence, directly or indirectly,

(a) the introduction, passage, defeat or amendment of any legislation before either House of Parliament, or

(b) a decision to be taken on any matter coming within the administrative jurisdiction of a Minister of the Crown, whether or not that matter has come or is likely to come before either House of Parliament for legislative action;"

## 1.2 Public Attention to the Issue

The subject of lobbying has attracted a good deal of attention over the years. As time goes by, the terms "lobbyist" and "lobbying" have become increasingly used by journalists. Nowadays, it seems, everyone "lobbies". The term is used to capture in headline form almost every contact between people and government at any level and, frequently, when approaches are made about a variety of topics by any level of government to another or by one nation to another. While lobbying used to conjure up an unfavourable image, in today's context the word has - or should have - no pejorative connotations. People may be criticized for lobbying activity but lobbying itself has become an important and legitimate part of the day-to-day governmental process. Walter Baker said that "... lobbyists are useful when we want to try out ideas ...". Indeed, the difference between "consultation" and "lobbying" may depend on who first suggests a discussion, or makes the first telephone call.

As implied above, "lobbying" could be broadly interpreted to include all representations to government, including those made by individuals acting on their own behalf. When people present their own views, however, there is no mystery involved. There is no ambiguity attached to such "own-account lobbying". The main focus of the government's current concern, therefore, is the indirect, potentially hidden relationship where a third party's interests are being promoted by a paid lobbyist, that is, an intermediary acting on behalf of someone else. It is this more narrow sense in which the term "lobbyist" is primarily used in this Discussion Paper.

## 1.3 Government Announcement

The Prime Minister announced in the House of Commons on Monday, September 9, 1985, that there would be a package of major initiatives on public sector ethics among which the registration of paid lobbying activity was one of the seven components. In his Open Letter to Members of Parliament and Senators, tabled that day, he said it was "...the undertaking of this Government to introduce into the House of Commons, at

an early date, legislation to monitor lobbying activity and to control the lobbying process by providing a reliable and accurate source of information on the activities of lobbyists. We will require, among other things, paid lobbyists to register and identify their clients. This will enable persons who are approached by lobbyists for Canadian corporations, associations and unions, and by agents on behalf of foreign governments and other foreign interests, to be clearly aware of who is behind the representation".

Mr. Mulroney went on to say:

"This initiative should not be misinterpreted to mean that this Government is aware of particular improprieties in the conduct of lobbyists or that it considers lobbying to be an inappropriate activity. On the contrary, the practice of lobbying plays an important role in ensuring that governments, in taking the decisions which affect the lives of all of us, are able to take properly into account the multitude of diverse interests involved. This Government is simply saying that something so important should not be shrouded in mystery."

#### 1.4 Lobbying a Legitimate Activity

Clearly, one may claim that lobbyists are a legitimate and very necessary channel of communication between government and the community. They assist the public who may want help in approaching government. Lobbyists work for a very wide range of clients. They may represent corporate interests, on the one hand, and social welfare groups on the other. Some people, acting on their own, do not have the time, the knowledge or the wish to handle their approaches to government personally. They prefer to seek the help of a professional lobbyist. Alternatively, if a corporation, an association or an organization has sufficient need and the resources to remunerate someone, it may well have an employee, or more than one, to handle its contacts with government. Furthermore, when the majority of businesses are located outside Ottawa, it may make good sense for corporations or business and other associations to have intermediaries in Ottawa who are able to keep their principals in contact with government. Indeed, larger organizations may pay intermediaries to represent their interests at more than one level of government.

Lobbyists may seek to influence Members of the Cabinet, Members of Parliament or Senators, heads of government agencies or departmental officials. Writers about lobbying have indicated that, unlike the United States, Canada's governmental organization requires lobbyists to make their representations within the hierarchy of the Public Service as well as to Parliamentarians. If they are seeking to influence legislation, it has usually been the object of a considerable amount of development and scrutiny within the government by the time it reaches Parliament in the form of a Bill. Writing in Canadian Public Administration in the Summer of 1982, Jean Pigott and James Gillies say that "... skilled lobbyists always begin well down in the system."

Lobbyists may be well known within government but not well known to the public generally. Not only should the lobbyists and the interests they represent be known to the officials with whom they deal but also, in a democratic society, the voters, the Parliament and individual MPs and Senators have a desire to know who is seeking to exert influence and on whose behalf their representations are made. This is especially desirable in the case of lobbyists acting on behalf of foreign governments or interests, but applies generally as well.

The history of lobbying, linked in times past with unsavoury activities ranging to outright bribery or blackmail, has been associated even in modern times with such things as special favours, lavish hospitality and the improper offer of gifts. When there is very little public knowledge of lobbying activity, there may very well be a certain amount of suspicion that abuses may be occurring. More public knowledge about lobbying activity and who the lobbyists are may not guarantee immunity from abuses, but should discourage them.

The Conflict of Interest and Post-Employment Code for Public Office Holders provides substantial guidance for those within government but no such rules exist to regulate how lobbyists should conduct themselves. Extracts of the Code are found at Annex A.

### 1.5 Some Guiding Principles

Considering the above background, it is not surprising that there should be serious interest in introducing a system to register certain information about paid lobbyists and their activities. In examining such a system, this paper suggests four principles which should be the basis of any proposals which are introduced in Canada. It is clear, however, that other principles could be added to this list.

Openness. It should be one of the criteria that the registration of paid lobbyists shall help remove the shroud of mystery from this important activity. A publicly available record of paid lobbyists, their clients and any other information called for would go some distance to demonstrate the Government's commitment to transparency and integrity in its relations with the public.

Clarity. For many of the same reasons, the requirements should be clear and concise, so that there is no doubt as to who should register and who should not.

Access to Government. Any procedures which a paid lobbyist has to satisfy in order to approach government should not unduly impede obtaining access to public office holders.

Administrative Simplicity. Administrative requirements should be kept to a minimum. For example, only sufficient information to meet the essential purpose of the program should be required. It would not be the intention to make registration so onerous as to discourage lobbying by anyone with modest means or create a bureaucratic system requiring substantial resources.

These basic principles may not always be compatible or consistent with one another. More clarity might, in some guises, require more rather than less administrative machinery. More detailed - perhaps commercially sensitive - information may come into conflict with the desire for full disclosure. Each principle is desirable in itself, but it is recognized that any system in place may have to strike balances among them, so as to achieve that combination of ingredients that is most fair, reasonable, and effective.

## 2. BACKGROUND

A considerable and growing amount of information and opinion exists respecting lobbying, in a number of countries. The following information sketches some relevant highlights of the U.S., British, German, and Australian situations. This material is supplemented by a selected bibliography.

### 2.1 Brief Historical Survey

Lobbying has a long history. Under monarchical forms of government, people would seek the favour of the sovereign by various means to obtain lucrative advantages. By paying tribute to the king, local dignitaries would obtain special privileges for themselves and their people. In the times of the Stuart kings, the celebrated diarist and public servant, Samuel Pepys (1633-1702) depended for his living on the selling of his influence to those who lobbied for contracts to supply the British Navy with ships and supplies. Much closer to home, during the building of the railways across this continent, many celebrated figures lobbied the fledgling Canadian federal government for the right to build the railway and for the funds to finance the gigantic venture. In those years, the term "lobbying" was indeed pejorative. Ornstein and Elder state, in Interest Groups, Lobbying and Policy Making (Congressional Quarterly Press, 1978), that throughout the nineteenth century ".... lobbying for interest groups inspired tales of corruption, bribery, and, especially as seen in today's perspective, monumental conflicts of interest." These authors recount how Senator Daniel Webster of Massachusetts made strongly worded speeches in Congress in support of a bank which was under attack by President Andrew Jackson, receiving a total of \$32,000 "as retainers" from the owner of the bank, Nicholas Biddle of Boston, during 1833-34. Sam Ward, known as the King of the Lobby, threw lavish dinner parties on behalf of his clients in Washington, receiving an annual sum of \$12,000 from one client alone, a client who later became Lincoln's Secretary of the Treasury.

Clearly, in the years since then, the atmosphere of government has changed. As a permanent public service has been established and as elected representatives have been paid improved salaries, so has the incidence of bribery dropped dramatically and lobbying is no longer associated with bribery and corruption. Indeed, present-day lobbying can be seen as an important and useful part of the continuous two-way consultation process by which government policies are developed, tested, and refined, in a modern democracy.

## 2.2 Some Lobby Registration Requirements Outside Canada

In order to better understand the purposes and practices involved in possible monitoring and regulating of lobbying activities, a survey was conducted of seventeen other countries in the OECD. The countries were: Australia, Austria, Denmark, Federal Republic of Germany, Finland, France, Ireland, Israel, Italy, Japan, New Zealand, Norway, Spain, Sweden, Switzerland, U.K. and U.S.A.

Only three countries, Australia, the Federal Republic of Germany, and the U.S.A. have lobbyist registration requirements. Responses from the other countries indicated no intentions to establish lobbyist registration systems. Only the U.S.A. created its rules through legislation, Australia's being established by Government directive and West Germany's by the Bundestag (i.e. parliament) in its Standing Orders. The United Kingdom has reviewed the subject several times, most recently in 1985, but has not yet decided to proceed to formal measures for lobbyist registration.

In most European countries and in Israel, responses were uniform that the government and key associations in the economy met frequently and co-operated in developing policies. Thus, it was stated that lobbying activities were neither necessary nor a problem. In Austria, the Constitution (Article 19) requires consultation before the government decides policies, and to enable this a quasi-legal Parity Commission has been created, which has worked with considerable success.

The following are summaries of lobbyist registration efforts in the four countries where registration rules have been either considered or implemented.

### 2.2.1 United Kingdom

The British Parliament in 1969 examined the registration of lobbyists and the Strauss Committee concluded it was impossible to find a satisfactory basis for a code of conduct since none such existed in the field of public relations generally. The Willey Committee reported in 1974 that any definition of lobbying would be too broad to form any practical basis for registration.

In the summer of 1985, however, after further examination of the subject, the Select Committee on Members' Interests recommended looking further into registration of paid lobbyists. This may be taken up by Westminster during the current session of Parliament, which commenced on October 21. In the UK at present, lobbyists belong to two main institutions - The Public Relations Consultants' Association and the Institute of Public Relations. Both groups have adopted a code of conduct and have the power to expel members who violate it. The groups assert that this acts as an effective sanction but there is nothing in the U.K. procedure currently which prevents an expelled member from continuing to lobby government.

## 2.2.2 United States of America

### A. U.S. Federal Requirements

American efforts to regulate lobbying go back over 130 years when the House of Representatives first passed a resolution requiring all lobbyists to register with the clerk of the House. In 1852, to protect itself from the "onslaught" of lobbyists posing as newspapermen, the House of Representatives barred from newsmen's seats on the floor anyone "employed as an agent to prosecute any claim pending before Congress". In the mid 1930s, Senator Hugo Black led a congressional investigation into lobbying by opponents of the New Deal's public utility holding company bill. It led to sensational disclosures but no legislation.

In 1938, the U.S. Congress passed the Foreign Agents Registration Act to control lobbying attempts by foreign governments to sway the U.S. towards their goals and away from its isolationist stance. This law is administered by the U.S. Department of Justice.

The U.S. also passed the Federal Regulation of Lobbying Act as Title III to a Legislative Reorganization Act of 1946 (Public Law 601 of the 79th Congress). It would appear that as of 1981, and from research to mid 1985, this is the only lobby registration legislation enacted by any OECD country. The following is an excerpt concerning the application of the Act:

"The provisions of this title shall apply to any person (except a political committee as defined in the Federal Corrupt Practices Act, and duly organized State or local committees of a political party), who by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used principally to aid, or the principal purpose of which person is to aid, in the accomplishment of any of the following purposes:

- a) The passage or defeat of any legislation by the Congress of the United States.
- b) To influence, directly or indirectly, the passage or defeat of any legislation by the Congress of the United States".

The U.S. Law, a copy of which is provided in Annex B, requires lobbyists to report to the Clerk of the House of Representatives detailed information on themselves, their clients and the individual or individuals lobbied. Information is required on every contribution (over \$ 500.00 in a calendar quarter) solicited, received or made by any person and all expenditures against such contributions, with details on every expenditure over \$10.00. Statements are to be filed quarterly and are to include year-to-date information as well.

Soon after its passage, the Act's constitutionality was challenged on grounds that it violated First Amendment guarantees of free speech, petition for redress of grievances, and free assembly. In 1954, while upholding the Act's constitutionality, the Supreme Court, in United States v. Harriss, significantly narrowed its reach to avoid having to find it unconstitutional, interpreting it to cover only lobbying efforts which involve direct contacts with a member of Congress by individuals or organizations whose principal purpose was lobbying.

Since organizations such as the U.S. Chamber of Commerce do not have lobbying as their principal purpose but spend huge sums on this facet of their operations, the Act has been often criticised since such substantial lobbyists have not been required to register.

Despite considerable time spent reexamining the 1946 Act, both by the Senate and by the House of Representatives, Congress has not amended its 1946 legislation as of mid-1985.

More recent attempts to revise the Act began in 1971 when the House Committee on Standards of Official Conduct reported out the first comprehensive revision of the 1946 act. However, no action was taken on it. In the 94th Congress, in the wake of Watergate and other scandals, sweeping legislative changes were almost enacted into law several times. Despite Senate and House of Representatives hearings, final passage proved elusive at that time as later. Ironically, one reason for the failure of attempts to amend the 1946 Act has been successful lobbying of legislators by lobbyists themselves.

Another reason is that many former loopholes have been closed through other means. Federal law has long prohibited bribery and fraud. The major modern loophole - campaign finance, which provided the lobbyist with a special weapon - was constrained by the enactment of the 1974 amendments to the Federal Election Campaign Act. This Act limits the amounts individuals can give, requires disclosure by the candidate of contributions received, and improves the regulation of political fund-raising committees set up by corporations and unions. Longstanding prohibitions on direct contributions and independent expenditures by corporations and unions continue. Recent passage of ethics rules in both the Senate and the House, limiting both outside earned income and direct gifts and requiring disclosure, have further reduced opportunities for undesirable behaviour.

Nevertheless, Washington has seen a massive growth in numbers of professional lobbyists and in lobby campaigns stimulated by them. Recent examples include a campaign by the insurance industry to defeat a bill which would have prohibited sex discrimination in insurance rates, and one by the banking industry against a withholding tax on dividends and interest.



Some lobbying campaigns have led to adverse publicity for lobbyists in Washington. The lobbyists have reacted by forming an association called the American League of Lobbyists which has adopted Standards of Ethical Conduct for its members and is sponsoring a professional master's degree program in Congressional and Government Relations at the Catholic University of America.

B. U.S. State Requirements

As of September 1983, forty two of the fifty U.S. States had lobbying legislation, a great deal of it more stringent than that required at the federal level. In 1974, a Committee on Ethics and Elections of the National Conference of State Legislatures adopted a model for lobby registration which has been used by many States in developing their own requirements. The eight states (Arkansas, Georgia, Illinois, Kentucky, Louisiana, New Hampshire, South Carolina and Wyoming) that do not have legislation specifically dealing with lobbying do have their own rules affecting the conduct of lobbyists.

Twenty-seven states require reports on lobbying activity more than once per year, fourteen of them requiring monthly reports and fourteen states (not all the same) have a State Commission to enforce the laws. Information from eight states indicates that the lobby registration function is often within a "fair political practices" section of the Secretary of State's Office in the particular state (e.g. California, Colorado, Massachusetts, Michigan, Vermont, Virginia). Dollar contributions and expenditures must be reported. Reporting frequency varies, but is normally monthly, quarterly, or by legislative session. Virginia reported that for each client lobbyists must file a separate form and pay \$30.00.

California's lobby registration law was passed as a result of 70% voter support, despite massive lobbying against it led by business and labour. It has been upheld by the Supreme Court of California. Because of very detailed disclosure requirements, with lobbyists and their clients having to submit extensive reports on their precise expenditures, California seems to have one of the most stringent régimes.

Vermont appears to have one of the more representative state schemes. There, a lobbyist is known as a legislative counsel or agent. (It is important to note that "counsel" does not imply a member of the legal profession.) Registration is to be made by the counsels and agents before they can engage in the business of lobbying. Their clients, or employers, must register their names within 48 hours of employing them. Thus there would appear to be two registrations made. Every registration costs \$5.00 and the Secretary of State of Vermont prepares a list of all these people for publishing in the calendar of the legislature at the end of the second

week of each session, with any additions appearing monthly. The publication contains the name, address and the name of the employer (i.e., client) of each counsel and agent. In addition to publicly-available information, statistics must be filed categorizing "total expenditures for influencing legislation" for the preceding year within certain dollar bands and this must be supplied until the Secretary of State of Vermont is notified that the activities have ceased and all expended dollars are reported up to cessation.

Some of the states require lobbyists to carry an identity card which attests to their acceptability for entry to see the appropriate officials. The State of Washington publishes a reference brochure for officials, which contains a picture and short biography of each accredited lobbyist.

### 2.2.3 Commonwealth of Australia

Following allegations of a scandal, involving a former Government officer and a foreign diplomat, the Australian Government announced its intention on December 6, 1983 to implement lobby registration rules. These were implemented by Cabinet decision on a 12 month trial basis effective March 30, 1984.

Two registers were created, both to be kept by the Registrar of Lobbyists, Department of the Special Minister of State in Canberra. The two registers are confidential, for the use only of Ministers and public officials and are:

- a) Special Register - lobbyists whose clients are foreign governments or their agencies; and
- b) General Register - other lobbyists and their clients.

The special register only exists because foreign Government or foreign Government-controlled clients of lobbyists are subject to vetting by the Foreign Affairs Department for National Security. A lobbyist as agent for a foreign government would be on that special register, while the agent of a company such as Massey Ferguson or General Motors would be on the general register.

These registers are not open to general inspection because, under the Freedom of Information Act in Australia, the relationship between lobbyist and client is considered to be commercial, and therefore confidential. Ministers and officials get in touch with the Registrar and get information on a need-to-know basis in the event a lobbyist indicates he is registered. Since March 30, 1984, lobbyists not on these registers have been denied access to Government Ministers and officials. Under Government codes of conduct, Ministers and senior officials may be subject to dismissal for non-compliance.

Information in the registers includes:

- a) Lobbyist - business or company name, address, contact partner/director, staff authorized to lobby;
- b) Client - name, address, principal activity;
- c) Foreign Government Client - name, agency, type, address, client contact officers and title, principal activity; and
- d) Description of subjects or areas of lobbying interest.

Financial receipts and expenditures for lobbying are not required but a lobbyist must fill in a form for each client.

The Government has specifically excluded from its requirements to register any approaches to government seeking publicly available information, clarification of current legislation, guidelines or policies; rulings; and applications for decision other than those applying to the award of contracts and tenders.

At present, the Australian Registrar of Lobbyists reports that lobbying is not a major problem in Australia. As of June 1985, there were 22 special (foreign agent) registered lobbyists representing 31 clients. The general register contained 151 lobbyists representing 601 clients. The individual State governments of Australia have no lobby registration schemes. Most of the lobbyists are in Canberra with perhaps 15 percent in Sydney, and another 15 percent in Melbourne, Victoria and a few in other State capitals. They are located close to their clients rather than the seat of the national Government.

A recent review has shown no serious problems or the need for anything beyond very minor changes to the system. Australian lobbyist registration has a very low profile and requires very few people for its administration.

#### 2.2.4 Federal Republic of Germany

West Germany has had a lobbyist register since 1981. Requirements are listed as an appendix to the Bundestag Standing Orders. The requirement was determined by the Bundestag itself, and applies only to its members (and therefore not to public servants).

A public list is kept by the Speaker of the Bundestag, and published annually in the official federal gazette, the Bundesanzeiger (a Canadian equivalent would be the Canada Gazette). Registered associations and their

representatives receive passes, and will not be heard unless they are registered. The following information is required:

- a) Name and headquarters of the association;
- b) Name of the executive and managers;
- c) Areas of the association's interests;
- d) Membership;
- e) Names of the association's representatives (i.e. lobbyists); and
- f) Address of the association's office at the seat of the Bundestag or the Federal Government (i.e. in Bonn).

Financial receipts and expenditures for lobbying are not required. The system does not appear to be costly to administer.

#### 2.2.5 Comparisons Between U.S.A., Australia and West Germany

All require registration of lobby organization names, addresses, individual lobbyists names and lobbying interests. Australia and the USA require further information on lobby clients, both domestic and foreign. Neither Australia nor West Germany requires financial statistics although detailed financial information is a U.S. requirement. In Australia and West Germany, unregistered lobbyists are automatically refused access to government, but this is not the case in the U.S.A.

The U.S.A. has two public federal registers, one for foreign agents and one for lobbyists in general. Australia has two "confidential" registers for use only by public office holders; West Germany has one public register. Australia's two registers are for foreign government clients of lobbyists (Special Register) and other clients (General Register). Australia specifically includes lawyers, accountants and tax, customs and other agents to the extent that they engage in the defined lobbying activity. Australia excludes "representative organizations, peak councils (i.e. highest level committees such as the Manufacturers Association board of directors), professional associations and community interest groups" from its requirements. West Germany, by being more general, includes anyone who lobbies. In the U.S.A. only those whose "principal activity" is lobbying or who are foreign agents must register. West Germany provides a registered lobbyist with a pass; the Australian identification system is not defined. Australia's temporary system was reviewed in late 1985 and likely will become permanent; West Germany's system is permanent as is that of the U.S.A. Only the U.S. rules were set by legislation. Australia's are set by government directives, and West Germany's are parliamentary rules.

Annex C, in tabular format, indicates the lobby registration requirements for Australia, the U.S.A., and West Germany.

### 2.3 Canadian Experience

There is no current legislation at either the federal or provincial level which deals directly with lobbying in Canada. Lobbying has existed in the country since before Confederation. Indeed, much of the negotiation leading up to passage of the British North America Act was marked by lobbying by various interested parties and there have been no major pieces of legislation at the federal level that have not had the attention of special interests leading up to their passage. No doubt the same may be said of laws passed by every legislature in the country. Beyond that, the experience is that there is more and more lobbying going on, encouraged by the growing amount of consultation which has accompanied Canadian policy making. Indeed, organizations without resources are in receipt of funding from government to make their views known. Such special interest groups have come to be eagerly sought after by government for their general views on economic and social issues as well as their own particular local or indigenous concerns.

So that they may have the resources to devote all their time to their duties, elected members of legislatures receive salary and staff allocations to enable them to represent their constituency in the forum to which they are elected. Local groups and individuals are able to make their needs known to their MP and their Member is able to lobby on their behalf in Ottawa or, in the case of provincial legislatures, where the seat of government is located.

To protect against serious abuses, the Criminal Code (Section 108) provides for severe penalties against members of the Parliament of Canada or of a legislature who corruptly accept or solicit advantages for themselves in respect of anything to be done or omitted in their official capacity. Section 110 of the Criminal Code deals with those who would offer advantages to elected and other officials. These two sections are reproduced in Annex D.

The Standing Orders of the House of Commons, Beauchesne's Parliamentary Rules and Forms (1978), and the Senate and House of Commons Act all contain relevant instructions for federal members, which are also reproduced in Annex D. Most of the legislatures in Canada have similar requirements placed upon their members but aside from the strictures about bribery in the Criminal Code (Section 110), there are no provisions mentioning lobbyists per se.

During the autumn after the Prime Minister made known the Government's intentions, some lobbyists expressed support for a lobby registration system in a legislative framework. Other representations made have suggested that, to be fair, all lobbyists should be affected by the system, since it is not just those who have a high profile as professionals who ought to be controlled, but even more so, non-profit organizations which, they say, compete directly with them.

Several have expressed concern about disclosing clients on the grounds of client privilege while others have suggested that there is nothing that needs to be done, arguing that if there are problems they are minor and do not require a formal, elaborate response.

In Parliament, there have been no Government sponsored initiatives to date to control lobbying activity beyond the measures referred to earlier. Since 1969, however, several Private Members' Bills have been tabled addressing the issue. A complete list of these is provided as Annex E.

#### 2.4 Private Members' Bills

Only three of eighteen Private Members' Bills introduced between 1969 and 1980 were selected for second reading and debate. In April 1970, Mr. Barry Mather's Bill C-38 was given second reading. Seven years later, the Honourable Walter Baker introduced his Bill C-214 which was debated in January 1977. The text of Mr. Baker's speech is reproduced in Annex F, since it conveys a good overview of the issues at stake. Mr. Kenneth Robinson's Bill C-495 tabled in May 1980 was given second reading in January 1983.

Until the Honourable James McGrath introduced his Bill C-248 on June 28, 1985, there were no further bills on the order paper in the House of Commons. Most recently, Mr. John Rodriguez tabled Bill C-256 on December 5, 1985. Copies of these two recent Private Members' Bills are found in Annex G.

### **3. OPTIONS FOR CANADA**

In order to be effective and equitable, any system of lobbyist registration ultimately adopted should, it is argued in this paper, reflect the four important guiding principles presented in 1.5 above. These principles are openness, clarity, accessibility and simplicity. They could form the basis of a number of alternative systems for identifying lobbyists and lobbying activity. Three such alternatives are discussed below.

#### **3.1 Self-Regulation by Lobbyists**

It would be possible for the Government to request that lobbyists undertake to self-regulate their profession. Such action could be accompanied by guidelines to Public Office Holders with respect to refusing to hear lobbyists who have not properly identified themselves and the parties they represent. This system could avoid the setting up of excessive bureaucratic machinery. However, without the strength of an official register of lobbyists, there will be neither the incentive for certain lobbyists to operate openly nor the threat of enforcement of particular sanctions for non-compliance. As well, a voluntary system would not guarantee the public a right to know who is approaching the Government.

#### **3.2 Legislation**

It would also be possible to enact legislation that would explicitly regulate lobbying and be clear in its application to lobbyists and Public Office Holders. Such a law could affect the rights and conduct of Parliamentarians, public servants, private citizens, trade and professional associations, unions, corporations and professionals such as lawyers and accountants who might be identified as lobbyists. Legislation could regulate their behaviour and dictate the parameters of how, when, where and on behalf of whom approaches to government could be made. The implication of regulation by means of legislation must be carefully understood and the concerns of all potentially affected parties heard before a final decision is taken.

#### **3.3 Government Directive (Code of Conduct)**

The Conflict of Interest and Post-Employment Code for Public Office Holders released September 9, 1985 establishes guidelines for public officials' behaviour and post-employment dealings with the Government. Sanctions for non-conformity include a number of disciplinary measures which range up to "discharge or termination of employment" (Sections 38, 52, and 65). These federal rules do not affect former senior Public Office Holders beyond a specified time limit and do not affect lobbyists who have not previously been government employees.

In the context of lobbyist registration, the Government could instruct Public Office Holders, as a condition of office, to refuse to deal with non-conforming lobbyists.

This is essentially the approach adopted in Australia, whereby paid lobbyists are invited to register, and government Ministers and officials are instructed to insist on such registration as a condition for meetings or consultations.

Regardless of which option is ultimately chosen for registering paid lobbyists a number of important items will require exploration by Parliament, and the input of the Canadian public. Several of these issues are raised in Section 4.



#### 4. ISSUES IN DEVELOPING A CANADIAN REGISTRATION SYSTEM

##### 4.1 The Impact of Lobbying Legislation on the Privileges and Conduct of MPs and Senators

As noted in 3.2, legislation governing lobbying will affect the privileges of Members of Parliament. Very recently, a registry of Members' interests was established in Parliament to record foreign travel sponsored by special interests. The general issues of Members' interests and privileges has been referred to a Parliamentary Committee for study. In this context alone, it is appropriate that this related issue of the regulation of lobbying, which will affect the conduct and privileges of all Parliamentarians, should be thoroughly aired as well.

##### 4.2 Exemptions for the Normal Internal Machinery of Political Parties

In deciding on what activities are to be subject to registration, a distinction could likely be drawn between paid lobbying and lobbying done on a voluntary basis. If representations made on behalf of third parties where no payment is involved were excluded from registration, then the usual interventions within political networks (for example, local riding associations) would not call for such registration. This issue deserves attention.

##### 4.3 Accommodating the Privileged Nature of the Solicitor-Client Relationship

There is a legitimate concern over the privileged nature of the solicitor-client relationship. This would come into play, for example, if lawyers engaged in lobbying activities were required to disclose the names and interests of the third parties they represented and again if that information were publicly available. The same kind of issue may exist as well in the accountant-client relationship, and due regard will have to be taken to ensure that no special professional or legal relationships are unintentionally compromised by a general registration system. Clearly, this is a sensitive issue and needs thorough exploration before a final position is recommended.

##### 4.4 Potential Conflict with an Individual's Right to be Heard

If the system eventually adopted is legislative, then the rules for access by lobbyists can be clearly specified in law. If, however, a scheme were chosen which involved the issuance of government directives to lobbyists, it is possible that critics could raise a concern about interference with an individual's right to be heard by his government, and the possibility of a conflict with individual rights under the Canadian Charter of Rights and Freedoms. Possible Charter issues, therefore, need to be carefully assessed in designing specific, concrete proposals.

#### 4.5 Commercial Confidentiality in Relation to the Access to Information Act

It will be necessary to determine how much of the information that is collected from lobbyists should be made available to the public. If one major objective of a registry scheme is to open up lobbying activity to public scrutiny, then all information collected should be publicly available. However, some information that could be requested (lists of clients, financial data) may be commercially confidential under the Access to Information Act and therefore not available to the public unless contrary legislative provision is made. The detailed design of a system will have to deal with these concerns. This issue is discussed further in 5.2 below.

#### 4.6 Elements of Registration

A number of design questions must be answered before a registration system can be put in place. These questions relate to the breadth of coverage i.e. who is included and which of their activities are registrable; the depth of information to be required for the purpose of registration; the extent to which information obtained from lobbyists is to be disclosed (the issue of the public's right to know); and how the system will be administered. As well, in addressing these questions, a number of special cases inevitably arise. The Government is concerned that all parties involved, including Parliamentarians and lobbyists, be given an opportunity to make their concerns and views known.

Regardless of the particular system implemented to deal with lobbyist registration, all these questions will require further study. In order to assist discussion, and without intending to prejudice the outcome of public study of this issue, the following section provides illustrative proposals which attempt to address some of the questions noted above.

## 5. A POSSIBLE REGISTRATION SYSTEM FOR CANADA

This outline has been developed to focus attention on the scope of a possible registration system, the registration information that might be collected from lobbyists, and the elements of administration.

### 5.1 Scope

#### 5.1.1 What Activities Would Qualify for Registration?

Registrable Lobbying Activity. Registrable lobbying activity could be defined broadly as any direct or indirect representation made by a paid lobbyist to a Public Office Holder (this could include Ministers, Ministers' staff, Governor-in-Council appointees, M.P.s and Senators, as well as all public servants including employees of Crown corporations):

- i) to make or amend federal legislation or regulations;
- ii) to make or change federal policies or programs;
- iii) to influence federal decisions on the awarding of contracts, grants, and contributions; or
- iv) to influence federal appointments to public office.

Registrable lobbying activity could also include:

- v) the gathering and sale of information with a view to assisting in or advising about clients' lobbying activities as defined in i) to iv) above. Clients may obtain access to such information in a variety of ways including subscription to special publications with limited circulation; and
- vi) the arranging of contacts and meetings for clients by intermediaries who do not themselves make direct representations on the issues or attend the meetings.

#### 5.1.2 Exceptions.

Exceptions could be allowed to ensure that registration is not extended to such activities as:

- i) communication with Public Office Holders about the normal administrative machinery of government operations (e.g. passport applications, family allowances or pensions; filing tax returns; registering trade marks);
- ii) appearances before boards, commissions or tribunals or a committee of Parliament; and
- iii) lobbying representations made on a voluntary, unpaid basis.

### 5.1.3 Who Might be Included or Excluded?

- i) In general, all persons, including professionals (e.g. lawyers, accountants) if they engage in lobbying activity on behalf of clients for pay, would likely be included.
- ii) Also included would be those who lobby on behalf of foreign governments and agencies thereof, or foreign corporations or individuals.
- iii) On the other hand, it is not so clear whether officers or employees of trade or professional associations, or unions or national interest groups who lobby on behalf of their membership should be included.
- iv) The same applies in the case of officers or employees of corporations who, as a significant part of their duties, lobby for their employer.

### 5.1.4 Exceptions.

If lobbyists were to be defined as in 5.1.3, then it is likely that the definition of lobbyist would not include religious or educational institutions, public interest groups of a local character, or other temporary grass-roots organizations, on the grounds that their lobbying interests, usually on broad social or economic issues, are a matter of public record. In other words, they already fully meet the important objective of openness. It is quite possible some of them would consider it desirable to register in any case.

### 5.1.5 Foreign Registry.

Foreign interests might possibly undergo examination by the Department of External Affairs and the Canadian Security Intelligence Service (CSIS). Hence, a separate foreign register might be appropriate because of the involvement of foreign governments, or because of sensitivities surrounding the information desired. Accredited diplomats would presumably be excluded from the definition of "lobbyist", since they are essentially "registered" through other channels.

### 5.2 Registration Information - How Much Would be Required and How Much Would be Disclosed?

All information collected from paid lobbyists could be made available to the public. This would be in conformity with the desire for openness and transparency, a basic principle of the proposed system. Such information could include:

- a) the name and business address of the paid lobbyist;

- b) the subjects about which the lobbyist might approach public office holders, or the subjects the lobbyist will be informing clients about;
- c) the names and addresses of the lobbyist's clients; and
- d) financial information.

The issue of finances requires special scrutiny. Many critics have argued that a system should require lobbyists to provide information on fees charged and funds actually expended on lobbying. The United States requires such information, although the lobbying activity included is restricted to Members of the House of Representatives and Senate. Financial data are not subject to audit. In deciding whether such information should be collected and divulged, the question of commercial confidentiality must be addressed in relation to the Access to Information Act. A balance must be sought between the public's right to know and the privacy of legitimate business concerns.

### 5.3 Elements of Administration - How Would the System be Managed?

#### 5.3.1 Sanctions.

The most obvious sanction is that failure to register as a paid lobbyist would result in not being permitted to practise. It is essential, therefore, that the Public Office Holder, who is approached by a lobbyist, reacts by checking that the lobbyist is indeed registered. To discourage Public Office Holders from receiving those who are not registered, the current sanctions in the Conflict of Interest Code could be applied. If paid lobbyists persistently ignored the requirement to register, they could be barred from lobbying altogether, and if the system were implemented by legislation, they could be subject to further penalties. Similarly, Public Office Holders who ignore the requirements would be subject to sanctions, which could extend to dismissal of public servants who repeatedly ignored their instructions.

#### 5.3.2 Publication of Information.

A master list of registered lobbyists could appear in the Canada Gazette on a quarterly basis. A monthly entry in the Canada Gazette could list all new registrations. In the case of paid lobbyists acting on behalf of foreign interests, a separate listing could be appropriate. To offset some of the costs of the system, a registration fee could be charged. Care would have to be taken, however, not to set a fee (or fee structure) that could of itself be viewed as punitive and hence as limiting accessibility to Government.

#### 5.3.3 Availability of Information.

In addition to publication, copies of the lists could be available at all times in the Office of the Registrar of Paid Lobbyists, which could be

located with the Office of the Assistant Deputy Registrar General (ADRG) and could be available to the Clerks of the two Houses of Parliament and all Departments and agencies of the Federal Government.

5.3.4 Location.

Location of the Registrar with the ADRG could be particularly useful in respect of paid lobbyists who were formerly Public Office Holders. Since the ADRG is responsible for receiving reports about the official dealings of such individuals with government, under the Conflict of Interest Code, there would be an advantage to a close liaison between the Registrar of Paid Lobbyists and the ADRG.

## **6. CONCLUSION - SOME QUESTIONS FOR PUBLIC DISCUSSION**

The foregoing discussion sets the stage for examination of a complex issue which affects everyone. The issue particularly affects those who receive the representations of lobbyists - Members of Parliament, Senators, the staff of elected representatives, Ministers, Ministers' staff, public servants, persons appointed to office by the Governor-in-Council and others in the public sector. The influence that lobbyists have affects every Canadian citizen, favourably or unfavourably, directly or indirectly.

The comments of the public will be welcome as the Government continues to study the issue of the registration of lobbyists.

1. Do Canadians see a need for lobbyists to be regulated and to what extent?
2. Who should be required to register?
3. How should the registration system be administered?
4. What types of activity should be regulated?
5. What information should be required of those who register?
6. How should this information be disclosed?
7. Should any special privileges attach to registration?
8. Are there other issues which ought to be addressed?

These are the kinds of questions that Canadians are invited to consider and to discuss. The Government looks forward to the public discussion, to knowing the opinions of all Canadians on this matter, and to eventual recommendations on which it can base its final decisions and actions.

**CURRENT RELATED SECTIONS  
IN THE  
CONFLICT OF INTEREST AND POST-EMPLOYMENT CODE  
FOR PUBLIC OFFICE HOLDERS  
SEPTEMBER 1985**



EXTRACTS FROM THE CONFLICT OF INTEREST AND POST-EMPLOYMENT CODE  
TABLED IN THE HOUSE OF COMMONS BY THE PRIME MINISTER ON  
SEPTEMBER 9, 1985

PRINCIPLES

7. Every public office holder shall conform to the following principles:
- (a) public office holders shall perform their official duties and arrange their private affairs in such a manner that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced;
  - (b) public office holders have an obligation to act in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law;
  - (c) public office holders shall not have private interests, other than those permitted pursuant to this Code, that would be affected particularly or significantly by government actions in which they participate;
  - (d) on appointment to office, and thereafter, public office holders shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising but if such a conflict does arise between the private interests of a public office holder and the official duties and responsibilities of that public office holder, the conflict shall be resolved in favour of the public interest;
  - (e) public office holders shall not solicit or accept transfers of economic benefit, other than incidental gifts, customary hospitality, or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the public office holder;
  - (f) public office holders shall not step out of their official roles to assist private entities or persons in their dealings with the government where this would result in preferential treatment to any person;
  - (g) public office holders shall not knowingly take advantage of, or benefit from, information that is obtained in the course of their official duties and responsibilities and that is not generally available to the public;

(h) public office holders shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for anything other than officially approved activities; and

(i) public office holders shall not act, after they leave public office, in such a manner as to take improper advantage of their previous office.

### **PROPAGATION**

#### **Documents to be Signed**

8.(1) Before or on assuming their official duties and responsibilities, Category A public office holders and Category B public office holders as defined in section 14 and public office holders as defined in section 54 shall sign a document certifying that they have read and understood this Code and that, as a condition of their holding office, they will observe this Code.

(2) Category A public office holders and Category B public office holders as defined in section 14 and public office holders as defined in section 54 shall sign the document described in subsection (1) within 120 days after the coming into force of this Code.

#### **Contracts**

10.(1) It is the responsibility of every category A public office holder and Category B public office holder as defined in section 14 who is negotiating a personal service contract to include in the contract appropriate provisions with respect to this Code in accordance with such directives as the Treasury Board may issue.

(2) Every Category A public office holder and Category B public office holder as defined in section 14 who is negotiating a government contract shall ensure that the contract includes safeguards, in accordance with such directives as the Treasury Board may issue, to prevent a former public office holder as defined in section 54, who does not comply with the compliance measures set out in Part III, from receiving benefit from the contract.

## **DEALINGS WITH FORMER PUBLIC OFFICE HOLDERS**

### **Obligation to Report**

13.(1) Category A public office holders and Category B public office holders as defined in section 14 who have official dealings, other than dealings that consist of routine provision of a service to an individual, with former public office holders as defined in section 54, who are or may be governed by the limitation period set out in section 60, shall report those dealings to the designated official as defined in section 14.

(2) On receipt of a report under subsection (1), the designated official as defined in section 14 shall immediately determine whether the former public office holder as defined in section 54 is complying with the compliance measures set out in Part III.

(3) Category A public office holders and Category B public office holders as defined in section 14 shall not, in respect of a transaction, have official dealings with former public office holders as defined in section 54, who are determined pursuant to subsection (2) to be acting, in respect of that transaction, contrary to the compliance measures set out in Part III.

## **AVOIDANCE OF PREFERENTIAL TREATMENT**

36.(1) A Category A public office holder shall not accord preferential treatment in relation to any official matter to family members or friends or to organizations in which they, family members or friends have an interest.

(2) A Category A public office holder shall avoid being placed or the appearance of being placed under an obligation to any person or organization that might profit from special consideration on the part of the office holder.

## **DISAGREEMENT**

37. Where a Category A public office holder and the ADRG disagree with respect to the appropriate arrangements necessary to achieve compliance with this Code, the appropriate arrangements shall be determined by the Prime Minister or by a person designated by the Prime Minister.

### **FAILURE TO COMPLY**

38. Where a Category A public office holder does not comply with Parts I and II, the office holder is subject to such appropriate measures as may be determined by the designated authority, including where applicable, termination of employment .

### **AVOIDANCE OF PREFERENTIAL TREATMENT**

50.(1) A Category B public office holder shall not accord preferential treatment in relation to any official matter to family members or friends or to organizations in which the office holder, family members or friends have an interest.

(2) A Category B public office holder shall take care to avoid being placed or the appearance of being placed under an obligation to any person or organization that might profit from special consideration on the part of the Category B public office holder.

(3) A Category B public office holder shall seek the permission of his or her supervisor before offering assistance in dealing with the government to any individual or entity where such assistance is outside the official role of that Category B public office holder.

### **FAILURE TO COMPLY**

52. Where a Category B public office holder does not comply with Parts I and II, the office holder is subject to such appropriate measures as may be determined by the designated authority, including, where applicable, discharge or termination of employment.

**ANNEX B**

**REGULATION OF LOBBYING ACT, 1946 U.S.A.**

# LEGISLATIVE REORGANIZATION ACT OF 1946

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## FEDERAL REGULATION OF LOBBYING ACT

CONTAINING

AN EXTRACT OF THE PROVISIONS OF THE FEDERAL  
REGULATION OF LOBBYING ACT AS CONTAINED IN  
THE ACT TO PROVIDE FOR INCREASED EFFICIENCY  
IN THE LEGISLATIVE BRANCH OF THE GOVERNMENT  
(S. 2177, 79TH CONG., 2D SESS., PUBLIC LAW NO. 601;  
2 U. S. C. 261-270)

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Prepared under the direction of  
BENJAMIN J. GUTHRIE  
Clerk of the House of Representatives



U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1983

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## LEGISLATIVE REORGANIZATION ACT OF 1946

(S. 2177, 79th Cong., 2d sess., Pub. Law No. 601; 2 U. S. C. 261-270)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

\* \* \* \* \*

### TITLE III—REGULATION OF LOBBYING ACT

#### SHORT TITLE

SEC. 301. This title may be cited as the "Federal Regulation of Lobbying Act".

#### DEFINITIONS

SEC. 302. When used in this title—

(a) The term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

(b) The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(c) The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

(d) The term "Clerk" means the Clerk of the House of Representatives of the United States.

(e) The term "legislation" means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House.

#### DETAILED ACCOUNTS OF CONTRIBUTIONS

SEC. 303. (a) It shall be the duty of every person who shall in any manner solicit or receive a contribution to any organization or fund for the purposes hereinafter designated to keep a detailed and exact account of—

- (1) all contributions of any amount or of any value whatsoever;
- (2) the name and address of every person making any such contribution of \$500 or more and the date thereof;
- (3) all expenditures made by or on behalf of such organization or fund; and
- (4) the name and address of every person to whom any such expenditure is made and the date thereof.

(b) It shall be the duty of such person to obtain and keep a receipted bill, stating the particulars, for every expenditure of such funds exceeding \$10 in amount, and to preserve all receipted bills and accounts required to be kept by this section for a period of at least two years from the date of the filing of the statement containing such items.

#### RECEIPTS FOR CONTRIBUTIONS

SEC. 304. Every individual who receives a contribution of \$500 or more for any of the purposes hereinafter designated shall within five days after receipt thereof rendered to the person or organization for which such contribution was received a detailed account thereof, including the name and address of the person making such contribution and the date on which received.

#### STATEMENTS TO BE FILED WITH CLERK OF HOUSE

SEC. 305. (a) Every person receiving any contributions or expending any money for the purposes designated in subparagraph (a) or (b) of section 307 shall file with the Clerk between the first and tenth day of each calendar quarter, a statement containing complete as of the day next preceding the date of filing—

(1) the name and address of each person who has made a contribution of \$500 or more not mentioned in the preceding report; except that the first report filed pursuant to this title shall contain the name and address of each person who has made any contribution of \$500 or more to such person since the effective date of this title;

(2) the total sum of the contributions made to or for such person during the calendar year and not stated under paragraph (1);

(3) the total sum of all contributions made to or for such person during the calendar year;

(4) the name and address of each person to whom an expenditure in one or more items of the aggregate amount or value, within the calendar year, of \$10 or more has been made by or on behalf of such person, and the amount, date, and purpose of such expenditure;

(5) the total sum of all expenditures made by or on behalf of such person during the calendar year and not stated under paragraph (4);

(6) the total sum of expenditures made by or on behalf of such person during the calendar year.

(b) The statements required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

#### STATEMENT PRESERVED FOR TWO YEARS

SEC. 306. A statement required by this title to be filed with the Clerk—

(a) shall be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, registered, and directed to the Clerk of the House of Representatives of the United States, Washington, District of Columbia, but in



the event it is not received, a duplicate of such statement shall be promptly filed upon notice by the Clerk of its nonreceipt;

(b) shall be preserved by the Clerk for a period of two years from the date of filing, shall constitute part of the public records of his office, and shall be open to public inspection.

#### PERSONS TO WHOM APPLICABLE

SEC. 307. The provisions of this title shall apply to any person (except a political committee as defined in the Federal Corrupt Practices Act, and duly organized State or local committees of a political party), who by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used principally to aid, or the principal purpose of which person is to aid, in the accomplishment of any of the following purposes:

(a) The passage or defeat of any legislation by the Congress of the United States.

(b) To influence, directly or indirectly, the passage or defeat of any legislation by the Congress of the United States.

#### REGISTRATION WITH SECRETARY OF THE SENATE AND CLERK OF THE HOUSE

SEC. 308. (a) Any person who shall engage himself for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Congress of the United States shall, before doing anything in furtherance of such object, register with the Clerk of the House of Representatives and the Secretary of the Senate and shall give to those officers in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included. Each such person so registering shall, between the first and tenth day of each calendar quarter, so long as his activity continues, file with the Clerk and Secretary a detailed report under oath of all money received and expended by him during the preceding calendar quarter in carrying on his work; to whom paid; for what purposes; and the names of any papers, periodicals, magazines, or other publications in which he has caused to be published any articles or editorials; and the proposed legislation he is employed to support or oppose. The provisions of this section shall not apply to any person who merely appears before a committee of the Congress of the United States in support of or opposition to legislation; nor to any public official acting in his official capacity; nor in the case of any newspaper or other regularly published periodical (including any individual who owns, publishes, or is employed by any such newspaper or periodical) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislation, if such newspaper, periodical, or individual, engages in no further or other activities in connection with the passage or defeat of such legislation, other than

to appear before a committee of the Congress of the United States in support of or in opposition to such legislation.

(b) All information required to be filed under the provisions of this section with the Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly, as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the Congressional Record.

#### REPORTS AND STATEMENTS TO BE MADE UNDER OATH

SEC. 309. All reports and statements required under this title shall be made under oath, before an officer authorized by law to administer oaths.

#### PENALTIES

SEC. 310. (a) Any person who violates any of the provisions of this title, shall, upon conviction, be guilty of a misdemeanor, and shall be punished by a fine of not more than \$5,000 or imprisonment for not more than twelve months, or by both such fine and imprisonment.

(b) In addition to the penalties provided for in subsection (a), any person convicted of the misdemeanor specified therein is prohibited, for a period of three years from the date of such conviction, from attempting to influence, directly or indirectly, the passage or defeat of any proposed legislation or from appearing before a committee of the Congress in support of or opposition to proposed legislation; and any person who violates any provision of this subsection shall, upon conviction thereof, be guilty of a felony, and shall be punished by a fine of not more than \$10,000, or imprisonment for not more than five years, or by both such fine and imprisonment.

#### EXEMPTION

SEC. 311. The provisions of this title shall not apply to practices or activities regulated by the Federal Corrupt Practices Act nor be construed as repealing any portion of said Federal Corrupt Practices Act.

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**TABULAR COMPARISON OF LOBBY REGISTRATION REQUIREMENTS,  
U.S.A., AUSTRALIA AND GERMANY**

LOBBYIST REGISTRATION REQUIREMENTS OUTSIDE CANADA

<u>Content</u>	<u>Australia</u>	<u>COUNTRY</u>		<u>West Germany</u>
		<u>Federal</u>	<u>U.S.A.</u> <u>States</u>	
Registration Rules Established by				
- Legislature	no	yes	yes	no
- Other decisions (i.e. legislature or government)	yes	no	yes	yes
Rules Administered by:				
- Legislature	no	yes	?	yes
- Public Service	yes	yes (foreign agents)	yes	no
Lobby defined as directed to:				
- legislators only	no	yes	?(varies)	no
- legislators and government	yes	no	no	yes
Lobby purpose defined as influencing:				
- legislation only	no	yes	yes	no
- legislation, policy or other government decision	yes	no	no	yes

# LOBBYIST REGISTRATION REQUIREMENTS OUTSIDE CANADA

<u>Content</u>	<u>Australia</u>	<u>COUNTRY</u>		<u>West Germany</u>
		<u>Federal</u>	<u>U.S.A. States</u>	
Lobbyists defined as representing a third party	yes	yes	yes	yes
- as principal activity	no	yes	?	no
- for consideration (financial or other)	yes	yes	yes	no
- organizations excluded (e.g. community interest)	yes	no	?	no
Lobbyist charged fee by Government	no	no	some	no
Pass issued to lobbyist	no	no	some	yes
Lobbyist Report Requirements				
a) Lobbyist				
- organization/association name	yes	yes	yes	yes
- address	yes	yes	yes	yes
- nature of business	no	yes	?	no
- lobbying interest	yes	yes	yes	yes
- lobby publications/distribution	no	yes	?	no
- membership in association	no	no	?	yes
- representatives (i.e. lobbyists)	yes	yes	yes	yes
b) Lobby Client				
- name	yes	yes	yes	no
- address	yes	yes	yes	no
- principal activity	yes	yes	yes	no
- agency of foreign government	yes	yes	?	no
- type of foreign agency	yes	yes	?	no
- address, country	yes	yes	?	no

# LOBBYIST REGISTRATION REQUIREMENTS OUTSIDE CANADA

<u>Content</u>	<u>Australia</u>	<u>COUNTRY</u> <u>U.S.A.</u>		<u>West Germany</u>
		<u>Federal</u>	<u>States</u>	
- contact officer, address	yes	yes	yes	no
- lobby representation activity (i.e. lobby interest)	yes	yes	yes	no
c) Financial Statistics				
- contributions	no	yes	yes	no
- expenditures	no	yes	yes	no
Lobbyist Report Required				
- for each client	yes	yes	some	no
- over fixed financial amount	no	yes	yes	no
- quarterly	no	yes	yes	no
- annually	no	no	?	?
Government Register				
- public	no	yes	yes	yes
- two (foreign agents and others)	yes	yes	?	no
Government Public Report				
- quarterly	no	yes	yes	yes
- annually	n/a	yes	most	no
	n/a	no	no	yes
Sanctions for failure to register				
- will not be heard	yes	yes*	?	yes
- criminal prosecution followed by fine and /or prison	no	yes*	?	no

\* Only if prosecuted successfully

**ANNEX D**

**CURRENT RELATED FEDERAL LEGAL SANCTIONS**

CURRENT RELATED FEDERAL LEGAL SANCTIONS

CRIMINAL CODE PROVISIONS

Section 108 Bribery of Judicial Officers, etc.

108. (1) Every one who

(a) being the holder of a judicial office, or being a member of the Parliament of Canada or of a legislature, corruptly

(i) accepts or obtains,

(ii) agrees to accept, or

(iii) attempts to obtain,

any money, valuable consideration, office, place or employment for himself or another person in respect of anything done or omitted or to be done or omitted by him in his official capacity, or

(b) gives or offers corruptly to a person who holds a judicial office, or is a member of the Parliament of Canada or of a legislature, any money, valuable consideration, office, place or employment in respect of anything done or omitted or to be done or omitted by him in his official capacity for himself or another person,

is guilty of an indictable offence and is liable to imprisonment for fourteen years.

Section 110 Frauds Upon the Government

110. (1) Every one commits an offence who

(a) directly or indirectly

(i) gives, offers, or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, or



- (ii) being an official, demands, accepts or offers or agrees to accept from any person for himself or another person,

a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with,

- (iii) the transaction of business with or any matter of business relating to the government, or

- (iv) a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to bestow,

whether or not, in fact, the official is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;

- (b) having dealings of any kind with the government, pays a commission or reward to or confers an advantage or benefit of any kind upon an employee or official of the government with which he deals, or to any member of his family, or to any one for the benefit of the employee or official, with respect to those dealings, unless he has the consent in writing of the head of the branch of government with which he deals, the proof of which lies upon him;
- (c) being an official or employee of the government, demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the head of the branch of government that employs him or of which he is an official, the proof of which lies upon him;
- (d) having or pretending to have influence with the government or with a minister of the government or an official, demands, accepts or offers or agrees to accept for himself or another person a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
  - (i) anything mentioned in subparagraph (a) (iii) or (iv), or
  - (ii) the appointment of any person, including himself, to an office;

- (e) offers, gives or agrees to offer or give to a minister of the government or an official a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
    - (i) anything mentioned in subparagraph (a) (iii) or (iv), or
    - (ii) the appointment of any person, including himself, to an office; or
  - (f) having made a tender to obtain a contract with the government
    - (i) gives, offers or agrees to give to another person who has made a tender, or to a member of his family, or to another person for the benefit of that person, a reward, advantage or benefit of any kind as consideration for the withdrawal of the tender of that person, or
    - (ii) demands, accepts or agrees to accept from another person who has made a tender a reward, advantage or benefit of any kind as consideration for the withdrawal of his tender.
- (2) Every one commits an offence who, in order to obtain or retain a contract with the government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes, gives, or agrees to subscribe or give, to any person any valuable consideration
- (a) for the purpose of promoting the election of a candidate or a class or party of candidates to the Parliament of Canada or a legislature, or
  - (b) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in the Parliament of Canada or a legislature.

(3) Every one who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for five years.

#### **CONFLICT OF INTEREST PROVISIONS RELATING TO MEMBERS OF PARLIAMENT**

##### **(1) Standing Orders of the House of Commons**

No. 14 No member is entitled to vote upon any question in which he or she has a direct pecuniary interest, and the vote of any member so interested will be disallowed.

- No. 83      The offer of any money or other advantage to any member of this House, for the promoting of any matter whatsoever depending or to be transacted in Parliament, is a high crime and misdemeanour, and tends to the subversion of the constitution.
- No. 84      If it shall appear that any person has been elected and returned a member of this House, or has endeavoured so to be, by bribery or any other corrupt practices, this House will proceed with the utmost severity against all such persons as shall have been wilfully concerned in such bribery or other corrupt practices.

(2) Beauchesne's Parliamentary Rules and Forms (1978)

Section 824: Offer of Bribe

824.      Standing Order 76 is founded upon a resolution passed by Parliament in England on May 2, 1695. In the spirit of this resolution, the offer of a bribe in order to influence a Member in any of the proceedings of the House, or of a committee, has been treated as a breach of privilege, being an insult not only to the Member himself but also to the House. Sir Erskine May, Treatise on the Law, Privileges, Proceedings and Usage of Parliament (19th ed., 1976), p. 149.

Section 825: Acceptance of Bribe or Fees

825. (1)   The acceptance of a bribe by a Member is an offence under s. 108 of the Criminal Code, R.S.C. 1970, c.C-34.
- (2)      The acceptance of fees by Members for professional services connected with any proceedings or measures of Parliament, is also forbidden under the spirit of this rule, nor is it consistent with parliamentary or professional usage for a Member to advise as a paid counsel upon any private bill before Parliament. Sir John Bourinot, Parliamentary Procedure and Practice in the Dominion of Canada (4th ed., 1916), pp. 57-8.

Section 826: Corrupt Electoral Practices

826.      Matters concerning corrupt practices during elections are the subject of ss.65 to 90 of the Canada Elections Act, R.S.C. 1970, c.14, (1st Supp.).

(3) Senate and House of Commons Act

Independence of Parliament

Members of the House of Commons

10. Except as hereinafter specially provided,

- (a) no person accepting or holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada, to which any salary, fee, wages, allowance, emolument, or profit of any kind is attached, and
- (b) no sheriff, registrar of deeds, clerk of the peace, or county crown attorney in any of the provinces of Canada,

is eligible as a member of the House of Commons, or shall sit or vote therein.

11. Nothing in this Act renders ineligible or disqualifies any person holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown, or at the nomination of any of the officers of the Government of Canada, as a member of the House of Commons, or disqualifies him from sitting or voting therein, if, by his commission or other instrument of appointment, it is declared or provided that he shall hold such office, commission or employment without any salary, fees, wages, allowances, emolument or other profit of any kind, attached thereto.

12. Nothing in this Act renders ineligible or disqualifies any person as a member of the House of Commons or to sit or vote therein by reason of his being

- (a) a member of Her Majesty's forces while he is on active service as a consequence of war, or
- (b) a member of the reserve force of the Canadian Forces who is not on full-time service other than active service as a consequence of war.

13. Notwithstanding anything in this Act, a member of the House of Commons shall not vacate his seat by reason only of his acceptance of an office of profit under the Crown, if that office is an office the holder of which is capable of being elected to, or sitting or voting in, the House of Commons.

14. A person is not, by this Act, rendered ineligible as a member of the House of Commons or disqualified from sitting or voting in the House of Commons by reason only of his acceptance of travelling expenses paid out of public moneys of Canada where the travel is undertaken at the request of the Governor-in-Council on the public business of Canada.

15. A member of the Queen's Privy Council for Canada is not, by this Act, rendered ineligible as a member of the House of Commons or disqualified from sitting or voting in the House of Commons by reason only that he

- (a) holds an office for which a salary is provided in section 4 or 5 of the Salaries Act and receives that salary, or
- (b) is a Minister of State, other than a Minister of State referred to in section 5 of the Salaries Act, or a Minister without Portfolio and receives a salary in respect of that position,

if he is elected while he holds that office or position or is a member of the House of Commons at the date of his nomination by the Crown for that Office or position.

16. No person, directly or indirectly, alone or with any other, by himself or by the interposition of any trustee or third party, holding or enjoying, undertaking or executing any contract or agreement, expressed or implied, with or for the Government of Canada on behalf of the Crown, or with or for any of the officers of the Government of Canada, for which any public money of Canada is to be paid, is eligible as a member of the House of Commons, or shall sit or vote in the said House.

17. If any member of the House of Commons accepts any office or commission, or is concerned or interested in any contract, agreement, service or work that, by this Act, renders a person incapable of being elected to, or of sitting or voting in the House of Commons, or knowingly sells any goods, wares or merchandise to, or performs any service for the Government of Canada, for which any public money of Canada is paid or to be paid, whether the transaction is single or continuous, the seat of such member is thereby vacated, and his election is thenceforth void.

18. (1) If any person disqualified or by this Act declared incapable of being elected to, or of sitting or voting in the House of Commons, or if any person duly elected, who has become disqualified to continue to be a member or to sit or vote, under section 17, nevertheless sits or votes, or continues to sit or vote therein, he shall thereby forfeit the sum of two hundred dollars for each and every day on which he so sits or votes.

(2) Such sum is recoverable from him by any person who sues for the same in any court of competent civil jurisdiction in Canada.

19. Sections 16, 17 and 18 extend to any transaction or act begun and concluded during a recess of Parliament.

20. (1) In every contract, agreement or commission to be made, entered into or accepted by any person with the Government of Canada, or any of the departments or officers of the Government of Canada, there shall be inserted an express condition, that no member of the House of Commons shall be admitted to any share or part of such contract, agreement or commission, or to any benefit to arise therefrom.

(2) In case any person, who has entered into or accepted, or who shall enter into or accept any such contract, agreement or commission, admits any member or members of the House of Commons, to any part or share thereof, or to receive any benefit thereby, every such person shall, for every such offence, forfeit and pay the sum of two thousand dollars, recoverable with costs in any court of competent jurisdiction by any person who sues for the same.

21. This Act does not extend to disqualify any person as a member of the House of Commons by reason of his being

- (a) a shareholder in any incorporated company having a contract or agreement with the Government of Canada, except any company that undertakes a contract for the building of any public work;
- (b) a person on whom the completion of any contract or agreement, expressed or implied, devolves by descent or limitation, or by marriage, or as devisee, legatee, executor or administrator, until twelve months have elapsed after the same has so devolved on him; or
- (c) a contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or respecting the purchase or payment of the public stock or debentures of Canada, on terms common to all persons.

#### Members of the Senate

22. (1) No person, who is a member of the Senate, shall directly or indirectly, knowingly and wilfully be a party to or be concerned in any contract under which the public money of Canada is to be paid.

(2) If any person, who is a member of the Senate, knowingly and wilfully becomes a party to or concerned in any such contract, he shall forfeit the sum of two hundred dollars for each and every day during which he continues to be such party or so concerned.

(3) Such sum is recoverable from him by any person who sues for the same, in any court of competent jurisdiction in Canada.

(4) This section does not render any senator liable for such penalties, by reason of this being a shareholder in any incorporated company having a contract or agreement with the Government of Canada, except any company that undertakes a contract for the building of any public work.

(5) This section does not render any senator liable for such penalties, by reason of his being, or having been, a contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or by reason of his being, or having been, a contractor respecting the purchase or payment of the public stock or debentures of Canada, on terms common to all persons.

#### Members of the Senate and the House of Commons

23. (1) No member of the Senate or of the House of Commons shall receive or agree to receive any compensation, directly or indirectly, for services rendered, or to be rendered, to any person, either by himself or another, in relation to any bill, proceedings, contract, claim, controversy, charge, accusation, arrest or other matter before the Senate or the House of Commons, or before a committee of either House, or in order to influence or to attempt to influence any member of either House.

(2) Every member of the Senate offending against this section is liable to a fine of not less than one thousand dollars and not more than four thousand dollars; and every member of the House of Commons offending against this section is liable to a fine of not less than five hundred dollars and not more than two thousand dollars, and shall for five years after conviction of such offence, be disqualified from being a member of the House of Commons, and from holding any office in the public service of Canada.

(3) Any person who gives, offers, or promises to any such member any compensation for such services as aforesaid, rendered or to be rendered, is guilty of an indictable offence, and liable to one year's imprisonment and to a fine of not less than five hundred dollars and not more than two thousand dollars.

#### Limitation of Actions

24. No person is liable to any forfeiture or penalty imposed by this Act, unless proceedings are taken for the recovery thereof within twelve months after such forfeiture or penalty has been incurred.

**ANNEX E**

**LIST OF PRIVATE MEMBERS' BILLS 1969-1985**



## PREVIOUS FEDERAL PRIVATE MEMBERS' LOBBYING BILLS

<u>Number</u>	<u>Year</u>	<u>Status</u>	<u>Hansard Page</u>
C 256 J.R. Rodriguez	1985	1st Reading Dec. 5, 1985	9217
C 248 J. McGrath	1985	1st Reading June 28, 1985	6368
C 495 K. Robinson	1980	1st Reading May 2, 1980	668
		2nd Reading Jan. 19, 1983 Robinson Baker Deans McCauley talked out	22010-5
C 492 B. Friesen	1980	1st Reading May 2, 1980	668
C 335 B. Friesen	1979	1st Reading Oct. 24, 1979	563
C 255 W. Baker	1978	1st Reading Oct. 30, 1978	579
C 330 W. Baker	1977	1st Reading Oct. 31, 1977	430
C 328 K. Robinson	1977	1st Reading Oct. 31, 1977	430
C 316 J. Reynolds	1976	1st Reading Oct. 22, 1976	375
C 268 K. Robinson	1976	1st Reading Oct. 22, 1976	374
C 214 W. Baker	1976	1st Reading Oct. 22, 1976	372
		2nd Reading Jan. 19, 1977 Baker Robinson Knowles Holt Goodale talked out	2515-23

<u>Number</u>	<u>Year</u>	<u>Status</u>	<u>Hansard</u> <u>Page</u>
C 432 W. Baker	1976	1st Reading April 7, 1976	12586
C 254 J. Reynolds	1974	1st Reading Oct. 15, 1974	376
C 248 K. Robinson	1974	1st Reading Oct. 15, 1974	376
C 115 B. Mather	1974	1st Reading Mar. 12, 1974	409
C 89 B. Mather	1973	1st Reading Jan. 15, 1973	267
C 121 B. Mather	1972	1st Reading Feb. 25, 1972	260
C 131 B. Mather	1970	1st Reading Oct. 20, 1970	389
C 38 B. Mather	1969	1st Reading Oct. 30, 1969	272
		2nd Reading Apr. 14, 1970 Mather LeBlanc McGrath Deachman talked out	5850-7
C 176 B. Mather	1969	1st Reading Feb. 26, 1969	5963

(Hansard was reviewed back to 1965.)

**ANNEX F**

**TEXT OF SPEECH TO PARLIAMENT BY  
THE LATE HONOURABLE WALTER BAKER,  
JANUARY 1977**

Extract from Hansard  
January 28, 1977  
pp. 2515-17

**PRIVATE MEMBERS' PUBLIC BILLS**

**LOBBY REGISTRATION ACT**

**MEASURE TO GOVERN LOBBYISTS**

**Mr. Walter Baker (Grenville-Carleton)** moved that Bill C-214, to register lobbyists, be read the second time and referred to the Standing Committee on Privileges and Elections.

He said: Mr. Speaker, lobbying has not been a subject of great concern to Canadians, in contrast to the attention given to it by legislatures, journalists, and political scientists in the United States. Because of the profound differences between our systems of government, I doubt that Canadian lobbyists will ever achieve the important and sometimes controversial status that they now have there. Nevertheless, the direction in which our parliamentary system should be evolving - toward a more open government with a more influential House of Commons - leads me to believe that we should begin now to establish a framework for the operation of lobbyists before any serious problems develop.

First, Mr. Speaker, what is a lobbyist? I think of a lobbyist as someone who seeks, by means of contact with persons of power or influence, to have a significant effect on executive or legislative actions to be taken by the government of Canada. Lobbyists may act directly for themselves, or on behalf of organizations which hire professionals to make their case. Lobbyists are, in short, special interest and pressure group publicists or their representatives.

Lobbying has had, especially in the United States, a pejorative connotation - and I think that is rather unfortunate - but it is an important and absolutely necessary part of democratic government. Lobbyists are able to provide legislators with feedback on the actual operation of government programs in the field. There is, as we all know, many a slip between bureaucratic theory, on the one hand, and field experience, on the other hand. The sooner governments and all of us find out about that, the better our programs might be understood.

Lobbyists also provide background information of a more general nature about action that is under consideration. We are all used to dealing with "pressure" from associations which are to be affected by legislation, but in fact much of this pressure is informed argument which is sometimes difficult to refute. It is also preferable on many occasions to deal with a carefully prepared presentation by a spokesman for a scattered interest group rather than to deal with the unorganized and incomplete ideas of a large number of individuals. Finally, I put it to you, Sir, that lobbyists are useful when we want to try out ideas, as we soon find out if they have any merit or whether those ideas are simply naive. All these functions performed by lobbyists are indispensable to the reflective as well as the responsive politician.

Naturally, pressure can take illegitimate and illegal forms and have unfortunate consequences, and these dangers bring me to suggest registration of lobbyists. There is, of course, the possibility of bribery, blackmail or other questionable practices. It is the hope that contacts, which must be made with the knowledge of anyone who cares to examine a register, would be less likely to have a shady dimension. There is an even greater danger that if pressure is carried on secretly or unobtrusively, all sides of a debate will not be heard and legitimate points of view or bodies of information will be excluded until a stage in the debate when decisions have been irrevocably taken. At the present time, Mr. Speaker, that seems to be when a bill has been introduced in the House of Commons.

Or there may simply be a suspicion that pressure behind the scenes is by that very fact illegitimate pressure, and the resulting policies might not obtain the support they merit because people feel that certain groups or types of groups have had an unhealthy impact. Then there is the other side of the coin. If we have that knowledge and know that all arguments have been equally heard, I think there would be a tendency for there to be a reconciliation of the diversity of groups which are affected by decisions that might be taken.

In short, the purpose of the bill is to ensure that lobbying, as much as possible, is conducted in the open so that people can see who is trying to influence what, and if necessary respond. Where lobbying is done with the knowledge of everyone concerned, there is a better chance that it will be done openly and that improper practices will have a smaller chance of survival or success. The process of decision making should become more educational and the results more acceptable.

My bill would take the first step toward publicizing lobbying activities in Canada, though I have to say at the outset, Mr. Speaker, that it is a small step indeed. It defines lobbying, to paraphrase, as the actions of any person or any group attempting to influence the course of either legislative or executive action. It establishes a register of lobbyists to be administered jointly by the Clerks of the two Chambers. Lobbyists must set down their names, the person or group on whose behalf they are acting, and the duration of any contact. This information must be supplied before any contacts are made, supplemented with any new information applicable and submitted afresh at the beginning of every year. I have included penalties for non-compliance of up to \$5,000 per month and prohibition from lobbying for two years, to show that the register which is set forth in the bill is intended to be taken seriously.

I would not deny that this is little more than a beginning which leaves a good many questions unanswered, and many of these questions have been suggested by people writing to me from all across the country about the bill. A bill discussed in the United States House of Representatives on this subject last year ran to 39 pages, and this matter is already the subject of extensive legislation there.

If I might indicate some of the unanswered questions, I put them as examples and there are probably more. Do we want to monitor the type of lobbying activity as well as the existence of the activity? How do we classify officials of companies or organizations who come to Ottawa only briefly to meet officials or legislators? Does it matter who instigates discussions between lobbyists and officials? Should we consider contact with a minister's or member's staff as lobbying? When does assistance to our constituents become activity on behalf of, or in response to, a lobbyist?

The intention is that those whose principal function is to lobby on behalf of others be regulated, not those whose occupation is administrative or whatever, but who occasionally must defend their interest by contact with politicians or officials. This is not an easy distinction to make, and I would welcome the views of others on the proper bounds for restrictions, and would like to see serious consideration by a committee of this House of the whole question.

The question that will occur to many members may be, why should it be necessary to contemplate action when we have survived without it for over a century? As I suggested earlier, I believe we are moving in a number of ways, or at least we should be moving, toward more open government. This will create both opportunities and dangers. To date lobbyists have dealt principally through public service channels, and in theory at least these contacts have a minimum of danger because the interests and motivations of those concerned are clearly defined and established within an administrative framework. If legislators become more prominent in policy formation, I believe lobbying activity will increase and should be open, because in the political process motivations and interests are not so easily defined or traced.

I believe that the role of legislators will change for a variety of reasons. First, it appears to me that people have become increasingly demanding of their members of parliament, and they will perhaps become more demanding after they watch us on TV. They will, I believe, expect us to be more critical and more creative. I think too that members are increasingly equipped to meet this challenge and are intent on doing so.

Secondly, I believe that within the next few years, and it is my hope, we will have a freedom of information bill which will enable members of this Chamber to participate in the discussion of policy options prepared by the public service. Perhaps we will need a change of government before that degree of open policy debate is obtained, but it is coming, and the increased insight and opportunities we will have will invite contacts from those who now restrict themselves to permanent officials.

Thirdly, and particularly, if this party transfers to the other side of the Chamber, which would seem likely, our committees will be given the power and the staff to undertake investigative and creative functions on behalf of the House. Again, as the number of participants in the debate on national priorities increases, the presence of lobbyists will become more pervasive. I hope too that we can make private members' hour more conclusive and, if we do, the lobbyists will be after us to champion their views, or oppose someone else's.

Fourth, to be realistic about the results of any change in government which may take place there would be more pressure group activity, particularly because many policies which are now unchallengeable as part of the dominant mythology would be subject to review and debate on any policy, and any policy shift invites lobby contacts.

Finally, I hope lobbying is conducted more openly in the future because of a trend in respect of pressure groups which has already developed in our society. Some hon. members may have seen the text of a speech delivered June 6 by the hon. member for Halifax (Mr. Stanfield), the former leader of our party. He said at that time:

We are becoming a society of well-organized groups representing a particular interest or point of view. The number of groups organized to put on pressure have become legion. This is increasing the tension and distrust in our society; and it is increasing the difficulty of reaching a consensus as a basis for government in a country where consensus has always been difficult to achieve anyway. People not only see their own particular interest but have an organization to promote it. This has already led to a lot of governmental floundering and could well make government initiatives very difficult to take; and further increase the sense of frustration among citizens.

These special interest organizations are more attractive to join and support than political parties because political parties are not designed to serve (although they sometimes do) particular interests. To get elected they have to appear at least to be serving the interest of the country generally, rather than some particular interest or cause. So to a growing number of Canadians, political parties seem to be less attractive in serving their cause than does that particular organization designed specifically to serve their cause.

He concluded in this way:

This is leading to a hardening and strengthening of the pushing of particular interests and attitudes which emphasize division and conflict and a weakening of the only institutions we had which encouraged some regard for the common Welfare and some recognition of the other fellow's point of view, especially national political parties.

It is a rather wise statement about what is happening in our society today.

Let me conclude by saying I hope the registration of all lobbying groups or individuals will illustrate to Canadians the intricacies of group accommodation and the need to pursue a consensus which is unlikely to fulfill all the aspirations of any particular group. I hope openness will encourage realistic expectations among our electors as well as continued above-board dealing between pressure groups and administrators and politicians.

Lobbyists also provide background information of a more general nature about action that is under consideration. We are used to dealing with pressure from associations, associations which are affected by legislation. I think that in the course of our dealings with this pressure the hon. member for Halifax spoke of, with the development of associations and groups within society, each of us as members of parliament feel there must be some response. When that activity, which we regard as legitimate in the course of interaction which must occur between the private and public sectors, reaches the proportions it has, then there is nothing wrong and nothing inhibiting in having those who would engage legitimately in that activity register their interests and their extent, and to keep that registration fresh with the Clerks of both Houses of this parliament.



It is in that spirit, a spirit that I hope this House will agree is in accordance with a movement toward openness in government, which at least from our point and I hope from the other side will be coming, that I ask this House to consider this bill. I ask the House to send it to committee at least for study. I said during the course of my speech that I did not regard it as the last word, by any means, but this is the first word in respect of a problem and concern of many people.

A jurist once said that not only must things be correct and proper, they must appear to be correct and proper. I think this bill will go a long way to helping not only the substance but the appearance of the substance in regard to a legitimate public activity.

**ANNEX G**

**PRIVATE MEMBERS' BILLS TO REGISTER LOBBYISTS**

**C-248**

**C-248**

First Session, Thirty-third Parliament,  
33-34 Elizabeth II, 1984-85

Première session, trente-troisième législature,  
33-34 Elizabeth II, 1984-85

**THE HOUSE OF COMMONS OF CANADA**

**CHAMBRE DES COMMUNES DU CANADA**

**BILL C-248**

**PROJET DE LOI C-248**

An Act to register lobbyists

Loi prévoyant l'enregistrement des démarcheurs  
parlementaires

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First reading, June 28, 1985

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Première lecture, le 28 juin 1985

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MR. MCGRATH

M. MCGRATH

THE HOUSE OF COMMONS OF CANADA

CHAMBRE DES COMMUNES DU CANADA

## BILL C-248

## PROJET DE LOI C-248

An Act to register lobbyists

Loi prévoyant l'enregistrement des  
démarcheurs parlementaires

Her Majesty, by and with the advice and  
consent of the Senate and House of Com-  
mons, enacts as follows:

Sa Majesté, sur l'avis et avec le consente-  
ment du Sénat et de la Chambre des commu-  
nes du Canada, décrète :

### SHORT TITLE

### TITRE ABRÉGÉ

Short title

1. This Act may be cited as the *Lobby  
Registration Act*.

1. *Loi sur l'enregistrement des démar-  
5 cheurs parlementaires.*

Titre abrégé  
5

### INTERPRETATION

### DÉFINITIONS

Definitions

“legislation”  
« mesure  
législative »

“lobbyist”  
« démarcheur  
parlementaire »

“payment”  
« paiement »

2. In this Act  
“legislation” means a bill, motion or any  
matter pertaining thereto, before the  
Senate or the House of Commons, or any  
other matter which may be the subject of 10  
action or discussion by either House;  
“lobbyist” means any person who, for pay-  
ment, attempts to influence, directly or  
indirectly,  
(a) the introduction, passage, defeat or 15  
amendment of any legislation before  
either House of Parliament, or  
(b) a decision to be taken on any matter  
coming within the administrative juris-  
diction of a Minister of the Crown, 20  
whether or not that matter has come or  
is likely to come before either House of  
Parliament for legislative action;  
“payment” means a gift, subscription, loan,  
advance, commission or deposit of money 25  
or anything of value and includes a con-

2. Les définitions qui suivent s'appliquent  
à la présente loi.

«démarcheur parlementaire» Toute personne  
qui tente, moyennant paiement, d'influer  
directement ou indirectement sur 10

a) la présentation, l'adoption, le rejet ou  
la modification de toute mesure législa-  
tive devant l'une des deux Chambres, ou  
b) une décision à prendre au sujet d'une  
question qui relève de la compétence 15  
administrative d'un ministre de la Cou-  
ronne, qu'il s'agisse ou non d'une ques-  
tion dont l'une des deux Chambres a été  
ou sera probablement saisie en vue  
d'une mesure législative. 20

«mesure législative» Un projet de loi, une  
motion ou toute question s'y rapportant,  
dont est saisi le Sénat ou la Chambre des  
communes, ou toute autre question pou-  
vant faire l'objet d'une action ou d'un 25  
débat par l'une ou l'autre Chambre.

Définitions

«démarcheur  
parlementaire»  
“lobbyist”

«mesure  
législative»  
“legislation”

**EXPLANATORY NOTE**

This bill provides for the registration of lobbyists, and a declaration by them stating in whose interest they are working. It imposes a fine and disqualification from lobbying for those convicted of evading these provisions.

**NOTE EXPLICATIVE**

Ce projet de loi prévoit l'enregistrement des démarcheurs parlementaires et l'indication par eux de ceux pour qui ils travaillent. Il impose une amende et interdit d'agir comme démarcheur parlementaire à ceux qui sont reconnus coupables d'infraction à ses dispositions.

	tract, promise, or agreement, whether or not legally enforceable, to make a payment;	«paiement» Un don, une souscription, un prêt, une avance, une commission ou un dépôt d'argent ou de tout objet de valeur et comprend un contrat, une promesse ou un accord, légalement applicable ou non, prévoyant un paiement.	«paiement» "payment"
"person" «personne»	"person" includes a corporation, institution or group;	5 «personne» S'entend en outre d'une corporation, d'une institution ou d'un groupe.	«personne» "person"
"Registry of Lobbyists" «registre des démarcheurs parlementaires»	"Registry of Lobbyists" or "Registry" means the registry maintained jointly by the Clerk of the Senate and the Clerk of the House of Commons, pursuant to section 3 of this Act.	10 «registre des démarcheurs parlementaires» ou «registre» Le registre tenu conjointement par les greffiers du Sénat et de la Chambre des communes conformément à l'article 3 de la présente loi.	«registre des démarcheurs parlementaires» "Registry of lobbyists"

## LOBBYISTS

## DÉMARCHEURS PARLEMENTAIRES

Clerks to maintain Registry	3. (1) The Clerk of the Senate and the Clerk of the House of Commons shall jointly maintain a Registry of Lobbyists, and it shall be the duty of the said Clerks to keep in an orderly fashion the information enumerated in section 4.	3. (1) Les greffiers du Sénat et de la Chambre des communes doivent tenir ensemble un registre des démarcheurs parlementaires et il leur incombe de maintenir en bon ordre les renseignements énumérés à l'article 4.	15 Les greffiers doivent tenir un registre
Freedom of information	(2) All information filed in the Registry pursuant to this Act shall be made available free of charge to any person making a request in writing to either of the Clerks.	(2) Tous les renseignements versés au registre conformément à la présente loi doivent être gratuitement mis à la disposition de quiconque présente une demande écrite à l'un des deux greffiers.	20 Liberté d'information
Information required in Registry	4. (1) Any person who undertakes for payment to act as a lobbyist shall, before doing so, supply to either the Clerk of the Senate or the Clerk of the House of Commons, the following information for inclusion in the Registry of Lobbyists:	4. (1) Toute personne qui entreprend, moyennant paiement, de faire fonction de démarcheur parlementaire doit d'abord fournir au greffier du Sénat ou à celui de la Chambre des communes les renseignements suivants, qui seront versés au registre des démarcheurs parlementaires;	25 Renseignements devant figurer au registre
	(a) his name and business address;	a) son nom et son adresse d'affaires;	
	(b) the name and address of the person by whom he is employed, and in whose interest he intends to appear and work;	b) les nom et adresse de la personne par qui elle est employée et dans l'intérêt de laquelle elle entend se présenter et travailler;	30
	(c) the intended or contracted duration of any action on behalf of the person listed pursuant to paragraph (b).	c) la durée prévue ou convenue de toute action au nom de la personne nommée aux termes de l'alinéa b).	35
Annual registration	(2) Each person so registering shall file a report with either Clerk containing the information enumerated in subsection (1) at the beginning of each calendar year.	(2) Toute personne qui s'enregistre comme démarcheur parlementaire doit présenter à l'un ou l'autre greffier un rapport contenant les renseignements énumérés au paragraphe (1) au début de chaque année civile.	40 Enregistrement annuel

Supplementary  
Registry  
information

(3) Each person so registering shall further enter on the Register, at the time he undertakes to act as a lobbyist for any person for whom he has not already registered as a lobbyist, all details required by paragraphs (1)(b) and (c).

(3) Toute personne qui s'enregistre ainsi doit en outre faire figurer au registre, au moment où elle entreprend de faire fonction de démarcheur parlementaire pour une personne pour laquelle elle ne s'est pas déjà enregistrée comme démarcheur parlementaire, tous les détails exigés aux alinéas (1)b) et c).

Renseignements  
supplémentaires  
à verser au  
registre

#### PENALTIES

Fine and  
prohibition

5. Any person who violates the provisions of this Act is guilty of an offence punishable on summary conviction and is liable to a fine of \$5,000 for every month in which he is in violation, and is prohibited from acting as a lobbyist for a period of three years.

#### PEINES

5. Toute personne qui contrevient aux dispositions de la présente loi commet une infraction punissable sur déclaration sommaire de culpabilité et est passible d'une amende de \$5000 pour tout mois pendant lequel il y a contravention de la loi, et il lui est interdit pendant trois ans d'agir comme démarcheur parlementaire.

Amende et  
interdiction

#### REGULATIONS

Regulations

6. The Governor in Council may make regulations necessary for the administration of this Act.

#### RÈGLEMENTS

6. Le gouverneur en conseil peut établir les règlements nécessaires à l'application de la présente loi.

Règlements

**C-256**

First Session, Thirty-third Parliament,  
33-34 Elizabeth II, 1984-85

**THE HOUSE OF COMMONS OF CANADA**

**BILL C-256**

An Act to register lobbyists

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First reading, December 5, 1985

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**MR. RODRIGUEZ**

**C-256**

Première session, trente-troisième législature,  
33-34 Elizabeth II, 1984-85

**CHAMBRE DES COMMUNES DU CANADA**

**PROJET DE LOI C-256**

Loi prévoyant l'enregistrement des démarcheurs  
parlementaires

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Première lecture le 5 décembre 1985

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**M. RODRIGUEZ**



THE HOUSE OF COMMONS OF CANADA

CHAMBRE DES COMMUNES DU CANADA

**BILL C-256**

**PROJET DE LOI C-256**

An Act to register lobbyists

Loi prévoyant l'enregistrement des  
démarcheurs parlementaires

Her Majesty, by and with the advice and  
consent of the Senate and House of Com-  
mons, enacts as follows:

Sa Majesté, sur l'avis et avec le consente-  
ment du Sénat et de la Chambre des commu-  
nes du Canada, décrète :

SHORT TITLE

TITRE ABREGÉ

Short title

**1.** This Act may be cited as the *Lobbyists  
Registration Act*.

**1.** *Loi sur l'enregistrement des démar-  
5 cheurs parlementaires.*

Titre abrégé  
5

INTERPRETATION

DÉFINITIONS

Definitions

"legislation"  
«mesure  
législative»

**2.** In this Act  
"legislation" means a bill, motion or any  
matter pertaining thereto, before the  
Senate or the House of Commons, or any  
other matter which may be the subject of 10  
action or discussion by either House;

**2.** Les définitions qui suivent s'appliquent  
à la présente loi.

«démarcheur parlementaire» Toute personne  
qui tente, moyennant paiement, d'influer  
directement ou indirectement sur : 10

Définitions

«démarcheur  
parlementaire»  
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"lobbyist"  
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"lobbyist" means any person who, for pay-  
ment, attempts to influence, directly or  
indirectly,  
(a) the introduction, passage, defeat or 15  
amendment of any legislation before  
either House of Parliament, or  
(b) a decision to be taken on any matter  
coming within the administrative juris-  
diction of a Minister of the Crown, 20  
whether or not that matter has come or  
is likely to come before either House of  
Parliament for legislative action;

a) la présentation, l'adoption, le rejet ou  
la modification de toute mesure législa-  
tive devant l'une des deux chambres;  
b) une décision à prendre au sujet d'une  
question qui relève de la compétence 15  
administrative d'un ministre de la Cou-  
ronne, qu'il s'agisse ou non d'une ques-  
tion dont l'une des deux chambres a été  
ou sera probablement saisie en vue  
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«mesure législative» Un projet de loi, une  
motion ou toute question s'y rapportant,  
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vant faire l'objet d'une action ou d'un 25  
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«mesure  
législative»  
"legislation"

"payment"  
«paiement»

"payment" means a gift, subscription, loan,  
advance, commission or deposit of money 25  
or anything of value and includes a con-

## EXPLANATORY NOTE

This bill provides for the registration of lobbyists, and a declaration by them stating in whose interest they are working. It imposes a fine and disqualification from lobbying for those convicted of evading these provisions.

Furthermore, this Bill would impose on every Member of the House of Commons the obligation to declare all benefits received from lobbyists or foreign governments.

## NOTE EXPLICATIVE

Ce projet de loi prévoit l'enregistrement des démarcheurs parlementaires et l'indication par eux de ceux pour qui ils travaillent. Il impose une amende et interdit d'agir comme démarcheur parlementaire à ceux qui sont reconnus coupables d'infraction à ses dispositions.

De plus, il oblige chaque député à déclarer les avantages reçus des démarcheurs parlementaires et des gouvernements étrangers.



Supplementary  
Registry  
information

(3) Every person who registers as a lobbyist shall further enter in the Registry, at the time he undertakes to act as a lobbyist for any person for whom he has not already registered as a lobbyist, all details required by paragraphs (1)(b) and (c).

(3) Toute personne qui s'enregistre comme démarcheur parlementaire doit en outre faire figurer au registre, au moment où elle entreprend de faire fonction de démarcheur parlementaire pour une personne pour laquelle elle ne s'est pas déjà enregistrée comme démarcheur parlementaire, tous les détails exigés aux alinéas (1)b) et c).

Renseignements  
supplémentaires  
à verser au  
registre

#### MEMBERS OF THE HOUSE OF COMMONS

#### DÉPUTÉS

Special  
Registry

5. (1) The Speaker of the House of Commons shall maintain a Special Registry of all members of the House of Commons who receive from lobbyists or foreign governments personal gifts or benefits of a value exceeding twenty dollars.

5. (1) Le président de la Chambre des communes doit tenir un registre spécial des députés qui reçoivent d'un démarcheur parlementaire ou d'un gouvernement étranger, un cadeau personnel ou autre avantage d'une valeur supérieure à vingt dollars.

Registre spécial

Information  
required in  
Registry

(2) Any member of the House of Commons who receives a personal gift or other benefit of a value exceeding twenty dollars from a lobbyist or a foreign government shall supply to the Speaker the name and address of the lobbyist or the foreign government, as the case may be, the value of the gift or benefit received and the destination and date of any foreign trip.

(2) Chaque député qui reçoit un cadeau personnel ou autre avantage d'une valeur supérieure à vingt dollars d'un démarcheur parlementaire ou d'un gouvernement étranger, est tenu de fournir au Président les nom et adresse du gouvernement ou du démarcheur parlementaire, selon le cas, la valeur du cadeau ou de l'avantage reçu et les lieux et dates des voyages à l'étranger, s'il y a lieu.

Renseignements  
requis

Penalty

(3) Any alleged violation of this section shall stand referred to the Standing Committee of the House of Commons on Privileges and Elections.

(3) Toute contravention présumée au présent article est renvoyée au Comité permanent de la Chambre des communes des Privilèges et élections.

Peine

#### PENALTIES

#### PEINES

Fine and  
prohibition

6. Any person who fails to register as a lobbyist, provides false or incomplete information required under subsection 4(1) or violates any of the provisions of this Act, other than section 5, is guilty of an offence punishable on summary conviction and is liable to a fine of \$5,000 for every month in which he is in violation, and is prohibited from acting as a lobbyist for a period of three years.

6. Toute personne qui ne s'enregistre pas comme démarcheur parlementaire, fournit des renseignements faux ou incomplets contrairement au paragraphe 4(1) ou contrevient aux dispositions de la présente loi, à l'exclusion de l'article 5, commet une infraction punissable sur déclaration sommaire de culpabilité et est passible d'une amende de \$5000 pour tout mois pendant lequel il y a contravention de la loi, et il lui est interdit pendant trois ans d'agir comme démarcheur parlementaire.

Amende et  
interdiction

#### ACCESS TO PARLIAMENT HILL

#### ACCÈS À LA COLLINE PARLEMENTAIRE

Access denied

7. (1) Any person who is convicted of an offence under section 6 shall be denied access to Parliament Hill for a period of three years.

7. (1) Toute personne qui est déclarée coupable d'une infraction à l'article 6 se verra refuser l'accès à la colline parlementaire pendant trois ans.

Accès refusé

"Parliament Hill"

(2) For the purposes of this section, "Parliament Hill" means the area of ground in the City of Ottawa bounded by Wellington Street, the Rideau Canal, the Ottawa River and Bank Street.

(2) Aux fins du présent article, l'expression «colline parlementaire» s'entend de l'étendue de terrain sise en la ville d'Ottawa et comprise entre la rue Wellington, le canal  
5 Rideau, la rivière Outaouais et la rue Bank. 5

«colline parlementaire»

#### REGULATIONS

Regulations

8. The Governor in Council may make regulations necessary for the administration of this Act.

#### RÈGLEMENTS

Règlements

8. Le gouverneur en conseil peut établir les règlements nécessaires à l'application de la présente loi.

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