Investigations in Operation:

HOUSE SELECT COMMITTEE ON LOBBYING ACTIVITIES

ALTHOUGH the achievements of the House Select Committee on Lobbying Activities are far from imposing, the investigation conducted by this body is highly instructive with regard to the many difficulties inherent in legislative investigations. Competent committee and staff members intensively examined a controversial and complex area of activity without sensationalism or disruptive political partisanship. Still the lobby inquiry was far from successful.

The seven member Committee was created pursuant to a resolution of the House in August 1949, and was organized the following October 11.1 When the first session of the Eighty-First Congress adjourned on October 19, 1949, the Committee authorized Chairman Buchanan to employ a staff and to conduct preliminary investigations and research. During the recess the staff conducted field investigations of the files of organizations selected at the discretion of the Chairman. This activity was supplemented by independent staff research and the distribution of questionnaires to all members of House and Senate, political scientists and journalists, registrants under the Lobby Registration Act of

1 "Resolved, That there is hereby created a Select Committee on Lobbying Activities to be composed of seven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made.

"The committee is authorized and directed to conduct a study and investigation of (1) all lobbying activities intended to influence, encourage, promote, or retard legislation; and (2) all activities of agencies of the Federal Government intended to influence, encourage, promote, or retard legislation.

"The committee may from time to time submit to the House such preliminary reports as it deems advisable; and prior to the close of the present Congress shall submit to the House its final report on the results of its study and investigation, together with such recommendations as it deems advisable. Any report submitted when the House is not in session may be filed with the Clerk of the House.

"For the purposes of this resolution the committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpoenas may be issued under the signature of the chairman of the committee or any member designated by him, and may be served by any person designated by such chairman or member. The chairman of the committee or any member thereof may administer oaths to witnesses." H. Res. 298, 81st Cong. 1st Sess. (1949), 95 Cong. Rec. 11,385 (1949). Representatives Buchanan, Chairman (D., Pa.); Lanham (D., Ga.), Albert (D., Okla.), Doyle (D., Calif.), Halleck (R., Ind.), Brown (R., Ohio), and O'Hara (R., Minn.) were appointed to the committee.
1946, selected business corporations, farm groups, and labor organizations. In addition, the Legislative Reference Service of the Library of Congress prepared research memoranda and reports at the request of the Committee.

In almost every case the field investigations were conducted without resort to the subpoena power. Files were voluntarily opened to the investigators who made selections on the basis of their own evaluations of relevancy. However, when several organizations refused full co-operation, the Chairman, without the knowledge of minority members, issued subpoenas requiring the personal appearance of officers and the production of extensive information as to their respective organizations’ finances. Though the House Resolution states, “Subpoenas may be issued under the signature of the chairman of the committee,” minority members had urged that this power was merely ministerial without an explicit grant of discretionary authority to the chairman by the Committee. In order to avoid further controversy, such power was delegated in executive session by a four to three party line vote.

The initial public hearings, which were opened five months after the organization of the Committee, were devoted to the broad academics of problems raised by private- and executive-agency-lobbying activities. However, the investigation soon moved from theory to practice in an intensive ten-day inquiry into the techniques of lobbying employed by organizations opposing and supporting public housing and the activities of federal agencies which were promoting such legislation.

After a brief probe into the ethics, extent, and techniques of professional lobbyists compensated by fees contingent on the success of their activities, fourteen days were devoted to an investigation of lobbying designed to influence public opinion on national issues. This was a distinct departure from the

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2 1 Hearings before the House Select Committee on Lobbying Activities, 81st Cong. 2d Sess. 5, 6 (1950). Cited hereafter as Hearings.


4 2 Hearings 10, 29-29, 330-31. “In most instances, according to the record, staff investigators were armed with subpoenas and secured information under the threat of serving such subpoenas if such desired information was not forthcoming.” Minority Views on the Report and Recommendations on Federal Lobbying Act, A Report of the House Select Committee on Lobbying Activities, H.R. Rep., 81st Cong. 2d Sess. 5 (Mimeographed, 1952).

5 4 Hearings 4-6; N.Y. Times § I, p. 2, col. 5 (June 15, 1950). Consult 4 Hearings 563-64 and 5 Hearings 125 for text of subpoenas.

6 1 Hearings: The Role of Lobbying in Representative Self-Government.

7 2 Hearings: Housing Lobby.

8 3 Hearings: Contingent Fee Lobbying.

popular view of lobbying as pressure on legislators rather than on the public at large. Six organizations, allegedly representing all shades of the political spectrum, were chosen for interrogation in order to preserve political impartiality.

Throughout the inquiry the Committee probed the lobbying activities of executive agencies. Among those investigated were the Bureau of the Budget and the Home Finance Agency. Furthermore, specific charges of lobbying levelled against the Secretary of Agriculture, the Federal Security Administrator, and the Department of State were studied.

After the hearings were terminated, the Committee issued several reports compiling data, a general interim report, and a final report embodying recommended modifications of the Federal Regulation of Lobbying Act of 1946, both endorsed solely by majority members. The minority members issued their own final report.

The preceding description supplies a framework in which to view many of the problems inherent in congressional investigations. Difficulties are raised by (1) the diversity of opinion among committee members; (2) the investigation of a restricted segment of national policy; and (3) the external pressures exerted upon the Committee.

Significant and difficult problems are often raised by the casual association of men who are members of different political parties, and who are burdened with the joint responsibility of producing effective solutions to complex national problems. The lobby investigation encountered inter-party problems in the coordination of committee activities, in obtaining agreement on objectives of the investigation, and in the treatment of witnesses in public hearings.

All testimony relating to government agencies is collected in Hearings: Legislative Activities of Executive Agencies.


Minority Views on the Report and Recommendations on Federal Lobbying Act, A Report of the House Select Committee on Lobbying Activities, H.R. Rep., 81st Cong. 2d Sess. (Mimeographed, 1951). The minority objected to: "(1) A misconception by the majority of the intent of the original Lobbying Act, of the authority of Congress in this area, and of the concept of 'lobbying.' (2) A lack of objectivity and a political bias in the conduct of the investigations and hearings, and in the preparation and issuance of the several reports by the majority. (3) A failure to examine closely the present language of the statute in an effort to correct obvious deficiencies in the law."
The lack of majority-minority co-ordination in preparing and conducting the investigation was apparent in all stages. After several months of public hearings, minority member Brown, referring to the intensive staff research and investigation which had preceded, declared: "The fact of the matter is, I do not even have a list of the members of the staff serving this committee. I have not had any of the information upon which the actions of the committee have been predicated, until after they were presented here in the hearing room." Shortly thereafter, minority member Halleck complained that he had never seen a staff-prepared list which was used in the interrogation of a witness, nor had he seen the documents in the committee file upon which the list was developed. In the examination of the housing lobby it was noted that selection of about two hundred of the thousand available exhibits and documents used in interrogation of witnesses was made solely by the Chairman or under his responsibility. Intelligent interrogation of witnesses demands familiarity with exhibits selected for introduction into the record at the time of their appearance. A later exchange between the Chairman and Representative Brown indicates the lack of agreement as to the development of the investigation. Mr. Brown urged greater attention to an investigation of executive lobbying activities. "It is a matter of whether we are going to perform the duties we were assigned, whether the staff is going to be just as zealous, and the committee just as zealous, in looking into that field of activity as they have been in looking into other fields of lobby activity." The detailed criticisms of the investigation set forth in the Minority Report reviewed these conflicts and indicated further lack of co-ordination in preparation and issuance of committee reports.

15 4 Hearings 4. 16 4 Hearings 58.

17 1 Hearings 67. The following colloquy is noteworthy:
"Mr. Brown. Like the gentleman from Indiana [Halleck], I haven't seen the letter, I haven't seen any of these letters, and I haven't seen any of the material the staff has brought in, any of these photostats, any of these 204 exhibits that you mention.
"Do I understand that it is to be the procedure of this committee for the chairman alone, or any particular group in the committee alone, to know what the material is that we are going to discuss and bring up here as evidence, or as exhibits, and query witnesses about, or will all members of the committee be given an opportunity of some kind in advance to know just what the procedure is to be here, and what matters will be discussed..."
"The Chairman. Mr. Brown, as you know, we have had in our files, and you have had outlines of preliminary surveys and studies and field investigations we have made over the past four or five months. We have had in our files certain material, and at repeated times in executive session you, as well as all other members of the committee, have been informed as to what we had, insofar as material is concerned, and the files were open for anyone on the committee to fully examine, as I have..."
"Mr. Brown. Let me make this statement for the record, that the only information we have received is a confidential memorandum which was furnished the committee when I insisted upon knowing where the staff had gone, what organizations had been checked, and information that on different organizations, statements like this had been taken..."
"The Chairman. You were informed in executive session that this material was on hand in the files, available for perusal of any member of the committee.

18 4 Hearings 192–95, at 195.
Agreement on the nature of the problem investigated, the objectives of the investigation, and the definition of terms is essential to any investigation. It is only within such a framework that basic issues are clarified, and alternative methods of treatment, seen in the light of their implications, function as tools of solution rather than of confusion.

A concurrence of opinion on the problems raised by lobbying was a condition precedent to agreement on the objectives of a lobby investigation. In the initial days of the hearings, Mr. George Galloway, counsel for the joint committee which in 1946 had drafted the ambiguous and ineffective Lobby Registration Provision, cited the common areas of opinion which had served as the basis for that legislation. In essence, he explained that the joint committee had decided on compulsory registration and consequent disclosure of lobby activities because "Congress as an institution is handicapped in the performance of its proper function . . . by the importunities of special interest groups which tend to divert legislative emphasis from broad questions of public interest." Disclosures would have enabled Congress better to evaluate evidence, data, or communications from organized groups seeking to influence legislative opinion. It is apparent that this evaluation of the problem was soon abandoned by the Buchanan Committee. At the outset several minority members considered the effectiveness of lobby pressures on congressmen negligible. Furthermore, there was no attempt to replace the abandoned standard with a new frame of reference. This failure to achieve initial agreement on the implications of lobbying was indicated by the Chairman's vague references to the problem throughout the hearings. Initially he stated that the Committee would try to provide a "clear picture of the extent to which lobbies of all sorts seek to influence legislative action by Congress even when such action may be contrary to the public good and to economy and efficiency in government." This detrimental area, however, was never elaborated or defined in the hearings. Much later he concluded that the approach of the Committee was to show that efforts to influence legislative action were an integral part of the legislative process, but that there were various views as to the proper limits of such activities. Again, the crucial problem of harmonizing these various views was never faced. Rather it was neatly circumvented by the decision to proceed with a compilation of modern lobbying techniques as practiced by organizations probed in the public hearings. Such a search permitted the committee to proceed with the voluminous hearings without apparent conflict even though they had reached no preliminary agreement.

19 I Hearings 97-104 at 98. 21 I Hearings 5.
20 I Hearings 24, 27; 2 Hearings 450. 22 8 Hearings 196.

At the close of the public hearings Representative Brown stated, "Thus far we have had much discussion of one thing, the lobby technique used on both sides of the street, and we have found such technique followed to be almost identically the same, whether by liberal or conservative groups—just that and nothing more." 96 Cong. Rec. 15,581 (Sept. 21, 1950). The minority report objected to "[a] misconception by the majority of the intent of the original
Another problem which faced the Committee early in the investigation was the need for a provisional definition of lobbying. Such a definition would have had value as an operational tool. The Chairman defined lobbying as "any attempt by individuals or groups to influence governmental decisions." The breadth of this definition detracted materially from its value. In fact, after two months of hearings Representative Brown complained, "Of course, I think, before we go too far, we ought to start soon to try to determine what is and what is not lobbying activity." However, it is clear that no adequate definition was possible when the Committee had failed even to reach any tentative agreement on the nature of the problem facing it.

Ideally, the investigatory process would include a mechanism which would insure preliminary agreement on the objectives of the inquiry. The device presently intended to perform this function is the closed executive session. Its failure to achieve such a goal was manifest in this investigation. It is apparent that the executive session produces agreement only incidentally, depending solely on the chance perceptiveness and zeal of Committee members. Possibly the necessary dialectic could be achieved by requiring that an agreed provisional formulation be submitted to the Congress prior to the public hearing stage of the investigation. Congressional approval would not be solicited. The mere formalization of this step in the investigatory process would insure consideration early in the inquiry. The formulation could include opinions as to the problems raised by the subject matter, definitions of essential terms, and tentative objectives of the inquiry. It would seem that these are the minimum requisites for achieving the necessary harmony of opinion.

Crucial to the success of an investigation are the contributions of persons called to testify in the public hearings. The interrogators may elicit testimony which clarifies the complex issue or may allow the questioning to degenerate into a forum for political or social embarrassment of witnesses, or a sounding board for irrelevant statements. In general, the success of public hearings will be gauged by (1) the committee members' restraint in investigating facts rather than ideologies of witnesses; and (2) the committee's ability to restrain the witness from using the hearings for personal objectives which are unrelated to the problem under investigation. The first of these difficulties pervaded the climate of the lobby hearings, for time and again various members objected to


24 See Hearings 7.

25 See Hearings 90. Buchanan answered Representative Hoffm an's criticism that lobbying had never been defined by the Committee: "I would remind the gentleman from Michigan that ours is an investigating committee, not a legislative committee; that the definition of the word 'lobbying' comes within the realm of the proper legislative committee of the House; it is up to them to define the term and to make their recommendation." Representative Case of South Dakota queried, "If there is no definition of lobbying in the act, what then determines the scope of the investigation?" 96 Cong. Rec. 8,812-13 (June 15, 1950).
the tenor and direction of their colleagues’ questioning. The Committee periodically encountered difficulty in restraining witnesses from volunteering irrelevant testimony. At one point the Committee, desperate, threatened to strike from the record all further excursions into irrelevancy. This apparently was the most effective sanction the Committee could administer.

Closely related to the problems noted above is the difficulty encountered in dealing with witnesses whose irresponsible statements reflect unfavorably on the character of parties who are not present or called during the investigation. The Committee sought to remedy this problem by two devices: (1) written refutations by the parties affected by unfavorable comments were inserted into the record directly following the testimony in question; and (2) third parties were allowed to appear and publicly deny irresponsible statements. Such a policy is noteworthy in light of the spontaneous nature of the hearings which must permit the accuracy of many statements to go unchallenged.

The investigation of any particular segment of national policy inevitably demands flexible adjustments in the intended scope of the inquiry. Often legislative examinations are modified or impeded by the existence of constitutional considerations, or by present legislation in complementary areas, or by the activities of other congressional committees.

Much of the investigation was conducted within the shadow of alleged constitutional objections. The right of the people to petition the government for redress of grievances is assured by the First Amendment. Thus the Committee’s discussion of registration as a regulatory device appeared to raise questions of constitutionality. Full disclosure of an activity may become a coercive device especially where the activity carries unpopular connotations. The legality of registration provisions of the 1946 Act is presently being litigated.

Further, legislation concerning lobbying directed at public opinion formation
was seen as a possible violation of freedom of the press. Two witnesses charged that the scope of the investigation itself was unconstitutional. Obviously public hearings are not the proper forum in which to discuss constitutional objections. Consideration of such highly technical problems by lay witnesses will not resolve the issue. Rather it confuses the development of the inquiry. Allegations of unconstitutionality may result in the committee's failure to explore all possible solutions to a problem. This, in turn, reduces the effectiveness of the investigation. The issue of constitutionality is best considered at the close of the hearings when concrete recommendations are being formulated.

The existence of relevant legislation in tangential areas of national policy tends to modify the scope of congressional investigations in either of two ways: (1) the investigatory task is made more difficult by the need to consider modification of existing legislative policy in complementary areas; or (2) the investigatory task is simplified by the existence of legislation which sufficiently solves a particular area of the problem and thus allows the committee to contract the intended scope of its investigation. Two conspicuous examples of the former adjustment appear in the hearings.

Early it appeared that the boundaries of the investigation were artificially drawn. Representative Lanham objected to lobbying only where it attempted to exert pressure on the outcome of political elections. This, properly speaking, is political activity and is covered by the Federal Corrupt Practices Act. The dilemma was apparent in Representative Brown's statement that the committee had no authority to investigate political activities, but must restrict itself to lobbying activities, admitting that "in these joint fields, it is a little difficult to determine where political activity stops and where legislative interest begins."

In contrast to the disinclination to probe the field of political activity the Committee made broad inquiries into the relevance of other existing legislation and uncovered many areas where subsidies for lobbying activity were provided at public expense. Costs of distribution of printed materials are sharply reduced by the benefits of second class mailing privileges and the private use of the franking privilege. Further, lobby organizations reduce their operating expenses through the tax exemption provisions of the Internal Revenue Code.

33 5 Hearings 9.
34 4 Hearings 16, 29; 5 Hearings 273.
36 6 Hearings 15.
37 6 Hearings 63.
38 2 Hearings 199.
39 5 Hearings 96, 113; 6 Hearings 100.
In addition, financing is greatly stimulated by allowing donors to deduct contributions of funds from their gross income.\textsuperscript{42}

The existence of another area of legislation was seized upon as a means of narrowing, rather than broadening the scope of the investigation. Various statutory prohibitions against the use of executive agency appropriations for lobbying purposes\textsuperscript{43} led to an agreement to investigate executive lobbying only upon specific citation of abuse.\textsuperscript{44} This approach is to be contrasted with the full-scale inquiry into private lobbying activities; especially since the House Resolution implied parallel treatment of each field.\textsuperscript{45} The decision in this case was reinforced by activities of other committees which operated in areas complementing an investigation of executive lobbying. The activities of the House Appropriations Committee and the Standing House Committee on Expenditures in the Executive Departments insured disclosure of lobbying by executive agencies to the Congress without a full-scale investigation by the Buchanan Committee.

No major congressional inquiry can escape pressures exerted by the national press and relevant floor proceedings.\textsuperscript{46} This goldfish bowl notoriety functions to publicize salient criticisms of the investigation. Consequently it puts the committee, or as here, the majority members, on the defensive. Floor activity revolved around Representative Hoffman of Michigan and Committee members Buchanan and Brown. Representative Hoffman early established himself as the chief critic, asserting that the "committee is being used at the present time for an assault on all those who advocate constitutional government."\textsuperscript{47}

He sharply criticized activities of the staff in investigating the use of his frank in mailing lobby materials\textsuperscript{48} and attacked the probe of the Committee for Constitutional Government.\textsuperscript{49} When the Committee cited the director of this organization, Dr. Rumley, for contempt of Congress,\textsuperscript{50} Hoffman launched violent attacks against the scope and conduct of the investigation.\textsuperscript{51} Early in

\textsuperscript{42} 2 Hearings 425; 8 Hearings 49; Int. Rev. Code §§ 23(o), 23(q), 812(d), 861(a)(3), 26 U.S.C.A. §§ 23(o), 23(q), 812(d), 861(a)(3) (1950).
\textsuperscript{44} 4 Hearings 192.
\textsuperscript{45} The text of the resolution appears in note 1, supra.
\textsuperscript{46} Pressure exerted by the national press is not discussed here. For a thoughtful treatment of this problem consult Dilliard, Role of the Press, page 585 supra.
\textsuperscript{47} 96 Cong. Rec. 8,457 (June 8, 1950).
\textsuperscript{48} 96 Cong. Rec. 8,453 (June 8, 1950).
\textsuperscript{49} 96 Cong. Rec. 9,154-67 (June 21, 1950).
\textsuperscript{50} On August 26, 1950, the committee voted charges of contempt of Congress against Dr. Edward A. Rumley, Joseph P. Kamp, and William L. Patterson, for their failure to produce subpoenaed financial records of their organizations before the committee. N.Y. Times § 1, p. 47, col. 2 (Aug. 27, 1950).
\textsuperscript{51} 96 Cong. Rec. 15,272 (Sept. 18, 1950); ibid., at 15,323-28 (Sept. 19, 1950).
the investigation he introduced a resolution to create a committee to investigate the Select Committee on Lobbying Activities.\textsuperscript{51} Minority member Brown used the floor to complain of the minority's alleged lack of information as to the conduct of the investigation\textsuperscript{52} and the identity of staff personnel,\textsuperscript{53} and to dispute the Chairman's subpoena power.\textsuperscript{54} Occasionally minority member Halleck seconded Brown's criticisms.\textsuperscript{55}

The bombastic rhetoric of Hoffman's lengthy tirades coupled with lack of floor support from his colleagues probably rendered his attacks of negligible effect on the course of the investigation. On the other hand Brown's criticisms were probably influential. By using the House floor as a forum in which to publicize intra-Committee disputes Brown seriously threatened needed House support of the investigation. Thus each of the minority's complaints were answered at great length in frequent colloquies between Buchanan and Brown.\textsuperscript{56} Hoffman's attacks were usually met by majority members Lanham and Albert, or left unanswered. However, when Chairman Buchanan and Hoffman tangled on the proper scope of the lobby investigation the Chairman's replies were far from convincing.\textsuperscript{57} At all times the majority members were prepared to defend criticized conduct of the staff and Chairman and the progress of the lobby inquiry. Their justifications of Committee conduct crystallized public support of the investigation and its subsequent legislative recommendations; their retreats in the face of publicized criticisms influenced the future development of the inquiry.

An evaluation of the investigatory process must concern itself with the conduct of the inquiry rather that the content of the final report. Committees often issue perceptive recommendations which are unrelated to the investigation itself. The primary concern is in developing an effective investigatory process which in all cases will yield the basis for intelligent and effective conclusions. It seems probable that the problems encountered by the Buchanan Committee

\textsuperscript{51} "Resolved, That a committee of seven Members of the House be appointed by the Speaker to investigate the activities of said Select Committee on Lobbying Activities, created under H. Res. 298, to ascertain whether there is any truth to the charges now being made in the public press and which tend to reflect upon the integrity of said committee and of the Congress; to learn whether said committee is acting within the scope of its authority; whether it is being unwittingly used by subversive organizations or individuals to prevent expression of opinion by individuals and corporations ...; and be it further Resolved, That, until the coming in of the report of the committee so hereby created, the Select Committee on Lobbying Activities suspend its hearings and all activities by its staff." H. Res. 638, 81st Cong. 2d Sess. (1950). The resolution died in the Committee on Rules.

\textsuperscript{52} 96 Cong. Rec. 8,454-57 (June 8, 1950); ibid., at 15,580-81 (Sept. 21, 1950).

\textsuperscript{53} 96 Cong. Rec. 8,795-97 (June 15, 1950).

\textsuperscript{54} 96 Cong. Rec. 8,461 (June 8, 1950).

\textsuperscript{55} 96 Cong. Rec. 8,581 (June 12, 1950).

\textsuperscript{56} 96 Cong. Rec. 8,795-97 (June 15, 1950); ibid., at 15,580 (Sept. 21, 1950).

\textsuperscript{57} 96 Cong. Rec. 8,811-14 (June 15, 1950).
are inherent in legislative investigations. No alternative method of inquiry can eliminate difficulties raised by the diverse opinions of the investigators, the segmentation of an organic national policy, and the pressures exerted by external forces. The ineffectiveness of the lobby investigation stems primarily from the Committee's failure to recognize these limitations. But recognition alone is not sufficient. A sincere attempt by all committee members to overcome these difficulties is the condition precedent to a successful congressional investigation.