

How to Win Friends and Influence People:
Lobbying at Queen's Park and Playing by the Rules
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“In the 1970s and 1980s lobbyists settled on the institutions of Canadian government like fat geese in a waterfront park, spreading their excrement everywhere.”² – Michael Bliss

I - Introducing the Puzzle

Since Confederation, Canadian politicians have engaged in famous and infamous trysts with lobbyists. Some of the most embarrassing and politically corrosive incidents for Canadian public office holders involve representatives of private interests. These representatives are either direct or indirect employees of the industries, unions, associations and sectors that rely heavily upon the decisions made by the provincial and federal governments. Political scandals involving lobbyists and unflattering media coverage of the profession have contributed to the general public’s disapproval of ‘government relations’ in its many forms.

In partial response to media attention and growing voter disenchantment, Ontario was the first province to adopt the federal government’s Lobbyist Registration system. The establishment of the Lobbyist Registration Office symbolizes transparency, accountability and professionalism, and confirms the legitimacy of the meetings between members of parliament, their staff and individuals interested in affecting government decisions. However, the lack of suspensions, fines or convictions from the Lobbyist Registrar piques the interest of even the most unquestioning observer of Ontario’s dynamic political environment.

While they are welcome fodder for the media and validating for political pessimists, lobbying scandals are far outweighed by lawful government relations meetings. In a sector that Dalton McGuinty once described as “the largest growth industry we have in the province”³ and one that is unyieldingly observed by journalists, it seems odd that there has been no charge laid under the *Lobbyists Registration Act* since its proclamation on January 15th, 1999.⁴ This paper attempts to solve the puzzle of why there have been no contraventions of the Ontario *Lobbyists Registration Act* among the 1,513 active registrations, as of May 3rd, 2006.

II - Literature Review and Methodology

Two hypotheses

Many political scientists have explored the effect and practices of lobbying in political organizations. These studies describe how interest groups’ access to decision-makers varies widely in scope, influence and sophistication. However, there have been

² *Right Honourable Men: The descent of Canadian politics from Macdonald to Mulroney*, Harper Perennial ed. (Toronto: HarperCollins, 1995), 314.

³ Richard Mackie, “Ontario lobbyist-registry plan too late in coming, critics say,” *Globe and Mail* (Toronto) 7 Oct. 1998, Metro ed.: A9.

⁴ Government of Ontario, *Lobbyists Registration Office of Ontario Annual Report*, (Toronto: Government of Ontario, 2005), 1.

significantly fewer investigations of the tools used by governments to regulate the practice of lobbying. Moreover, no studies have explored the capacity of Canada's and Ontario's Lobbyist Registration Act to prevent unethical or illegal acts of influence in public policy decisions.

Nonetheless, public policy and interest group literature provides potential hypotheses than can guide this study. More specifically, two hypotheses can be used to explain why there have been no convictions under the *Lobbyists Registration Act* in Ontario. The first is based on the concept of 'policy learning,' a common theory in public policy and administration studies that describes changes in behaviour patterns. The second compares the political systems in Canada and the United States to illustrate that the 'American-style' of registering lobbyists cannot effectively monitor or flag unethical behaviour of Canadian lobbyists. The registry system was studied and adopted by the Canadian federal committee on reforming this sector, despite the longstanding history of Canadian lobbyists acting as an integral part of the federal, provincial and municipal legislative processes, which encourage the participation of interest groups far more than in America.

One could assume that professionals working in government relations modified their behaviour to suit the Act, in what is often called 'policy learning.' Policy learning is best known to explain the more gradual impacts of laws and regulations in all policy sectors. It is considered both a precursor to public sector innovation as well as a consequence of previous innovations, which, in turn, marks the beginning of a new cause-effect chain.⁵ Generally, policy learning is a collective paradigm shift, not one specific redefinition, but a conscious decision made by stakeholders and government to approach an issue from a different angle.

Change in any sector is prompted by the processing of new information, in this case the position of a Lobbyist Registrar and the legislation that created it, *The Lobbyists Registration Act*. For government relations professionals, in-house lobbyists and consultant lobbyists to read the *Act*, interpret the *Act*, attend conferences that explain the nuances and consequences of the *Act*,⁶ and then integrate this new information with their familiar routine, real knowledge and policy learning could be fostered.

According to the policy learning literature, policy actors can adjust their behaviour following institutional and rule changes. As such, the lack of convictions under the *Lobbyists Registration Act* could demonstrate that lobbyists have simply adjusted their practices. Punishable fines could reach \$25,000 for either failing to comply with the requirements laid out in the legislation, making a false or misleading statement in a

⁵ René Kemp and Rifka Weehuizen. *Policy Learning: What does it mean and how can we study it?* (Oslo: NIFU STEP, 2005) 3.

⁶ The office of G.P. Murray Research Limited and ARC Publications Inc. held an ambitious conference in Toronto shortly after January 15th, 1999, the *Act's* date of effect on February 16 open to consultant lobbyists and in-house government relations staff. Presentations included policy advisors to the Lobbyist Registration Office, Ontario's first Lobbyist Registrar, Hon. Robert Rutherford as well as lobbyists familiar with the federal level disclosure regulations.

return, or acting in a manner that “knowingly places the public office holder (with whom they are meeting) in a position of real or potential conflict of interest.”⁷

When change occurs in a sector as a result of government intervention, it is usually classified as a ‘top-down’ force. For this study, the proclamation of the Act occurred with relatively little consultation and is considered a ‘top down’ measure. In the case of lobbying in Ontario, to test if the *Lobbyists Registration Act* has resulted in ‘policy learning’ and prompted lobbyists to change their work habits and professional outlook, one must ask the lobbyists themselves.

The second hypothesis is adapted from an article by Eric Montpetit entitled “Pour en finir avec le lobbying: Comment les institutions Canadiennes influencent l’action des groupes d’interets.” Montpetit demonstrated that the considerable differences between American and Canadian political systems, which include the power of the executive, the legislative processes and the federal division of responsibilities, created very different relationships between interest groups and governments.⁸ Montpetit’s article focuses on the inadequacies of the political science literature in Canada, as many authors view Canadian lobbying through an American lens.

The ‘American lens’ suggests to political observers that there is a serious power struggle and adversarial tension between politicians and interest groups’ representatives in Canada. This lens obscures the longstanding complimentary, and to some interdependent, relationship between interest groups and the government. This study takes Montpetit’s thesis further to hypothesize that the tools used by Canadian governments to monitor and regulate lobbying are intrinsically American and cannot adequately trace the influence that lobbyists exert on the political system, specifically in Ontario.

Montpetit laments misrepresentations of lobbying in Canada, saying “(These) groups feed democratic life...and cannot be confined to working only with political parties, their work brings forward public affairs in a way that satisfies a particular interest.”⁹ Distrust of lobbying not only stems from the American lens, but also from considering the overall work of interest groups in “an abstract way...outside of the institutional context within which it works.”¹⁰ He considers the term and definition of ‘lobbying’ as entirely an American construct, a concept borrowed from American literature, which has little use for the Canadian institutional reality.¹¹

To prove his thesis, Montpetit describes Canadian political institutions with an emphasis on the inclusiveness and participatory role of all types of interest groups. Lobbying, to

⁷ Government of Ontario, *Lobbyists Registration Office of Ontario Annual Report* (Toronto: Government of Ontario, 2005) Section 18(1-8).

⁸ Eric Montpetit, “Pour en finir avec le lobbying: Comment les institutions Canadiennes influencent l’action des groupes d’interets,” *Politique et Societes* 21.3 (2002): 91-112.

⁹ Ibid. 91.

¹⁰ Ibid. 92.

¹¹ Ibid. 94.

Montpetit, is a last resort for stakeholders that do not have an institutionalized role in the legislative process.

The main reason for Canada's drastically different lobbying system, according to Montpetit, is the limited decision-making power that Members of Parliament and Cabinet members can leverage to 'earn' unmerited gifts, bribes and perks from lobbyists, interest groups and stakeholders. The Westminster model of Canadian parliamentary democracy obliges all ministers and (usually) Members of Parliament to publicly support government policy regardless of any reservations or personal views, thereby minimizing the odds of a shady offer changing government policy.

These forces also undermine the power of legislative committees. If amendments are made during the committee process, it is rarely because a member of the government caucus is expressing the wishes of a stakeholder close to their office. Many in-house lobbyist interviewees emphasized that it is important to discuss amendments long before a bill is brought to committee, and that many MPPs are consulted in their efforts to affect change. In the American state and federal governments free votes are frequent, and there is little to no caucus pressure or ministerial responsibility preventing a Congressmen from nudging a bill through the legislative process on behalf of an interest group.

A symptom of responsible government and the Westminster system is a strong executive branch. To this end, provincial Premiers have considerable authority and are expected to speak on behalf of all provincial policy portfolios at First Ministers' meetings and in dealings with the Prime Minister.¹² Ronald Watts describes this as an executive-legislative fusion with responsible parliamentary cabinets.¹³ In the United States, there is a clear separation between the executive and legislative powers, which empowers individual House of Representative members and Senators to influence the passage of very specific legislation, making them an ideal target for lobbyists.

Methodology

In order to confirm one of these two hypotheses, seven in-depth interviews were conducted with the Lobbyists registrar, in-house lobbyists and consultant lobbyists. Interviews were one hour in length and the government relations professionals were encouraged to speak freely with the understanding that they would not be quoted directly in the paper nor would their name, association or any other recognizable details appear in the citations.

A cross-section of in-house lobbyists and consultant lobbyists produced, for the most part, similar feedback regarding the efficacy of the Act, the use of the registry, the authority of the registrar and the impact on their daily conduct and yearly administrative burden. At the forefront of many lobbyists' minds was that more stringent regulations would be implemented akin the federal system. Ontario's history as an early adopter of

¹² Ibid. 130.

¹³ Ronald L. Watts, "Federalism, Federal political systems, and Federations," *Annual Review of Political Science* (1998): 125.

federal lobbying regulations makes these changes a valid concern for provincial GR staff. Some fear that media attention of the Prime Minister's proposal will lead to a public push to amend provincial legislation similarly.

III - Setting the Context: Federal and Provincial Systems of Lobbyist Regulation

The Federal Lobbyist Registration System

The federal lobbyist registration system arose from an election promise. In 1985 Prime Ministerial candidate Brian Mulroney announced that, if elected, his Progressive Conservative government would monitor lobbyists' activities. Shortly after his election, a discussion paper was released and a standing committee was established. By July of 1987, Bill C-82 was introduced in the Parliament, "An Act Respecting the Registration of Lobbyists." It received proclamation in September of 1988. Within a relatively short period of time, the identification of a 'lobbying problem' was 'solved' with the adoption of an American-style registry system.

Andrew Stark's objection to the Canadian lobbying experience relates to the 'American lens,' but for reasons different than Montpetit's. Stark argues that no real discussion of the pros and cons of regulating lobbying occurred at the proposal's inception. Although it was a popular campaign promise for the Mulroney Tories, Stark counters that there was no public debate, no academic inquiry, and no real-world political agenda to justify new lobbying regulations.

Stark compares the two justifications used for using an American-style registry system, the public interest and political benefits. Taking direct quotes from House legislative and the Senate committees, Stark finds two main reasons that use different assumptions about the nature of knowledge and information in politics.¹⁴ On one hand, if meetings' details were open to the public, the public would be the greatest benefactor. Disclosing the dates and players involved in interest groups' meetings could engage the public while a decision was being made, and the public would no longer be left looking back at what might have impacted a decision.

But, Stark contests, to see a public good in a transparent lobbyist registry, one must believe that this information is 'empowering.' The more the public knows, the better, reasons the first group. This arose in discussion with a consultant lobbyist who openly questioned the merits of 'transparency.' "Overall, this system has the appearance – the optics – of being transparent. And I guess that's all that matters."¹⁵

Stark recognizes that there are some controversial or sensitive political issues that should not be subject to blanket transparency rules because they could be misunderstood, result in persecution or compromise a confidential business agreement.¹⁶ "To be scrutinized for

¹⁴ Andrew Stark, "Political-Discourse: Analysis and the Debate over Canada's lobbying Legislation," *Canadian Journal of Political Science* 25.3 (1992): 513-534.

¹⁵ Anonymous, In-House Lobbyist, Personal Interview, 26 Apr. 2006.

¹⁶ Stark. 520.

every meeting – it can compromise the privacy of the work that you’re doing for clients in(volved in) bids, there could be leaks or F.o.I. (Freedom of Information Act) requests...People aren’t concerned with the minutia of things, anyway...”¹⁷

On the other hand, creating a lobbyist registry could be interpreted as a way to empower politicians themselves, and make members of parliament clearly aware of why people are requesting meetings and whom they are representing.¹⁸ This argument was less popular in committee and with citizens-rights advocates. In the context of Queen’s Park, it seems very unlikely that a consultant lobbyist would purposely lie about who or why they are meeting with an MPP. Further, it is rare that an MPP would second-guess the motivations of a scheduled meeting, “No MPP has ever mentioned looking me up, or having the (registration) print out. I doubt that their staff think to do it either. When I was working there I had no clue about it.”¹⁹

In the end, as Stark outlines the committee hearings, a compromise was found. Lobbyists were to register their basic contract information and the subject or reason of their visit, striking something of a balance. In Ontario, there are similar inputs required for new registrations, and there are divergent views among registrants regarding the minimum information required, which will be examined later in the lobbyist feedback section of the paper.

Lobbying Regulation in Ontario

When the *Lobbyist Registry Act* was introduced in Ontario, the province was in the midst of a hydro-related hubbub similar to that of 2006. Ontarians were coming to terms with the Progressive Conservative government’s decision to break up a ten billion dollar a year electricity market monopolized by Ontario Hydro. A nonpartisan committee was established to examine the market impacts of this drastic change in the utility’s sale. However, the group’s chair, Ronald Daniels, was compelled to contact Energy Minister Jim Wilson with his concerns that the committee’s suggestions would be drowned out by the many familiar voices reappearing in Queen’s Park. “Such external lobbying greatly detracts from the legitimacy of the Market Design Committee’s internal deliberations,”²⁰ Daniels wrote to the PC Energy Minister at the time.

Daniels was not alone in his prediction that competition for hydro contracts with Ontario consumers would increase the presence of lobbyists in Ontario exponentially. Sean Conway, at the time a Liberal MPP, exclaimed: “I can’t think of a more important time than the introduction of this Hydro legislation...This new Hydro bill and policy provides

¹⁷ Anonymous, Consultant Lobbyist, Personal Interview, 21 Apr. 2006.

¹⁸ Stark. 520.

¹⁹ Anonymous, In-House Lobbyist, Personal Interview, 21 Apr. 2006.

²⁰ Richard Mackie, “Tories nod to demands for lobbyist registry Liberals, NDP want disclosure of consultants, party insiders seeking to influence government policy,” *Globe and Mail* (Toronto) 11 Jun. 1998, Metro ed.: A13.

the greatest honeypot of opportunity for lobbyists and fund raisers this province will have seen in forty years.”²¹

In the 1996 Budget Speech, the Minister of Finance Ernie Eves announced that the Government would “establish procedures to require the registration of all persons and firms who lobby the Government.”²² Over two years later, in the fall of 1998, the Chair of Management Board of Cabinet, Chris Hodgson, introduced the Lobbyists Registration Act: “This government is committed to managing its business operations in an open, accountable and accessible manner...Lobbying is part of the democratic process, but the public has a right to have access to information about organizations and individuals that are seeking to influence government decision-making...A public record of paid lobbyists will ensure that the public interest is protected from undue influence.”²³ Shortly after Hodgson’s speech, by January 15th, the *Act* was proclaimed and a registration system to monitor the government relations professionals of Ontario was at work.

The combination of the hydro market’s breakup and the reemergence of Tory Staffers at Queen’s Park led Tony Silipo, a New Democratic Party Member, to explain to the press the level of influence, ease of access and legitimacy wielded by former political staffers: “It’s in the interests of the public to know that decision-making is transparent, that there’s no preferential treatment on the basis of who you know and how much you are prepared to contribute to the governing party. For people who are in high positions in political parties that then form the government, I think that kind of protection needs to be there. Oftentimes, those individuals can wield far more power than a former cabinet minister can.”

With an air of mystery surrounding the number of clients and firms employing former Progressive Conservative political strategists and campaign chairs Leslie Noble and Bill King, questions arising about the influence of lobbying for the Casino Niagara contract in the spring of 1998²⁴, and Question Periods punctuated by pointed questions to the Finance Minister and Premier, the implementation of the *Lobbyists Registration Act* in early 1999 could not occur too soon for the opposition parties.

While a promise was made years before the actual implementation of the *Act*, there were significant changes to donations and party financing that cannot go unmentioned. As a symbol to affirm the value of transparency, the office of the Lobbyist Registrar was fitting, however amendments made to the 1986 *Elections Finances Act*, which were put into effect only 14 days before the *LRA* was enacted, increased the allowable amounts for spending during elections and shifted the balance of power considerably in favour of those capable of making more and larger donations.

²¹ Ibid. A13.

²² Budget Speech, Ontario Parliament (Hansard), Session 36:1, 7 May 1996.

²³ Introduction of Bills, Ontario Parliament (Hansard), Session 36:1, 6 Oct. 1998.

²⁴ Ian Urquhart, “Lobby roll welcome, if overdue,” *Toronto Star*, (Toronto) 6 Oct. 1998, Metro ed.: A19.

The *Ontario Election Finances Reform Act* of 1975 was rather ineffectual, and was not strengthened for over a decade, until the *Election Finances Act* was passed in 1986. Tighter controls were introduced by this *Act* to limit election-time spending and level the playing field among candidates. On January 1st, 1999 contribution limits increased significantly and businesses, which represent 95% of donors contributing maximum allowable amounts, were encouraged to ‘max out’ their donations to much higher levels.²⁵

In contrast, the election period itself was shortened by almost one third, making the stakes even higher for launching far-reaching multi-media campaigns in 28 days, with significantly more money. For years without election campaigns, the maximum individual donation is \$7,000. Opportunities to overlap general election and by-election contributions occur often. Beginning in 1999, contribution limits were raised for central party and constituency organization donations. In a year of a general election without a by-election, a contributor could give as much as \$25,000 to a party, which is an increase of almost 80% over the \$14,000 contribution limit prior to the changes.²⁶

Many consultant lobbyists had little negative feedback about the changes to the campaign donations, and were not eager to discuss any change in influence exercised by their clients because of donation increases. When asked about the implementation of the Registry in Ontario, many repeated the questions of Stark and wondered who was the actual beneficiary of these regulations.

IV- The Ontario Lobbyist Registry Act

The mandate statement of the Registry reflects the same compromise made in Ottawa in balancing public good with politicians’ protection. According to the Lobbyists Registration Office, the mandate of the Act is the following: “The Act recognizes that lobbying is a legitimate activity. It provides lobbyists with free and open access to government while safeguarding the integrity of public office holders and protecting them from undue influence. The lobbyists registration system provides the public, public office holders and lobbyists with the opportunity and means to know who is talking to whom in government about what.”²⁷

The Lobbyist Registration Act in Ontario is similar to its federal predecessor in spirit. When the federal law was first introduced, a political scientist wrote dismissively: “the law draws a circle around a variety of activities, some of which are universally

²⁵ The Ontario Commission on Election Finances Website offers a database containing records of every donation over \$100 made to the parties. Address:

http://www.electionsontario.on.ca/en/finances_returns_en.shtml?nocache=true

²⁶ Robert MacDermid, *Funding the Common Sense Revolutionaries: Contributions to the Progressive Conservative Party of Ontario, 1995-97* (Toronto: York U P, 1999) 5.

²⁷ Government of Ontario, *Lobbyists Registration Office of Ontario Annual Report* (Toronto: Government of Ontario, 2005) 1.

recognized as lobbying, but also others that have little to do with this activity.”²⁸ Although none of the government relations interviewees complained that the definition of lobbying in Ontario was too broad, some did mention registrants’ submissions to the registry being too vague.

The definition of lobbying in Ontario varies from the federal legislation’s specifications somewhat. Many cite the significant amendments to the federal law in 1996 and interpret the original legislation as being more specific, and as a result more narrow, in its outlining of activities considered to be lobbying. In Ontario, the definition of activities is broader. It includes any attempts to influence legislative proposals, bills or resolutions; the making or amendment of regulations; the making, amendment or termination of government programs; the transfer of Crown operations to a private interest; the privatization of government goods or services; and the awarding of government grants, contributions or benefits.²⁹ Nonetheless, the *Lobbyist Registration Act* is clear that if a citizen is asked or compelled to make an oral or written submission for a public proceeding on the subject of a legislation (at a committee hearing), they are not acting as a lobbyist and are not subject to this Act.

Identical to its federal forbearer, the Ontario *Lobbyists Registry Act* differentiates between consultant lobbyists and in-house lobbyists. The in-house lobbyist classification has two variations; lobbyists acting for persons, business corporations, and partnerships; and lobbyists acting for organizations (including business, trade, industry, professional or voluntary, trade unions, chambers of commerce, associations, charities, coalitions, interest groups, other governments, non-profit organizations.) The division of rules and regulations according to the two breeds of this profession has been criticized by some as a weakness of the Act and unfair. Montpetit divides the pool of interest groups and lobbyists along different lines, into four categories. His definition of lobbying, which attempts to end the misconception that every interest group’s interaction with the government regarding public policy issues is, by default, ‘lobbying,’ highlights the barely negligible differences between consultant and in-house lobbyists.³⁰

The main distinguishing feature of lobbying, which sets it apart from advocacy work and social cause awareness, is its specific demands and specific goals. Numerous public information campaigns are launched each year. Undoubtedly, these media blitzes inspire constituents to write letters, radio stations to devote airtime and newspapers to publish stories. However, because there is no direct contact with a public office holder, the advocacy work of many interest groups, which intends to inform the general public, cannot be labeled as lobbying.

Interest groups are invaluable to provincial and federal governments for their expertise, research, clients and data. Their informed opinions are crucial to policy development and

²⁸ Nikol James Schultz, *Lobbyists Registration Act: Into the Labyrinth of Government* (Don Mills: CCH Canadian, 1991) 15.

²⁹ Government of Ontario, *Lobbyists Registration Office of Ontario Annual Report* (Toronto: Government of Ontario, 2005) Section 1(1).

³⁰ Montpetit. 92.

program evaluation. Often an accurate report produced by an interest group on the subject of their members or clients can save political staff and bureaucratic Ministry staff weeks of work researching and gathering data, which is often costly to amass or impossible to access.

Consultant lobbyists are distinguishable from in-house lobbyists by their employer. Instead of working on behalf of their employer, consultant lobbyists work independently or through a firm on various short-term and long-term contracts. Often, for policy pursuits that require months of preparation and numerous requests, meetings, material, companies with ‘government relations’ staff members will add contract work from consultant lobbyists to improve their chance of success. According to one relatively new in-house lobbyist, “These guys are invaluable, their background and contacts. I have no illusions that we could get a meeting (with a Minister) otherwise.”³¹ The work of a consultant lobbyist varies; from arranging meetings with clients, public office holders, bureaucrats and other government staff to communicating directly with a member of parliament to influence the awarding of a government contract.

Consultant lobbyists are employed by various business, trade, industry, professional and voluntary organizations, trade unions, labour organizations, chambers of commerce and boards of trade, coalitions and interest groups, and other provincial and state governments that have a regular lobbying professional on the payroll, but are in need of important contact information to request a meeting, and an air of legitimacy to ensure that the meeting request is fulfilled.

In the eyes of the law, consultant lobbyists are subjected to more stringent regulations for filing returns. After ten days of agreeing to lobby on behalf of a contractor, the consultant is required by law to file a return with the Ontario registrar.³² Although any competent consultant will arrange meeting with many different politicians, staff and bureaucrats, in their aim to affect public policy change, they are only required to file one return if they can provide all of the future meetings’ details.³³

V - The Impact of the Lobbyist Registration Act

The (Professional) Use of the Lobbyist Registration Act

All consultant lobbyists meeting with the government must submit a form to the Lobbyists Registrar as well as in-house staff that spend twenty-percent of their work time meeting at with the government. Many in-house staff members were upfront in admitting that they spend far less than this minimum amount of time in meetings at Queen’s Park. “I know for a fact that I don’t meet the threshold. But I don’t want somebody to stand up in the house and say that I had a meeting with a member and that we’re not registered. It’s just not worth it. For sure I don’t spend four or five days a month in meetings at

³¹ Anonymous, In-House Lobbyist, Personal Interview, 21 Apr. 2006.

³² Government of Ontario, *Lobbyists Registration Act*, (Toronto: Government of Ontario, 2005): s. 4 (1).

³³ *Ibid.* s. 4 (2).

Queen's Park, but whatever. It was painless."³⁴ Another in-house consultant added up his actual 'official' lobbying time: "In the past five months I met about thirty MPPs, let's say that's forty-five minutes each – I'm nowhere close of being 'required' to register. I just thought it was a safe thing to do."³⁵

"Maybe I spend twenty-percent of my work in actual meetings, if that. The real work is meeting and greeting, fundraisers, events, you know." They continued: "In this end, a meeting might be a formal 'ask', but it's more valuable for me to be the face of (employer) and stay fresh in their (politicians) minds by always showing up at these things...Yeah, it's a social circuit to a certain extent, but it's work, too. And *that's* probably way more than twenty percent of my work."³⁶

The most relevant service provided by the Act is its online database. The database is updated daily and available freely to both registered lobbyists and the general public, and can be searched by registered lobbyist's name, company, and issue. Most lobbyists were positive about the registration system, describing it as straightforward and quick. Some were unimpressed with the search functions, organization and described the site as being difficult to navigate. "When I first had to register us in the system, the first thing I did was look up (federal version of provincial association) in the system and print it out. I learned from how much they disclosed."

In international studies of lobbying, Canada's online registry system has been highlighted as an exceptional case with an unintended main use. Because the database is a hub of up-to-date professional information, it is most useful to, and logically most used by, lobbyists themselves.³⁷ However, not all interviewees frequented the site, "After I did the sign-up stuff, I had no use for it anymore. At first I thought 'Oh, this is neat, there's so-and-so working wherever.' But now, I just don't log in anymore. I know where everybody's working from running into them at events."³⁸

Monitoring competitors' activities, seeking potential clients, and curiously tracking down former colleagues were all actions of both in-house and consultant lobbyists. "I monitor the work of the (federal version of provincial association) now and then. Although we do collaborate on different issues, we aren't always on the same page, and disagree. I like to check up on their meetings and review the Ministries they are meeting with. In a way, we're both partners and competitors for the Ministries' attention."³⁹

Related to the public access of the database and its limited searchers, some consultant lobbyists described the importance of building their presence online with a growing list of clients. Regardless of whether they were actively lobbying the government at the time

³⁴ Anonymous, In-House Lobbyist, Personal Interview, 3 May 2006.

³⁵ Anonymous, In-House Lobbyist, Personal Interview, 21 Apr. 2006.

³⁶ Ibid.

³⁷ Justin Greenwood and Clive S. Thomas, "Introduction: Regulating Lobbying in the Western World," *Parliamentary Affairs* 51.4 (1998): 490.

³⁸ Anonymous, Consultant Lobbyist, Personal Interview, 21 Apr. 2006.

³⁹ Anonymous, In-House Lobbyist, Personal Interview, 21 Apr. 2006.

of submitting information, many consultant lobbyists are eager to build their profile and enjoy the opportunity to share a new client with the website's visitors.

Lobbyist Registrar Lynn Morrison confirmed that many registrants are more interested in showcasing their business-building triumphs than honouring transparency. "Some take this registration as a chance to advertise. There's a hundred word description of the organization to fill in, you should see some of them; they go way overboard. I'm not going to stop them from bragging about their business."

The Limits to the Lobbyist Act

The Lobbyists Registrar evaluated the capabilities and impact of the act quite similarly to the lobbyists themselves. She admitted that "We're not police officers here... You can't legislate morality and hand down a list of 'thou shalt nots'... We need to give people the power to interpret the rules. We serve an administrative function, we review registrations."⁴⁰

When asked if there were flagrant abuses of the system with overly vague entries, she emphasized that if there are unclear entries that "the regular Joe" would not understand, she was comfortable and experienced in contacting the applicant and requesting a more focused entry, "(we are)...not overwhelmed with data or entries, if they list all 'government ministries' than I think of it more as laziness than anything. If they have a narrow issue, than I will follow-up with them and see if they can be more specific. But some of them have as their plan to sell it to all of cabinet, and they can list all those Ministries."⁴¹ Said one consultant lobbyist coyly; "Disclosure means different things to different people."⁴²

Despite Morrison's faith in the reporting of most lobbyists, some consultant lobbyists admitted to using their online filing to deflect questions about their work at Queen's Park. By referring a question from a member of the press to the lobbyist's record in the registry, it can be implied that the information therein was all that a lobbyist *could* provide to the public. This tactic is a cunning misrepresentation of the Act's scope and "sets the bar very low."⁴³ Defending this approach, an interviewee questions, "Is total transparency valid to pursue – and can registering cut out dishonest people? You can hide behind the minimum requirements of filing and end up avoiding disclosing the important details."⁴⁴

While all of the lobbyists interviewed for this study were registered at the time of the interview, there were some grumblings regarding professionals that were currently active and had let their registration lapse.⁴⁵ Morrison confirmed that many had gone beyond

⁴⁰ Lynn Morrison, Lobbyist Registrar of Ontario, Personal Interview, 4 May 2006.

⁴¹ Ibid.

⁴² Anonymous, Consultant Lobbyist, Personal Interview, 3 May 2006.

⁴³ Anonymous, Consultant Lobbyist, Personal Interview, 21 Apr. 2006.

⁴⁴ Ibid.

⁴⁵ Anonymous, Consultant Lobbyist, Personal Interview, 3 May 2006.

grumbling and contacted her office, “People will call here and suggest that we request a renewal from a certain lobbyist that they are convinced is breaching the Act...Sometimes they (the unregistered lobbyist) don’t, or they don’t think, that they fit the twenty per cent threshold, or they’re unpaid, or they may admit that they were in the wrong...”⁴⁶

Although calls made to the Registrar’s office are taken seriously, they are not an opportunity to immediately reprimand a lobbyist acting in contravention to the Act. “We have a courtesy follow-up system. Give people the benefit of the doubt. If there are delinquent and haven’t renewed after three notices and a phone call, they can be terminated. But I’m not going to call the police. It’s not usually deliberate (the lapses).”

None of the interviewees suggested that they had called the Registrar to report a competitor’s behaviour; some suggested that there would be no consequence if they had. All were unsurprised that there were no fines sent from the office of the Lobbyist Registrar. “Does the federal gun registry stop gun crime? No. Does this registry stop bad things from happening? Of course not.”⁴⁷

Few calls to the Registrar’s office are from MPPs’ offices either, which is consistent with lobbyists’ belief that MPPs’ staff members are not researching registrations before their member’s meetings. “Some of the Ministries are quite active and check if the person they’re meeting is registered, or they’ll just call here – but overall there aren’t that many calls by the government.”⁴⁸

Another frequent question and complaint made by in-house and consultant lobbyists is the presence of legal council at Queen’s Park. Law professionals can use their lawyer-client privilege to argue that they do not have to register. “There are many complaints about legal council. It’s a very fine line. Many lawyers know about the Act, and they do register...They can call a Ministry to ask about the interpretation of legislation, but once they offer an opinion on it, that could be considered lobbying.”⁴⁹

None of the lobbyists interviewed in this study had received a phone call to clarify their registration information or request a renewal. Interestingly, the information available to the public online had not resulted in any electronic or telephone contact from a member of the general public, a competing interest, or a member of the legislature, either.

Most interviewees downplayed the ‘official’ side of lobbying and preferred to speak to their personal and professional relationships fostered with MPPs and staff members. “These meetings are when you plant the seed. You hope that they walk away with an understanding of what you want...You want to keep the lines of communication open though, you need to keep up your profile outside of their office.”

⁴⁶ Morrison, 2006.

⁴⁷ Anonymous, Consultant Lobbyist, Personal Interview, 21 Apr. 2006.

⁴⁸ Morrison, 2006.

⁴⁹ Morrison, 2006.

Many GR representatives and consultant lobbyists are former staffers themselves, and this provides an invaluable link to Queen's Park, as well as knowledge of the capabilities of an MPP. "(As a former staffer) you have a rapport with the member's staff whether you worked with them before or not. It's like going to the same school or something. You both know what goes over well with the Members. You know how to behave and what attitude to take....If you're frank with the staffers, they appreciate that and they try to help you out."⁵⁰

Some continued their relationships with current or former staff and members at Queen's Park, finding that ex-MPPs were equally important, but not covered by the Act. "I can pick up the phone and talk to a former cabinet minister than can actually get things done. Is that lobbying in the law? Not really. The most important stuff can't be captured in reporting. Some of the most subtle comments are more powerful than a meeting and a pitch."⁵¹

Potential Changes to Ontario's Lobbyist Registration System

When asked if their behaviour would change dramatically if a more stringent system were to be implemented in Ontario, many interviewees emphasised that this is an unlikely occurrence. "There is no public outcry to make this legislation more rigorous. We don't have our version of a Dingwall here. And until that happens, I doubt anybody will care."⁵²

Over half of the interviewees believed that the registry database would be overwhelmed with information, thereby rendering it irrelevant, if stricter reporting requirements and longer post-governmental work time periods were enforced. "If I had to put all the (meeting place name, board event) things online, that'd be a headache. And I don't think that it's realistic to expect people to comply with a more strict system. This Ottawa stuff, including senior bureaucrats, having every meeting tracked – that's a lot of extra work. There's gonna be a backlash."⁵³ Conversely, Morrison of the Registrar's office was quite sure that these changes would arrive in Ontario. She echoed recent editorial's recruiting concerns regarding future governmental staff⁵⁴ and reaffirmed the administrative and morale issues presented by the lobbyists.

Although some minor changes in behaviour has occurred within the circle of Ontario lobbyists, these changes relate only to the completion and updating of a record. Lobbyists working before the Act's implementation in 1999 were unequivocal that their overall relationship with government officials had not changed.

⁵⁰ Anonymous, In-house Lobbyist, Personal Interview, 21 Apr. 2006.

⁵¹ Anonymous, Consultant Lobbyist, Personal Interview, 21 Apr. 2006.

⁵² Anonymous, In-house Lobbyist, Personal Interview, 3 May 2006.

⁵³ Anonymous, In-house Lobbyist, Personal Interview, 21 Apr. 2006.

⁵⁴ "...it is difficult even now to find and encourage intelligent young people to participate in the political process by working with or for politicians...will make it difficult, if not impossible, to obtain vigorous and intelligent political staff." From John Crosbie, "Harper's Accountability Act Goes Too Far," *London Free Press*, (London) 1 May 2006, On-line ed.: A11

Additionally, lobbyists specifically mentioned that the will of the Premier overshadows any influence of a government MPP. Confirming Donald Savoie's study, lobbyists did not overestimate the capability of a minister to leverage their position to affect significant policy change.⁵⁵ "Some of the clients are really paranoid. They think that its all a conspiracy theory why things aren't going they way they want them to. It's my job to calm them down and keep trying with the Minister. Most members are pretty honest about what they can do and, of course, there's 'political reasons' that go into every decision."⁵⁶

Many reaffirmed the Montpetit thesis that the dominance of the executive branch removes any motivation to attempt to persuade an MPP in an unethical manner. A consultant lobbyist who deals primarily with clients that are relatively new to government relations described how he explicitly explains the hierarchy of power at Queen's Park: "...before we do anything, I say 'The easiest route to get what you want is to get the Premier on board.' I have to lower their expectations and explain that no matter how many yeses we get from MPPs and even Ministers, if he (the Premier) doesn't like it, it'll probably get scrapped."⁵⁷

Few lobbyists were eager to suggest any additional responsibilities or changes to the office of the Lobbyists Registrar. Some offered minimal changes to the layout of the website, and most complaints were reserved for individual professionals perceived to be working in contravention to the Act. Surprisingly, the most interesting suggestion came from the Registrar herself, noticing that many nonprofit organizations and smaller groups contract consultant lobbyists to work on their behalf, often to secure government funds. This cyclical nature of government funding, receiving money for a yearly budget that has government relations fees as a line-item seems counter-intuitive. Morrison suggests instead, "...we need to make it easier for some of these smaller organizations to get what they need to begin with – the middleman in many cases is the government... An intake officer could help with funding and applications..."⁵⁸

VI - Conclusion

After examining the regulations and application of the Ontario *Lobbyists Registration Act*, it is clear that the Lobbyist Registry is neither an insignificant routine for opportunistic lobbyists, nor is it a guarantee of transparency in public office holders' decisions. Overall, the responses of the lobbyists and the Registrar dispel the policy-learning hypothesis and reaffirm the theory of Montpetit; Canada's unique Westminster system, with its strong executive branch and interest group participation renders the registry model at a disadvantage to prevent unethical activities.

⁵⁵ See Donald J. Savoie, *Governing from the Centre: The Concentration of Political Power in Canada* (Toronto: U of Toronto P, 1999)

⁵⁶ Anonymous, In-House Lobbyist, Personal Interview, 21 Apr. 2006.

⁵⁷ Anonymous, Consultant Lobbyist, Personal Interview, 3 May 2006.

⁵⁸ Morrison, 2006.

The question remains whether the Act will evolve along with its federal counterpart. Federally, the perception of ‘sleaze’ and the need to rescue the public office from unrestricted lobbying won the Mulroney Tories the 1985 election. Today, the new Conservative party seeks to broaden the definition of lobbying further and restrict access of former government staffers to Parliament Hill to five years.⁵⁹ “It’s just a matter of time until we change to the federal system,” bets Morrison from the Registry Office.⁶⁰

Almost ten years after the registering lobbyists began in Ottawa, the perception of predominant ‘sleaze’ in government relations persists among some media outlets and activists. According to Duff Conacher of Democracy Watch, “Because politicians and bureaucrats wrote the act, they acted in their own self-interest and did not require themselves to disclose the identity of everyone who lobbies them – which would have been a much more effective system.”⁶¹ He states that Quebec is the only province with ethics guidelines to accompany their registry.

However, the Public Affairs Association of Canada’s Ethics guidelines are widely accepted and considered a reasonable self-regulating standard. When asked if the Lobbyists Registration Office would implement a set of provincial ethics guidelines, Morrison said, “...PAAC has already laid that out, we don’t need another layer of government duplication.”

Usually when an electorate or opposition party urges for reform to lobbying regulations, it is prompted by other unethical activities, such as a lack of overall transparency and the subsequent disenchantment of voters.⁶² Although Ontario’s registration system cannot act as a fail-safe against unethical behaviour, when compared to other jurisdictions, its universal access and daily updates are impressive.

Unlike its neighbour to the South, Ontario does not have over one hundred years experience in regulating interest groups’ lobbying. Fortunately, the Ontario government has not completely abdicated any responsibility for monitoring lobbying, as did the Australian government, who eventually gave up in frustration. Conversely, the EU strictly restricts access to legislators’ buildings to lobbyists who have not registered with the EU lobbyist database.⁶³ The most unexpected impact of the Ontario Registry’s online database is its self-promotional and self-referential use by lobbyists themselves. Overwhelmingly, lobbyists are using the system, checking the consistently updated information that traces competitors’ clients and contacts.

⁵⁹ John Crosbie, “Harper’s Accountability Act Goes Too Far,” *London Free Press*, (London) 1 May 2006, On-line ed.: A11

⁶⁰ Morrison, 2006.

⁶¹ Duff Conacher, “Too close for comfort: Weak lobbying regulations allow special interest to infiltrate our governments, says democracy watchdog Duff Conacher,” *Globe and Mail* (Toronto) 12 Oct. 2005, Metro ed.: A23.

⁶² Justin Greenwood and Clive S. Thomas. “Introduction: Regulating Lobbying in the Western World,” *Parliamentary Affairs* 51.4 (1998): 492.

⁶³ Ibid.

In conclusion, Ontario's provincial registry is more the product of a government responding to the pressures of federal politics, public opinion and media scrutiny than a move towards a more transparent workplace. Although it can be criticized for not playing a more active role in monitoring lobbying activity, with the integrated role of interest groups in Ontario, it is hard to disentangle the vital role in sending feedback to civil servants and politicians.⁶⁴

⁶⁴ See Ian Urquhart, "Lobby roll welcome, if overdue," *Toronto Star* (Toronto) 6 Oct. 1998, Metro ed.: A19.

Bibliography

Anonymous, Professional In-House Lobbyists, Personal Interviews (Three different interviewees representing different sectors), 21st Apr. 2006, 3rd May 2006.

Anonymous, Professional Consultant Lobbyists (Three different interviewees representing different sectors), Personal Interviews, 21st Apr. 2006, 25th Apr. 2006, 4th May 2006.

Amara, Nabil, Rejan Landry and Moktar Lamari. "Les determinants de l'effort de lobbying des associations au Canada." *Canadian Journal of Political Science* 32.3 (1999): 471-497.

Bliss, Michael. *Right Honourable Men: The descent of Canadian politics from Macdonald to Mulroney*. HarperPerennial ed. Toronto: HarperCollins, 1995.

Conacher, Duff. "Too close for comfort: Weak lobbying regulations allow special interest to infiltrate our governments, says democracy watchdog Duff Conacher." *Globe and Mail* (Toronto) 12 Oct. 2005, Metro ed.: A23.

Crosbie, John. "Harper's Accountability Act Goes Too Far." *London Free Press* (London) 1 May 2006, On-line ed.: A11.

Government of Ontario. *Lobbyists Registration Office of Ontario Annual Report*. Toronto: Government of Ontario, 2005.

--- *Lobbyist Registration Office of Ontario Website*. Toronto: Government of Ontario, 2005. Address: <http://lobbyist.oico.on.ca/>

---. *A Guide to the Lobbyists Registration Act*. Toronto: Government of Ontario, 1999.

---. *Lobbyists Registration Act*. Toronto: Government of Ontario, 1999.

Greenwood, Justin and Clive S. Thomas. "Introduction: Regulating Lobbying in the Western World." *Parliamentary Affairs* 51.4 (1998): 487-499.

Howlett, Karen. "Opposition cries foul over lobbying post." *Globe and Mail* (Toronto) 8 Dec. 2005, Metro ed.: A18.

John, Steve. *The Persuaders: When Lobbyists Matter*. New York: Palgrave Macmillan, 2002.

Kemp, René and Rifka Weehuizen. *Policy Learning: What does it mean and how can we study it?* Oslo: NIFU STEP, 2005.

Leech, B. and F. Baumgartner. *Lobbying Friends and Foes in Washington*. City: Publisher, 1998.

MacDermid, Robert. *Funding the Common Sense Revolutionaries: Contributions to the Progressive Conservative Party of Ontario, 1995-97*. Toronto: York UP, 1999.

Mackie, Richard. "Ontario lobbyist-registry plan too late in coming, critics say." *Globe and Mail* (Toronto) 7 Oct. 1998, Metro ed.: A9.

---. "Lobbyists would be required to register under Ontario bill." *Globe and Mail* (Toronto) 17 Sept. 1998, National ed.: A9.

---. "Tories nod to demands for lobbyist registry Liberals, NDP want disclosure of consultants, party insiders seeking to influence government policy." *Globe and Mail* (Toronto) 11 Jun. 1998, Metro ed.: A13.

---. "Lobbying federal and provincial government getting tougher: Survey finds recent bureaucratic downsizing and privatizing moves have made connecting right message with the right ear a daunting task." *Globe and Mail* (Toronto) 18 Jul. 1998, Metro ed.: A7.

---. "Lobbyists in position for 2003." *Toronto Star* (Toronto) 4 Aug. 2001. Metro ed.: H2.

Montpetit, Eric. "Pour en finir avec le lobbying: Comment les institutions Canadiennes influencent l'action des groupes d'interets." *Politique et Societes* 21.3 (2002): 91-112.

Morrison, Lynn. *Personal Interview*, 4 May. 2006.

Pross, A.P. "Parliamentary Influence and the Diffusion of Power." *Canadian Journal of Political Science* 18.2 (1985): 235-266.

Savoie, Donald J. *Governing from the Centre: The Concentration of Political Power in Canada*. Toronto: U of Toronto P, 1999.

Schultz, Nikol James. *Lobbyists Registration Act: Into the Labyrinth of Government*. Don Mills: CCH Canadian, 1991.

Singh, T. Sher. "Crackdown needed on lobbyists." *Toronto Star* (Toronto) 18 Dec. 1995, Metro ed.: A17.

Stark, Andrew. "Political-Discourse" Analysis and the Debate over Canada's lobbying Legislation." *Canadian Journal of Political Science* 25.3 (1992): 513-534.

Urquhart, Ian. "Accountants duke it out in campaign." *Toronto Star* (Toronto) 7 Dec. 2002, Metro ed.: H2.

---. "Lobby roll welcome, if overdue." *Toronto Star* (Toronto) 6 Oct. 1998, Metro ed.: A19.

Watts, Ronald L. "Federalism, Federal political systems, and Federations." *Annual Review of Political Science* (1998):117-37.