

The Sunshine Reforms and the Rise of Lobbying¹

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July 11, 2017

Paper Abstract

The literature on special interests and pressure groups provides several explanations for the dramatic growth and transformation of lobbying that occurred in the 1970s: e.g., a business backlash against intrusive consumer and environmental legislation, proliferation of PACs, advances in communication technologies that made it possible to launch massive grassroots campaigns, Congressional decentralization, and the decline of the local patronage-based party system. Another factor that is rarely discussed is the increase in Congressional transparency in the 1970s, which gave pressure groups dramatically more leverage over the Congressional decision-making. This paper tells the story of the rise of lobbying in the 1970s through the lens of transparency reform.

¹ This paper is an early draft of a larger project and intended to support our claim that legislative accountability overwhelmingly benefits those in power. We have benefited from the thoughtful reflections of several colleagues, including Jenny Mansbridge, Jon Elster, Walter Oleszek, Bill Bianco and Scott Adler. We welcome – indeed we encourage – comments and suggestions.

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*Transparency is a useful tool for lobbyists – it enables them to keep better track of their competitors, and to demand **equal access** for themselves.*

David Frum 2014 – The Transparency Trap

Some former sticklers for sunshine agreed with members who said bills were better when drafted away from lobbyists' watchful eyes. Conversely, as some of these lobbyists sensed a slippage of their influence over the bill-writing process, they became the 1980s' proponents of sunshine in Congress.

Jaqueline Calmes 1987 – CQ Fading Sunshine Reforms

Two decades later, after the advent of sunshine laws, we know better. Open markup sessions often give organized interests a powerful advantage over inattentive citizens, for they can monitor exactly who is doing what to benefit and to hurt them.

Douglas Arnold 1990 – The Logic of Congressional Action

Introduction

Only recently have scholars begun seriously studying the effects of transparency and “sunshine” rules on legislatures (Mansbridge 2010; Woodruff 2010; Elster 2013; Binder and Lee 2013; Bass et al. 2014; Schudson 2015; Elster 2015). The deep neglect of this subject can be attributed to a nearly pervasive cultural assumption that transparency in government is beneficial. Scholars as well as laymen have shared this assumption, and many political scientists also have a vested interest in transparency, as the availability of large public databases of recorded votes, etc., has opened up new modes of inquiry.

The pervasive cultural assumption that transparency is beneficial, or even a citizen’s right (the “right to know”), has its own history. Schudson (2015) has shown that it is a fairly recent phenomenon. It emerged in the post-WWII era in the U.S. and became pervasive in the 1970s. From the U.S. the norm of transparency has since been exported to many corners of the globe.

The 1970s was a decade of momentous changes in U.S. political life. It was, among other things, the decade when federal lobbying transformed from the sleepy and parochial business described in classic studies such as BPD (1963) into the nexus of power and wealth that it is today.

A strong prima facie case can be made that the transformation of the lobbying industry in the 1970s should have owed something to the “sunshine reforms” that opened up Congressional and executive branch activity to public scrutiny during the same time period. The discourse around the sunshine reforms focused on “public” scrutiny. It was argued that transparency would enable ordinary citizens to keep tabs on their representatives and hold them accountable to their word and to common standards of good government. But the logic of accountability applies just as well to lobbyists as to constituents. Government representatives who are being closely watched by special interests will find themselves under pressure to please those interests. And from the beginning it has been primarily representatives of special interests, not citizens, who sat in on open Congressional committee meetings and submitted FOIA requests (e.g., Pozen 2016). Thus, under conditions of expanded transparency in the 1970s, lobbyists ought to have become more effective.

Yet, as will be discussed below, the literature on lobbying, special interests, and “pressure groups” has almost completely neglected the role of the sunshine reforms in discussing the transformation of the industry in the 1970s.

This paper remedies that omission. First, we review and evaluate the explanations conventionally given for the transformation of the lobbying industry. Second, we retell the story of the transformation of federal lobbying as intertwined with the revolution in Congressional transparency. Finally, we offer some thoughts on how the connection between transparency and lobbying could have been so long overlooked.