

Testimony of
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Hearings on “Lobbying Reform: Accountability through Transparency”
Committee on Rules
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Mr. Chairman and other members of the Committee, thank you for inviting me to share my views on lobbying reform with you this morning. The revelations from the prosecution and guilty pleas of lobbyist Jack Abramoff and Rep. Randy “Duke” Cunningham have understandably brought to public attention the laws, congressional rules, and enforcement mechanisms regulating the interactions between lobbyists and Members of Congress and their staff. Congress is under enormous pressure to act quickly to deal with the perceived inadequacy of that regulatory system. The good news is that these scandals could provide the boost required to enact long-needed changes in that system. The bad news is that whenever Congress acts quickly to deal with a politically embarrassing situation and without sufficient deliberation, it runs the risk of producing a flawed product, one that fails to deal with the problems identified and possibly even does more harm than good. I hope you and your colleagues are able to take the time necessary to fully plumb the issues at hand and to enact reforms that offer more than a cosmetic response to them.

* The views expressed in this testimony are solely my own and should not be ascribed to the trustees, officers, or other staff members of the Brookings Institution. A brief resume is attached. I have not received any Federal grants or contracts (including any subgrants and subcontracts), nor has my employer, the Brookings Institution, since October 1, 2003 related to the subject on which I have been invited to testify.

Lobbying has changed dramatically in recent years. The number of registered lobbyists has tripled. Budgets for Washington representation and grassroots lobbying have risen exponentially. Retiring or defeated Members of Congress are now more likely to stay in Washington and join their ranks. Congressional staff routinely move from Capitol Hill to lobbying shops around town. Some Members of Congress have been actively involved in placing their staff and those of their colleagues in key positions within the lobbying community. Many Members of Congress enlist lobbyists to help raise campaign funds for their re-election campaigns, leadership PACs, endangered colleagues, and political party committees. The escalating cost of campaigns has put intense pressure on Members of Congress, even those with safe seats, and lobbyists to raise and contribute substantial sums of money. At the same time, more opportunities exist for members of Congress and their leaders to deliver benefits to lobbyists and their clients. These include earmarks, in appropriations and authorization bills; invitations to participate in informal mark-up sessions in party task forces, standing committees, and conference committees; amendments added late in the legislative process under the veil of secrecy; and letters and calls to executive branch officials. These conditions foster practices that risk conflicts of interest and unethical or illegal behavior.

The Abramoff case is appalling in many dimensions, not least the brazenness and financial ambitions of the man and his close associates. From the perspective of those looking for appropriate reforms, I would point to his cultivation and recruitment for well-paid lobbying positions of staff in key congressional offices; the market among some members and staff for privately-financed, first-class travel with tenuous connections to official responsibilities or public policy education; the reality that the abuses of Abramoff

(and Cunningham) were initially detected by journalists in spite of, not thanks to the official reporting and disclosure systems; and the fact some private groups and individuals apparently believe that hiring well-connected lobbyists and showering campaign and other funds on members of Congress as directed by those lobbyists is essential to protecting or advancing their interests. These lessons suggest dealing more effectively with the revolving door (for Members and staff); ensuring that privately-financed travel is legitimate and consistent with chamber rules and guidelines; setting up more effective reporting and disclosure systems; and reducing the opportunities available to members to deliver (or appear to deliver) special benefits for narrow interests.

Transparency is key to lobbying reform, in my view more important than a ban or further restrictions on gifts and travel. Electronic filing and Internet posting of more frequent (quarterly) and detailed (with information on member and staff contacts) lobbying reports would be a good first step, but only a first step. Members and staff should routinely report in the same fashion on privately-financed travel, gifts, and meals. More luminous transparency will increase Members' incentives to heed the spirit as well as the letter of ethics' rules. They should also be required to obtain from the trip's sponsor a certification that the trip is not funded, directly or indirectly, by a lobbyist or foreign agent.

But to be effective, that transparency must extend to the legislative process as well. Earmarks in appropriations and authorizing bills should be clearly listed in the bills along with the Members who proposed them and their public policy purpose. No additions or deletions should be allowed in conference reports after the full conference committee has voted to approve the report in a public session. Conference committee

reports should routinely be made available well in advance of their consideration on the floor, so that Members and the public know what is being voted on. That means no more special rules waiving the layover requirements in House rules (but how can it be enforced?). Procedural means ought to be provided for votes on individual earmarks in conference reports.

Lobbying reform also requires a greatly strengthened enforcement process. The House Ethics Committee has been emasculated. At times it has functioned in the requisite bipartisan fashion but there is no sign of a return to those days. Now the House and Senate need some melding of an Independent Ethics Commission (including former Members) and an Office of Public Integrity to work alongside the standing ethics committees to investigate or dismiss charges of unethical behavior, provide staff continuity for managing a strengthened reporting and disclosure system, advise Members and staff on appropriate behavior, and assist the Commission in its investigations. I believe it is possible for Congress to establish such a new ethics apparatus without shirking its constitutional responsibility to discipline its Members or suffering the horrors of single-minded independent or special counsels. The United Kingdom might well provide the best model.

All professional groups, including lobbyists, can benefit from higher ethical standards and self-regulation. But I think it is a mistake to assume the broader problem is one of their own making. The Congress would be well advised to focus on its own Members and staff, for its leaders to articulate and champion high ethical standards in dealing with lobbyists and to set up educational programs whereby those inside Congress are assisted in meeting those standards, and to establish effective systems of transparency

and enforcement. Lobbyists will respond to the fallout from Abramoff with some form of education and self-regulation. Inquiring minds at the DOG Office of Public Integrity will focus their attention.

Given the relatively narrow focus of this hearing and the nature of the specific questions posed to those of us invited to testify today, I won't burden you with my further thoughts on needed reforms in Congress generally, and the House specifically. They are elaborated in a book Norm Ornstein and I recently completed, which will be published this summer under the title, *The Broken Branch*. Suffice it to say that the issues we are discussing today are integrally connected to the weakening of institutional identity and loyalty among Members of Congress, the decline of deliberation and regular order, and the special problems associated with money and politics. But those are for another discussion.

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Thomas E. Mann is the W. Averell Harriman Chair and Senior Fellow in Governance Studies at The Brookings Institution. Between 1987 and 1999, he was Director of Governmental Studies at Brookings. Before that, Mann was executive director of the American Political Science Association.

Born on September 10, 1944, in Milwaukee, he earned his B.A. in political science at the University of Florida and his M.A. and Ph.D. at the University of Michigan. He first came to Washington in 1969 as a Congressional Fellow in the offices of Senator Philip A. Hart and Representative James G. O'Hara.

Mann has taught at Princeton University, Johns Hopkins University, Georgetown University, the University of Virginia and American University; conducted polls for congressional candidates; worked as a consultant to IBM and the Public Broadcasting Service; chaired the Board of Overseers of the National Election Studies; and served as an expert witness in the constitutional defense of the McCain-Feingold campaign finance law. He lectures frequently in the United States and abroad on American politics and public policy and is also a regular contributor to newspaper stories and television and radio programs on politics and governance.

Mann is a fellow of the American Academy of Arts and Sciences and a member of the Council on Foreign Relations. He is a recipient of the American Political Science Association's Frank J. Goodnow and Charles E. Merriam Awards.

Mann's published works include *Unsafe at Any Margin: Interpreting Congressional Elections*; *Vital Statistics on Congress*; *The New Congress*; *A Question of Balance: The President, the Congress and Foreign Policy*; *Media Polls in American Politics*; *Renewing Congress*; *Congress, the Press, and the Public*; *Intensive Care: How Congress Shapes Health Policy*; *Campaign Finance Reform: A Sourcebook*; *The Permanent Campaign and Its Future*; *Inside the Campaign Finance Battle: Court Testimony on the New Reforms*; *The New Campaign Finance Sourcebook*; and *Party Lines: Competition, Partisanship and Congressional Redistricting*. He has also written numerous scholarly articles and opinion pieces on various aspects of American politics, including elections, political parties, Congress, the presidency and public policymaking.

He is currently working on projects dealing with redistricting, election reform, and party polarization. He and Norman Ornstein have just completed a manuscript on Congress –*The Broken Branch* – which will be published as a trade book by Oxford University Press in the summer of 2006.

Mann resides in Bethesda, Maryland with his wife Sheilah, who is also a political scientist. They have two children, Ted, an art historian at the Guggenheim Museum in New York, and Stephanie, an MBA student in the Kellogg School at Northwestern University.