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Legislation and Administration: Lobbying -- Multi-State Statutory Survey -- Requirements and Procedures for Lobbying Activities

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LEGISLATION AND ADMINISTRATION

LOBBYING—MULTI-STATE STATUTORY SURVEY—REQUIREMENTS AND PROCEDURES FOR LOBBYING ACTIVITIES.

I. Introduction

Lobbying procedures can broadly be described as those "efforts by which various groups or individuals attempt to secure the passage or defeat of legislation." The control of this practice presents a difficult problem to both state and national lawmakers.

Presently, there appears to be a consensus of opinion that legitimate lobbying makes a substantial contribution to our legislative process. But protest is loudly voiced when improper pressures are exerted and corrupt means, such as bribery, are used to influence the passage or defeat of a proposed statute. The aim of lobbying legislation is to eliminate these and other abuses. The regulatory measures, however, are not to be an end in themselves. The ultimate goal sought by such regulation is, in the words of then Senator and now President John F. Kennedy, "sound legislative action by Congress, aided in its deliberations by the arguments, positions and presentations of all segments of our population." In order to attain this end, state and federal legislators must strike the proper balance in the measures they draft. The statute involved must be strict enough to control corrupt practices. And yet, it cannot be too narrow, lest it run the risk of offending the constitutional right of the citizenry to present its views to the legislature. Mr. Justice Jackson alluded to this when he said that the problem for the legislator is "to reach the real evils of lobbying without cutting into the constitutional right of petition."

To date, the federal government and 42 of the states have enacted legislation directed specifically at the control of the "evils" in lobbying. State pronouncement appeared in this area long before Congress saw fit to act. For example, the Georgia Constitution of 1877 declared lobbying to be a crime, and, in 1890, Massachusetts enacted a statute requiring the registration of "legislative agents."

By the year 1944, two years prior to the enactment of the first comprehensive

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1 Kennedy, Congressional Lobbies: A Chronic Problem Re-Examined, 45 Geo. L. J. 535 (1957). The exact definition of what actually constitutes lobbying sometimes creates serious legal problems. The present Federal Act offers no definition of the term. However, it notes in detail the persons the act was intended to cover. 2 U.S.C. § 266 (1946). The constitutionality of § 266 has been attacked on the ground of indefiniteness. But a majority of the Supreme Court, in a 5-3 decision, found that the entire statute met the constitutional requirement of definiteness. United States v. Harriss, 347 U.S. 612 (1954).

The lack of a clear definition of lobbying in the federal statute has also been attacked by an eminent authority in the field. Zeller, The Federal Regulation of Lobbying Act, 42 Am. Pol. Sci. Rev. 239 (1948). Professor Zeller considers this one of the weakest points of the statute.

For a discussion on whether the Federal Act covers direct and indirect lobbying activities, see United States v. Rumely, 345 U.S. 41, 47 (1952). The case is an example of the difficulties inherent in a poor definition of the term "lobbying."


5 The following states do not have legislation specifically directed at lobbying: Delaware, Minnesota, Nevada, New Jersey, New Mexico, Pennsylvania, Washington, and Wyoming. However, as will be seen further on in this review, they all have general legislation which prohibits corrupt acts such as bribing a member of the legislature.

6 GA. CONST. art. I, § 2-205 (1877). However, in 1878-79, the word "lobbying" was defined by the Georgia legislature in a manner which outlawed only corrupt types of lobbying. GA. CODE ANN. § 47-1001 (1953). Both provisions are still law in Georgia. See notes 33 and 34 infra.

federal statute in this field, 35 states had regulated lobbying in some manner. In 1928 and during the mid-1930's, the Federal Congress made several attempts to enact lobbying regulations and, in certain cases, passed such legislation. However, these laws were limited in their scope to several particular pressure groups seeking to lobby. As mentioned, the Federal Regulation of Lobbying Act of 1946 was the first comprehensive federal effort to control lobbyists. Notwithstanding the fact that there has been a great volume of legislation in this area, it is the general opinion of legal scholars and Congressmen that the present lobbying laws, state, as well as federal, are inadequate.

This survey will be limited to an analysis of the lobbying regulations in force in the several states. The primary objective is to provide a guide as to what, if any, initial steps must be taken in each of the 50 states before lobbying can legally be commenced, and to indicate specifically that which is prohibited, as well as the penalties which may be incurred where failure of compliance occurs. It is thereby intended as a practical aid to parties interested in multi-state lobbying activities.

II. "Direct" and "Indirect" Regulation

All of the states have regulations which, directly or indirectly, affect those groups or individuals who attempt to influence legislation. As indicated above, 42 of the states have laws dealing directly with this problem. The remaining eight states have rules dealing with lobbying in an indirect manner. Legislation enacted in the state of Michigan is exemplary of those statutes which deal "directly"

8 Zeller, State Regulation of Legislative Lobbying, in THE BOOK OF THE STATES 161 (1943-44).
9 In 1928, Senator Thaddeus H. Caraway of Arkansas introduced a lobbying measure which only the Senate passed. 69 Cong. Rec. 3931-35 (1928). In 1935, Senator (now Justice) Hugo L. Black of Alabama introduced a lobbying bill which was passed by the Senate, but went no further. 79 Cong. Rec. 8306 (1935). In the second session of the 74th Congress, Representative Howard W. Smith of Virginia introduced a bill which passed only the House. 80 Cong. Rec. 4541 (1936). Both bills were sent to a conference committee, but the House refused to accept the conference compromise and the bills died. 80 Cong. Rec. 9753 (1936).
12 Professor Belle Zeller states the basic complaints to the Federal Act of 1946 and goes on to offer sound recommendations to remedy same. See, Zeller, The Federal Regulation of Lobbying Act, 42 AM. POL. SCI. REV. 239 (1948).
13 Because of the limited scope of this survey, discussion of certain related lobbying points has been virtually omitted. One such matter — the question of whether expenditures for the promotion or defeat of legislation are deductible for income tax purposes — was recently reviewed by the Supreme Court in the case of Cammarano v. United States, 358 U.S. 498 (1959). The Court held that expenditures for publicity aimed at the defeat of an initiative measure were not deductible as ordinary and necessary business expenses. A thorough discussion of this question can be found in 46 VA. L. REV. 112 (1960).
14 These states are:
with the problems involved in lobbying. Michigan requires that lobbyists register with the Secretary of State, perform their tasks on a noncontingent fee basis, and keep detailed financial records. Not all of the states which have regulations directly affecting lobbying go into the detail that the Michigan statute does; however, all of them do explicitly address certain aspects of lobbying. The Minnesota statutes provide an example of an "indirect" prohibition on certain lobbying practices. The Minnesota legislation, while not mentioning lobbying practices specifically, provides a substantial penalty for the use of corrupt means such as bribery to influence legislation. Minnesota, and other jurisdictions classed as "indirect," do not attempt to regulate the general area of lobbying.

The state controls on lobbying can conveniently be placed into two separate categories. First, 23 of the states have legislation and/or constitutional provisions dealing with corrupt lobbying practices only. These laws are limited to defining the prohibited acts and to imposing sanctions for various improper practices. Therefore, within these jurisdictions, there is no registration and, consequently, no need for concern as to what formal steps must be taken with the local authorities before lobbying activities may be undertaken. Twenty-seven of the states can be placed in the second category. These states have statutes which call for the registration of all lobbyists. This type of legislation apparently manifests the supposition that publicity will compel the lobbyist to limit himself to the more desirable types of lobbying. The information gathered through registration also enables legislators to know the identity and the purposes of those who contact them. In these jurisdictions which require registration, there must be compliance with certain initial procedures. The procedures and information requirements that follow will be of a general nature and are included only by way of example, in order to show the most typical requirements. Specific information for any particular state is contained in the chart below.

### III. Sample State Registration Requirements

The first step in the process of registration is to file the requested data with the proper public official. This person is usually the Secretary of State, but in some jurisdictions it is the Attorney General or another designated official. Pursuant to the theory that publicity of his activities will convince the lobbyist to act in a desired fashion, all of the information filed with the state officials is open to public inspection.

The information required to be filed is substantially the same in all states which call for registration. The demands of the California statute serve as an example of what is required. Under that statute, the lobbyist is obliged to file "in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included." Significantly, the proposed legislation which the lobbyist has been hired to support or oppose must also be submitted. In many states, the person required to provide this information is the employer of the lobbying agent. Further under the California law, the lobbying agent must file a written authorization from each of his employers.

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16 See the Oregon statute which makes it a crime for any person to attempt to influence a legislator without first "truly and completely disclosing to the member his interest therein, or that of his principal and his own agency therein, ..." Ore. Rev. Stat. § 162.520 (1953).
18 A breakdown indicating the 23 states which do not require registration procedures and the 27 states which do, can be found in the chart below.
Several of the states place a time limit on the filing of such information, such as the Ohio statute which declares that the registration must be effected within one week of the employment agreement date. Others specify that such registration may be made at any time before the lobbying activities actually begin. The chart below makes note of the time limitations in all of those jurisdictions which have them.

A further concern to the lobbyist in a registration jurisdiction is the filing of a financial statement. Twenty of the states which require registration also require the filing of detailed financial reports. The Ohio statute typifies what these various statutes demand of an itemized financial report. The financial statement of a lobbyist in Ohio must be filed with the Secretary of State within 30 days after the final adjournment of any session of the general assembly. The itemized accounting must show, under oath and in detail, "expenses paid, incurred, or promised, directly or indirectly, in connection with any matter that was pending or that might legally have come before the general assembly or either house thereof . . . with the names of the payees and the amounts paid to each, and specifying the nature of the matter that was pending or that might legally have come before the general assembly . . . . and the interest of the person, firm, or corporation, or association therein." The provision further calls for the disclosure of the amount of value given and the names and addresses of all contributors to the particular activities in question.

These two requirements, namely, those of the initial registration procedure and the filing of a detailed financial report, are the fundamental considerations in those states which make registration compulsory.

IV. Other Relevant Statutory Provisions

Ten of the states requiring registration of lobbyists make a distinction between "legislative counsels" and "legislative agents." The definitions given to these classifications by the Massachusetts statute is typical. "Legislative counsel" is defined as "any person who for compensation appears at any public hearing before any committee of the general court in regard to proposed legislation, and who does no other acts in regard to the same except such things as are necessarily incident to such appearance before such a committee." A "legislative agent" is defined by the statute as "any person who for hire or reward does any act to promote or oppose legislation except to appear at a public hearing before a committee of the general court as legislative counsel." The distinction appears to have little practical significance. The only real difference seems to be the requirement of separate registration on the docket of the designated authority. For example, when one registers in the state of Massachusetts, he must specify to the Sergeants-at-Arms of both legislative houses whether he will act as a legislative counsel or a legislative agent.

Lobbying laws are not all statutory. There are 16 states that have constitutional provisions affecting lobbying. The majority of these provisions simply

22 Connecticut laws provide an example of this procedure. CONN. GEN. STAT. REV. § 2-45 (1958).
23 See chart infra.
24 OHIO REV. CODE ANN. § 101.75 (Page 1953).
25 Ibid.
26 Ibid.
27 These states are: Alaska, Indiana, Kansas, Maine, Maryland, Nebraska, New York, Rhode Island, South Dakota, and Wisconsin.
29 Ibid.
outlaw corrupt practices such as bribery. For instance, the Delaware constitutional provision proclaims, in part, that “Every person who shall give, offer or promise, directly or indirectly, any money . . . to any member of either House of the General Assembly for the purpose of influencing him in the performance of any of his official or public duties shall be deemed guilty of bribery . . .”

As was mentioned previously, the Constitution of Georgia is unique in that it flatly declares lobbying to be a crime. However, the interesting interpretation given to the word “lobbying” by the Georgia lawmakers greatly weakens the impact of this constitutional prohibition. The definition explicitly concerns itself with influence that is not addressed solely to the “judgment” of the legislator or influence that is presented by one who has “misrepresented” his interest in the matter. Thus, “lobbying,” as defined in the Georgia statute, refers to an illegal type of solicitation. By reason of the absolute prohibition against lobbying in the Georgia Constitution the above definition seems to have been necessary. It is submitted that a blanket prohibition against lobbying would violate the First Amendment to the Constitution of the United States and therefore be held invalid.

Alaska and Indiana stand alone in their statutory requirements that lobbyists be compelled to take a loyalty oath before being allowed to present their views to the legislature. The pertinent part of the Alaska statute reads as follows: “Every lobbyist . . . shall take the non-Communist oath required of Territorial employees and a copy of this non-Communist oath shall be filed in the office of the Director of Finance . . . It shall be unlawful for any member of any Communist, Fascist or subversive organization, as classified and listed by the Attorney General of the United States, to promote, advocate or oppose the passage or defeat by the Legislature of any bill, resolution or legislative measure.” The Indiana “loyalty oath” clause is substantially identical to that of Alaska.

Five states require that a specified number of copies of all written statements, arguments, and briefs proffered to members of the General Assembly be filed with the designated state officials. Idaho requires that two copies of these written briefs and related materials be filed with the Secretary of State. Kansas goes somewhat further, in requiring 40 copies of the written arguments to be filed with the

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32 DEL. CONST. art. 2, § 22.
33 GA. CONST. art. I, § 2-205.
34 This definition also serves as an example of the problems that can arise in defining “lobbying.” See also note 1 supra.
35 Ibid.
36 The First Amendment’s guarantee of the right of petition appears to protect lobbying. Professor Corwin contends that lobbying is the most important expression of the right of petition. CORWIN, CONSTITUTION OF THE UNITED STATES OF AMERICA 810 (1953 ed.).
38 IND. ANN. STAT. § 34-301(a) (Supp. 1961).
State Librarian.\textsuperscript{40} The Oklahoma legislature has provided that 20 copies of the briefs must be registered with the Chief Clerk of the House.\textsuperscript{41} In South Dakota, 25 copies must be submitted to the Secretary of State\textsuperscript{42} and, in Wisconsin, three such copies must be filed with the Secretary of State.\textsuperscript{43}

The states of Idaho, Louisiana, Oklahoma, and South Dakota, all have explicit statutory restrictions against “private” lobbying. Private lobbying can be defined as direct, personal influence asserted by the lobbyist on an individual legislator. In Idaho, the lobbyist is not allowed to influence an individual legislator on a person to person basis.\textsuperscript{44} He is only permitted to make his argument before a committee, and only when the committee is in session.\textsuperscript{45} Lobbying, as that word is defined in the statute, is declared illegal in Louisiana.\textsuperscript{46} This definition serves to make all direct and private influencing an unlawful act. However, public activity and public communications with legislators are excluded from the statute’s definition of lobbying and are permissible.\textsuperscript{47} The prohibition against private lobbying in Louisiana is so strictly drafted that not even letters to a legislator may remain private,\textsuperscript{48} provided, of course, the letters are concerned with pending legislation. The Oklahoma statute permits the lobbyist to appear only before a regular committee of the General Assembly and only when such committee is in session.\textsuperscript{49} Though registration as such is not mandatory in Oklahoma, the person seeking to lobby must make a written application, containing essentially the same information as is required under normal registration procedures, to the presiding officer of the House before whose committee he desires to appear. This must be approved by the majority of such House before he is permitted to appear. The practical effect, therefore, is the same as formal registration with a different state functionary.\textsuperscript{50} Direct or private lobbying, as it is defined by the Oklahoma statute, is declared contrary to the “public policy, and against the best interest of the people of the State of Oklahoma. . . .”\textsuperscript{51} In South Dakota, the same limitations exist. The lobbyist in that state is only allowed to argue before committee.\textsuperscript{52}

A failure to comply with the lobbying regulations of a particular state subjects the violator to a variety of penalties. These penalties apply to the employer of the lobbyist as well as to the lobbyist. The sanctions are by no means uniform. For example, a violation of the lobby registration law in South Carolina carries with it a maximum penalty of a $100.00 fine and/or 30 days in jail.\textsuperscript{53} This seems to be the mildest penalty in any of the fifty states. In contrast, a party in violation of the Minnesota provisions subjects himself to a maximum penalty of a $5,000.00 fine and/or 10 years in prison.\textsuperscript{54} In addition to fines and jail sentences, nine states have disbarment provisions, i.e., the violator is denied the right to lobby for a period of three years after his conviction.\textsuperscript{55} An important constitutional question was raised in reference to an identical disbarment provision in the Federal Regulation of Lobbying Act. In United States v. Harriss,\textsuperscript{56} a Federal District

\begin{footnotesize}
\begin{itemize}
  \item[42] S.D. Code § 55.0705 (1939).
  \item[44] Idaho Code Ann. § 18-4707 (1947).
  \item[45] Ibid.
  \item[48] Ibid.
  \item[51] Ibid.
  \item[52] S.D. Code § 55.0705 (1939).
  \item[55] These states are: Alaska, California, Kansas, Maryland, Massachusetts, North Dakota, Rhode Island, South Dakota, and Wisconsin.
\end{itemize}
\end{footnotesize}
Court held that the penalty clause in the Federal Act, which proscribed any person convicted under the act from lobbying for a three-year period, was unconstitutional since it denied the individual of the right to petition Congress. On appeal, the Supreme Court reversed the lower court and held the act constitutional. However, the Court did not consider the constitutionality of the disbarment penalty.

The chart that follows below is designed to give a quick guide to the essential procedures, limitations, and prohibitions involved in each of the fifty states. The headings on the chart can be briefly explained: (1) “Limited to Corrupt Lobbying” refers to those states which prohibit illegal practices such as bribery, but do not attempt to control lobbying in general. (2) “Registration States; and, Place of Registration” refers to those jurisdictions which require registration and attempt to control lobbying in general. (3) “Who must Register” refers to the exact party required to register. The word “both” on the chart is intended to include the employer and the lobbyist. (4) “Registration Time Limit” refers to the time limit in which registration must take place. (5) “Financial Report Required” refers to those states which require a financial report to be filed subsequent to the lobbying activities. (6) “Contingent Fees Illegal” refers to those states where lobbyists are prohibited from working for a fee contingent on the success of their lobbying efforts. An X on the chart indicates that the referred-to heading is applicable in that state.

### STATE LOBBYING LEGISLATION

<table>
<thead>
<tr>
<th>State</th>
<th>Limited to Corrupt Lobbying</th>
<th>Registration States; and, Place of Registration</th>
<th>Who Must Register</th>
<th>Registration Time Limit</th>
<th>Financial Report Required</th>
<th>Contingent Fees Illegal</th>
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58 Id. at 627. In its opinion the Court considered the question of whether Congress, in light of the freedom of speech and petition clauses in the First Amendment, could require the disclosure of lobbying activities. Id. at 626 the Court answered this question in the affirmative and wrote as follows: “The hazard of such restraint is too remote to require striking down a statute which on its face is otherwise plainly within the area of congressional power and is designed to safeguard a vital national interest.”

59 Those states whose laws are limited to corrupt lobbying actions are: ALA. CODE tit. 14, §§ 352, 353 (1940); ARIZ. REV. STAT. ANN. §§ 13-285, 13-286 and §§ 41-1222 to 41-1223; AK. CONST. art. 5, § 35; Colo. REV. STAT. ANN. §§ 40-7-5 to 40-7-7 (1953); DEL. CONST. art. 2, § 22; HAWAI'I REV. LAWS 263-1, 2 (1953); IDAHO CODE ANN. §§ 18-4703 to 18-4707 (1947); IOWA CODE ANN. § 2.24(2) (1946); LA. REV. STAT. §§ 49:71-49:76 and §§ 24:51-24:55 (1950); MINN. STAT. ANN. §§ 613.02-613.07 (1945); MO. ANN. STAT. § 21.420 (Supp. 1961); MONT. REV. CODES ANN. §§ 94-2913 to 94-2919 (1947); NEV. REV. STAT. Vol. 2, 198.010 (1960); N.J. REV. STAT. §§ 2A:93-2, 2A:93-3 (1951); N.M. CONST. art. IV, §§ 39-41; OKLA. STAT. ANN. tit. 21, §§ 313-320 (1951); OR. REV. STAT. § 162.520 (1953); PA. STAT. ANN. tit. 46, § 458 (1952); TENN. CODE ANN. § 39.820 (1956); UTAH CODE ANN. § 76-28-26 (1953); WASH. CONST. art. 2, § 30; W.Va. CODE ANN. § 6110 (1961); Wyo. CONST. art. 3, § 42.

### State Lobbying Legislation

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<th>State</th>
<th>Limited to Corrupt Lobbying§§</th>
<th>Registration States; and Place of Registration§§</th>
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<th>Registration Time Limit</th>
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<td></td>
<td>Secretary of State</td>
<td>Both 1 wk. after</td>
<td>employment</td>
<td>X</td>
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<tr>
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<td>X</td>
<td></td>
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<td>Employer 1 wk. after</td>
<td>employment</td>
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<tr>
<td>Oklahoma</td>
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<tr>
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<td>X</td>
<td></td>
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<td>Both 1 wk. after</td>
<td>employment</td>
<td>X</td>
</tr>
<tr>
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<td></td>
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<td>Both 1 wk. after</td>
<td>employment</td>
<td>X</td>
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<tr>
<td>South Dakota</td>
<td>X</td>
<td></td>
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<td>Both 1 wk. after</td>
<td>employment</td>
<td>X</td>
</tr>
<tr>
<td>Tennessee</td>
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<tr>
<td>Texas</td>
<td>X</td>
<td></td>
<td>Clerk of the House</td>
<td>5 days after employment</td>
<td></td>
<td>X</td>
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<tr>
<td>Vermont</td>
<td>X</td>
<td></td>
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<td>Both 48 hrs. after</td>
<td>employment</td>
<td>X</td>
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<tr>
<td>Virginia</td>
<td>X</td>
<td></td>
<td>Secretary of State</td>
<td>Lobbyist 1 wk. after</td>
<td>employment</td>
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V. Lobbying and the Constitution

Lobbying laws which require registration have been attacked on the ground that they violate the First Amendment's right of petition. The right of petition existed at least as early as the year 1215 and Magna Carta. The Great Charter provided in part:

That if we, our justiciary, our bailiffs, or any of our officers, shall in any circumstances have failed in the performance of them toward any person, or shall have broken through any of these articles of peace and security, and the offence be notified to four barons chosen out of the five-and-twenty before mentioned, the said four barons shall repair to us, or our justiciary, if we are out of the realm, and laying open the grievance, shall petition to have it redressed without delay.

United States v. Cruikshank appears to be the first Supreme Court case to consider the right of petition, though it did not deal expressly with the subject of lobbying. In this early decision, the Court described this right in the following terms.

The right of the people peaceably to assemble for the purpose of petitioning Congress for a redress of grievances, or for any thing else connected with the powers or the duties of the national government, is an attribute of national citizenship, and, as such, under the protection of, and guaranteed by, the United States. The very idea of a government, republican in form, implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for a redress of grievances.

At present, lobbying is generally regarded as the most important expression of this right.

The constitutional question in this area can be framed as follows: Do lobbying statutes which require registration violate the rights guaranteed by the First Amendment, namely, the freedom to speak, publish, and petition the Government? In United States v. Harris, the Supreme Court answered this question in the negative.

The problem in this type of legislation does not arise from the government's efforts to suppress corrupt lobbying practices. This power is conceded. The constitutional attack on lobbying registration laws is based on the fact that all lobbyists, as a condition of their engaging in their proposed activities, are required to register. This, it is contended, is a restraint on the First Amendment guarantees of the freedom of speech, freedom of the press, and the right to petition. The Court, in United States v. Harris, justified this restraint on the right of petition in the following language:


Registration does not appear to be mandatory in Florida. The lobbyist may be required to give registration information by the committee of the legislature before which he is appearing. This is not absolute, and as mentioned, seems to be within the discretion of the particular legislative committee. FLA. STAT. ANN. 11.05 (1961).

Louisiana requires the registration of those who carry on lobbying activities before any State Board, LA. REV. STAT. § 49:71 (1950) but there seems to be no registration demand on those who conduct such activities with the legislative branch of the government. LA. REV. STAT. §§ 24:51-24:55 (1950).

The registration of detailed information is not necessary in Oklahoma. However, the lobbyist in this state must receive written permission from the presiding officer of the House and approval of the House before whose committee he wishes to appear before he can commence his activities. OKLA. STAT. ANN. tit. 21, § 314 (1951).


CORWIN, CONSTITUTION OF THE UNITED STATES OF AMERICA 805 (1953 ed.).

Ibid. Note particularly n.1 on 805.

92 U.S. 542 (1876).

Id. at 552.

CORWIN, CONSTITUTION OF THE UNITED STATES OF AMERICA 810 (1953 ed.).


Ibid.
Present-day legislative complexities are such that individual members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. Otherwise the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal. . . .

Toward that end, Congress has not sought to prohibit these pressures. It has merely provided for a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose. It wants only to know who is being hired, who is putting up the money, and how much.\(^73\)

The Supreme Court thus held, three justices dissenting,\(^74\) that the Federal Regulation of Lobbying Act was constitutional.

Litigation considering the constitutionality of state registration statutes has been limited. In \textit{Campbell v. Commonwealth},\(^75\) the only decision found which considered the point, the constitutionality of the Kentucky lobbying act was considered and the act, including its registration provisions was upheld.

VI. Conclusion

There are, as we have seen, two types of state laws in regard to lobbying regulations. One division includes those jurisdictions which only attempt to prevent illegal lobbying activities such as bribery. The second classification consists of those states which seek to control all lobbying activities by means of "registration" statutes. The rationale underlying this latter type of legislation is that "the spotlight of publicity is a pressure so strong as to compel lobbyists to engage in only the more desirable forms of lobbying."\(^76\)

The two primary requirements in a registration state are: (1) registration with the proper state official within the proscribed time limit and (2) the filing of a financial report subsequent to the activities in question. On their face, these statutory regulations appear sound. However, they have frequently been attacked on grounds of inadequacy.\(^77\) The main deficiency in this legislation seems to be the failure to delegate responsibility for administration and enforcement to an effective government agency.\(^78\) It is submitted, however, that registration statutes contain the groundwork for an effective control of lobbying practices.

Addressing his remarks to the need for controls on lobbying, then Senator John F. Kennedy wrote as follows:

Aside from the fact that the constitutional right to petition Congress must not be unduly restricted, another important reason for protecting the right of members of this third chamber to present their views lies in the real contribution they make to the legislative process. Congress should, however, seek to guard against abuses of the right of petition and should be fully informed of the interests of those who would influence legislative action. Moreover, the public has a significant interest in the legislative process and is entitled to know something about the legislative agents who play such an important role in that process. Although lobbying is a proper subject for congressional investigation and legislation, these are means, not ends. The ultimate goal is sound legislative action by Congress, aided in its deliberations by the arguments, positions and presentations of all segments of our population.\(^79\)

\textit{Frank P. Maggio}

\(^73\) \textit{Id.} at 625.
\(^74\) Justices Douglas, Black, and Jackson dissented.
\(^75\) 229 Ky. 264, 17 S.W.2d 227 (1929).
\(^76\) \textit{Kennedy, Congressional Lobbies: A Chronic Problem Re-Examined}, 45 Geo. L. J. 537 (1957).
\(^77\) \textit{N.Y. Times}, April 17, 1962, p. 32M, col. 2.
\(^78\) \textit{Ibid.}
\(^79\) \textit{Kennedy, op. cit supra} note 76, at 566-567.