

**Elections, Corrupt Practice Act. Corrupt Practices Act, Application of. Statement, Who required to file. Political Agent, who is. Candidate, Statement required of.**

A political agent is one who receives and disburses money in behalf of a candidate upon request or under agreement, and the question of whether one be a political agent is to be determined in the light of the definition given.

The only statement required to be given by a candidate is the one required by Sec. 11 of the Act.

There is nothing in the Corrupt Practices Act indicating that a candidate may be held responsible for the Acts of his friends, in aiding his election, unless he knows, counsels, aids or abets acts in violation of the law.

November 25, 1914.

Hon. Charles P. Cotter,  
County Attorney,  
Townsend, Montana.

Dear Sir:

I am in receipt of your letter as follows:

"The official returns at the recent election show that Charles S. Muffly as elected for State Senator by a majority of three votes and was accordingly issued a certificate of election by the County Clerk.

Senator Muffly complying with the provisions of the Corrupt Practice Act, filed a financial statement within fifteen days after the election, which apparently conforms to the requirements of said Act.

On November 19th, the sixteenth day after election, Charles W. Smith, who was Mr. Muffly's opponent in the election, filed with the Clerk and Recorder, a request based upon Section 14 of said act, in which he alleges upon information and belief, that certain persons, naming them spent "large sums of money and other things of value to aid in the election of Muffly as political agents of said Muffly," a copy of which request is hereto attached.

In accordance therewith the County Clerk demanded in writing a statement of such persons of their receipts and disbursements, but to date no such statement has been filed, and in all probability the Clerk will, within the time required in said act, turn the matter over to me for investigation.

I desire to do my duty in this matter, and as the corrupt practice act is new to our politics and of so large a scope as to be extremely difficult of interpretation, that I would respectfully appreciate your aid by a written opinion based upon the following questions, that I may act intelligently, if the matter is referred to me.

1. Under provision of Section 10 of said act, can any per-

son be the "political agent" of a candidate, unless he be appointed or requested by the candidate?

2. What is the method or procedure by which an officer can determine who are "political agents?"

3. Does the act require a candidate to file any statement other than required in Section 11, i. e., any statement as to "political agents" appointed or acting?

4. Does Section 12 require a person acting independently without appointment, request or agreement, but as friend and expending his own money, to file a statement of the amount he expended in helping his friend?

5. Is a candidate responsible for the acts of his friends in aiding his election?

6. Does the act require a person spending less than fifty dollars of his own money in aid of a friend without agreement or request to file a statement when demanded by the County Clerk?"

I have examined the complaint of Mr. Charles W. Smith, a copy of which is attached to your letter. The complaint is verified and sets forth that "he is informed and believes, and therefore, alleges that the following named persons (persons' names), expended large sums of money and other things of value, as the political agents of Charles S. Muffly, candidate for the office of state senator, and to further his election, and to defeat complainant." It is my opinion that in the absence of a specific averment that the persons named, severally expended amounts greater than fifty dollars to further the candidacy of Mr. Muffly, and to defeat complainant in his candidacy, the complaint does not state facts sufficient to constitute an offense under the Corrupt Practices Act. So much of the law as is applicable, is found in Section 12 of the Act. It reads as follows:

"Any person not a candidate for any office or nomination who expends money or value to an amount greater than fifty dollars in any campaign for nomination or election, to aid in the election or defeat of any candidate or candidates, or party ticket, or measure before the people, shall within ten days after the election in which said money or value was expended, file with the Secretary of State in the case of a measure voted upon by the people, or of state or district offices for districts composed of one or more counties or with the County Clerk for county offices, and with the City Clerk, Auditor or Recorder for municipal offices, an itemized statement of such receipts and expenditures and vouchers for every sum paid in excess of five dollars, and shall at the same time deliver to the candidate or treasurer of the political organization whose success or defeat he has sought to promote, a duplicate of such statement and a copy of such vouchers."

You are, therefore, advised that under the facts as alleged, a statement is not required to be filed by any of the persons named in the affidavit.

As dealing specifically upon your particular inquiries, you are advised as to the first that the term "political agent" is defined in Section 10 of the Act as follows:

"'Political agent' shall apply to any person who, upon request, or under agreement, receives or disburses money in behalf of a candidate."

It therefore follows that one is not a "political agent" unless he receives or disburses money in behalf of a candidate, either upon request, or under agreement.

The answer to your second inquiry is, that the only method of ascertaining whether one be a political agent, is to determine the question of fact in the light of the definition given.

In reply to your third inquiry, I will say that the only statement required to be filed by a candidate is one in conformity with the express provisions of Section 11 of the Act.

As to the fourth question, you are advised that Section 12 of the Act specifically provides that "any person" not a candidate, who expends money or value in an amount greater than fifty dollars for the purposes named shall file the required statements. Hence, a person need not necessarily be a "political agent" to come within the purview of the statute.

As to your fifth inquiry, you are advised that there is nothing in the Corrupt Practices Act which would indicate that a candidate may be held responsible for any acts of his friends in aiding his election, unless of course, such acts are in violation of the law, and are known to, or acquiesced in, counseled, aided or abetted by the candidate.

Yours very truly,

D. M. KELLY,  
Attorney General.