

Chapter 260

Campaign Finance Regulation; Election Offenses

Chapter 260

NOTES OF DECISIONS

The Corrupt Practices Act was designed to insure purity in elections and to prevent corruption and not for the purpose of preventing a man from properly defining his principles. *Fordham v. Stearns*, (1927) 122 Or 311, 258 P 822.

The Corrupt Practices Act embraces voting upon a measure as much as voting for candidates and its provisions concerning the filing of itemized statements of contributions and expenditures apply to initiative measures. *Nickerson v. Mecklem*, (1942) 169 Or 270, 126 P2d 1095.

FURTHER CITATIONS: *Messick v. Duby*, (1917) 86 Or 366, 168 P 628; *Printing Industry v. Banks*, (1935) 150 Or 554, 46 P2d 596; *Cook v. Corbett*, (1968) 251 Or 263, 446 P2d 179.

ATTY. GEN. OPINIONS: Right of legislative members and candidates to make contributions supporting referendum for increase of pay of the legislators, 1942-44, p 60.

260.025

NOTES OF DECISIONS

Violation of a former statute limiting expenditures occurred only if the person made the expenditures knowing they exceeded the statutory amount or with conscious indifference whether they were in violation of the statute. *Thornton v. Johnson*, (1969) 253 Or 342, 453 P2d 178.

FURTHER CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.

ATTY. GEN. OPINIONS: Application of limitation to campaign committee's expenditures, 1966-68, p 75; unpaid obligations as expenditure or contribution, (1969) Vol 34, p 528.

260.072

NOTES OF DECISIONS

1. Under former similar statute

A provision requiring statements of contributions and expenditures by persons proposing or opposing initiative measures was germane to that part of the title concerning "corrupt and illegal practices in elections" and "purity of the ballot." *Nickerson v. Mecklem*, (1942) 169 Or 270, 126 P2d 1095.

Late filing was not a crime and the penalty imposed by the statute was a civil penalty. *State v. Johnson* (1969) 1 Or App 363, 462 P2d 687.

FURTHER CITATIONS: *Thornton v. Johnson*, (1969) 253 Or 342, 453 P2d 178.

ATTY. GEN. OPINIONS: Applicability to expenditures incurred in campaign for or against the formation of a people's utility district, 1938-40, p 365; effect of Hatch Act on

section, 1948-50, p 77; propriety of majority stockholder of bank, utility and other company acting as political fiscal agent, 1964-66, p 323; application to committees formed after election to collect for candidate's deficit, 1966-68, p 27; application of candidate's expenditure limitation to his campaign committee's expenditures, 1966-68, p 75; candidate as officer of his campaign committee, 1966-68, p 75; application of section to committees campaigning for creation of a community college, 1966-68, p 221; duty of organization to oppose school levy or board members to report, (1968) Vol 34, p 6; unpaid obligations as expenditure or contribution, (1969) Vol 34, p 528; application if office receives special services gratuitously, (1969) Vol 34, p 533.

260.102

ATTY. GEN. OPINIONS: Unpaid obligations as expenditures or contribution, (1969) Vol 34, p 528.

260.132

CASE CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.

ATTY. GEN. OPINIONS: Unpaid obligations as expenditure or contribution, (1969) Vol 34, p 528.

260.162

CASE CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.

ATTY. GEN. OPINIONS: Unpaid obligations as expenditure or contribution, (1969) Vol 34, p 528; items which constitute a contribution, (1970) Vol 34, p 1056.

260.205

NOTES OF DECISIONS

The failure to file objections with the Secretary of State under a former similar statute did not prevent the voter from exercising his right to begin proceedings in the circuit court to compel the filing. *Nickerson v. Mecklem*, (1942) 169 Or 270, 126 P2d 1095.

ATTY. GEN. OPINIONS: Proceedings for failure to file statement of expenditures, 1938-40, p 161; unpaid obligations as expenditure or contribution, (1969) Vol 34, p 528.

260.225

NOTES OF DECISIONS

The limitation in a former similar statute governed the time within which a proceeding had to be commenced, and not the statute of limitations applicable in ordinary civil actions. *Nickerson v. Mecklem*, (1942) 169 Or 270, 126 P2d 1095.

The failure to file objections with the Secretary of State

did not prevent the voter from exercising his right to begin proceedings in the circuit court. *Id.*

FURTHER CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.

260.245

CASE CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.

ATTY. GEN. OPINIONS: Clerk's authority to withhold certificate, 1966-68, p 643.

260.305

ATTY. GEN. OPINIONS: Legality of contributions of a private power company and district employes in a people's utility district bond election, 1952-54, p 258; power of private power companies and utilities to spend funds on an election, 1954-56, p 4; adequacy of placing name and address on political advertisement, 1956-58, p 46; author and publisher of political publications of a committee, 1960-62, p 127; political activities by faculty members of institutions of higher education, 1960-62, p 146; application of Corrupt Practices Act to municipal elections, 1960-62, p 169; political activities of public school teachers, 1962-64, p 22; contribution of salaried employe's time, 1962-64, p 134; propriety of majority stockholder of bank, utility and other company acting as political fiscal agent, 1964-66, p 323; legality of state board member serving as treasurer of a political committee, 1964-66, p 394; contributions as a member of a candidate's committee, 1964-66, p 449; investigator in district attorney office serving as candidate's campaign chairman, 1964-66, p 452; application of section to committees formed after election to collect for candidate's deficit, 1966-68, p 27; candidate as officer of his campaign committee, 1966-68, p 75; determining meaning of "legally qualified candidate" under Oregon statutes, 1966-68, p 375; corrupt practice in school election, 1966-68, p 439; duty of organization to oppose school levy or board members to report, (1968) Vol 34, p 6; determining if salary attaches to office, (1969) Vol 34, p 533; contributions for primary election candidates, (1970) Vol 34, p 1126.

260.315

NOTES OF DECISIONS

A former similar statute recognized that persons other than candidates had to file statements, such as persons proposing or opposing initiative measures. *Nickerson v. Mecklem*, (1942) 169 Or 270, 126 P2d 1095.

ATTY. GEN. OPINIONS: Application of Corrupt Practices Act to municipal elections, 1960-62, p 169.

260.325

ATTY. GEN. OPINIONS: Duty of Secretary of State to seek out evidence of election violations, 1960-62, p 76; duty of officer to divulge confidential information in records, 1966-68, p 55.

260.345

CASE CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.

ATTY. GEN. OPINIONS: Unpaid obligations as expenditures or contribution, (1969) Vol 34, p 528.

260.355

NOTES OF DECISIONS

Under a former similar statute offenses which evidenced a knowing disregard of the plain mandates of the election statute were not trivial within the meaning of the provision. *Ramsey v. Howard*, (1934) 148 Or 542, 36 P2d 602.

FURTHER CITATIONS: *Cook v. Corbett*, (1968) 251 Or 263, 446 P2d 179; *Thornton v. Johnson*, (1969) 253 Or 342, 453 P2d 178.

ATTY. GEN. OPINIONS: Forfeiture of office of incumbent found guilty in an election contest growing out of a primary, 1934-36, p 132.

260.412

NOTES OF DECISIONS

Promise by a candidate that he will, if elected, pay into the county treasury \$200 per annum of his salary was not an offer to reward or bribe a voter, within the meaning of a former similar statute. *State v. Dustin*, (1875) 5 Or 375, 20 Am Rep 746.

Under a former similar statute the inducing of a voter to remove into any precinct of which he is not a resident, with the intention of voting there, constituted the gravamen of the offense. *State v. Reed*, (1908) 52 Or 377, 380, 97 P 627.

It was not a violation of a former similar statute for a candidate to state what he intended to do, if elected. *Fordham v. Stearns*, (1927) 122 Or 311, 258 P 822.

A former similar statute was not violated by announcement of a candidate for election as school director that, in the event he was chosen, he would favor retention of certain teachers. *Id.*

It was a violation of a former similar statute for a prosecuting officer seeking renomination to advise an elector that he had no right to vote where he was registered and that a charge of perjury might follow an attempt to vote there. *Ramsey v. Howard*, (1934) 148 Or 542, 36 P2d 602.

Acting as a scrivener in the registration of voters and the transportation of persons to be registered as voters was not a violation of a former statute. *Id.*

Sending a poverty-stricken cripple an absentee voter's ballot at his mother's request and a check for \$1 as a loan, was not a violation of the letter of a former similar statute, although it violated the spirit. *Id.*

FURTHER CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.

ATTY. GEN. OPINIONS: Legality of display of banners, signs, pictures, etc., at or near election booth, 1922-24, p 739; distribution of pencils with wording on them soliciting votes as a violation, 1938-40, p 27; thing of nominal value only as "valuable thing," 1960-62, p 52; laws applicable to political activities of county civil servants, 1960-62, p 382; public promise of appointment, 1960-62, p 444; political activities of public school teachers, 1962-64, p 22; offer to donate part of salary to civic group, 1962-64, p 446; constitutionality of the former section, 1966-68, p 64; corrupt practice in school election, 1966-68, p 439.

260.432

CASE CITATIONS: *Stowe v. Ryan*, (1931) 135 Or 371, 296 P 857.

ATTY. GEN. OPINIONS: Construing "political office," 1946-48, p 31; unclassified state employe as candidate for political office, 1956-58, p 227; political activities by faculty

members of institutions of higher education, 1960-62, p 146; laws applicable to political activities of county civil servants, 1960-62, p 382; college professor running for office, 1962-64, p 464; contributions by staff members and employes of legislative committees, 1962-64, p 464; legality of state board member serving as treasurer of a political committee, 1964-66, p 394; application to person in appointive position or office, 1964-66, p 402; application to public school teachers or administrators, 1964-66, p 449; investigator in district attorney office serving as candidate's campaign chairman, 1964-66, p 452.

Application to members of Industrial Accident Advisory Committee, 1966-68, p 473.

260.472

ATTY. GEN. OPINIONS: Effect of Hatch Act on this section, 1948-50, p 77; legality of contributions of a private power company and employes of the district in a public utilities district bond issuance election, 1952-54, p 258; power of private power companies and utility districts to spend funds on an election, 1954-56, p 4; contribution of a salaried employe's time, 1962-64, p 134; applicability to contributions to defeat a ballot measure, 1964-66, p 111; legality of selling advertising in or subscriptions to central committee newsletter, 1964-66, p 257; propriety of majority stockholder of bank, utility and other company acting as political fiscal agent, 1964-66, p 323; legality of state board member serving as treasurer of a political committee, 1964-66, p 394; bank employe as candidate for, or serving in, the legislature, (1970) Vol 34, p 1142.

260.512

ATTY. GEN. OPINIONS: Legality of selling advertising in or subscriptions to central committee newsletter, 1964-66, p 257; requiring advance payment, 1966-68, p 570.

260.522

ATTY. GEN. OPINIONS: Adequacy of placing name and address on envelope bearing a press release, 1954-56, p 6; adequacy of placing name and address on political advertisement, 1956-58, p 46; materiality of size and style of publication, 1956-58, p 294; name and address printed in English language, 1958-60, p 11; author and publisher of political publications of a committee, 1960-62, p 127; constitutionality of this section, 1966-68, p 156; corrupt practice in school election, 1966-68, p 439; identification on "moving light sign," 1966-68, p 514; application of reporting requirement to nonsalaried office, (1968) Vol 34, p 6.

LAW REVIEW CITATIONS: 44 OLR 79-85.

260.532**NOTES OF DECISIONS**

Statements are not false as that word is used in the Corrupt Practices Act if any reasonable inference that can be drawn from the statement is either a correct inference of fact or a matter of opinion. *Thornton v. Johnson*, (1969) 253 Or 342, 453 P2d 178; *Mosee v. Clark*, (1969) 253 Or 83, 453 P2d 176.

An untrue statement to be a violation must be deliberately false, i.e., the candidate must have known that the statement was false, or he must have uttered it without regard to whether it was true or false. *Thornton v. Johnson*, (1969) 253 Or 342, 453 P2d 178.

The campaign statements made by the candidate were false. *Cook v. Corbett*, (1968) 251 Or 263, 446 P2d 179.

ATTY. GEN. OPINIONS: Libelous character of publication that a candidate is the pet of a particular newspaper and a fanatic who has specialized in fads, 1920-22, p 16; statement by appointed incumbent that he is candidate for reelection, 1958-60, p 393; statements printed in League of Women Voters' pamphlet, 1958-60, p 393; application to candidate's statements regarding himself, 1966-68, p 52; county clerk's authority to withhold certificate of election for violation of this section, 1966-68, p 643.

260.552

CASE CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.

260.610

ATTY. GEN. OPINIONS: Certification of voter's signature on petition if signer's address is different on registration records, 1966-68, p 344.

260.640**NOTES OF DECISIONS**

The mark "O.K.," written beneath a set of candidates, renders a ballot void, as does having the words "voted for" written after the name of one of the candidates. So also a ballot having the names of all the candidates for a certain office marked out, and then one of such names written in a blank space left for extra names, cannot be counted, nor can a ballot having a line drawn through the name of each candidate of one party. *Van Winkle v. Crabtree*, (1899) 34 Or 462, 55 P 831, 56 P 74.

A mark which the elector has a legal right to place on the ballot, and which is necessary to indicate his choice, does not vitiate the ballot. *Tazwell v. Davis*, (1913) 64 Or 325, 337, 130 P 400.

ATTY. GEN. OPINIONS: Distinguishing marks on ballots, 1936-38, p 639; marks indicating voter's choice, 1966-68, p 68.

260.650

ATTY. GEN. OPINIONS: Circulating initiative petition at polling place, 1960-62, p 448; constitutionality of this section, 1966-68, p 64.

260.710**NOTES OF DECISIONS**

A meeting of school electors held for the purpose of choosing district officers is a "legally authorized election" within the meaning of this section. *State v. Hingley*, (1898) 32 Or 440, 52 P 89.

FURTHER CITATIONS: *State v. Bruce*, (1873) 5 Or 68, 20 Am Rep 734.

260.990

CASE CITATIONS: *State v. Johnson*, (1969) 1 Or App 363, 462 P2d 687.

ATTY. GEN. OPINIONS: Constitutionality of statute providing a penalty for violation of the election laws by a corporation, 1952-54, p 258.