



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Wm. J. Lawson  
Secretary of State  
Austin, Texas

Dear Sir:

Opinion No. O-3489

Re: Candidates for the United States  
Senate at special election - fees-  
statement of campaign expenses.

In your letter of May 4, 1941, (your file 3-WMR), you request the opinion of this department as to whether or not there is any requirement of State law with reference to payment by candidates for the Senate of an announcement fee in the forthcoming special election, and also whether candidates for this office in this special election are required to file statements concerning their campaign expenses.

Article 3088, Revised Civil Statutes, 1935, provides as follows:

"Every law regulating or in any manner governing elections or the holding of primaries in this State shall be held to apply to each election or nomination of a candidate for a United States Senator so long as they are not in conflict with the Constitution of the United States or of any law or statute enacted by the Congress of the United States regulating the election of the United States Senators or the provisions of this law. The returns from any election held for United States Senator shall be made, the result ascertained and declared, a certificate of election issued, as provided for the election of representatives in Congress, by this title."

The effect of this Article is to make every law regulating or in any manner governing general and special elections applicable to general and special elections of United States

Honorable Wm. J. Lawson, page 2

Senators, and to make every law regulating or in any manner governing the holding of primaries applicable to the holding of primaries for the nomination of a candidate for United States Senator. The Article does not purport to make laws applicable only to the holding of primaries for the nomination of candidates applicable to general or special elections, as distinguished from primaries, for the election of the United States Senator.

A careful search of the statutes of this State reveals no law authorizing or requiring any fee to be collected by any public officer of this State from candidates for election to public office at a special or general election. Such provision as is made for the charging of fees has reference only to fees for the privilege of participating as a candidate in a primary election for nomination to office, conducted by a political party.

You are therefore advised that no fee is to be collected from candidates for United States Senator at the special election to be held on June 28, 1941.

With regard to the filing of campaign expense accounts, your attention is directed to the following Articles appearing in the codification of 1925:

**Revised Civil Statutes of Texas, 1925:**

"Art. 3144. Within ten days after a final election, all candidates for office at such election shall file a written itemized statement, under oath, with the county judge of the county of their residence, of all the expenses incurred during the canvass for the office, and for the nomination, including amounts paid to newspapers, hotel and traveling expenses, and such statement shall be sworn to and filed, whether the candidate was elected or defeated, which shall at all times be subject to the inspection of the public."

"Art. 3145. Every person who manages any political headquarters for any political party, or for any candidate before any election, and every clerk or agent of such manager for such headquarters or candidate, and every other person whomsoever who expends money, gives any property or thing of value,

or promises to use influence, or give a future reward to promote or defeat the election of any candidate, or to promote or defeat the success of any political party at any election, shall, within ten days after such election, file with the county judge of the county in which the political headquarters was located, and with the county judge of the county, where such manager, clerk, or other person, as the case may be, resides, an itemized statement of all moneys or things of value thus given or promised, for what purpose, by whom supplied, in what amount and how expended, and what reward was given or promised, by whom and to whom, and what influence was promised, by whom promised, and to whom said promise was given. He shall state whether he has been informed, or has reason to believe, that the person thus aiding or attempting to defeat a party or candidate was an officer, stockholder, agent or employee of, or was acting for or in the interest of any corporation, giving his name, and, if so, what corporation; and he shall if he has no positive knowledge, state the source of his information or the reasons for his belief, as the case may be; all of which shall be sworn to and subscribed before the county judge, who shall file and preserve the same, which shall at all times be subject to the inspection of the public."

Article 3144, above quoted, clearly applies to candidates for the office of United States Senator at the forthcoming special election, which though special is clearly a "final" election. Article 3145 requires reports of persons other than the candidate himself. This Article is applicable to the forthcoming special election for the office of United States Senator. This is clear, for the article uses the words "any election," which embraces both general and special elections. In fact, the whole context of such article indicates that it was intended to embrace both general and special elections.

Article 276, Penal Code, 1925, provides:

"Each person who shall receive any payment

Honorable Wm. J. Lawson, page 4

directly or indirectly, for political purposes in a campaign before a general election for United States Senator whether as salary or as expenses, shall within thirty days after such payment has been made or promised make a sworn statement showing in detail said payment or promised payments, by whom made and what services were rendered for same. This statement shall be filed with the secretary of State. Any person who comes within the provisions of this article and fails to make such statements, shall be confined in jail not less than ten nor more than thirty days."

This Article, in terms, applies only to expenses incurred "in a campaign for United States Senator before a general election." The election for United States Senator with which you are concerned is "special," not a general election. Article 3097, Revised Civil Statutes, 1925. Furthermore, this provision, in our opinion, has no reference to the candidate himself, but refers to workers who receive payments by way of "salary or expenses" for political services rendered in a campaign before a general election for United States Senator.

While you, in your official capacity, are not concerned with the reports to be filed by candidates for United States Senator with the Federal authorities, we deem it advisable to call attention to the fact that the Federal Corrupt Practice Act, Title 2, U. S. C. A., Chapter 8, contains provisions regulating campaign expenditures in elections for such office and provisions requiring reports of expenditures to be filed with the Secretary of the Senate of the United States.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By: S.  
R. W. Fairchild  
Assistant

APPROVED MAY 14, 1941

S. GROVER SELLERS

FIRST ASSISTANT ATTORNEY  
GENERAL

RWF:db

APPROVED OPINION COMMITTEE

BY  
S. GRL  
CHAIRMAN