

STATEMENT OF CAMPAIGN EXPENSES—FILED  
WITH SECRETARY OF STATE—DEPOSITING  
IN POSTOFFICE.

Tallahassee, Fla., June 1, 1916.

Honorable H. Clay Crawford,  
Secretary of State,  
Capitol.

Dear Sir:—

Yours of the 31st ultimo has been received. I note your inquiry as follows:

"Mr. A. J. Angle, candidate for State Comptroller, has failed to file his second statement of campaign expenses as required by Section 19 of Chapter 6470, Laws of Florida. The circumstances connected with his attempt to file said statement are disclosed by the attached affidavit of Mr. Angle.

"I proceeded yesterday to issue certificates to the Boards of County Commissioners of the various counties in the State as required of me by Section 20 of said Chapter 6470, Laws of Florida, a copy of which is hereto attached.

"I will be pleased for you to give me your opinion as to whether the Secretary of State should, under the law, recall the certificates issued and accept a copy of the statement Mr. Angle claims to have filed in the Postoffice at Milton under the circumstances disclosed in his affidavit.

"In the event you hold that said certificates should be voided, kindly direct me the proper procedure for the Secretary of State to follow in the premises.

"I beg to advise that a conclusion should be arrived at as early an hour as possible since the time of printing the ballot for the County Commissioners is extremely short."

From the affidavit of Mr. Angle attached to your letter it appears that he prepared and deposited in the postoffice at Milton on Friday afternoon last, addressed to you at Tallahassee, Florida, a statement of his campaign expenses which the law requires candidates to file not more than twelve nor less than eight days prior to the primary.

The question presented is whether or not the mailing of this statement in the postoffice at Milton, addressed to Honorable H. Clay Crawford, Secretary of State, at Tallahassee, Florida, is a compliance with the statute requiring *that it shall be filed in the office of the Secretary of State not less than eight days prior to the primary*, it being admitted that the time within which such statement may be filed has expired and that it has not yet, in fact, been received and filed in the office of the Secretary of State.

The statute governing the case is Sections 19 and 20 of Chapter 6470, Acts of 1913, commonly called the Corrupt Practices Act. By Section 19 of this statute it is provided, among other things, that each and every candidate for nomination for a National or State office or position in a primary election is required to file in the office of the Secretary of State detailed itemized statements of his campaign expenses, the last of such statements preceding the election to be filed not more than twelve nor *less than eight days prior to the primary*. And by Section 20 it is provided that any candidate who fails to make and file the statements required by Section 19 in the form and *at the time specified* shall not have the right to have his name placed upon the ballot to be used in the primary election. It is further provided that those intrusted with the preparation of the primary ballots shall, upon the certificate of the officer with whom said statements are required to be filed that a candidate has failed to file such statement or statements, omit his name therefrom.

In addition to this, it is further provided that the name of no candidate failing to file such statements shall be allowed or printed on the official ballot used in the general election and that no committee, officer or board authorized to issue commissions, certificates of election and certificates of nomination shall issue any such commission or certificate to any candidate who fails to comply with the provisions of this law. The statute also provides that any officer violating its provisions shall, upon conviction, be fined not exceeding five hundred dollars or be imprisoned not exceeding six months.

In clear unmistakable terms this statute requires candidates to file in the office of the Secretary of State an itemized statement of their campaign expenses *not less than eight days prior to the primary*.

The Supreme Court of this State, in the case of Commissioners of Franklin County v. State *ex rel.*, Patton, 24 Fla. 55, when a somewhat similar question was presented, said:

"A paper is *filed* when it is delivered to the proper officer and *by him received* to be kept on file."

In the recent case of United States v. Lombardo, 241 U. S. 73, the Supreme Court of the United States, in considering a question similar to that involved here, quoted with approval the following language used by the lower court in its opinion filed in the case:

"The word 'file' was not defined by Congress. No definition having been given, the etymology of the word must be considered and ordinary meaning applied. The word 'file' is derived from the Latin word 'filum,' and relates to the ancient practice of placing papers on a thread or wire for safe keeping and ready reference. Filing, it must be observed, is not complete until the document is delivered and received. '*Shall file*' means to deliver to the office and not send through the United States mail.

\* \* \* A paper is filed when it is delivered to the proper official and by him received and filed. \* \* \*

Anything short of delivery would leave the filing a disputable fact, and that would not be consistent with the spirit of the act."

The court was here considering an act of Congress, but the question decided was practically the same as the question presented by this case.

It may be that the language "to file in the office of the Secretary of State not less than eight days prior to the primary" should be construed as meaning "to deposit in a postoffice addressed to the Secretary of State in time for the postal authorities to deliver it in Tallahassee not less than eight days prior to the primary," and that when so deposited the responsibility for delivering such statement shifts from the candidate to the postal authorities, and that the candidate shall thereupon be held to have complied with the statute, although this statement never reaches the office of the Secretary of State and is never filed in his office. If his statute is to receive this construction it must be done at the hands of some one other than the Attorney General under the present administration. To so hold would, in my opinion, result in making every postoffice a filing office for these statements, make an affidavit that a statement had been mailed equivalent to the actual filing of the statement in the office of the Secretary of State, and thereby render the statute nugatory and ineffectual to accomplish the purpose for which it was designed. Construed in this way the statute would promote and not prohibit corrupt practices. The honest candidate would comply with its terms and file his statements in the office of the Secretary of State, but one who wished to evade the law could expend such sums of money as he desired and for any purpose that suggested itself for the promotion of his candidacy and then, instead of filing his statement as the law requires, he would make his affidavit, or secure some one else to make it, that his statement had been deposited in some postoffice, and, if the construction of the statute suggested were adopted,

he would be held to have complied with the law, notwithstanding the fact that his statement was never filed, with the result that no one could know what amount had been expended by him or in his behalf or for what purpose money had been used in the furtherance of his candidacy.

In this case I would be glad to be able to relieve the candidate of the penalties which the law visits upon him because of his failure to file his statement as the statute requires. I am convinced of his good faith and I have no doubt that he actually deposited his statement in a post-office as he avers, but it has not been received and filed in the office of the Secretary of State and nothing less than this meets the clear and unequivocal demands of the statute.

Valid statutes are binding upon officers and citizens alike. I assume that the statute involved here is valid. Your action, therefore, in certifying that Mr. Angle has failed to file his expenses statement as required by the statute was, in my opinion, proper.

Very respectfully,

T. F. WEST,  
Attorney General.

**PRIMARY ELECTIONS—REGISTRATION, SUFFICIENCY FOR GENERAL ELECTIONS.**

Tallahassee, Fla., August 17, 1916.

*Honorable H. Clay Crawford,*  
*Secretary of State,*  
*Capitol.*

Dear Sir:—

I am in receipt of your communication containing the following inquiry:

"The question as to what the legislature intended