

# FIXING AND DISPOSITION OF ASSESSMENTS AND FILING FEES—IN PRIMARY ELECTION.

Tallahassee, Fla., May 5, 1916.

My dear Sirs:

Yours of the 4 instant has been received and noted.

The situation seems to me to be like this:

Section 20 of the Primary Election Law reads as follows:

"The executive committee of each political party affected by the provisions of this act are hereby authorized for the *purpose of meeting their legitimate expenses* and maintaining their said organizations, to levy assessments upon *such candidates of their respective parties* as are required by Section 24 to pay filing fees; but no executive committee shall levy assessments upon any candidate exceeding two (2) per cent of the annual salary or compensation of the office sought by him."

It will be noted that this assessment is made upon candidates and is for the purpose of meeting the legitimate expenses of the executive committee making the assessment, and the assessment cannot exceed two per cent of the annual salary, etc. It may, of course, be less than two per cent, but it cannot exceed this amount, and is to be used by the committee in meeting the expenses incurred by it as a committee. The amount not so used may, in my judgment, be returned to the candidates, pro rata, if the amount collected on this account is in excess of the amount required.

Section 24 of the Primary Election Law reads as follows:

"Each candidates for nomination for any office herein provided for shall be required to pay a filing fee at the time of filing the sworn statement provided for in Section 22. The amount of said filing fee shall be three (3) per cent. of the annual salary or compensation of the office sought by the candidate; provided that no filing

fee shall be required of any candidate for any office to the holder of which no salary or compensation is required to be paid."

By Section 26 of this statute it is provided that candidates voted for wholly within a single county shall pay this filing fee to the Clerk of the Circuit Court of the county, and that he shall receive the same in his capacity as Clerk of the Board of County Commissioners of said county. This filing fee cannot be varied, as it is fixed by law at three per cent. and inasmuch as it is required to be paid to the Clerk of the Circuit Court, who shall receive it in his capacity as Clerk of the Board of County Commissioners, and since the expenses of the primary are paid by the county, I think it was not intended that any part of this filing fee be returned to the candidates, but that it remain in the treasury of the county for the purpose of meeting the expenses of the election, which are paid from the county treasury.

The fact that there are several candidates for an office might, and no doubt would, influence the committee in fixing the amount of the assessment provided for by Section 20, but no one (except the legislature) is authorized to vary the amount of the filing fee provided for by Section 24.

The Attorney General is not authorized to officially advise in a case of this kind and, therefore, what is stated in this letter cannot be regarded as an official expression from this office.

Yours very truly,

T. F. WEST,

Attorney General.