

OPINION
46-92

April 1, 1946 (OPINION)

ELECTIONS

RE: Precinct Committeemen

Several county auditors have raised the question as to whether or not candidates for precinct committeemen, upon filing their petitions with the county auditor, are required to pay the filing fee provided by chapter 19 of the Extraordinary Session Laws of 1944.

The title to chapter 19 specifies that it is an Act * * * relating to the obtaining and filing of petitions for county officers, county commissioners and legislative candidates, filing fees therefore and declaring an emergency.

The second paragraph of section 1 of the act provides as follows:

"Each name on a petition shall be that of a qualified voter and if the office is under party designation, then such names shall be subscribed under the proper party heading. Each signer of a nomination paper shall sign but one such paper for the same office; he shall add his residence with the street number, if any, and the date of signing. Upon the receipt of such petition by the County Auditor and the payment to him of the filing fee of three dollars, (\$3.00), excepting candidates for county commissioners, district assessors, surveyors, coroner, county constables and county justices of the peace, who shall pay no filing fee and when accompanied by an affidavit as provided in section 853 relating to petitions required, fees and filing affidavit of candidate, such County Auditor shall place the name of such applicant upon the primary election ballot in the columns of his party as hereinbefore provided."

It should be observed that the title of chapter 19, as well as the body of the act, has reference only to county officers, county commissioners and legislative candidates. It provides that upon filing of the petitions by candidates for the offices named therein, a fee of three dollars is required to be paid, excepting candidates for county commissioners, district assessors, surveyors, coroner, county constables and county justices of the peace, who shall pay no filing fee. No reference whatsoever is made to precinct committeemen, and therefore they do not come within the classification of the candidates enumerated in said chapter.

The filing requirements of candidates for precinct committeemen are dealt with in a separate statute. Section 3 of chapter 26 of the Extraordinary Session Laws of 1944 provides that candidates for precinct committeemen may have their names placed on separate party ballots of their respective parties within their respective precincts by filing with the county auditor not more than ninety (90) nor less than seventy (70) days prior to the election petitions bearing the signatures of not less than five per cent of the last vote in such

precinct for the candidate for presidential elector of the party to which the candidate for president committeeman belongs. Such nominating petitions shall conform with the now existing requirements of law in all matters not specifically provided for herein.

Said chapter 26 makes no provision for the payment of a filing fee by candidates for precinct committeemen. The only requirements necessary to entitle a candidate for precinct committeeman to have his name placed on the ballot are that his petition has the necessary number of signatures and that such petition be filed not more than ninety days nor less than seventy days prior to the election.

It is the opinion of this office, therefore, that the provision of chapter 19 of the Extraordinary Session Laws requiring the payment of a filing fee of three dollars applies only to the county officers and legislative candidates enumerated therein, and has no application to precinct committeemen.

NELS G. JOHNSON

Attorney General