

Opinion No. 529

Elections—Nominating Petitions—Supreme Court, Justice of—Filing Fee—Secretary of State.

HELD: The proper filing fee to be collected by the Secretary of State for a nominating petition for Chief Justice of the Supreme Court is one per

cent of the total yearly salary, or \$75.00.

May 8, 1934.

You have asked my opinion as to whether or not you should accept the \$60.00 tendered by Mr. W. B. Sands with his nominating petition for the office of Chief Justice of the Supreme Court, or whether you should demand the fee of \$75.00 heretofore charged.

This question was passed upon squarely by former Attorney General L. A. Foot (12 Opinions of Attorney General 177). He held that the total salary attached to the office was \$7,500.00 and that the fee was 1% of that amount. I can see no reason for disagreeing with this opinion. There appears to be an unbroken line of administrative interpretation to the same effect. For many years eminent lawyers, candidates for the office of Chief Justice or Associate Justice, have unquestioningly paid the fee of \$75.00. Two candidates for the coming election, the Honorable W. T. Pigott and the Honorable Claude F. Morris have paid the same amount to the Secretary of State, without question. If the two Justices whose terms will expire, file nominating petitions for election to succeed themselves, I am confident that they will pay, as they did in the past, the sum of \$75.00.

No authorities are cited, nor is any reason given for the assertion that a portion of the compensation fixed by law is unconstitutional. Upon independent investigation I can find nothing in the Constitution which forbids the legislature from prescribing the salaries which it has prescribed. In the absence of anything other than the bald statement that a portion of such salary is not permitted by the Constitution, we must concur in the opinion of former Attorney General L. A. Foot and advise you that the proper filing fee is \$75.00.