

2493.

CANDIDATES—PUBLIC OFFICE—EXPENSE LIMIT INCLUDES BOTH
NOMINATION AND ELECTION DISBURSEMENTS.

SYLLABUS:

The limitation on expenditures by candidates for public office contained in the Corrupt Practice Act (Section 5175-29, General Code), relates to the total amount expended for election, including that which was expended to secure the nomination to such office, whether such nomination be by petition or at a primary election.

COLUMBUS, OHIO, August 25, 1928.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Permit me to acknowledge the receipt of your request for my opinion as follows:

“Enclosed you will please find communication addressed to me from C. J. T.

He requests information as to the maximum amount that may be expended by a candidate for the office of congressional representative, both for the nomination at the April (August) primary and the election in November. In other words, I will appreciate your interpretation of Section 5175-29, Ohio General Code, in connection with the question asked by Mr. T.”

The letter to which you refer is as follows:

“I would like to have your ruling whether or not the amount of \$2,000.00, the limit allowed for campaign expenditures, is intended to cover both the primary and fall campaigns, or whether or not I am allowed a limit of \$2,000.00 for the primary campaign and \$2,000.00 for the campaign for election. It is important for me to know this.”

The question presented requires an interpretation of Section 5175-29, General Code, which is a part of the Corrupt Practice Act. Said section reads as follows:

“The total amount expended by a candidate for public office, voted for at an election, by the qualified electors of the state, or any political subdivision thereof, for any of the purposes specified in Section 26 of this act, for contributions to political committees; as that term is defined in Section 1 of this act, or for any purpose tending in any way, directly or indirectly, to promote or aid in securing his nomination and election, shall not exceed the amount specified herein; by a candidate for governor, the sum of five thousand dollars; by a candidate for other state elective office the sum of two thousand five hundred dollars; by a candidate for the office of representative in congress or presidential elector, judge of the court of appeals, the sum of two thousand dollars; by a candidate for the office of state senator, the sum of three hundred dollars in each county of his district; by a candidate for judge of common pleas, probate or insolvency court, the sum of five hundred dollars; by a candidate for the office of state representative the sum of three hundred and fifty dollars; by a candidate for any other public office to be voted for by the qualified electors of a county, city, town or village, or

any part thereof, if the total number of votes cast therein for all candidates for the office of governor at the last preceding state election, shall be five thousand or less, the sum of three hundred dollars. If the total number of votes cast therein at such preceding state election be in excess of five thousand, the sum of five dollars for each one hundred in excess of such number may be added to the amounts above specified. Any candidate for a public office who shall expend for the purpose above mentioned an amount in excess of the amounts herein specified shall be guilty of a corrupt practice."

You will note that the language of this section refers to the "total amount" expended by a candidate for public office voted for at an election, the statute expressly and specifically providing that the "total amount" spent for any purpose tending in any way to promote or secure "*his nomination and election*" shall not exceed the amounts specified therein. The statute provides that in so far as a representative in congress is concerned, said "total amount" shall not exceed the sum of two thousand dollars. It does not provide for a maximum amount to be spent for nomination and a maximum amount to be spent for election separate therefrom, but the limitation is on the amount spent "to promote or aid in securing his nomination *and* election."

That this was the intent of the Legislature, is clearly shown, by noting the language contained in Section 5175-29a, General Code, which is a part of the same act and relates to contributions or expenditures made by persons other than candidates. The language found therein refers to contributions for "the nomination, the election, or the nomination and election of any candidate." This language clearly indicates that the Legislature in using the words "nomination and election" intended that the terms should be used together, and that the "total amount" should include all expenses incurred in obtaining the nomination, no matter how such nomination is made, and the amount expended for the election to the office. Such intent is also shown by the fact that the original section (102 O. L. 321), provided for such limitation to apply to expenses incurred "to promote or aid in securing his nomination *or* election." By amendment, (103 O. L. 580), the Legislature changed the word "or" to "and." No other change was made therein.

It is therefore my opinion that :

The limitation on expenditures by candidates for public office contained in the Corrupt Practice Act (Section 5175-29, General Code) refers to the total amount expended for election, including that which was expended to secure the nomination to such office, whether such nomination be by petition or at a primary election.

Respectfully,
EDWARD C. TURNER,
Attorney General.