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SYLLABUS:

Section 3513.04, Revised Code, prohibits a candidate who runs and loses in the primary election from running in the following general election for a different office on a non-partisan ticket.

Columbus, Ohio, August 27, 1963

Hon. Thomas L. Tribbie
Prosecuting Attorney
Guernsey County
Room 400 Central National Bank Building
Cambridge, Ohio

Dear Sir:

I have before me your request for my opinion reading as follows:

“An individual ran on the Republican ticket in the May primary for the office of Councilman at Large for the City of Cambridge, Ohio. He was unsuccessful in his candidacy. He now desires to run on the non-partisan ballot for the Cambridge City School Board.

“It would appear that under Section 3513.04 R. C. that he would not be eligible to be a candidate on the non-partisan ballot for a member of the Cambridge City School Board. I would like very much to have your opinion on the question.”

Section 3513.04, Revised Code, reads in pertinent part as follows:

“No person who seeks party nomination for an office or position at a primary election by declaration of candidacy shall be permitted to become a candidate at the following general election for *any office* by nomination petition or write-in.” (Emphasis added)

The use of the words “any office” certainly does not indicate an intent to limit the application of the statute to those who are running in the general election for the same office they lost in the preceding primary election. On the contrary, these words are sufficiently comprehensive to prohibit those who lose in a primary elec-

tion from running for a different office in the subsequent general election. In support of this conclusion I refer you to Opinion No. 2479, Opinions of the Attorney General for 1958, page 470. In that opinion the question was whether a candidate for county commissioner who was defeated in the primary election was eligible to run for the office of county judge in the following general election. The opinion called for a construction of Section 3513.04, Revised Code, which I have set out above. In construing this statute, a comparison was made of its language with that of its predecessor, Section 4785-69, General Code, before it was amended. This statute provided in pertinent part, that:

“* * * No person who seeks party nomination for an office or position at a primary shall be permitted to become a candidate at the following election for the *same office* by petition.”

Based upon a comparison of the two statutes, it was concluded that the change from the “same office” to “any office” evinced a legislative intent to inhibit further those who are defeated in a primary election. On this basis it was decided, that a candidate who was defeated in the primary election could not run for a different office in the following general election.

Your request, furthermore, contemplates not only the question of whether a candidate who lost in the primary election can run for a different office in the following general election but also whether he is permitted to run because he puts himself on a non-partisan ballot for the general election. Section 3513.04, Revised Code, does not make any special exceptions for those candidates who run on a non-partisan ballot. For the purposes of this statute, the question of whether a candidate runs on a partisan or non-partisan ballot is irrelevant.

It is therefore my opinion and you are accordingly advised that Section 3513.04, Revised Code, prohibits a candidate who runs and loses in the primary election from running in the following general election for a different office on a non-partisan ticket.

Respectfully,
WILLIAM B. SAXBE
Attorney General