STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For the Years
1967 through 1972

FACTS:

The nomination of a candidate by a party for any state or county office must be made by primary election. 21 M.R.S.A. § 441. A person whose name does not appear on the ballot can be a "write-in candidate".[1)]

A candidate for nomination by primary election must become qualified by filing a primary petition and written consent. 21 M.R.S.A. § 444. "Cross-filing" in more than one party by a single candidate in the primary elections has been prohibited by Chapter 89 of P.L. 1971. That statute provides:

> "[A candidate for nomination by primary election] must be enrolled, on April 1st, in the party named in the petition. The registrar of voters in his municipality of residence shall certify to that fact upon the petition."

QUESTION:

Can a candidate accept the nomination of two political parties where, in the primary of his party of enrollment he has duly filed and circulated primary petitions to have his name on the ballot, and in the other party's primary he receives a winning number of write-in votes?

ANSWER:

Yes.

REASONS:

The intent of the Legislature in requiring a candidate's enrollment in the party named in the primary petition was to prevent cross-filing by a single candidate in the primary elections. But such intent must be presumed not to encompass write-in candidates. Of the many changes made in the election laws during the 105th Legislative session, none has disqualified a person selected by write-in votes from accepting the nomination, whether or not he is enrolled in that party, and even if he is also the nominee of another party.

JOHN KENDRICK
Assistant Attorney General

November 23, 1971
Maine Land Use Commission

James S. Haskell, Jr., Executive Director

Jurisdiction of Maine Land Use Commission over Mainland Plantations.

SYLLABUS:

Mainland, as well as island plantations are subject to the provisions of 12 M.R.S.A.

1) The election laws contain several provisions for write-in candidates, e.g. 21 M.R.S.A. § 1, sub-§ 45, § 451, including printed instructions which must appear at the top of each ballot. 21 M.R.S.A.§701, sub-§2.

§ § 681-689 as enacted by P.L. 1969, c. 494 and amended by P.L. 1971, c. 457, hereinafter called the Maine Land Use Regulation Law.

QUESTION:

Are mainland plantations included within the definition of "unorganized and deorganized areas" in 12 M.R.S.A. § 682.1 and thus subject to the provisions of the Maine Land Use Regulation Law?

ANSWER:

Yes.

REASONING:

"Unorganized and deorganized areas" of the State of Maine are subject to the provisions of the Maine Land Use Regulation Law pursuant to the provisions of 12 M.R.S.A. § §683, 685-A and 685-C, as amended. 12 M.R.S.A. § 682.1 defines these areas as follows:

> "Unorganized and deorganized areas shall include the unorganized and deorganized townships and mainland and island plantations of the State and shall not include Indian reservations."

If the words "townships" and "mainland" *do not* describe the same land areas, it could be argued that the words "unorganized" and "deorganized" modify both the words "townships" and "mainland". (Alternatively, it could be argued that the words "unorganized" and "deorganized" modify only "township" and "mainland" and "island" modify "plantations".) If the words "townships" and "mainland" *do* include within their meanings the same land areas, then one of these two words would be redundant unless "mainland" is read to modify "plantations".

In the State of Maine a township is a mere geographical division of territory into an area 6 miles square and is not, as it is elsewhere in the United States, a political subdivision of the State. The word "mainland" is not defined by statute and thus should be afforded its ordinary meaning so long as that meaning is consistent with the legislative intent of the statute within which it appears. That is, the word "mainland" means simply "a continuous body of land constituting the chief part of a country or continent" and obviously includes with it those areas of the State known geographically as "townships". Thus, it would appear that the word "mainland" includes "townships".

Therefore, to avoid a construction of the statute which would result in the word "mainland" or the word "township" being redundant, because it is to be assumed that the Legislature did not intend that any word in a statute be redundant, one must construe "mainland" as modifying the word "plantation".

Finally, since the environmental harm likely to result from the uncontrolled development of "mainland plantations" is similar to the environmental harm likely to result from the uncontrolled development of "island plantations", it is reasonable to conclude that the legislative intent was to subject "mainland plantations" as well as "island plantations" to the jurisdiction of the Maine Land Use Commission.

In short, "where the language of a statute is plain, it must be given its plain and obvious meaning". *Pease v. Foulkes,* 128 Me. 293, 147 A. 212 (1929).

E. STEPHEN MURRAY
Assistant Attorney General