April 27, 1976

Honorable Markham L. Gartley
Secretary of State
State House
Augusta, Maine

Dear Mr. Gartley:

This responds to your request for an opinion on the question of whether 21 M.R.S.A. § 445, sub-§ 3 is complied with in situations where a person signs a petition using the first name by which that person is commonly referred to where the person's actual first name on the board of registration list is more lengthy.

As we understand the specific facts behind your request, they are as follows:

A petition for nomination has been challenged. That petition contains two instances where abbreviated first names have been signed while longer first names are registered (Jackie instead of Jacqueline and Pat instead of Patricia). In addition, the petition contains one signature using the long name where the registration is under the short name (Bertram instead of Bert).

If these signatures are valid, the candidate in question will qualify as a candidate in the primary election. If these signatures are not valid, the candidate will be disqualified for having inadequate signatures.

We believe that the signatures are sufficient and that, therefore, you may qualify the candidate in question in the primary election.

Discussion:

Analysis of election laws begins with the clear acceptance of the doctrine that all requirements, even technical requirements,

must be strictly complied with in order to qualify as a candidate for election. As to compliance with requirements of election laws, see Opinion of the Justices, 152 Me. 219 (1956); State v. Marcotte, 148 Me. 45 (1952). Thus, it is accepted that candidates must sign petitions using the names required in 21 M.R.S.A. § 445, sub-§ 3. The problem of interpretation comes when there may be an ambiguity in statutory requirements. Thus, the question which must be addressed here is whether the requirement that petitioners sign and be registered by their "first name" means that they must sign and/or be registered by the entire first name or only the first name by which they are commonly known.

Authority in other states on this point is split. Dupre v. St. Jacques, 153 A. 240 (R.I., 1931) and Hartigan v. Thornton, 175 A. 250 (R.I., 1934) invalidating such signatures and McManus v. DeSapio, 182 N.Y.S.2d 516, affd. 178 N.Y.S.2d 1012, affd. 179 N.Y.S.2d 866 (1958) approving such signatures.

Names are generally construed to mean that name by which a person is commonly known in a community. Very often, therefore, in community affairs people are called by the shortened version of first names, including the shortened versions which are at issue in this proceeding. As the use of such shortened first names is accepted practice, and as the statute in requiring use of first names does not specify entire first names in such a manner as would put persons on notice that the entire first name was required, the provisions of the statute in this area must be construed as mandatory in requiring first names but only advisory as to whether those first names are the shortened version or the more extensive version. This interpretation is confirmed by the generally accepted doctrine that, in election matters, a construction will be adopted which permit candidates to qualify and voters to vote unless requirements of the law have clearly not been met. Opinion of the Justices, 152 Me. 219 (1956); State v. Marcotte, 148 Me. 45 (1952); Blackman v. Hildreth, 63 N.E. 14 (Mass.), In Re Ross, 281 A.2d 393 (N.J., 1971). Where there is a lack of clarity, such lack of clarity should be construed in favor of allowing persons to exercise their franchise as petition signers, voters and candidates.

Sincerely,

DONALD G. ALEXANDER
Deputy Attorney General

DGA:mfe