

# MAINE STATE LEGISLATURE

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*Electoral Withdrawal of Candidates  
21 M.R.S.A. § 446*

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July 30, 1976

Honorable Walter W. Hichens  
State Senator  
424 State Road  
Eliot, Maine 03903

Dear Walter:

This responds to your letter of July 27, 1976. In that letter you raise the question of whether certain candidates for the State Legislature, nominated in the June primary, may withdraw and the circumstances which would justify such withdrawal. Specifically, your letter calls for an interpretation of 21 M.R.S.A. § 446 and the effect of the consent which the candidate is required to file in accordance with that section. Specifically, § 446 requires:

"The written consent of each candidate must be filed with his primary petition.

"1. Content. The consent must contain a statement over the signature of the candidate that he will accept the nomination of the primary election. The statement may be printed as part of the primary petition. . . . "

In our view the required consent constitutes a statement by the candidate that as of the date the consent is filed, the candidate fully intends to accept the nomination in the primary, and if successful, to pursue ultimate election. However, neither the provisions of § 446 nor the consent which the candidate signs as part of a nominating petition can be construed as absolutely binding a candidate to continue to pursue election absent some outside force such as illness or injury which would prevent his pursuing the nomination.

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Further, the matters which may make it appropriate for a candidate to withdraw, even after submitting the required written consent, are solely within the discretion of the candidate. There is no provision of law which would force a person who does not desire to seek election to continue to seek election simply because at one time in the pre-election proceeding that person did honestly intend to seek election.

I recognize there are a number of instances where candidates for both the State Senate and the State House of Representatives have withdrawn from either the primary or the election race after submitting the required consent forms. All of these withdrawals must be presumed to have occurred in good faith as a result of matters solely within the personal discretion of the candidate. Such withdrawals are entirely proper.

Sincerely,

  
JOSEPH E. BRENNAN  
Attorney General

JEB/ec