

THE STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION

September 26, 1980

Re:

APPEAL OF JOAN C. TUCK TO THE CANDIDACY OF
CAROLE R. AMABELLO FOR THE N. H. GENERAL COURT
ON THE DEMOCRATIC PARTY TICKET FROM DISTRICT 3A -
ROCKINGHAM COUNTY

The facts of this case are essentially undisputed. Mrs. Amabello lives at 54 Morrison Road, Windham, Rockingham County, The State of New Hampshire. She absented herself from the State of New Hampshire for the last five months of 1978 and the first five months of 1979. During this interlude, she lived in Huntington Beach, California with her husband and children. The purpose of her trip to California was to attempt to find a climate more suitable to her husband's illness, which proved to be unsuccessful.

At no time did Mr. and Mrs. Amabello sell their residence in New Hampshire; at no time did she vote in the State of California; at no time was her name removed from the checklist of the Town of Windham.

Further, prior to becoming a candidate for the General Court

on the Democratic ballot, she consulted with the Secretary of State and explained the circumstances of her absence from the State of New Hampshire.

The applicable statute to this controversy is N.H. RSA 654:2 entitled, "Temporary Absence," which states that domicile for the purpose of voting is a matter of all of the facts in each case and the voter's intent. The statute clearly states that a person does not lose residence for voting purposes by temporary absence so long as there is a continuing intention to return.

Based on all of the above, it is the unanimous opinion of this Commission that Carole R. Amabello continued, for voting purposes, to be a resident of the Town of Windham and therefore, was not absent for the two-year period required under the New Hampshire Constitution to qualify her as a candidate for the office that she seeks. For these reasons, the appeal of Joan C. Tuck is hereby DENIED.



Ronald L. Snow, Chairman



Dort S. Biggs



Robert D. Calamari