

MAINE STATE LEGISLATURE

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12/31/42

Governor Sewall

Executive

Frank A. Farrington, *Deputy*

Attorney General

Appointment of Substitute for Clerk of Lewiston Municipal Court.

In connection with the situation concerning the Clerk of the Lewiston Municipal Court, who is entering the armed forces, a question arises as to what authority should appoint a substitute Clerk during his absence.

A provision in Chapter 636, Private and Special Laws of 1871 states: "In case of the absence of said clerk, or vacancy in said office, the judge of said court may appoint a clerk who shall be sworn by the said judge, and act during said absence, or till the vacancy is filled."

Chapter 314, Public Laws of 1940, deals with State employees in military service and provides for appointment of a substitute by the authority who appointed such employee.

The clerk of the Lewiston Court is an employee of the State and was appointed by the Governor.

It is the opinion of this department that this general statute overrules the Private and Special Law in this instance and that the substitute should be appointed by the Governor.

The appointment should be as substitute clerk for the period during which the present clerk is absent in military service or until the expiration of the present clerk's term, whichever happens first.

Deputy Attorney General

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