

MAINE STATE LEGISLATURE

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yes ✓
June 22, 1966

Governor John H. Reed

Executive

Richard J. Dubord, Attorney General

Attorney General

Vacancy in the Office of Representative to Congress

Reference is made to your memo of June 16, 1966 concerning a possible vacancy in the office of Representative to Congress.

21 M.R.S.A. § 1532 reads:

"When there is a vacancy in the office of Representative to Congress, the Governor shall issue a proclamation.

"1. In his proclamation, the Governor shall declare the vacancy and order a special primary election followed by a special election to fill the vacancy as provided in section 1444.

"A. If Congress is in session, the elections must be held as soon as reasonably possible. If not they must be held before the next regular or called session."

This section of the statute represents the whole law relative to filling vacancies in the office of Representative to Congress. There has been little or no substantive change in this law over the years. The 1916 revision is very similar. Attached hereto is an opinion rendered on December 8, 1921 by Mansford W. Shaw, Attorney General.

This section is mandatory. The Governor must issue a proclamation setting forth:

1. A vacancy exists.
2. Order a special primary election.
3. Order a special election.

June 22, 1966

If Congress is in session, the Governor must set the dates of the elections to be held "as soon as reasonably possible." If Congress is not in session, the elections must be held before the next regular or called session.

It is mandatory that special elections be held. We cannot legally forego holding special elections to fill the vacancy.

I might mention that Congressman Tupper called me several weeks ago to inquire informally about this same law. He expressed a desire at that time to time his resignation, if possible, in order to give some seniority to his successor as you indicate in your memorandum. I realize that there are mechanical problems involved in the Secretary of State's Office in printing and distributing ballots, etc. I agree with you that if there were different candidates for the unexpired term that confusion could well result in the general election.

I wonder, however, as a practical matter, whether or not the nominees of both parties for the full term would not, in all likelihood, be selected as candidates for the unexpired term and whether or not they would probably, in fact, be the only candidates. Of course, there is no guarantee that this would result.

Yours respectfully,

Richard J. Dubord
Attorney General

RJD:H