

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date February 12, 1975

To Lynwood F. Ross, Deputy Dept. Secretary of State
From John W. Benoit, Jr., Deputy Dept. Attorney General
Subject Length of Term of Deputy Register of Deeds

This is a reply to your inter-office memorandum of February 7 stating that a vacancy in the position of Register of Deeds in one of the counties was recently filled when the Deputy Register assumed the Register's position pursuant to 33 M.R.S.A. § 606. Your memorandum poses two questions: (1) Does the Deputy serve as Register until January 1, 1977, or until December 31, 1978? (the latter date being the date of expiration of the antecedent Register's term); and (2) If the office of Register of Deeds must be placed on the 1976 ballot, would the length of the term be for 2 or 4 years? The answer to the first question is that the Deputy Register of Deeds serves as Acting Register until January 1, 1977. The answer to the second question is that the term of the person elected to fill the vacancy would be 2 years.

When the vacancy in the office of Register occurred, the Deputy Register filled the vacancy by assuming the office of Acting Register within the prescribed 3-day period after the vacancy occurred. 33 M.R.S.A. § 606. Had the Deputy not so assumed that office, the Governor, with the advice and consent of the Executive Council, would likely have appointed an Acting Register to hold office as provided in 33 M.R.S.A. § 601. (*Ibid.*) Whenever the Governor, with the advice and consent of the Council, fill vacancies in the office of Register by appointment, the person so appointed holds office until the first day of January next after "the election in November."

We do not believe the Legislature intended the Deputy Register, who assumes the office within 3 days after the vacancy occurs, to hold a term as Acting Register which is longer than the term which could be held by the person who, alternatively, might have been appointed to the position by the Governor and Council. This result seems mandated by the provision.

"Vacancies shall be filled for the unexpired term by election as provided for in § 602 at the next November election after their occurrence."

The result we reach is in the public interest. The office in question is an elected position. The vacancy in the elected office of Register will be filled by the Deputy until the position can be filled through election according to law.

JOHN W. BENOIT, JR.
Deputy Attorney General

JWB Jr./ec