

MAINE STATE LEGISLATURE

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JAMES E. TIERNLY
ATTORNEY GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

March 20, 1989

Honorable John R. McKernan, Jr.
Governor of Maine
State House Station #1
Augusta, Maine 04333

Dear Governor McKernan:

I am writing in response to the inquiry from your office as to whether there is any restriction with regard to political party concerning your power to fill a vacancy in the office of Register of Deeds by appointment until that office may be filled by election. For the reasons which follow, it is the Opinion of this Department that there are no such restrictions, and that you may fill the office with a person of any political party.

The filling of vacancies in the office of Register of Deeds is governed by 33 M.R.S.A. § 601, which provides as follows:

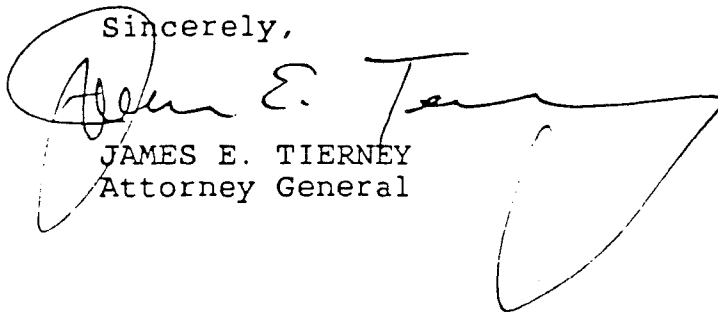
Vacancies shall be filled for the unexpired term by election as provided for in section 602 at the next November election after their occurrence. In the meantime, the Governor may fill vacancies by appointment, and the person so appointed shall hold his office until the first day of January, next after the election last mentioned. Until a vacancy is filled by appointment by the Governor, the Deputy Register shall serve as acting register as provided in section 605.

This section, therefore, is silent as to whether there is any restriction with regard to political party on the Governor's power to fill vacancies in this particular office. In this regard, the statute is in sharp contrast with others providing for gubernatorial appointments to fill vacancies where the

Governor's power is limited to making an appointment of a person of the same political party as the person who vacated the position. See, e.g., 30-A M.R.S.A. § 63 (Governor must fill a vacancy in the office of County Commissioner with an enrolled member of the same political party as the Commissioner whose term was vacant). Thus, it is quite clear that there is no restriction on the Governor's power to make appointments to fill vacancies in the office of Register of Deeds.

I hope the foregoing answers your question. Please feel free to reinquire if further clarification is necessary.

Sincerely,

A handwritten signature in cursive script, appearing to read "James E. Tierney". The signature is written in dark ink and is positioned above the typed name and title.

JAMES E. TIERNEY
Attorney General

JET/ec