Legislator, when term of service commences. Governor, who may act in the absence Of. President Pro Tem of Senate, when term expires. Vacancy in Office of Lieutenant Governor and President Pro Tem of Senate, When.

There is now in the State of Montana no lieutenant governor or president pro tem of the senate, hence there is no one who can legally discharge the duties of the office of governor in the absence from the state or disability of the governor.

Helena, Montana, November 12, 1908.

Hon. Edwin L. Norris,
　　　Governor,
　　　　　Helena, Montana.

Dear Sir:

I am in receipt of your favor of the 5th inst. submitting for the consideration of this office the following question:

Is there anyone now legally authorized to perform the duties as acting governor in case of the absence of the governor or of his inability to perform the duties of such office.

Section 6, Article 5 of the state constitution, in dealing with the term of service of members of the legislature, provides: "The term of service of the members thereof shall begin the next day after their election until otherwise provided by law." There is not any statute making any provisions as to when the term of service of members of the legislature begins; hence this provision of the constitution is controlling, and the term of service of those elected as members of the legislature at the recent election has already begun, and the term of service of those whom they were elected to succeed has ended. The Hon. A. W. Miles, president, Pro Tem. of the senate, was not a hold over senator, hence his term of service has expired, and as the lieutenant governor elect does not take office until the first Monday in January next, as provided in Section 1, Article 7, state constitution, and as there is now no lieut-

enant governor, there is no one who is legally authorized to perform the duties of the office of governor in case of the absence from the state or inability of your excellency to perform such duties.

Very truly yours,

ALBERT J. GALEN,

Attorney General.