

**Vacancy, State Office. Secretary of State, Vacancy In.  
Deputy Secretary of State, Authority Of. Authority, Deputy  
in Case of Death of Principal.**

In case of vacancy in the office of Secretary of State the deputy secretary of state has authority to perform the duties of the office of secretary of state.

Helena, Montana, August 7, 1911.

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

Dear Sir:

I beg leave to acknowledge receipt of your inquiry as to who may legally discharge the duties of secretary of state pending an appointment to fill the vacancy now existing therein.

Section 7, Article VII, of the state constitution provides that such vacancy shall be filled by appointment by the governor. Pending this appointment, however, Section 143, of the Revised Codes makes provision that the duties of the office shall be performed by the deputy secretary of state, and said section after conferring authority on the secretary of state to appoint a deputy, provides:

“who in the absence of his principal or in the case of vacancy in his office, shall perform all the duties of office until such disability be removed or vacancy be filled.”

The statute does not provide what title shall be used by the deputy discharging the duties of this office in case of vacancy, but leaves the inference that the word “deputy” should still be used. A deputy ordinarily acts in the name of his principal but where the vacancy is occasioned by the death of the principal the principal’s name can no longer be used. In such case the proper designation should be “Deputy and Acting Secretary.” This at least would be expressive of the facts as they exist.

Section 143 seems to be broad enough in its terms to confer upon the deputy authority to perform all the duties of the office of secretary of state which could be performed by the secretary himself. However, there are certain duties which the constitution enjoins upon

the secretary himself, as a member of the state boards, which duties are rather quasi-judicial and which cannot be delegated to or legally discharged by a deputy.

Very truly yours,  
ALBERT J. GALEN,  
Attorney General.