

NO VACANCY EXISTS

DEATH OF EX-GOV. PILLSBURY
DOES NOT AFFECT BOARD
OF REGENTS

ATTORNEY GENERAL'S OPINION

The Deceased Statesman Was Given
Place on University Board as a
Merited Tribute to His
Generosity.

Attorney General Douglas yesterday advised Gov. Van Sant that in his belief the death of John S. Pillsbury did not create a vacancy in the board of regents of the state university to be filled by appointment of the governor. Hereafter, therefore, the board will consist of twelve instead of thirteen members, unless the state legislature shall make other provision. The attorney general in his written opinion quotes the law and discusses at some length the question which has been raised. Following is the opinion:

Section 1 of chapter 15 of the General Laws of 1895 reads as follows: "Government board of regents—The government of the university shall be vested in a board of thirteen (13) regents, of which the governor of the state, the state superintendent of public instruction, the president of the university and the Hon. John Sargent Pillsbury for and during his good pleasure as an honorary member, having the same power as any other member, shall be members ex-officio, and the nine (9) remaining members thereof shall be appointed by the governor by and with the advice and consent of the senate. Whenever a vacancy therein occurs for any cause, the same shall be filled for the unexpired term in the same manner. After the expiration of the term of the members of the present board of regents, their successors shall be appointed in like manner, and shall hold their office for the full term of six (6) years from the first Wednesday of March succeeding their appointments, and until their successors are appointed and qualified. The president of the university shall be ex-officio the corresponding secretary of the board of regents."

The general purpose of the legislature was to honor Mr. Pillsbury by making him a life member of this board. Instead of passing a separate enactment to accomplish this purpose, the legislature amended the then existing law creating the board, and thereby made Mr. Pillsbury an honorary member, having the same powers as other members, and, incidentally, changed the total number to thirteen. The second paragraph provides specifically for the appointment of nine other members not specially designated in the act. If the act is construed as continuing the total number of thirteen members after the death of Mr. Pillsbury, the provision referred to authorizing the appointment of nine members for a specific term of necessity must be construed as authorizing the appointment of ten members, one of whom shall serve for another and a different term than provided by the act in question. The clause in the act quoted, to-wit: "Whenever a vacancy therein occurs for any cause the same shall be filled for the unexpired term in the same manner," can have no reference whatever, in my judgment, to the term of Mr. Pillsbury, which the legislature provided should continue during his good pleasure. If this clause is given any effect whatever, it must be deemed as having reference to the power of the legislature, which is supreme in the premises.

I beg, therefore, to add that, in my judgment, you are not authorized to appoint such successor, and that hereafter the board of regents must be deemed to be composed of twelve members.