

December 16th, 1911.

Mr. H. R. Houghton, Clerk,  
Jefferson County,  
Boulder, Montana.

Dear Sir:

I am in receipt of your letter of the 11th inst., with reference to an opinion rendered by this office to Hon. Justin M. Smith, county attorney, Bozeman, Montana, under date of December 8th, 1911, relative to the necessity of naturalized citizens exhibiting copy of their naturalization papers to the county clerk and recorder at the time of registering.

It is apparent that the newspaper reports of this opinion went farther than the opinion itself was intended to go. The extent to which that opinion was intended was to hold.

"That there was no authority of law authorizing the county clerk and recorder to demand as a condition precedent to registering an applicant that he shall exhibit to him documentary evidence of his right as an elector."

That opinion may have been made somewhat indefinite by reason of the fact that no reference was made therein to section 22, Chapter 113, Laws of 1911, but this section confirms the opinion expressed as to the right of the county clerk to demand as a condition precedent the exhibition of naturalization papers. This section provides that where an applicant for registration is a naturalized citizen he must produce his citizen papers at the time of registering, if he has them, but if his certificate of naturalization or a certified copy thereof is lost or destroyed or beyond the reach of the applicant at the time of his application for registration, the county clerk may not on that account refuse to enter his name upon the register, but is required to register such applicant and to have him make the additional affidavit provided for in said Section 22; so that in so far as the opinion of December 8th tends to indicate that a naturalized citizen under no circumstances is required to exhibit his naturalization papers we modify to the extent of holding that where a naturalized citizen applies to be registered and has with him his evidence of naturalization he must exhibit such evidence to the county clerk and recorder, but where such applicant is not at the time he applies for registration in possession of his evidence of naturalization, he may still upon the making of the additional affidavit provided for in Section 22, demand that his name be entered upon the registration list. In other words, that the county clerk and recorder is not authorized to demand as a condition precedent that the applicant shall exhibit to him documentary evidence of his right as an elector.

I enclose you herewith copy of the opinion given to Mr. Smith.

Yours very truly,

ALBERT J. GALEN,

Attorney General.