

Certificate, Renewal of. Constitutionality of Law, Relating
to Renewal of Certificates.

The law relating to the renewal of professional or first grade
certificates is not unconstitutional.

January 31st, 1913.

Hon. H. A. Davee,
Supt. Public Instruction,
Helena, Montana.

Dear Sir:

I am in receipt of your favor of the 31st inst., to the following
effect:

"I wish an opinion from you with reference to the con-
stitutionality of Sec. 909 of the recommendations of the educa-
tional code commission. This recommendation is:

"Any person now holding a professional or first grade
certificate may have the same renewed by the county super-
intendent upon the proper fee being paid into the institute
fund, as provided for in the case of examination, provided that

there shall be no limit to the possible number of such renewals. No such certificate shall be renewed unless the applicant has taught at least ten months during the life of such certificate.'

"The question has been raised as to the constitutionality of this section in view of the fact that the commission recommends that hereafter when professional or first grade certificates are granted, that branches in addition to those now required be added."

You are advised that in my opinion Sec. 909 is not unconstitutional. The exemption of particular persons from taking examinations in statutes such as the one you propose, is not uncommon in this state. When the Legislature required dentists to obtain a certificate as a prerequisite to the right to practice dentistry, those dentists who were then in the practice were exempted. Sec. 623 of the Political Code, 1895; Sec. 1576, Revised Codes.

The courts uniformly held that such provisions are not unconstitutional on the ground of discrimination.

30 Cyc., 1560.

State v. Creditor, 44 Kan., 565.

24 Pacific, 346.

Ex Parte Sinney, 10 Nev. 323.

State v. Call, 28 South Eastern, 517.

In re Cristensen, 59 Wash. 314, 320.

109 Pac. 1040.

You are therefore advised that in my opinion the above section is not unconstitutional.

Very truly yours,

D. M. KELLY,
Attorney General.