

Opinion No. 308

**State University—Normal College—Di-
plomas—Certificates—Teachers
—Citizenship.**

HELD: No diploma from any unit of the University must assume to grant any graduate who is not a citizen any right to teach in the public schools of this state.

August 16, 1933.

We acknowledge receipt of yours of August 14th, which is as follows:

"The law has for a long time provided that a diploma from the State Normal College at Dillon shall constitute an elementary state certificate valid for six years from date. So far as I can find there is no restriction on any person of sufficient age entering the Normal School and completing a course there. When any person has done this he would naturally be presumed to be entitled to a diploma. In 1931 the Legislative Assembly, without making any direct allusion to this law, enacted that no certificate to teach in the public schools of Montana shall be granted to any person who is not a citizen of the United States. Probably no one doubts that even a person of foreign birth who had graduated at the State Normal College would be obliged to defer teaching in the public schools until his final citizenship papers were obtained. The question, however, arises whether the law by indirection forbids such a person to graduate from the Normal College because the diploma which he has received would seem to be a certificate to teach. If the law does forbid such a person to graduate, does it forbid him to attend the school at all? If it does permit him to attend, but not to graduate, it would seem to be difficult to see at what moment he must be compelled to discontinue his course. May I ask you to give an opinion with reference to the dilemma in which the officers of the State Normal College find themselves?"

Section 854, R. C. M. 1921, as amended by Chapter 6, Laws of 1927, vests in the State Board of Education the power to grant diplomas to the graduates of all the competent institutions comprising the University of Montana. Section 853 vests the control of the University in the State Board of Education with power in the board to make necessary rules and regulations for its government.

If the Normal College at Dillon grants diplomas to its graduates which contain anything inconsistent with the statutes of the state, the school authorities of the state are not bound by such inconsistent provisions. Section 1088 R. C. M. 1921, as amended by Chapter 147,

Laws of 1931, prohibits the issuance of a certificate to teach to anyone not a citizen of the United States. Your diplomas and certificates should be revised to comply with this chapter.

There is no provision of the statutes prohibiting any student from graduating from any unit of the University after full compliance with the prescribed regulations, but no diploma must assume to grant any graduate who is not a citizen any right to teach in the public schools of the state.