

Opinion No. 14-1292

August 3, 1914

BY: H. S. CLANCY, Assistant Attorney General

TO: Christian H. Jaborg, Cedarvale, New Mexico.

NATURALIZATION.

OPINION

{*151} I am in receipt of your letter of the 1st instant in which you ask for the opinion of this office as to the procedure necessary for you to obtain your final naturalization papers. You state that your petition for naturalization was duly filed with the County Clerk of Torrance County upon June 19. The next term of court in Torrance County will commence September 21, so that ninety-three days will have elapsed between the filing of the petition and the convening of the court. The United States statute upon this subject requires that at least ninety days shall have elapsed, so that the court, on September 21, will be fully empowered to take the matter up and decide whether you shall be admitted to citizenship, and I would advise that you appear upon that date with your witnesses.

{*152} You state that Judge Medler has notified you that it would be impossible to grant naturalization papers to you upon September 21, as that date would be within sixty days of a general election to be held in New Mexico. I believe that there must be some mistake about this, as Section 6 of the Act of Congress of the United States of June 29, 1906, which provides for a uniform rule for the naturalization of aliens, distinctly states that no certificate of naturalization shall be issued by any court within **thirty days** preceding the holding of any general election within its territorial jurisdiction, and if action should be taken and final papers issued to you upon September 21, 1914, forty-two days would elapse before the holding of an election upon November 3. However, there is nothing in the Act of Congress which prohibits a hearing by a court upon petition for naturalization within such period of thirty days prior to a general election, but merely directs that a certificate of naturalization shall not be issued during that time. It would thus seem that a court can hear the petition, and if it is found that the applicant should be naturalized, the certificate to that effect can be issued after the election. This is the gist of an opinion of the Attorney General of the United States to be found in 26 Op. Atty. Gen., 611. As you say that it will be seven years next spring since you made your declaration of intention, you should make it a point to be on hand with your witnesses at Estancia upon September 21.