

Opinion No. 16-1746

February 19, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Dr. L. L. Cahill, Springer, New Mexico,

No registration required at election of village officials, nor for a bond election.

OPINION

{*316} I have your letter of yesterday asking whether registration of voters is required before every regular election of village officials in Springer, incorporated under the Law of 1909. By Section 7 of Chapter 117 of the Laws of 1909, which reappears as Section 3770 of the Codification, it is distinctly provided that no registration shall be necessary or required in corporate elections in villages incorporated under that act. I cannot see that any registration can be required at any election in such villages. You say that in the report of this office for 1914, at pages 112 and 136, appear letters giving opposing opinions to Mr. H. C. Williams, of Estancia, as to the requirement of registration at local option elections. If you will re-read those two letters you will see that they are not inconsistent. The first one is as to such elections in municipalities generally, and under the general law, registration would be required, while the second letter is based upon the fact then communicated to us that Estancia was incorporated under the act of 1909. You ask us to state which of these two letters is correct, and I have to say that each is correct.

You further say that Springer will, in April, vote on bonding the town for water works and sewerage system, and you ask whether taxpayers only can vote on this question, and if registration is necessary for such vote.

By Section 12 of Article IX of the Constitution it is provided that no village shall create any debt unless the question of incurring the same shall, at a regular election for officers of the village, have been submitted to a vote of such qualified electors as have paid a property tax in the village during the preceding year, and a majority, voting by ballots deposited in a separate ballot box, shall have voted in favor of creating such debt. I cannot find that there is any statutory requirement for registration of such voters at such an election in a village of the class to which Springer belongs, but the judges of election, under Section 3770, may require the sworn affidavit of anyone offering to vote as to his qualifications, and any person swearing falsely may be punished for perjury.