

Opinion No. 22-3287

February 20, 1922

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. Dolores G. Martinez, P. O. Box 27, Wagon Mound, New Mexico.

Regarding Holding of Village Election.

OPINION

{*124} I have your letter of the 17th instant making several inquiries concerning the preliminary steps in connection with the holding of a village election in Wagon Mound in April.

You ask whether the judges and clerks of elections are to be appointed by the Board of County Commissioners or by the mayor.

Section 3770, Code 1915, which was Section 7 of Chapter 117 of the Laws of 1909, provides that judges of elections in village elections shall be appointed by the County Commissioners.

Chapter 117 was enacted for the purpose of permitting villages to incorporate and undoubtedly the provisions requiring the appointment {*125} of judges by county commissioners was inserted for the purpose of designating a legal agency or commission with power to appoint the judges as there would be no board of trustees or mayor of a village to act as the appointing power in an election which would be held immediately after the village had been incorporated.

Section 3591, as amended by Chapter 68, Laws 1921, which is a part of the Municipal Corporation Act, provides that the trustees or council of a municipal corporation shall appoint the judges and clerks of municipal elections. Nowhere is there a provision that the judges of elections shall be appointed by the Mayor as stated in your letter.

If a village is a municipal corporation, then the provisions of Section 3591 as amended would prevail in all village elections as it is the later pronouncement of the legislature upon the subject, provided, of course, there is a conflict between Section 3770 and 3591 as amended.

Villages have repeatedly been held to be municipal corporations. Beach's Public Corporations, Duval City vs. Charleston Lumber & Mfg. Co., 33 So. 531, 60 L.R.A. 549; City of Wahoo vs. Reeder, 27 Nebr., 770, 43 N.W. 1145; State vs. Chichester, 31 Nebr. 325, 47 N.W. 934, 11 L.R.A. 104.

You will note that Section 1, Chapter 68, Laws 1921, provides that the trustees or council of every municipal corporation shall appoint the judges and clerks of municipal elections.

Since a village is a municipal corporation it must necessarily follow that the trustees or council of the corporation must appoint the judges and clerks of municipal elections.

You also ask if it is necessary for the two parties to hold primaries or conventions ten days before election and send the names of the nominees to the county clerk who must print the ballots.

It is not necessary for the parties to hold primaries or conventions to select nominees to run for municipal offices.

The printed ballots for the election must be prepared and furnished by the municipal clerk. (Sec. 7, Chapter 89, Laws 1917.)

There is no provision of law specifically designating the time within which the filing of the names of the nominees must be made with the city clerk, nor is there any provision requiring such a filing.

In order to give the clerk the notice necessary to have the ballots printed it must follow, however, that the names of the candidates must be certified to him in some manner, at a time prior to the election sufficient to permit him to have the ballots prepared.