

Opinion No. 15-1701

December 20, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. A. W. Hockenull, Clovis, New Mexico.

A municipal lighting system does not come within the exception contained in Sec. 13, Chap. 54, Laws of 1915.

OPINION

{*271} Yesterday I discovered on my desk a letter from you dated December 8, which I have no recollection of having previously seen, and I must apologize to you for seeming neglect and assure you that it was not intentional.

You say that the city of Clovis has under consideration the voting of \$ 25,000 of bonds to be used for extension of water system, electric light system and street improvement and that it is now bonded for \$ 125,000, jointly for water and light systems, of which probably \$ 35,000 to \$ 50,000 were used for the light system. The difficulty is as you state it, that unless the light system comes within the exception contained in the last clause of Section 13 of Chapter 54 of the Laws of 1915, the bonds cannot be voted on account of the limitation of municipal indebtedness in that section to one and one-third percentum on the actual value of taxable property within the city.

The exception in the last clause of the section is to the effect that "such limitation shall not apply to indebtedness for the construction or purchase of a system for supplying water or a sewer system for such city, town or village."

The obvious reason for the enactment of this last clause is to {*272} be found in the proviso in Section 13 of Article IX of the constitution, which directly authorizes municipalities to contract debts in excess of the limitation of four percentum contained in that section, "for the construction or purchase of a system for supplying water, or for a sewer system, for such city, town or village."

I am unable to see, desirable as it may be, how we can say that the removal of any limitation upon indebtedness for supplying water or a sewer system, can be expanded so as to include an electric light system. I believe that your proposed bond issue, if it will make the indebtedness exceed the limit fixed in Chapter 54, must be only for supplying water or a sewer system.