

## Opinion No. 16-1813

June 3, 1916

**BY:** FRANK W. CLANCY, Attorney General

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

**Municipal water and sewer bonds must be voted upon separately.**

### OPINION

{\*377} I have today received your letter of the 1st instant and hasten to reply. In view of the decision of the supreme court in the case of Lannigan vs. Gallup, to which you call attention, I am compelled, reluctantly, to agree with you that bonds voted for the extension {\*378} of the water and sewer system of the City of Clovis, without opportunity being given to the voter to vote separately upon the water bonds, and the sewer bonds, are not valid. Practically, I do not believe there ever would be any danger of their repudiation, but I am reasonably sure that no bond buyer would take the bonds. If you could find any bond buyer willing to buy and pay for the bands on the record made, of course it would be well for the city authorities to take his money.

As to your suggestion that the city authorities might proceed under the provisions of Sections 3713 to 3715 of the Codification, I am not entirely clear. It might be urged that the indebtedness to be evidenced by certificates issued by the city is a debt of the city, and therefore, would be within the prohibition contained in Section 12 of Article IX of the Constitution. It seems to me that it must be considered as an indebtedness of the city. I think the Lannigan decision is an unfortunate one, but it appears to have been made after very careful consideration, appears to be sound, and there is no hope of getting the supreme court to depart from it.