Registration, When Necessary. Election, First Officers of
Town. Registration for. Incorporation of Town, Election and
Registration. Town, Election for. Candidate for Office of
Newly Incorporated Town. Nomination of Candidates.

Registration is necessary for an election for the first officers
of a newly created town. Candidates for such position may be
nominated in the manner provided by Section 524 R. C.

March 28th, 1913.

Hon. Vard Smith,
    County Attorney,
        Livingston, Montana.
Dear Sir:

I am in receipt of your request for an opinion upon the following
propositions:

"First—Is registration necessary under the provisions of
Chapter 113, Laws of 1911, for an election for the first officers
of a newly incorporated town?"

"Second—May candidates be nominated for the offices of
a newly incorporated town in the manner provided for by
Sec. 524 of the statutes?"

There has been a number of opinions rendered by this department
in the interpretation of Chapter 113, Laws of 1911. In these opinions
it is held that the provisions of the act apply to **general elections,
primary nominating elections, general municipal elections, general
school elections, and special county elections.**

See opinion rendered to county clerks of Montana, Opinions
of Attorney General, 1910-12, p. 383.

In this opinion it is also held that registration is not required
for a special municipal election, which holding was affirmed in an
opinion rendered to the board of county commissioners of Musselshell
County October 31, 1911.

See page 291, Opinions Attorney General, 1910-12.

The question then arises as to whether the election which you
suggest is a special county election or a special municipal election.
If it is a special county election, then under the former rulings of
this department, registration is necessary, but if it is a special
municipal election, then registration is not necessary.

While Chapter 113 is amended in some particulars by Senate
Bill No. 132, recently enacted, I do not find that there is any modifi-
cation in so far as it applies to special municipal elections and special

county elections.   In an opinion rendered to the board of county commissioners of Carbon County, November 21, 1911 (See Opinions Attorney General, 1910-12, p. 312) the conclusion was reached that an election of the character inquired about by you is a special county election and not a special municipal election, in the sense that such terms are used in the registration act.   The election is a county election because it is under the control of the county authorities, although it is confined to a particular territory which will be the new municipality when such new municipality is formed and perfected by the election and qualification of such new officers.   Being a special county election, it is, in my opinion, necessary that the voters at such election should be registered.

Answering your second question, I would say that candidates in a newly incorporated town may be nominated in the manner provided for by Sec. 524, R. C.   At the general election of November, 1912, there was enacted by the initiative a general act providing for the nomination of candidates for offices, which general act applies to candidates for municipal offices in all incorporated towns and cities having a population of two thousand and upwards.   In towns and cities having a population of less than that number, the new act does not apply.   You do not expressly state in your question that the new municipality has a population of less than two thousand, but I take it for granted that such is the case and am rendering my opinion upon such presumption.   The initiative act did not repeal or abrogate the former laws in force for nominating candidates for office, only in so far as the same were inconsistent with the provisions of the initiative act.   Sec. 524, in so far at least as it is applicable to your new municipality, assuming that the same has less than two thousand inhabitants, is still in force and in my opinion nominations under this section may be made.

<div align="center">Very truly yours,</div>

<div align="right">D. M. KELLY,
Attorney General.</div>