

Opinion No. 53-5789

July 27, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Honorable Robert D. Castner State Auditor Santa Fe, New Mexico

{*196} In your letter dated July 20, 1953, you state that a state warrant was lost or stolen after it had passed into the hands of some person other than the original payee. You are wondering whether the assignee should be required to make bond for the issuance of a duplicate or whether the original payee should be required to do so.

§ 7-242, 1941 Compilation, authorizes issuance of duplicate warrants in favor of the person to whom the original warrant was issued.

{*197} § 7-243, 1941 Compilation, provides in part as follows:

"Before any duplicate shall be issued as provided in the foregoing section, the party applying for the same shall prove to the satisfaction of the officer authorized to draw such duplicate, that the original warrant, draft, check, or order, has been lost or destroyed, and shall file with such officer a bond to his satisfaction, to the state or county, as the case may be, in a penalty sufficient to cover the amount of such original warrant, draft, check or order;"

If the last holder of the warrant is the party applying for issuance of the duplicate, the law provides that the party so applying is the one upon whom falls the burden of filing a satisfactory bond.

By: C. C. McCulloh

Assist. Attorney General