

Opinion No. 55-6261

August 26, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mrs. Natalie Smith Buck, Secretary of State, The Capitol, Santa Fe, New Mexico

On August 18 you requested an opinion of this office in which you state that it is contemplated that the Great Seal of the State of New Mexico, which is in your custody, be taken to New York City for use in validating the State bonds at the time you, the Governor and the State Treasurer go to that City to sign the bonds. You further state that you have two devices for the purpose of imprinting the Great Seal on instruments.

The Constitution of the State of New Mexico, Article V, Section 10, reads as follows:

"There shall be **a state seal** which shall be called the 'Great Seal of the State of New Mexico' and shall be kept by the secretary of state."

Further, in Article V of Section 11 of the New Mexico Constitution, it provides as follows:

"All Commissions shall issue in the name of the state, be signed by the governor and attested by the secretary of state, who shall affix **the state seal** thereto."

The State Seal historically has been the indicia of authority of the State and the executive branch much affix the State Seal to a great many commissions and other official acts of the government. In the absence of the Governor from the State, the Lieutenant Governor acts as Governor "with all the powers, duties and emoluments of that office." (Art. V, Sec. 7) Therefore, the Lieutenant Governor, during the absence of the Governor, has authority to do all the things the Governor may do when he is here. Many of the official acts of the Governor, or the Lieutenant Governor while acting as Governor, require the affixing of the State Seal. In the event any act is done by the Lieutenant Governor while the aforementioned group of State officials are in New York, the acts of both the Lieutenant Governor and of the group in New York would be subject to a great deal of question; this, by reason of the fact that the State has only one Great Seal. Further, the law requires that the books and records of the Secretary of State be kept in her office in Santa Fe.

Therefore, it is the opinion of this office that it would be a violation of the law of this State for the Great Seal of the State of New Mexico, or any replica thereof, to be transferred out of the State of New Mexico at any time.

We sincerely hope that this answers your inquiry.

By: Fred M. Standley

Assistant Attorney General