

Opinion No. 45-4743

July 3, 1945

BY: C. C. McCULLOH, Attorney General

TO: Rachel Atkinson County Clerk Lordsburg, New Mexico

{*96} We are in receipt of your letter of June 29, 1945, in which you ask whether or not it is compulsory for the Deputies of the County Officials to give bond and, if so, are they to give bond to the Officials or the County.

Until the 1945 Session of the Legislature, no provision whatsoever was made for the bonding of Deputies. Chapter 68 of the Laws of 1945 provides, in effect, that the County Commissioners may cause to be bonded all Deputies of the various County offices, in such sum as is required **by** the elected County Officers. The premiums for such bonds are to be paid by the County. Thus, it is discretionary with the County Officials, together with the elected officers, as to whether or not the Deputies should be bonded. The purpose of this act was to permit the payment of the premium by the County when the Deputy is bonded.

In the past it has been the practice, in many counties, for the Official to require his Deputy to be bonded, in which event, either the official, himself, or the deputy, was forced to pay the premium.

The bond should run to the "State of New Mexico," or to the "State of New Mexico or the County Officials." Upon a default by a Deputy, the County Official is, himself, liable on his bond. Thus, action could be brought either against the Deputy, on his bond, or against the County Official, himself, who, in {*97} turn, could recover over against the Deputy, on his bond

By ROBERT W. WARD,

Asst. Atty. General