

Opinion No. 438A**Warehouse Receipts—Lost Warehouse Receipts—Procedure.**

HELD: No procedure being prescribed by statute to obtain an order of the court and bond as required by statute in cases where warehouse receipts are lost, no exclusive procedure can be prescribed, but a procedure is suggested which will protect all of the interested parties.

January 30, 1934.

Relative to Sections 4092 and 4132, R. C. M. 1921, pertaining to lost warehouse receipts, you inquire what procedure to follow in order to obtain an order of the court and bond as required by statute.

No procedure has been prescribed by these sections or by other sections of the Code and therefore it is not possible for us to prescribe an exclusive procedure. In my opinion, a good pro-

cedure to follow would be to prepare a petition addressed to the Court setting out the facts and signed by the owner of the lost storage tickets. To this petition might be attached the proposed bond executed by the owner of the ticket and his sureties. There might also be attached to the petition an appearance on the part of the warehouse company stating that it has read the petition and believes that the facts therein stated are true and that the bond attached to the petition is satisfactory to it both as to form and financial responsibility of sureties. These papers could all be presented to the Court at once without any actual appearance on the part of any of the interested parties. The Court would then have jurisdiction to make its order for the delivery or purchase of the grain and approval of the bond. The papers should then be filed with the clerk of the district court in the county in which the grain is situated.

It is my opinion that the procedure outlined above would be both a simple and a satisfactory proceeding and that if it is followed all of the interested parties would be protected.