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NOTARY LAW AND PRACTICE: AN ANNOTATED BIBLIOGRAPHY

JASON R. LEVINE*

BOOKS

Frederick H. Campbell, *John's American Notary and Commissioner of Deeds Manual* (6th ed. 1951).

Useful for historical research, this volume includes a treatise-like examination of notarial law, as well as a survey of the statutory law of the states and territories. Sample forms are included.

Michael L. Clozen et al., *Notary Law & Practice, Cases & Materials* (1997).

This is the only book designed for use in a law school course on notary law. Coverage includes the nature of the notarial office and governing statutes, notary qualifications and revocation, screening document signers, interstate recognition of notarial acts, civil and criminal liability for notarial misconduct, employer accountability for notary-employees, ethical concerns, attorney liability for notary misconduct, recognition of foreign notarial acts, recognition of United States Notarial Acts in foreign countries, and the future of notaries and notary practice.

Charles N. Faerber, *1996-1997 Notary Seal & Certificate Verification Manual* (1995).

This is a practical guide to the seals and forms of certificates and authentication used by notaries in all American states and jurisdictions. The volume also includes practical advice on locating a notary, obtaining notary records, brief descriptions of notary powers, fees, and disqualifications, subscribing and credible witness rules, and the wording and procedures for oaths administered by notaries.

Wesley Gilmer, Jr., *Anderson's Manual for Notaries Public* (5th ed. 1976).

Useful for historical research, this volume covers qualifications, ap-

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pointment, jurisdiction, terms, powers, duties, fees, records, seals, liabilities, penalties, and removal of notaries in all 50 states as of 1976.

Richard B. Humphrey, *The American Notary Manual* (4th ed. 1948).

Useful for historical research, this volume surveyed the notarial law of the states and territories as of 1948. Two chapters of forms, including sample notary certificates and jurats are included.

Alfred E. Piombino, *Notary Public Handbook, Principles, Practices & Cases* (National ed. 1996)

This is a practical guide to notarial law and practice in all 50 states and the territories. Address and fee information for obtaining vital records in all of the covered jurisdictions is included. A large appendix addresses the problem of digital signatures.

N.P. Ready, *Brooke's Notary* (11th ed. 1992).

This is the standard reference work on English notarial law and practice. The eleventh edition includes coverage of the changes to the notarial profession wrought by the Courts and Legal Services Act 1990 and the changes to the rules governing the execution of deeds by individuals and companies made by the Law of Property (Miscellaneous Provisions) Act 1989 and the addition of section 36A to the Companies Act 1985.

ARTICLES

Lloyd Bonfield, *Reforming the Requirements for Due Execution of Wills: Some Guidance from the Past*, 70 Tul. L. Rev. 1893 (1996).

Argues that a modified revival of continental practices regarding the authentication of wills, including authentication by a notary, would eliminate much will contest litigation, particularly litigation based on alleged noncompliance with statutory formalities.

Michael Brian, *The New Notary*, 135 Solic. J. 1342 (1991).

Argues that England should adopt Continental-style notary law and practice, noting that the increased access to courts enjoyed by Continental notaries would fit well with the increased access now afforded to English solicitors, and that it would also benefit English solicitors in contractual transactions with Continental parties.

Michael L. Closen, *Why Notaries Get Little Respect*, Nat'l L.J.,

Oct. 9, 1995, at A23.

Notes the trivialized nature of the notary's position in American commerce, the overabundance of notaries in the population, and how seriously uninformed notaries are about the responsibilities of the position.

Michael L. Closen & G. Grant Dixon III, *Notaries Public from the Time of the Roman Empire to the United States Today, and Tomorrow*, 68 N.D. L. Rev. 873 (1992).

Discusses the evolution of notaries into their present form. Provides a brief historical review of the development of the office including how the present powers were derived. Explains the qualifications for the office and powers that most states entrust to notaries. The standards for judging the propriety of notarial performance are examined, as are the consequences of notarial misconduct.

Michael L. Closen & R. Jason Richards, *Cyberbusiness Needs Supernotaries*, Nat'l L.J., Aug. 25, 1997, at A19.

Argues that Utah's digital signature statute, which has become the model for several states, is inadequate in many respects.

Michael L. Closen & R. Jason Richards, *Notaries Public—Lost in Cyberspace, or Key Business Professionals of the Future?*, 15 J. Marshall J. Computer Info. L. 703 (1997).

Focuses on the problems inherent in current notarial legislation and practice. Discusses "cybernotarial" legislation and analyzes the role of cybernotaries and the shortcomings of current and proposed legislation in anticipating and regulating cybernotarial acts. Makes suggestions to the states regarding what cybernotarial legislation should include, and makes predictions for what the future holds for notaries public in general and cybernotaries in particular.

Michael L. Closen & Michael Osty, *Illinois' Million-Dollar Notary Bond Deception*, Chi. Daily L. Bull., Mar. 2, 1995, at 6.

Argues that Illinois's \$5,000 notary bond requirement protects neither the public nor the notary, and that a requirement of substantial errors and omissions insurance is the best way to protect all parties.

Frankie Sue Del Papa, *Nevada Notary Law Clarified*, Nev. Law., Oct. 1995, at 8.

Highlights recent changes to Nevada notarial law, including the addition of requirements that the notary swear in the signer if the document requires an oath, that the signee sign the notary's journal, and that the journal be bound and have preprinted pages. Also

notes that "impersonating a notary, lending a notary stamp to another person," and "certifying photocopying a completed notarial certificate as part of a mass mailing to endorse, promote or sell any product or service are now prohibited acts."

Laura Duncan, *Notaries Take Law Schools to Task for Violations*, Chi. Daily L. Bull., Nov. 16, 1994, at 1.

Reports on complaints by the National Notary Association that the failure of most law schools to offer basic instruction in notarial law is at least partly to blame for many violations of state notary laws. The report also notes that many members of the National Notary Association have complained that their attorney employers, out of ignorance, often ask them to perform acts in violation of notarial laws.

John Gibeaut, *Sign on the Dotted Screen: ABA Takes Lead in Developing Guidelines for Electronic Document Verification*, 83 A.B.A. J. 100 (May 1997).

Describes the Digital Signature Guidelines developed by the Information Security Committee of the ABA Section of Science and Technology.

Vincent Gnoffo, *Notary Law and Practice for the 21st Century: Suggested Modifications for the Model Notary Act*, 30 J. Marshall L. Rev. 1063 (1997).

Suggests improvements to the Model Notary Act, including stricter document signer identification standards, the use of thumbprints to deter fraud, a requirement that notaries obtain substantial errors and omissions insurance, and education and testing requirements.

J. Michael Gottschalk, Comment, *The Negligent Notary Public-Employee: Is His Employer Liable?*, 48 Neb. L. Rev. 503 (1969).

This student-written article argues that employer liability should depend on whether the notary's employer was aware of, directed, or benefited from the notarial services provided by the employee.

Phillip Hamilton, *The International Notary Public*, 65 Law Inst. J. 746 (1991).

Highlights the differences between American and English notary practice and that in most other countries. Provides a brief summary of the kinds of international transactions that require notarial attestation.

William C. Harvey, Comment, *The United States and the*

Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, 11 Harv. Int'l L.J. 476 (1970).

Useful for historical research, this student-written article argues for the ratification by the United States of the Hague Convention Abolishing the Requirement of Legalization of Foreign Public Documents.

Marcy C. Hester, Comment, *Intercountry Adoption from a Louisiana Perspective*, 53 La. L. Rev. 1271 (1993).

This student-written article on the procedures involved in intercountry adoption includes a section on authentication of the documents required by both the native country of the adopted child and the United States Immigration and Naturalization Service.

Alyssa Jermyn, Case Note, 8 Suffolk Transnat'l L.J. 151 (1984).

Discusses the decision of the United States Court of Appeals for the Fifth Circuit in *Vargas v. Strake*, 710 F.2d 190 (5th Cir. 1983), *rev'd*, 104 U.S. 2312 (1984), which upheld the constitutionality of a Texas statute requiring citizenship status for notary public applicants. The reversal by the Supreme Court paralleled the argument advanced in this Case Note that the statute should have been examined under a strict scrutiny equal protection standard.

Marian N. Leich, *The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents*, 76 Am. J. Int'l L. 182 (1982).

This is a brief description of the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, as adopted by the United States on October 15, 1981.

Pedro Malavet, *Counsel for the Situation: The Latin Notary: A Historical and Comparative Model*, 19 Hastings Int'l & Comp. L. Rev. 389 (1996).

Compares United States notarial law and practice with a Latin American model. Notes that international transactions involving real property or capital investments often require the use of a notary. Explores steps taken by some of the states to protect Latin American immigrants from being fraudulently led to believe that a notary can provide legal services.

Guillermo F. Margadant, *The Mexican Notariate*, 6 Cal. W.L. Rev. 218 (1970).

Describes the functions of Mexican notaries, and, noting that notarial practice in Mexico is not governed by federal law, explains some

of the variations in local practice.

Jack Rains, *Changes in the Notary Public Law*, 51 Tex. B.J. 802 (1988).

Highlights changes to the Texas notary public statutes, the most significant of which is a requirement that the notary keep a journal in a well-bound book and that the signee of the document sign the journal.

Peter Reeves, *The Notary Public*, 146 New L.J. 924 (1996).

Highlights the jurisdiction of the Church of England over notarial matters in the United Kingdom, the role of Worshipful Company of Scriveners in English notary law, the relatively unimportant position of notaries in English law, and proposal for reform of English notary law.

Nancy Perkins Spyke, *Taking Note of Notary Employees: Employer Liability for Notary Employee Misconduct*, 50 Me. L. Rev. ___ (forthcoming 1998).

Notes that, while some states restrict vicarious liability for the notarial acts of employees, other states apply common law agency principles in assessing employer liability. The article suggests procedures for alleviating potential employer liability for notarial acts, including workplace policies designed to minimize notary employee misconduct.

Shinichi Tsuchiya, *A Comparative Study of the System and Function of the Notary Public in Japan and the United States* (Nat'l Notary Ass'n, Jan. 1997) (available from the National Notary Association).

Notes that the Japanese notarial system is based on the French System and influenced by the German system, and that it is much more difficult to become a notary in Japan than in the United States (most Japanese notaries are former judges or public prosecutors).