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Notary Public

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NOTARIES PUBLIC

Queensland has approximately 140 notaries public¹, all are lawyers. This is a look into the background of this ancient office and the tasks performed by a notary public today.

The office of notary public developed from the activities of scribes in Roman times. Eventually notaries became independent officers whose certificate and seal was awarded recognition as a public act in the same way as a document under the seal of a Court.

With the decline of the Roman Empire, the Emperor of the Holy Roman Empire, as successor to the Roman Emperors, assumed the power to appoint notaries. This power was also assumed at a later date by the Pope.

In England, notaries were originally officers of the civil and canon law and acted under Imperial and Papal appointment.

In the reign of Henry VIII however, an Act established a Court of Faculties under the jurisdiction of the Archbishop of Canterbury. Since that time, all faculties appointing notaries in England have been issued by the Archbishop of Canterbury whose chief officer is known as the Master of the Faculties.

A notary or notary public is an officer of the law. No statute defines the powers of the notaries in Queensland although the office is given official recognition under the Bills of Exchange Act.

Generally speaking, notaries are required to draw up and authenticate documents of a quasi-public character requiring unusual solemnity and to give a certificate of the due execution of such documents, authenticated by their signature and seal. They are principally employed in mercantile matters, such as making protests of bills of exchange and notices of dishonour.

Queensland has its own Society of Notaries which acts as an unofficial agent of the Court of Faculties which sits in London. The Council of the Society meets regularly to handle day-to-day matters involving the Society.

The Court of Faculties in London appoints notaries, first seeking the consent or otherwise of the Society. To be eligible for appointment, practitioners usually have to have had 10 years' experience as a solicitor.

¹ Craig Douglas Green was appointed a Notary Public by the then Archbishop of Canterbury, George Leonard on the 23rd June 1999.

The distribution of notaries in all the major shipping ports of Queensland and in Brisbane (also a major banking centre) reflects the Court of Faculties' stated aim: to respond to the needs of the public.

Shipping and banking interests, however, are not the only sectors which need the services of notaries. Wherever there is a concentration of persons from overseas who need to carry out transactions in their home countries, the need for a notary arises.

The Society of Notaries endeavours to avoid conflicts of interest by not employing more than one notary in a firm and by appointing a second notary in provincial centres if one is appointed in that geographical area. Mergers in recent years have necessarily caused departures from this policy. Queensland notaries are entitled to practise anywhere in the State.

The accoutrements of the office of notary public, notably the seal, cost the practitioner close to \$1,000.00. The seal should be distinctive so that the notary can check its authenticity as a guard against forgery.

The manual issued to notaries still details procedures for the use of sealing wax, although notaries have been known to resort to those marvels of modern office technology, the stapler and sticky tape.

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