THE NATIONAL NOTARY ASSOCIATION: A HISTORICAL PROFILE

MILTON G. VALERA*

I. THE ORIGINS OF THE AMERICAN NOTARY

In perhaps his most famous and trenchant observation about the American people, the French social analyst Alexis de Tocqueville commented in 1840[1] that Americans are inveterate joiners and, whenever two or more are randomly thrown together, they are more likely than not to discover a mutual interest and start an organization. Considering the keenness of de Tocqueville's insight, it is remarkable that 318 years passed between the appointment of the first common law notary public in the American colonies and the launching of what would become the first national organization of English-speaking American notaries.

After Thomas Fugill of the New Haven Colony was "chosen publique notary to attend the court" on October 25, 1639, and, nearly seven weeks earlier, Steven Winthrope of the Massachusetts Bay Colony was "chosen to record things" on September 9,[2] it was not until 1957, when a native Californian named Raymond Clarence Rothman formed a unique educational association that a lasting national organization of U.S. notaries was established.

There is no mystery why Fugill, Winthrope and notaries from the other English colonies never convened in one place to discuss their mutual notarial interests. Primitive and sporadic communication and transportation systems prevented intercolonial associations of almost any kind. The professional, fraternal and avocational groups that de Tocqueville observed and that arose in the late Colonial period and in the early days of our republic were virtually always restricted to a town, a city, a region or, more rarely,

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* Milton G. Valera has been the President of the National Notary Association since 1982. He was with the organization since 1969 as Vice President, Executive Director and close collaborator with founder Raymond C. Rothman. Valera holds a B.A. in Journalism from California State University, Northridge.

[1] *See* ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 11415 (Phillips Bradley ed., 5th ed. Vintage Books 1954) (addressing whether there is a necessary connection between the principle of association and equality).

[2] *The American Notary: Celebrating A 350Year Heritage*, NAT'L NOTARY MAG., Nov. 1989, at 10 12.

a state.

The first formal and significant association of secular notaries in the English speaking world had been a citywide group formed in 1373 in London, England, known as the Scriveners' Company, consisting of scriveners, attorneys at law and notaries.[3] Within the City of London and a circuit of three miles, members of the Company enjoyed a monopoly on the practice of conveyancing and on the preparation of deeds, contracts and other sealed writings.[4]

> Since part of his practice would include the drawing of deeds and conveyancing, a notary wishing to exercise his calling within those geographical limits was obliged to become a member of the Company. Although the Company's monopoly in conveyancing was ultimately lost, it is still the invariable rule that no notary public is allowed to practise in the City of London, or within a circuit of three miles of the City, until he has become a member of the Company of Scriveners and taken up his freedom according to the rules and ordinances of that Society.[5]

Solicitors eventually took over most of Britain's conveyancing and document drafting duties, crowding notaries into the narrow field of international commerce and finance.[6] Notaries in the British colonies and later the Commonwealth nations, evolved in different ways, giving rise to provincial notary societies of varying utility and clout, some with little more than ceremonial status, others with the self-regulating powers of bar associations. In Australia for instance, the notary office, occupied largely by solicitors, evolved into a ministerial attesting function in the field of inter national commerce. Notary societies vary in importance from state to state. The Society of Notaries of Queensland makes recommendations for appointment of the state's few notaries (less than one hundred), sets fees and disciplines practitioners.[7] The

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[3] *See* N.P. READY, BROOKE'S NOTARY 14, 16 (11th ed. 1992) (chronicling the origin and history of notaries public). "Scriveners were originally public scribes, exercising their calling as letter-writers and expert copyists. From these activities they became skilled in the drawing of deeds. By the fourteenth century they had developed into 'a body of legal practitioners exercising the function of conveyancers.'" Ready here quotes H.C. GUTTERIDGE, THE ORIGIN AND HISTORICAL DEVELOPMENT OF THE PROFESSION OF NOTARIES PUBLIC IN ENGLAND 128 (1926). Ready points out that, during the 17th century, scriveners moved away from the business of conveyancing and the preparation of deeds and contracts, and "tended to operate as agents in business of a financial nature, principally involving the discretionary management and investment of clients' funds."

[4] *Id.* at 14.

[5] *Id.* at 1415.

[6] *Id.* at 1617.

[7] In correspondence to the National Notary Association dated September 9, 1980, Sir Neville Henderson, Honorable Secretary of the Society of Notaries of Queensland, wrote:

> The number of Notaries in Queensland is limited in each locality accord

Society of Notaries of Victoria has a similar function.[8] In Tasmania, however, there are no governing rules. Many years ago an attempt was made to form an Association of Notaries in this State but nothing came of it.[9]

In the provinces of English-speaking Canada, only British Columbia has a Society of Notaries Public with powers equivalent to those of lawyers, including the power to draft deeds, mortgages, contracts, powers of attorney and simple wills.[10] Since 1956, the Society of Notaries Public of British Columbia has been authorized by statute to require the membership of all notaries who are not members of the province's Law Society, to discipline and disbar members, to train applicants and test them for competence, to establish an indemnity fund and to enforce annual or random audits of members' trust accounts.[11]

The common law Notaries of the other Canadian Provinces have been swallowed up by the Provincial Law Societies and are, therefore, either nonexistent or exist in name only. The functions of these Notaries are very restricted, acting solely as Commissioners for taking oaths and affidavits.[12]

In the United States, the office of notary public attenuated into the ministerial function of witnessing signatures, identifying

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[8] ing to public convenience. In the whole of the State there are fewer than 60 Notaries. As numbers are few no Queensland Legislation has been sought for the appointing and government of Notaries. Notaries are still appointed by the Court of the Faculties in England . . . Recommendations for the appointment of Notaries are made by this Society. Its recommendations are almost invariably accepted by the Court of the Faculties. The Society is also responsible for the discipline of Notaries. Disciplinary action is rare. In the last fifty years there has been only one case of disciplinary action where a Solicitor who was also a Notary was struck off the roll of Solicitors. Action was then taken by the Society to have his name removed from the roll of Notaries . . . The remuneration is fixed in accordance with the Scale of recommended charges and issued to Notaries by the Society . . . The only body able to furnish information regarding Notaries is the Society which has the custody of the Roll of Notaries in Queensland.

In correspondence to the National Notary Association dated March 16, 1980, Arthur Heymanson, Secretary of the Society of Notaries of Victoria, de scribed the function of his group, comprised of 65 notaries, 30 of which practice in the metropolitan area of Melbourne.

[9] In correspondence to the National Notary Association dated February 7, 1980, Graeme H. Thompson, Notary Public and Commissioner for all Australian states and New Zealand, wrote:

> As far as I am aware, only legal practitioners are appointed Notaries (in Tasmania) and they have no training in addition to their legal education . . . Their remuneration is haphazard and I think there is no scale which is applied equally by all Notaries in this State . . . There is no local Statute governing Notarial activity.

[10] M.P. Aidan Butterfield, *Those Indominable Notaries of British Columbia* (unpublished article by a West Vancouver notary public).

[11] *Id.*

[12] *Id.*.

signers and administering oaths. Attorneys, court reporters and county clerk/recorders took over the notary's former responsibilities in preparing documents, transcribing oral testimony and keeping records.[13] The office was democratized and made available to any literate adult of demonstrable integrity, regardless of educational attainment.[14] It became a useful sideline and ancillary credential to many professions. With virtually no educational or testing requirements (except for Louisiana's civil law notaries), the number of notaries in the United States attained unparalleled levels by mid-20th century. Some large American cities had more notaries than entire European nations.

Still, by 1950, there was much more to the office of notary than met the eye. It presented consternating challenges to the conscientious practitioner. The fact that most state notary codes dated back to the mid1800s was at the root of most challenges. In the nineteenth century, a less mobile and populous horse and buggy age, notaries as a rule would personally know every client. Ascertaining identity was normally less of a challenge than being sure of the signer's competence and willingness. In today's mobile age, most clients are complete strangers. Ascertaining identity has a much greater priority and urgency in our modern world and much depends on a notary's skill in detecting a false identification document.

Nineteenth-century state codes were written for notaries who were self-supporting and independent practitioners. However, most notaries today are employees and dependent upon the graces of an employer. Most state codes still do not address the delicate situation of the notary-employee, the *notaire covert*,[15] who, the state credulously trusts, will slap the same hand that signs his or her paycheck when an improper notarial act is ordered.

The American notary at mid-twentieth century was looking for guidance. While there was no lack of books on the subject of notarization, these volumes were written by attorneys for the consumption of attorneys and were largely a tedious compilation of statutory requirements and certificate wordings. They provided no useful guidance for the non-attorney notary on such matters as recognizing fraudulent identification documents or handling a conflict of interest. The earliest of these books appears to have been *A Treatise on the Law Relating to the Office and Duties of Notaries Public Throughout the United States*, written by San Francisco attorney John Proffatt and published in 1877. Perhaps the

[13] *See* RAYMOND C. ROTHMAN, NOTARY PUBLIC PRACTICES & GLOSSARY 2,5 (1978) (chronicling the history of the profession of notary public in the United States).
[14] Deborah M. Thaw, *The Feminization of the Notary Office: From Feme Covert to Notaire Covert*, 31 J. MARSHALL L. REV. 703 (1998).
[15] *Id.*

most popular early volume on the subject was Cincinnati attorney Florien Giauque's *A Manual for Notaries Public*,[16] first published in 1888. By the 1950s, Anderson's *Manual for Notaries Public*, first published in 1940, was the most successful of these compilations. Yet one of the major failings of these ambitious works was that, although new statutes affecting notaries were enacted yearly, the compilations were only updated twice a decade.

By 1957, notaries in the United States were ready for practical guidance and for a voice to speak out on their behalf. The state laws governing them were out of step with the realities of modern commerce. State officials who regulated notaries had few re sources, and virtually no one spoke up for notaries in legislative and rulemaking forums. The stage was set for one of the most important events in the history of the American notary office.

In preparing this Historical Profile, NNA editors researched the events and activities described below and conducted interviews where appropriate to develop this authoritative history.

II. SETTING THE STAGE FOR THE NNA

Historians know that history is much more than just a chronicling of names, dates and events. They want to know about the individuals who participated in the events, their beliefs, their rationales, their feelings. In short, students of history want to know the *whos* and *whys*, as well as the *hows*.

So, the real history of the National Notary Association (NNA) is not just in a chronological listing of achievements, though such a listing is not unimportant. Rather it lies also in an examination of the individuals from whose ideas these accomplishments were born.

In 1950, when the founder of the NNA, Ray Rothman, decided to become a California notary, he was stunned to find no information anywhere on how to perform a notarization. Although the state provided a short pamphlet on notarial laws, there was no practical guidance on the many questions asked by new notaries:
"How do I identify a signer I don't know?"
"How do I detect a phony ID card?"
"What do I record in my journal?"
"What if I'm uncertain about a signer's competence?"
"How can I keep from getting sued?"
The few books that Rothman found on notarization were written by attorneys for attorneys. There was no authority to explain

[16] The complete name of Giauque's volume, which had numerous editions, is A MANUAL FOR NOTARIES PUBLIC, GENERAL CONVEYANCERS, COMMISSIONERS JUSTICES, MAYORS, CONSULS, ETC. AS TO ACKNOWLEDGMENTS, AFFIDAVITS, DEPOSITIONS, OATHS, PROOFS, PROTESTS, ETC. FOR EACH STATE AND TERRITORY WITH FORMS AND INSTRUCTIONS [hereinafter MANUAL].

the basic principles, practices, and procedures of notarization.

Throughout its forty-one years, the NNA has operated in an educational role. Today, many of the pioneering programs initiated seem commonplace. But, until the NNA, no organization spoke out for notaries about the need to reform antiquated notary laws. No group urged state officials to introduce legislation raising fees for notarial acts that hadn't been raised in 125 years. No one testified at legislative hearings that notaries needed clearer guidelines. No one argued before state regulators and lawmakers that notary candidates needed to be trained and tested before they were commissioned.

It was the need for a strong and consistent legislative voice that motivated the NNA to organize an Advisory Committee to develop model legislation, the *Uniform Notary Act*. The Act at long last provided lawmakers with comprehensive standards on notary practice from which they could propose laws based on the deliberations of a respected group of jurists, legislators and notary regulating officials. Prior to the NNA, no one sought to provide training on the essentials of notarization and there was no organized program to educate notaries, either formally or informally. There was no home study program available until the NNA's *Notary Home Study Course* was introduced in 1985, and no video instruction program available until the NNA's *Notary Basics Made Easy* was introduced in 1994.

Until the NNA, there were no regularly published materials, magazines, or newsletters available to notaries. And few, if any, books were being written and distributed to address notary concerns. The NNA emerged as the preeminent publisher of notary books and continues to maintain its position on the cutting edge, having recently been the first to publish a notary law casebook to teach law students the basics of notarization.

Many of the NNA's most far-reaching programs were not de signed to produce revenue, but were undertaken because there was a need that was not being met. This applies particularly to the NNA's role in creating the *Model Notary Act* and now to the *Notary Public Code of Professional Responsibility*, a comprehensive ethical and practical guide.

III. CREATION OF THE NNA: FILLING AN IMPORTANT VOID

In 1950, twenty-eight year old Californian Raymond C. Roth man applied to the secretary of state and was commissioned a notary. Rothman's experience was similar to that of many notaries. Obtaining a seal, record book, and even the most basic practical instructions on how to operate as a notary public, were complicated and time-consuming. Getting the supplies needed required numerous phone calls to a variety of different companies.

Rothman started a newsletter to mail to his notary customers.

He called his enterprise the *California Notary Association* and his newsletter *The California Notary*. He also created the first errors and omissions liability insurance policy for notaries.

Rothman understood the notary bond was not an insurance policy. On the contrary, the bond protected the individual who sustained damages as a result of the notary's improper performance of duty. If a claim were made against the bond, the notary, as principal, would be liable for repaying the bonding company for any funds expended on the notary's behalf. The reality was that few notaries would be in a financial position to reimburse the bonding company without severe personal sacrifice. He convinced an insurance company to help him design a policy to complement the bond by protecting the notary from financial losses due to un intentional errors and omissions without removing the notary's responsibility under the law. Rothman was a strong proponent of the bond requirement because he knew it was a strong deterrent against misconduct. Bonding companies, by virtue of the low premiums they charge, do not investigate applicants to ensure their integrity or honesty. Rothman believed in the principle of suretyship whereby the proper performance of a practitioner was both required and guaranteed by a third party. If there has been one problem attached to the bond requirement, it is that the apathy, negligence, and misunderstanding of state lawmakers have reduced it to an anachronism. Proponents have not fortified the financial assurances bonds provide at a time when document fraud is rampant. And opponents have characterized the bond as an unnecessary cost and burden without recognizing how fundamental it is to the notary office.

Direct mail to the publicly accessible list of commissioned notaries and positive word of mouth from notary to notary helped the Association grow. In 1966, the California Notary Association became the National Notary Association. Rothman contacted every state requesting information on notarial requirements and application procedures. Although some states provided a brief pamphlet of notarial laws, many provided nothing. Worst of all, there was no basic guide anywhere addressing the notary's essential duties, responsibilities and functions.

As a result of his research, Rothman wrote and published the first comprehensive guide to the American notary office, *Customs and Practices of Notaries Public and Digest of Notary Laws in the United States*, in 1966. *Customs and Practices* addressed the history of the office, practical procedures, and recommendations for such essential notarial functions as keeping records, certifying copies and notarizing a signature by mark. The book also digested the notarial statutes of each of the fifty states, spelling out requirements for notary seals, record books, fees and authentication.

Up to this point, Rothman was the National Notary Associa-

tion. If there was a single event that demarcated the period when the Association was essentially a one-man band from the time it became a multifaceted enterprise, it was Rothman's decision to hire Milton G. Valera as his executing lieutenant.[17] Valera was a veteran journalist and marketing and public relations expert, hired to supervise a tiny staff. "I was called Executive Director and Vice President," he remembered, "but in the early days I did everything that needed to be done, from sorting mail and taking orders to editing the publications. It was still a small organization with only five staff positions."[18]

In the early years, the original newsletter, a four-page, one color publication, was transformed into two membership periodicals that were issued on alternating months: *The National Notary*, at first an attractive but simple two-color piece, and then later a sophisticated, full-color magazine with emphasis on how-to features; and *Notary Viewpoint*, a newsletter with pro-con guest columns on provocative notarial issues (e.g., "Should the states eliminate notaries?") and a state-by-state review of pertinent legislation. Pressing to establish meaningful benefits, Valera established and nurtured two membership programs that, since their inception, have remained popular: the educational seminar pro gram initiated in 1971 and the *Notary Information Service*, started in 1975, which allows members unlimited access to the informational resources of the Association by phone, mail, fax, and email.

The first known seminar for American notaries was conducted in Los Angeles. A modest sixty attendees heard from "an all-star lineup" of speakers, including Los Angeles attorney Robert E. Jones, an outspoken critic of notaries who, he claimed, "don't know what they're doing" and "don't seem to understand precisely what their function is,"[19] and Dennis McCraven, Los Angeles County document processing supervisor, who worked closely with the NNA and notaries to reduce recording problems. The success of the Los Angeles venue inspired Valera to schedule a second seminar in Northern California at which Deputy Secretary of State Bill Holden spoke on "The Need For Notaries Public." The stage was being set for realization of Valera's vision that educational pro grams be a linchpin for the Association's growth.

By 1970, the "business of notaries" was supporting the Association. Financial resources were at last available to support projects to benefit notaries and the general public. The NNA's development and introduction of the *Uniform Notary Act* was the first of

[17] *Raymond C. Rothman, Pathfinder of the Notary Profession*, NAT'L NOTARY MAG., May 1982, at 17.
[18] Interview with Milton G. Valera, President of the National Notary As sociation (Nov. 7, 1997)[hereinafter Interview].
[19] '*AllStar Lineup' of Speakers Featured*, NAT'L NOTARY MAG., April 1971,at 1.

these benefits.

Rothman had long sought a means of addressing woefully antiquated notarial codes, some of which still prescribed five-cent and ten-cent fees for notarial acts and prohibited "known duellists" from being commissioned as notaries.[20] Yet it was apparent that if state notary laws were to change, they needed a statutory proto type for lawmakers to use as a model. Accordingly, in the early 1970s, Rothman and Valera recruited an Advisory Committee of interested state and local officials, lawmakers and attorneys. Collaborating with Yale Law School, the Advisory Committee drafted and published the *Uniform Notary Act*. By the end of the decade, both California and Missouri had borrowed heavily from the Act in revising their notarial statutes.

Rothman explained the rationale for the *Uniform Notary Act*:

> Despite this country's tremendous advancements, notary laws have, for the most part, remained the same as they were when enacted decades ago before there were typewriters, telephones or photocopying machines. The *Uniform Notary Act* defines and clarifies the notary's present role in business and society. It attempts to bring all state notary public statutes into conformity, and through detailed provisions, encompasses all facets of the law concerning notaries.[21]

As a result of the Advisory Committee's discussions and debates over proper procedures, another facet of notarial practice was prepared by Rothman: recordkeeping. While several states then mandated a record book or register, few stipulated exactly what this meant. From Rothman's own travels, he learned how foreign notaries maintained their notarial records. Then, leaning both on the Advisory Committee's recommendations and on his own business experiences, Rothman designed a record book specifically for notaries.

In 1974, Rothman and Valera introduced the much-copied *Journal of Notarial Acts*, the first notary record book designed with specially shaded spaces to deter and reveal fraudulent alterations. This record book was more than a mere register, it would become a recordkeeping system.

In 1976, Rothman and Valera introduced the Notarian program, an attempt to establish a voluntary code of ethical conduct among U.S. notaries. "NNA-certified Notarians®" were notaries who pledged in writing to follow the "Rules of Notarial Practice," comprised of the "Rules of Ethics" and the "Rules of Procedure."[22]

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[20] Well into the 20th century, a Tennessee statute prohibited the issuance of notary commissions to individuals who resorted to duels to settle personal disputes.

[21] Deborah M. Thaw, *Clarifying the Notary's Role: The Uniform Notary Act*, NAT'L NOTARY MAG., Sept.Oct. 1976, at 7.

[22] *How the Rules of Notarial Practice Can Help the Notary in Almost Any Circumstance*, NAT'L NOTARY MAG., JulyAug. 1978, at 13.

While these ethical standards were winning converts, a rather short-lived trademark battle ensued when Rotary International, a nationwide community service group, sought to prevent use of the name Notarian® lest it be confused with their own trademark, Ro tarian®. Choosing not to enter into protracted litigation, the Association stopped promoting the appellation and the attendant "Rules," which would ultimately form the foundation for the NNA's comprehensive *Notary Public Code of Professional Responsibility* 20 years later.

Aware that much of the difficulty of the notary's job was due to widespread public misunderstandings about notarial duties, Valera endeavored to educate not only notaries but also the American public about the powers and limitations of the U.S. notarial office. He began to write and distribute to selected newspapers a series of columns with a general news slant called "Notary Digest." Every week a pertinent notarial topic, such as "beneficial interest" or "identification," was addressed in a brief essay.[23]

Complementing these efforts was a campaign of public service announcements to selected radio stations throughout the country. These announcements warned consumers of misleading advertis ing gimmicks known as notarized testimonials. The series of radio spots included admonitions regarding misuse of the term *notario publico* and provided listeners with an understandable definition of notarization.[24] Television appearances, regularly distributed press releases, and articles placed in independent publications augmented this earnest program to educate the public about the notary.

In 1976, Deborah M. Thaw joined the growing staff. Thaw was a newspaper journalist hired as a staff writer. Five years after her hiring, Thaw was appointed to be the Association's Executive Director. Seventeen years later, she continues to serve as the leading overseer of the NNA's day-to-day operations.

The inaugural Annual Conference of Notaries Public took place in the Spring of 1979 in Honolulu. Setting an example for all subsequent conference programs, the first such gathering honored notaries with the theme of "Respect, Recognition, and Responsibility." The three-day program offered workshops for notaries on every facet of notarization and discussion panels for state notary regulating officials.

Although optimistic about its success, no one expected 300 delegates and guests at this first-ever American Notary conference. Former Hawaii Attorney General Ronald Amemiya, whose office appoints and commissions notaries, welcomed delegates at

[23] Milton G. Valera, *Educational Inroads Mark the NNA's 20th Year*, NAT'L NOTARY MAG., Jan.Feb. 1978, at 13.
[24] *NNA Radio Spots*, NAT'L NOTARY MAG., Sept.Oct. 1976, at 23.

the opening breakfast. His successor, Attorney General Wayne Minami, delivered the keynote address at the closing banquet. In addition to U.S. notary participation, representatives from the International Union of Latin Notaries, Japanese Union of Notaries Public, and the Mexican Notary Association were present for this historic first.

The highlight of the Honolulu conference was the presentation of the first annual NNA Achievement Award to California Secretary of State March Fong Eu for spearheading enactment of a progressive notary law revision based on the *Uniform Notary Act*. The NNA had established the award to honor the individual who had done the most in the previous year to improve the standards, image and quality of the American notary office.

In 1980, the NNA held its second conference in Miami Beach, Florida, setting a general pattern of alternating these national meetings from West to East, with periodic stops in between. Like its predecessor, the Miami Beach conference hosted several foreign notary observers, who, participating in the panel discussions, responded favorably to another of Rothman's notarial innovations: International Notary Certificates™. Printed in the world's eleven major languages, these unusual certificates were conformed line by line, allowing an American notary without knowledge of the Japanese language, for instance, to complete a Japanese-language notarial certificate with full confidence in its meaning.

The International Notary Certificates™ were but one manifestation of Rothman's compelling interest in international relations and his desire to unite the notaries of the world in order to lower barriers to international commerce and cultural exchange. In 1979, for example, he went to Paris as an observer at the fifteenth Congress of the International Union of Latin Notaries. In his frequent travels, Rothman established numerous contacts with notaries and notarial organizations around the world and initiated dialogues that continue today. His purpose was to gather information about international notarial associations to prepare notaries for an increasingly international and interdependent future.[25]

The NNA founder never neglected the opportunity to educate, inspirit and, thereby, professionalize the notaries of the United States. Indeed, to further this goal and to build on the foundations of his original book, *Customs* and Practices, Rothman in 1978 wrote and published Notary Public Practices & Glossary, perhaps the most readable and complete discussion of the American notary's history and role ever published in the English language. Publishing was now emerging as another facet of the Association's growing capacity to research, develop and market products to benefit the notary community. At this meaningful juncture in 1978

[25] Rothman, *supra* note 20, at 19.

Charles N. Faerber joined the NNA. Faerber worked as a re porter and editor for Southern California newspapers and was originally hired to edit *The National Notary* magazine and *Notary Viewpoint* newsletter. He soon became a leading expert on notarization and a primary writer of the Association's state *Notary Law Primers*. Faerber continues to leave his mark on the organization's growing slate of publications, on its expanding educational efforts, and on its broadening legislative program.

Consistent with the spirit of its founder, the Association continued its commitment to providing notaries with innovative tools and techniques to ensure the reliability of their acts. Inspired by the banking industry's battle against forgery, the NNA introduced a device to help notaries deter similar signature fraud. "The notary faces the perennial problem of positively identifying constituents, making sure each is known to him," said Valera, when the Touch Mark Fingerprinting Device was introduced.[26] The thumb print creates a permanent record in the Notary's journal and, while a signature can be forged, a thumbprint cannot, Valera explains, "The evidence is virtually irrefutable when the fingerprint on the document is matched with the print in the Notary's journal; it proves that the signer who signed the document before the notary is the same person who signed the journal."[27] Today, thumb printing is a California state requirement in the execution of real property transfers, and thumb-printing is now being considered by several other states as a notary commission qualifier.

In 1982, Rothman retired from his post at the helm of the NNA after a quarter century.[28] Valera became the organization's second President. One of Valera's first acts as President was to change the National Notary Association's status to a not-for-profit organization, creating two affiliated arms, NNA Services and NNA Insurance Services, to conduct non-educational support functions. This move gave the NNA's educators and communicators the necessary autonomy from the Association's financial affairs to focus solely on education and advancement of the interests of notaries. It also facilitated more efficient customer service and a heightened

[26] *New TouchMark® Device Helps Deter Forgers*, NAT'L NOTARY MAG., March April 1979, at 34.
[27] *Id.*
[28] Rothman's retirement enabled him to pursue his growing interest in the then young field of computer science, including writing and publishing the volume PROGRAMMING IN YOUR WORDS (1987). A true modern Renaissance man, Rothman maintained active interests which all but defy chronicling. He was an avid skier, horticulturalist and aficionado of the martial art of *tai chi ch'uan*. He played several musical instruments and his proficiency on the piano was near concert level. His interest in travel and in delving into new languages was unflagging. Throughout his life, Rothman remained one of the most loyal and supportive alumni of the University of California, Los Angeles. The National Notary Association's founder passed away in November 1995.

cooperation on educational projects with state government agencies.

A short time later, the new President also promulgated ten clear guiding principles for the organization:

I. To educate Notaries about the legal, ethical and technical facets of performing a notarial act.

II. To instill in Notaries a sense of self-respect and professional pride in the important role of impartial public servant.

III. To develop and promote the highest ethical principles for Notaries.

IV. To increase public awareness and understanding of the Notary's vital function in modern society.

V. To serve as a notarial information center for Notary-regulating officials, legislators, educators and the public at large.

VI. To promote uniform, modem, and effective notarial laws in all states through promulgation of the *Model Notary Act*.

VII. To provide the highest quality professional support services for Notaries.

VIII. To promote notarial procedures that deter impropriety, injustice and fraud.

IX. To facilitate the agreements and proceedings of commerce and law.

X. To preserve and cultivate appreciation for the rich heritage and tradition of the notarial office.

As the NNA approached its thirtieth year, the complexion of the organization had taken on a new look. While still providing notaries with essential products and services, the NNA had shifted its primary focus. Its activities were now largely dedicated to serving notaries through exclusive publishing endeavors and its extensive research and informational programs. Specialized, fully staffed departments now performed functions which initially had been a part-time assignment for one or two people. By 1987, for example, the Educational Programs Department was sending out notarial experts to conduct nearly two hundred seminars each year for audiences that sometimes approached three hundred notaries.

IV. EDUCATIONAL PROGRAMS: THE HEART OF THE ASSOCIATION

Rothman had always believed that the notary's most glaring need was for practical knowledge. His remedy was to give the notary as much information as possible, as often as possible, in as

many ways as possible. While the NNA's mission and core function has not changed over the years, its educational techniques certainly have. "Our formal educational courses have achieved a scope, diversity, and success that could never have been imagined forty years ago."[29]

Since that first educational workshop in Los Angeles in 1971, the organization's seminar programs have continued to respond to the notary's needs and to grow in ways never anticipated. Today, for example, many individuals and organizations, not affiliated with the NNA, are delivering educational programs to notaries based on the outlines developed and the materials designed by the Association. Though it may have unintentionally established a new notary industry, the NNA now recognizes the attendant and unexpected responsibility of setting the industry standards for ac curacy of content, quality of supplementary materials, and guarantee of satisfaction. There can never be a monopoly on notarial in formation when the ultimate purpose of all organizations is to give notaries the understanding and knowledge required to perform their duties responsibly. The NNA maintains a fulltime staff to research and develop its in-depth, multimedia programs. Today, the NNA boasts its *Notary Information Service* Research Center that commands extensive stores of comparative information on current state laws and procedures, as well as other pertinent data.

With perennial cooperation from state officials, the NNA publishes the only annual directory reviewing state notary law changes and providing a complete index of notary officials. This information appears in the *Yearbook* edition of *The National Notary* magazine every May and at five-year intervals includes the only national notary census based on statistics provided by state officials. Education, though, is only as good as its delivery system. Face-to-face workshops and seminars work only where geography and time permit. Despite an expanding slate of seminars, the Association discovered that reaching all notaries in this manner was not always feasible.

Thus in 1985, the NNA introduced the *Notary Home Study Course*, allowing notaries to study and learn the essentials of notarization at home and at their own pace by filling out sample notarial certificates and making sample journal entries for hypothetical problems. As with most of its educational programs, the NNA found that the success of the *Course* hinged upon constant content review to ensure its validity in a changing legal and commercial environment. Originally produced in a three-ring binder, the *Course* was eventually reprinted in convenient book form, at the urging of *Course* graduates who used it as a daily reference. The 1997 edition of the *Course* exemplifies the NNA's inventive

[29] Interview, *supra* note 21.

ness in providing innovative educational tools. It is now not only a comprehensive guide to learning and understanding notarization but a handy desk reference organized with easy-to-identify icons, helpful reminders in the margins, and a comprehensive index. Thousands of notaries have completed the study-at-home program and passed its truly challenging one hundred question comprehensive examination, thereby earning a personalized Certificate of Excellence.

In 1994, the NNA released *Notary Basics Made Easy*, a three part video instruction program teaching notarization step by step. As with the NNA seminar program and conference, it is supplemented by a workbook to mark the user's progress and later serve as a practical reference. Banks, insurance companies, large law firms, and other organizations started using the hour-long pro gram to train their in-house notaries. This educational tool was utilized on a nationwide scale in May, 1997, when the American Bankers Association broadcast the program over its American Financial Skylink. The Skylink is the banking industry's satellite communications network, providing information and training to officers and employees of commercial banks across the country.

The NNA's educational programs do not just target notaries. Valera established one of the NNA's guiding principles, "[t]o in crease public awareness and understanding of the notary's vital function in modern society." While it was Rothman's dream to teach the public about notaries, it became Valera's mission, and today the NNA's most widely known educational tool is a simple public service pamphlet entitled *What Is A Notary Public?* Al though most of its resources are dedicated to the education and support of notaries, the NNA continually responds to requests from the general public, the business community, and the media for information about the notary's role. Nothing has proven more valuable over the years in explaining that role than the modest *What Is A Notary Public?* brochure. Printed in English on one side and in Spanish on the other, the pamphlet is in large part an at tempt to stem abuses by a small group of unscrupulous American notaries who mislead unknowledgeable immigrants into believing that they have the same powers, and are entitled to the same fees, as notarial officers in foreign countries. *What Is A Notary Public?* brochures are distributed free and are available to state agencies, organizations and institutions for the asking. A large number are also distributed through the NNA's member volunteer Notary Ambassadors® program. Demand is steady for this short but effective explanation of the notary's duties, and more than a million have been printed and distributed over the years.

While the *What Is A Notary Public?* brochure has been in continuous distribution since 1974, the NNA continues to augment its list of public information brochures with such offerings as the

recent *What All Employers Must Know About Their Notary Employees* and a corresponding brochure, *What You Must Know About Your Responsibilities As A Notary Employee*.

V. THE NNA AS THE PREEMINENT NOTARY PUBLISHER

In its forty-one years, the National Notary Association has be come the preeminent U.S. publisher of educational and reference materials for and about notaries public. When it comes to basic facts and figures about notarization, the Association is unchallenged, as demonstrated by its publication since 1992 of the biennial *Notary Seal & Certificate Verification Manual*. Created by Faerber, this reference resource provides definitive notarial information on the fifty states, the District of Columbia and five other jurisdictions in the U.S. political family (Guam, Puerto Rico, U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Marianas). It is the product of a continuing dialogue with each jurisdiction as well as of Faerber's careful verification of the data with local officials. The manual presents notary seal samples and specifications and illustrates the statutory requirements for notarial certificates, authentication of notarized documents, identification of signers, as well as a wealth of other notarial data. Consequently, the comprehensive volume has proven invaluable to county recorders, attorneys, consuls, document examiners and many other professionals involved with the preparation, authentication or acceptance of legal documents.

Respecting Rothman's desire to present notaries with all the information they might need to conduct themselves lawfully within their own jurisdictions, Valera established the state *Notary Law Primer* series. The *Primers* now number thirteen, and the Association continues to issue new editions annually. Drafted in layman's language, the Primers not only explain a state's notarial code, but also offer a wealth of other information important to notaries, such as a list of the nations subscribing to the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

In 1997, the Association published a landmark 640page text to address a problem that has long plagued American notaries: improper notarial requests by supervising attorneys who are ignorant or unappreciative of the critical principles of notarization. After a 1994 NNA survey of the nation's law schools revealed that only eight out of 224 institutions offered instruction on notarization, the Association decided to take action. *Notary Law & Practice: Cases & Materials* resulted. Authored by five prominent American law professors[30] under the direction of John Marshall

[30] The five authors of the NNA's NOTARY LAW & PRACTICE: CASES & MATERIALS are: Michael L. Closen, Professor, The John Marshall Law School,

Law School Professor Michael L. Closen, perhaps the nation's leading legal scholar on notarization, the text is intended to teach students in law schools or practicing attorneys in Continuing Legal Education seminars. Scores of definitive cases in which the notary is either serving as an attorney, supervised by an attorney, or acting as an attorney are explained in depth in the unique volume. Also probed is the notary-employer relationship, title fraud, non appearance of signers, and proximate cause. Particular attention is devoted to issues involving electronic documents and commerce. *Notary Law & Practice: Cases & Materials* has already inspired the introduction of a number of law school courses.

VI. THE NNA'S LEGISLATIVE PROGRAM

Measuring the success of the National Notary Association's efforts in educating notaries and the general public is akin to noting the movement of a great glacier. The body to be influenced and measured is so vast that any perceived movement, by comparison with the expanse of the body as a whole, will be slight. On the other hand, measuring the success of the NNA's efforts to educate lawmakers and state officials is often a startlingly different proposition, akin perhaps to measuring an earthquake, since important legislative changes may be effected literally overnight. One legislator or regulator may have the power to improve notary laws and administrative rules in lightning fashion; another may have the power to ruin them with equal speed, or let them languish uselessly out of date. Thus, the education of lawmakers and influential state officials has been a priority of the NNA since its early years. Although the Association does not possess the re sources to be a lobbying organization, it speaks out forcefully and rallies its members to support legislation that will help notaries perform better, or to defeat legislation that will hinder them in doing their jobs.

The *Uniform Notary Act* of 1973 was the NNA's first great advance in the campaign to aid state lawmakers. It provided an ex ample of a modern notary law, with provisions governing not only the screening of applicants for notary commissions but also the performance of notarial acts. Then U.S. Senator John Tunney of California captured the true sentiment and meaning of the *Uniform Notary Act* when he addressed his Congressional colleagues in 1974:

· Chicago, Illinois; Glen-Peter Ahlers, Professor, School of Law, University of Arkansas, Fayetteville, Arkansas; Robert M. Jarvis, Professor, Shepard Broad Law Center, Nova Southeastern University, Fort Lauderdale, Florida; Malcolm L. Morris, Professor, College of Law, Northern Illinois University, DeKalb, Illinois; and Nancy P. Spyke, Assistant Professor, School of Law, Duquesne University, Pittsburgh, Pennsylvania.

In this age of instantaneous communication networks and all the miracles of technology, isolationist state notary statutes have become obsolete appendages hindering society. The Uniform Notary Act suits more than the needs of one state; it serves the needs of the nation at large. Obviously, the interest of national unity would be more abundantly served by standardized notary law and practices.[31]

After the Act was contributed to the public domain, portions were quickly introduced as legislation in several states, including California. The hard-fought three-year campaign in California to enact critical parts of the *Uniform Notary Act* shows the impact that a single committed public official can have in effecting reform of out-of-date notary statutes. That official was California Secretary of State March Fong Eu. Secretary of State Eu was no stranger to political battles. As Secretary of State, she had been visible in cracking down on unscrupulous notaries who would certify the effectiveness of such unproven commercial products as bust-enlargement devices. Since the modernizing provisions of the *Uniform Notary Act* made sense to Secretary Eu, she wasted no time in having legislation introduced that embodied them. How ever, powerful real estate, banking and insurance lobbies lined up in opposition to the provisions, particularly the one requiring every document signer to leave a signature behind in the notary's official journal.

When her bill was defeated in 1975, she introduced it again the next year. When it was defeated that year she re-reintroduced it in the third year. In the meantime, she recruited a Notary Public Liaison Committee, comprising of Rothman and Valera from the NNA and representatives from other concerned industries to ad vise her on notarial issues. Throughout the fight for passage of her notary bill, the NNA served as an active ally and adviser, testifying at hearings and contacting key legislators.[32] Despite intense pressure from opponents of her bill, she never wavered in her sup port for the *Uniform Notary Act* provisions.

In 1977, on her third try, still facing staunch opposition to the signature requirement, Secretary Eu consulted the NNA about the possibility of removing the contentious requirement. However, the NNA argued that the journal signature was at the core of the integrity of any notarization and was nonnegotiable. To Secretary Eu's credit, she continued to fight for it with even greater diligence and commitment. At length, the bill finally passed and was signed by the governor, taking effect January 1, 1978. It gave California the toughest and most fraud-deterrent notary code in the country, requiring every signer to leave a signature in the notary's journal.

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[31] 120 CONG. REG. 12,341 (1974) (statement of Sen. Tunney).

[32] Interview, *supra* note 21. The three-year legislative campaign in California to enact provisions of the UNIFORM NOTARY ACT was recalled by NNA President Milton G. Valera, who was a participant and observer of events

Since that time, the state of California has been in the vanguard in perfecting its notary program with such refinements as a mandatory proctored test for commission applicants, a requirement that each property deed signer leave a thumbprint in the notary's journal, and statutory instructions requiring notaries to keep their notary journal and seal in a locked and secured area.

Because of their power to spearhead enactment of progressive notary legislation, Secretaries of State have always been seen by Valera as key officials with whom to establish positive working relationships. Of course, some Secretaries of State understand the need to update and improve a state's notary code better than others. For example, Secretary Eu's credentials as an educator before her years of public service were well-known and the NNA's argument for education and rigorous standards for notaries was not a difficult one to champion.

As progressive as the *Uniform Notary Act* was in the early 1970s, by the early 1980s, it was apparent that parts of it in needed updating. The notarial fees it proposed, for example, were then widely regarded as too low. In 1981, the NNA recruited a drafting panel to update the *Uniform Notary Act*. Several members of the new committee helped draft the old Act a decade earlier.[33] The result of the 19member panel's efforts was the Model Notary Act, published by the National Notary Association on September 1, 1984. President Valera recalled the project:

> Our reworking of the old Act was so extensive that we really had to rename it. The old Act, to some degree, had been a common de-

[33] The MODEL NOTARY ACT Advisory Committee consisted of: Alien J. Beermann,* Secretary of State, Nebraska; James H. Brown, Secretary of State, Louisiana; Eugene A. Burdick,* Judge (Retired), State District Court, North Dakota; Michael J. Connolly, Secretary of the Commonwealth, Massachusetts; E. Bruce Donaghe, Attorney at Law, Lawyers Surety Corporation, Texas; Willard L. Eckhardt, Professor of Law, University of Missouri Columbia; Michael W. Grubryn, Vice President, Northwestern National Insurance Company, Wisconsin; Harold J. Hertzberg,* Attorney at Law, California; Richard Hughes, Assistant Chief Deputy Record, Los Angeles County, California; A. James Manchin, Secretary of State, West Virginia; Rico J. Nannini, Assistant Secretary of State, California; Alan Robbins,* State Senator, California; Edward Rubin,* Attorney at Law, California; Robert A. Stein, Dean, School of Law, University of Minnesota (Special Adviser); William D. Swackhamer, Secretary of State, Nevada; and Raymond C. Rothman,* Milton G. Valera,* Deborah M. Thaw and Charles N. Faerber, the respective Founder, President, Executive Director and Legislative Vice President of the National Notary Association. An asterisk (*) above indicates membership on the former UNIFORM NOTARY ACT Advisory Committee, which also included: Daniel E. Boatwright, Assemblyman, California; Norman Jensen, John A. Judge and Joseph C. Mascari, Attorneys at Law, California; Jack Muratori, Deputy Secretary of State, New York; Charles J. Weissburd, Chief Deputy Registrar Recorder, Los Angeles County, California; Fred L. Wineland, Secretary of State, Maryland; and John Adney, Arthur J. Silverstein and Mark D. Turkel of Yale Legislative Services, Yale Law School.

> nominator collection of the best laws then working in the states. During committee deliberations, the term model began to replace uniform in the title of the working drafts. At the original naming, uniform had been preeminent in the drafters' minds based on the inclination to encourage uniformity of notarial law among the different states. Although this understanding remained, the committee members believed that it was more precise to present this draft legislation as a model after which states could pattern their own laws, selecting any part or all of the Act. The new Act was really a proposal for the ways things should be.[34]

The new *Model Notary Act* proposed an all-purpose acknowledgment certificate adaptable to any signer's capacity, rather than requiring a different certificate for every capacity. It also ad dressed the fact that employers may coerce improper notarial acts of their employees by threatening loss of their job:

> 6101 Liability of Notary, Surety, and Employer
>
> * * *
>
> (d) An employer of a notary is liable to the notary for all damages recovered from the notary as a result of official misconduct that was coerced by threat of the employer, if the threat, such as of demotion or dismissal, was made in reference to the particular notarization or, impliedly, by the employer's previous action in at least one similar transaction. In addition, the employer is liable to the notary for damages caused the notary by demotion, dismissal, or other action resulting from the notary's refusal to commit official misconduct.

In the decade and a half after its publication, parts of the *Model Notary Act* have been absorbed into the statutes of dozens of states, Faerber reports:

> We're often asked which states have passed the Model Notary Act. It's a difficult question to answer because so many jurisdictions have adopted a separate article, a section, a paragraph, a sentence or even a phrase from the Act. Some states have used the wording of the Act as a starting point and come up with wording to the same effect but completely different. That's fine, because the whole purpose of the Act is to give lawmakers a starting point.[35]

The U.S. Territory of Guam and the Commonwealth of the Northern Marianas are the jurisdictions that have most nearly adopted the complete *Model Notary Act*. In the early 1990s, both enacted over 90 percent of the Act.[36] At the National Notary Association, the recruitment of a new drafting panel to update the

[34] Interview, *supra* note 21.
[35] Interview with Charles N. Faerber, Legislative Vice President of The National Notary Association (Oct. 27, 1998)
[36] *Id.*

Model Notary Act by the year 2000 is already in motion.[37] The up dated Act is expected to address the realities of digital signatures and electronic documents.

Association officers also played an active role in drafting the *Uniform Law on Notarial Acts* (ULONA), the nation's other major notary law prototype, approved by the National Conference of Commissioners on Uniform State Laws in 1982. Valera and Faerber were on hand as technical advisers to the thirteen attorneys on the drafting panel. Faerber explained:

> Unbelievably, the first draft of the ULONA permitted notarization based either on a telephone call to the notary from the signer or on the notary's recognition of the signature. This draft was approved on first reading at the Commissioners' 1981 annual meeting in New Orleans. However, due largely to the outcry led by our Association, the panel issued a second draft that offered a compromise: notarization would be permitted without the signer's appearance, but only if the notary both received a telephone call and recognized the signature.[38]

By the Commission's 1982 meeting in Monterey, California, the NNA had convinced a majority of the Commissioners to reject any nonappearance provision.[39] As a result, the final draft of the ULONA required every signer to personally appear before the no tary. Emerging as a hero in the aftermath was Robert A. Stein, Dean of the University of Minnesota's Law School and chairman of the drafting panel, and now the executive director of the American Bar Association. Though Stein was personally in favor of telephone notarizations, he acceded to the growing sentiment to outlaw such notarial acts and supervised a hectic eleventhhour revision of the ULONA draft. For his statesmanship, leadership and unflagging collegiality during heated discussions, Stein was named the NNA's Achievement Award honoree in 1984.

While the NNA's *Model Notary Act* and the *Uniform Law on Notarial Acts* overlap to a small degree, the *Model Notary Act* addresses numerous areas (e.g., the commissioning of notaries and the keeping of notarial records) that are untouched by the ULONA. Both models are congruent in their basic principles, in fact, the *Model Notary Act* published by the NNA in 1984 reprints the text of the ULONA in its appendix.

While the *Model Notary Act* and the *Uniform Law on Notarial Acts* provide guidelines for lawmakers rewriting notarial statutes, model laws and rules are now being formulated to help legislators write regulations for electronic documents and digital signatures. For five years, NNA officers have actively served as advisers to the

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[37] *Id.*
[38] *Id.*
[39] *Id.*

American Bar Association Committee[40] that is drafting many of these models. The legislatures of Utah and Florida have been pacesetters in adapting these new standards to accommodate the realities of digital documents, with Utah passing the nation's first Digital Signature Act (1995) and Florida the first statute recognizing electronic notarizations (1997). The state of Nevada now even allows electronic affixation of a notary seal.[41] Perhaps unexpectedly, the electronic document revolution that is changing the traditional paper-based practices of commerce and law has heightened rather than diminished the need for a trusted, impartial observer, a notary public, to ensure the integrity of electronic transactions. Even in this age of instantaneous communication, no system has yet been devised to screen the transmitter of an electronic transmission for identity, volition and basic competence.

VII. INSTILLING PRIDE AND PROFESSIONALISM

At the National Notary Association, the mission of inspiriting and empowering notaries has long held equal priority with that of educating them. To recognize individuals advancing the cause of the notary, the NNA announced establishment of its annual Achievement Award in 1979. The first such honor in the history of the American notary, the Award honors the person who has done the most to improve the standards, image, and quality of the notary public office. Recipients have made impressive contributions to, and exerted wide-ranging influence on, the American notary office.

NNA Achievement Award Honorees[42]

1979 March Fong Eu, Secretary of State, California

[40] This is the Information Security Committee, chaired by Massachusetts attorney Michael S. Baum, within the American Bar Association's Electronic Data Interchange and Information Technology Division.
[41] *See* NEV. REV. STAT. Sec. 240.140 (1995)(allowing a notary seal imprint to be made by a computer or other similar technology).
[42] The only nonstate officials honored were: Judge Eugene A. Burdick (1981), for his invaluable input in the drafting of the NNA's UNIFORM NOTARY ACT; Raymond C. Rothman (1982), NNA founder, for his countless contribu tions to the American notary office; Carolyn Jones (1983), a civilian no tary/court reporter for the U.S. Air Force, for mounting a successful campaign to reform Idaho's notary laws; Robert A. Stein (1984), Dean of the University of Minnesota's Law School, for his leadership in the drafting of the UNIFORM LAW ON NOTARIAL ACTS, as chronicled above; and Michael S. Baum (1995), attorney and chairman of the American Bar Association's Information Secu rity Committee, for his pioneering efforts to produce standards for digital sig natures and electronic documents. Carolyn Jones was the first, last and only rankandfile notary ever to receive the Achievement Award; starting in 1990, notaries' achievements were recognized by the NNA through its Notary of the Year program.

1980 James C. Kirkpatrick, Secretary of State, Missouri
1981 Eugene A. Burdick, Judge (Retired), North Dakota
1982 Raymond C. Rothman, NNA Founder, California
1983 Carolyn Jones, Notary/Court Reporter, Idaho
1984 Robert A. Stein, Law School Dean, Minnesota
1985 Alien J. Beermann, Secretary of State, Nebraska
1986 Thad Eure, Secretary of State, North Carolina
1987 Grant Jones, State Senator, Texas
1988 Frank J. Wamke, State Senator, Washington
1989 Peter Van Alstyne, Notary Administrator, Utah
1990 Barbara Roberts, Secretary of State, Oregon
1991 Patricia A. Taggart, Commissions Director, Missouri
1992 Fred R. Dudley, State Senator, Florida
1993 Diane E. Watson, State Senator, California
1994 Elizabeth BarrettAnderson, Attorney General, Guam
1995 Michael S. Baum, ABA Committee Chair, Massachusetts
1996 Kerey C. Carpenter, Notary Administrator, Florida
1997 Jane Dee Hull, Secretary of State, Arizona
1998 Michael L. Closen, Professor of Law, Illinois

Distinguished by their impact on the notary office, these individuals epitomize the high standards by which all nominees are judged. Through such achievements as legislative reform, progressive administration of notary programs, enhancement of the notary's image, and improvements in the standards and quality of the notary office, the honorees have earned national recognition. Presentation of the annual Award is one of the climaxing high lights of each year's Conference of Notaries Public.

To commemorate its twentieth anniversary and pay tribute to the honoree who most exemplifies the qualities and character of Achievement Award selectees, the Award was renamed in 1998 to honor its first recipient, former California Secretary of State March Fong Eu, who is the former U.S. Ambassador to Micronesia. The name of the new "March Fong Eu Annual Achievement Award" will accentuate the essential requisites of dedication, selflessness and activism that were first demonstrated by the Oakland, California, educator cum assemblywoman *cum* Secretary of State.

The first recipient of the newly refilled Award appropriately carries the reforming spirit of its eponym, March Fong Eu. Michael L. Closen, law professor at The John Marshall Law School in Chicago, was bestowed the 1998 Achievement Award for his pioneering efforts to heighten understanding of the notary office among attorneys. With a rare understanding of the critical need to educate legal professionals about notarization, he conceived, coordinated, and coauthored the definitive teaching text on notarization, *Notary Law & Practice: Cases and Materials*. His seminal ef-

forts in educating law students and attorneys will have an incalculable impact in reducing improper requests for notarization, as well as in rebuilding the tarnished image of the notary public.

In 1990, desiring to expand recognition beyond those whose efforts had a far-reaching impact on the notary office, the Association established an award to honor commissioned notaries who demonstrated exemplary performance of their official duties. The "Notary of the Year Award" is presented to the individual who exhibits extraordinary conscientiousness in performing notarial acts, conforms to high standards of notarial conduct and sets an example in which all notaries can take pride. The Notary of the Year program selects and celebrates not just a single accomplished notary public, but also four Special Honorees. All honorees are distinguished by high achievements in such activities as making notarial services available to the less fortunate, conforming to high ethical standards, unusual public spiritedness, and conscientious ness in performing notarial acts, or working for needed notarial reform.

Notary of The Year Recipients

1990 Ramiro M. Medina, California
1991 William D. Wagoner, Michigan
1992 Elizabeth Collins, Florida
1993 Anita Ellington, Texas
1994 James W. Paulus, Maryland
1995 Bobbi Scherrer, California
1996 Julius Heinke, New York
1997 Elvin E. Pate, California
1998 Denise Brewer, Oklahoma

The first NNA Notary of the Year was a San Diego, California, courthouse notary, Ramiro M. Medina, who received more than sixty nominations praising his helpfulness and community spirit.[43]

The 1994 Notary of the Year, the late James W. Paulus of Maryland, personified the wide-ranging activism of several of the selectees who made a new career of notarization in their retirement. Paulus conceived and taught courses on notarization, based on the NNA's successful seminar program, in a half-dozen local community colleges. He testified before legislative committees in

[43] The occupations of subsequent Notary of the Year selectees were: William D. Wagoner (1991), Michigan, city manager; Elizabeth Collins (1992), Florida, senior citizen complex supervisor; Anita Ellington (1993), Texas, courthouse notary; James W. Paulus (1994), Maryland, retiree; Robert "Bobbi" L. Scherrer (1995), California, postal and business center manager; Julius Heinke (1996), New York, retiree; Elvin Pate (1997), California, retiree; and Denise Brewer (1998), Oklahoma, executive secretary.

the state capital on bills affecting notaries, and achieved such celebrity as a notarial expert that he was sought out by the Mary land Secretary of State's office, was interviewed by *The Wall Street Journal*, and was even visited by a mainland Chinese official studying the U.S. notarial system.[44]

To channel and coordinate the activities of such energetic and proactive members as James Paulus, the NNA established the Notary Ambassador® Program, which encourages participation in endeavors that improve the standards of and public appreciation for the notary office.[45] The program not only provides members with an opportunity for personal achievement and growth, but multi plies the beneficial impact of committed and articulate individuals who are passionate about improving the notary office and heightening public awareness.

There are currently about 100 Ambassadors® throughout the United States, each serving one-year renewable terms and each tailoring their ambassadorships to their own personal talents and interests.[46] NNA Ambassadors® appear before local service groups and clubs to explain the function of the notary office, report significant local trends and events to the Association, notarize for the bedridden in hospitals, nursing homes and private residences, or educate other local notaries about basic practices and principles.

Perhaps no undertaking in the history of the National Notary Association has a greater potential for heightening the stature of the notary office, and the morale and professionalism of the nation's notaries, than the *Notary Public Code of Professional Responsibility*.[47] The basic purpose of the *Code*, as declared in its introduction, "is to guide Notaries Public in the United States when statutes, regulations and official directives fall short." In the tradition of the *Uniform Notary Act* and the *Model Notary Act*, this enormous project was undertaken by the NNA in acknowledgment of the need for a comprehensive situational guide to direct notaries in the proper performance of their duties. Despite such attempts as the NNA's earlier "Rules of Notarial Practice" under its defunct Notarian program the NNA felt an expansive ethical and practical code, supported by a broad-based consensus of industries with large notary constituencies and selected government agencies, was needed. The Code was drafted by a twenty-five member commission representing state officials, attorneys, lawmakers, notaries, and industry and association representatives from the fields of banking, escrow, real estate, court reporting, and title insurance.

This comprehensive and detailed guide is based upon ten

[44] *Pioneer and Prototype*, NAT'L NOTARY MAG., Nov. 1996, at 11.
[45] *Notary Ambassadors*, NAT'L NOTARY MAG., Nov. 1996, at 1013.
[46] *Id.*
[47] *See* NOTARY PUBLIC CODE OF PROFESSIONAL RESPONSIBILITY, Semifinal Draft (1997).

widely accepted "Guiding Principles" that clarify the multiple roles of the notary in the United States:

> I. The Notary shall, as a government officer and public servant, serve all of the public in an honest, fair and unbiased manner.
>
> II. The Notary shall act as an impartial witness and not profit or gain from any document or transaction requiring a notarial act, apart from the fee allowed by statute.
>
> III. The Notary shall require the presence of each signer and oath taker, carefully screen each for identity, and observe that the signer appears mentally competent and aware of the significance of the notarial act.
>
> IV. The Notary shall not execute a false or incomplete certificate, nor be involved with any document or transaction that is false, deceptive or fraudulent.
>
> V. The Notary shall give precedence to the rules of law over the dictates or expectations of any person or entity.
>
> VI. The Notary shall act as a ministerial officer and not provide unauthorized legal advice or services.
>
> VII. The Notary shall affix a seal on every notarized document and not allow this universally recognized symbol of office to be used by another or in an endorsement or promotion.
>
> VIII. The Notary shall record every notarial act in a bound journal or other secure recording device and safeguard it as a valuable public record.
>
> IX. The Notary shall respect the privacy of each signer and not divulge or use personal or proprietary information disclosed during execution of a notarial act for other than an official purpose.
>
> X. The Notary shall seek education and training on notarization and keep current on the laws, practices and requirements of the notarial office.

Each of these Principles generates particular "Standards of Professional and Ethical Practice" for the notary, with each Standard working "to maximize the public utility of the notarial office, while minimizing the notary's exposure to liability."[48] The standards themselves generate numerous illustrations posing problematic situations that are common or typical for notaries. Finally, for each illustration, "The Ethical Imperative" or "The Professional Choice" indicates the course of action best exemplifying the pertinent guiding principle and standard of professional and ethical

[48] *Id.*

practice.

Based on the recommendations and observations of commission members, what started as strictly an ethical code was broadened into both an ethical code and a practical guide for notaries caught in problematic situations not adequately addressed by law. The efforts of the drafting commission, under the auspices of the National Notary Association, will be delivered into the public do main for use by all notaries.

VIII. A VOICE FOR THE AMERICAN NOTARY

Unlike most public officials, notaries rarely make a living exclusively by performing their official duties. A few notaries actually spend more money to provide notarial services than they take in. Thus it is not difficult to understand why the ranks of notaries are plagued by apathy and indifference toward their role. This situation is made worse by the fact that notary programs in most states perennially struggle with lack of funds to appropriately in spire, educate, and update their notaries. Incredibly, the situation has remained largely unchanged since Rothman made his historic decision to become a notary in the 1950s.

Typically, the stepchildren of the bureau or department under which they are regulated and often tolerated because of the fees they generate for a state's general fund, notaries are awaiting a profound transformation in governmental priorities. For decades, their voice in the chambers of power has been the National Notary Association, though, in some states, the NNA's remonstrations on behalf of notaries seem a *vox clamantis in deserto*, a voice shouting in the wilderness.

The NNA offers a voice for the American notary in local, state, national,[49] and increasingly international forums. For two decades the Association has maintained a dialogue with notary groups and organizations around the world, including those in Taiwan, the Republic of China, Great Britain, Canada, Mexico, Argentina, France, and Israel, as well as the American civil law jurisdictions of Puerto Rico and Louisiana.

"We are the nation's foremost support center for notaries," claims President Valera. "We offer both material and inspirational support, whether it's a notary course that you can study at home, a surety bond, advice from an expert on how to approach a difficult notarization, or a handbook you can show to a customer who is demanding that you perform an improper notarial act."[50] The value

[49] Perhaps the National Notary Association's most conspicuous participa tion in a national forum was President Raymond C. Rothman's service on the Federal Advisory Committee on False Identification, which issued a much cited report, THE CRIMINAL USE OF FALSE IDENTIFICATION, in 1976. The Committee operated under auspices of the U.S. Department of Justice.

[50] Interview, *supra* note 21.

of NNA membership has been demonstrated by our consistent growth and by the current 154,000 notaries who voluntarily belong to the Association.

NNA Membership Growth

1965	5,000
1970	6,000
1975	15,000
1980	30,000
1985	45,000
1990	64,000
1995	117,000
1998	154,000

In 1997, the American notary's confidence in the quality and worth of the NNA's services has enabled the organization to move into a 52,000squarefoot facility, large enough to accommodate future growth and increased services. The new national headquarters houses seventeen different departments, including expanded membership services, warehouse and computer-support divisions, with plans to develop a large onsite education seminar center.

But a state-of-the-art facility and support systems are just a small part of the story. Over the past decade, the Association has developed a staff whose dedication and experience has been responsible for the unparalleled success of the NNA's programs in service to notaries. The meticulous attention to detail and re search that are necessary for each publication, the exhaustive preparation that insures the accuracy of each seminar, and the intensive training Information Service counselors must undergo be fore answering a single call all testify to the commitment that the more than seventy NNA employees have to the American notary. And nowhere is the high professionalism of the NNA's staff more evident than on the front lines, where efficient and congenial service representatives assist callers with any notarial need.

To commemorate its founder's legacy, the Association in 1997 established the National Notary Foundation. This nonprofit foundation was formed to promote education, advance scholarship, support personal achievement in the pursuit of knowledge, and champion selected humanitarian and philanthropic projects of a charitable or educational nature. The Foundation's first project was endowment of a scholarship at the University of California, Los Angeles, in tribute to Rothman, who passed away in November 1995 after a brief illness. The endowment, the National Notary Association/Raymond C. Rothman Scholarship, is awarded to a first-year undergraduate student in the College of Letters and Science who has demonstrated academic achievement as well as versatility in his or her activities, initiative and leadership potential.

With this Foundation program, the precedent has been established for further programs promoting a positive image of the notary office.

The task of educating and empowering America's 4.3 million notaries is a gigantic one and it will require a very special, cooperative effort with state government to complete. Thus, NNA in formational resources and publications have long been made available to state officials to assist them in their efforts to inform and educate notaries.

Valera has shaped the NNA as a not-for-profit educational association that unashamedly embraces sound business principles. "Education and fiscal soundness are not mutually exclusive. In order to effectively serve our members and to reach out to all notaries, we must remain financially strong and heed proven business practices."[51] The NNA President believes that American notaries are on the threshold of a new age, and that those who choose not to keep pace with technical developments will be left behind. "In this fast-paced age of digital signatures and electronic documents, the notary office will change. It will necessarily become more technical and professional, and much more will be expected of practitioners. For notaries, training will become more important than ever be fore."[52] Valera promised that the forty-one year-old National Notary Association will remain faithful to its founding principles and be ever ready to serve the American notary educationally, materially, and inspirationally.

[51] *Id.*
[52] *Id.*