

- NOTARY PUBLIC: (1) Must state date commission expires on certificate
(2) Must have person before him in taking acknowledgment.

April 28, 1938

Surgeon General
U.S. Public Health Service
Washington, D. C.

Attention R.L. Harlow
Chief, Accounts Section



Sir:

This Department acknowledges your request for an opinion under date of April 15, 1938, as follows:

"It is requested that this office be advised as to the laws obtaining in the State of Missouri relative to the following questions.

1. Is it necessary that a Notary Public state the date his commission expires on a jurat when said jurat is being executed to a travel expense voucher, which voucher will be audited and paid by a department of the Federal Government?
2. What laws govern where a paper is notarized and the person signing does not appear before the Notary Public?"

I.

Your first question is answered by Section 11741 R. S. Missouri 1929, which provides as follows:

"Every notary public shall provide a notarial seal, on which shall be inscribed his name, the words 'notary public,' the name of the county or city, if appointed for such city, in which he resides and has his office, and the name of the state; shall designate in writing, in any certificate signed by him, the date of the expiration of his commission. No notary public shall change his seal during the term for which he is appointed, and he shall authenticate therewith all his official acts, and the record and copies, certified by the proper custodian thereof, shall be received in evidence."

From the foregoing we are of the opinion that it is necessary that a notary public state the date his commission expires in writing, in any certificate signed by him, including a traveling expense voucher which is to be audited and paid by a department of the Federal Government.

II.

46 Corpus Juris, Section 24, page 512, makes the following statement with reference to notaries taking acknowledgments on affidavits without the presence of the parties whose acknowledgments are taken:

"When a notary takes an affidavit, the party should in every case be personally before him, and it is serious misconduct to dispense with personal presence."

In the case of *In Re: Napolis*, 169 App. Div. 469, 155 N.Y.S. 416, 1. c. 418, we find the following statement by the Court:

April 28, 1938

"The court again wishes to express its condemnation of the acts of notaries taking acknowledgments or affidavits without the presence of the party whose acknowledgment is taken or the affiant, and that it will treat as serious professional misconduct the act of any notary thus violating his official duty."

Our courts have not passed on the precise point in question. However, we are of the opinion that they would condemn the practice of notaries taking acknowledgment on affidavits without the presence of the party whose acknowledgment is taken, or the affiant, and if any damage is suffered by the party in interest it would probably hold the notary liable on his bond.

Respectfully submitted

MAX WASSERMAN,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

MW:MM