THE WORLD ORGANISATION OF NOTARIES

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"WITH BANNERS FLYING AND NOTARIES AT THE READY"

AN ADDRESS

by

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Peter Zablud has written extensively about notarial practice and is the author of the authoritative text book, *Principles of Notarial Practice* which has been sold in 21 countries and is approaching its second edition. His latest book is *Notarizing for International Use - a Guide for American Notaries, Attorneys and Public Officials.*

He is the Chairman of the Board of Governors of The Australian and New Zealand College of Notaries and is a Distinguished Fellow of the College.

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Professor Zablud is also the Director of Notarial Studies at Victoria University - Melbourne, where he designed and is responsible for the presentation of the notarial studies programmes for prospective and practising notaries. From 2013, qualifications awarded will include the degree of Master of Notarial Science which is structured to be the outstanding course of education of its kind in the common law world.

As well as teaching at the University, Peter presents workshops and masterclasses for practising and prospective notaries throughout Australasia and in-house lectures and seminars about the notariat and the authentication of documents for government and private organisations.

For a number of years now, Peter has chaired sessions and presented papers at Conferences conducted by the Hague Conference on Private International Law. His paper "*Aspects of the Apostille Convention*" has been acknowledged as being a significant contribution to the deliberations of the Hague Conference Special Commission of November 2012 on the practical operation of the Apostille Convention.

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Mr. Chairman, Chief Justice, Distinguished Guests, Colleagues and Friends

It is an absolute delight to be here in Dun Laoghaire in Dublin at this special gathering - the first Conference of the World Organisation of Notaries.

I would like to thank WON and, in particular the President, Ken Sherk, for giving me the opportunity to address the Conference. Thank you very much indeed Ken.

I would also like to express my appreciation to the organising committee. Special thanks to that extraordinary man, Wayne Braid, and to Justin McKenna for your hospitality and for your warm welcome to Robyn and to me and to all the Australians who have travelled across the world to Ireland to be here.

Mr. Chairman,

This Conference is a perfect opportunity to remind ourselves and to inform our guests that, in this 21st century, we notaries are the holders and custodians of a unique office of trust and fidelity which traces its origins back to Bologna of the 12th century and before that, to Rome at the time of the Republic.

As we are all too aware, the nations of the world have difficulty agreeing on anything - no matter how simple. Yet despite major differences between them culturally, politically and in their respective legal systems, the need for notaries is understood internationally. Today, the office of notary exists in one form or another in virtually every country of the world.

When Christopher Columbus set sail for the New World on Friday, 3 August 1492, the complement of the flagship included the royal notary, Rodrigo de Escobedo. It was his sworn duty to witness and record his admiral's noteworthy acts for posterity.[1]

By so doing and by virtue of the *public fides* (the public faith) reposed in him by his office, the legality of Columbus' acts was beyond question - at least in the Spanish mind.

When he came ashore on the small island which he subsequently named "San Salvador" (Holy Saviour), Columbus instructed his notary to witness his taking possession of the island for the Spanish King and Queen.

Columbus then directed his notary

> "to [make] the declarations that were required … [which] … at more length … [would be] … contained in the testimonials made there in writing".[2]

That was the beginning of the Spanish colonisation of the Americas which lasted for over 400 years. And the notaries were in the thick of it.

The historian James Lockhart got it absolutely right when talking about Spain and the colonies when he said:

> "There was hardly anything the Spanish did not notarize."[3]

Another historian, Amy Turner Bushnell, put it this way:

> "The sweatiest of entradas … [the sweatiest of invasions] … into unknown territory was a matter of order and record, with banners flying and notaries at the ready".[4]

Part of a notary's duties with the conquistadors was to read out the "Requeremento" to the natives as the Spanish troops came upon them. Basically, the Requeremento was an announcement by the notary to the effect that the Spanish had arrived to do God's will and the will of the Crown and unless the heathen natives immediately converted to Catholicism, they would be slaughtered - lawfully of course.

This was a pretty courageous thing for the notaries to do - the natives didn't understand Spanish and they didn't take too kindly to being slaughtered.

One notary, I think it may have been Cortes' notary - solved the problem and did not have to go traipsing off through the jungle with the troops. He convinced his admiral that it would be sufficient for him to stand on the bow of the ship as it approached the shore and read the Requeremento out, in a very loud voice.

Who were these men? When they were not hanging out with the conquistadors and intimidating the locals, in a lot of ways they were the solicitors of their day - in a European context.

They intervened in land transactions; they prepared wills and powers of attorney; they looked after matters of inheritance and succession; they drew apprenticeship agreements and partnership agreements; they protested dishonoured bills of exchange.

But they were more than legal practitioners. They were also official archivists for the state in relation to the documents they prepared and authenticated. They were the holders of a unique public office of trust and fidelity

The notaries of Spain were and still are part of a network of legal professionals found throughout the countries of the civil law world.

I need hardly remind you that the civil law is the principal legal system in most of Europe, in Cental and South America and in significant parts of Asia and Africa. In

Northern America, pockets of the civil law continue to flourish in Louisiana and Puerto Rico and importantly, in Quebec.

We common law notaries here today are also the holders of a unique office of trust and fidelity. We are also legal practitioners. We are the direct lineal descendents of the post Reformation English branch of the notariat which had the same antecedents as our civil law cousins.

For a number of reasons, the English notariat went off in a different direction to that taken by the Europeans. Solicitors largely took over the role of notaries as the legal practitioners serving the needs of the population domestically.

In England, the focus of notaries turned to international trade and commerce rather than to matters domestic.

We in the Empire and then in the Commonwealth, generally followed suit. Even so, in British Columbia and in some common law countries of South East Asia, many notaries carry out important domestic functions as a primary activity.

A third and completely different category of notary arose in the United States. Before Independence, notaries were few and far between in the thirteen colonies.

At first, they acted as recorders and record keepers rather than as private professionals - much in the manner of English ecclesiastical notaries.[5]

However, from the mid 1640s, as trade with the West Indies and England grew, the number of notaries increased and their focus shifted to commercial matters.

For a variety of complex reasons, from about the mid-nineteenth century, U.S. notaries morphed into unqualified, ministerial officers with minimal power to exercise independent judgement.

Their sworn duty is to take acknowledgements, administer oaths and carry out a number of other actions primarily for domestic purposes. The underlying *raison d'etre* of the American notariat is to prevent fraud. As I generally understand it, they do a pretty good job of it.

At the end of 2011, there were approximately 4.9 million people holding commissions as notaries public in the United States. It is an absolutely staggering number. To put that into perspective, there are more notaries in the state of Illinois than the population of any city in that state, other than Chicago.[6]

It is thought that American notaries notarise a billion documents each year for domestic purposes. Nobody knows how many documents are notarised for international use. It certainly runs into the many millions.

The Americans are very much the elephant in the room. How we and the civil law notariat should deal with them and interact with them at an organisational level are important subjects well beyond the scope of this presentation.

Suffice it to say that we cannot pretend that they do not exist and that they are not notaries. They may not be notaries as we understand it, but they are notaries nonetheless.

As a class, they are not legal practitioners. But they are from the same stock as we are and as are the civil law notaries. We should not forget that they too are the holders of a unique office of trust and fidelity.

I don't know if you know that in a few states of the United States, including Florida, notaries are authorised to perform marriages.

A specialist in that market is Marc Seligman - The Nude Notary.

According to one article I have read online:

> "Nudists throughout the United States find particular problems when they need to seek the services of a notary public. They do not want to get dressed in order to drive to a notary's office … These issues do not exist in Tampa Bay Florida, because nudists in that region can call on the nude notary to do their notarial work".[7]

The nude notary concept has caught on. When you google "The Nude Notary", you find a link to "Naked Dan the Handyman" (with a photograph) - need I go on?

Although we and our civil law cousins are cut from the same cloth, it is an open secret that relations between us, particularly at an organisational level were, for a long time, far from comfortable.

The notaries of the civil law would simply refuse to accept that we of the English tradition were indeed notaries. They insisted on lumping us in with the United States notariat and referring to us all as "cowboys".

Mind you, it was a two way street. For our part, among other things, we were less than complimentary in our assessment of them and the outrageous hyperbole they constantly use to puff up and describe even the most mundane of their professional activities. I have even heard it said that they are nothing more than "jumped up conveyancers".

Fortunately, in recent years, the conversation has moved on a great deal. What was once an acrimonious debate between bitter adversaries has become more of a dialogue between professional colleagues.

Even so, important differences still remain between us which will not be easily resolved. The central difference arises out of the simple, fundamental question "What is a notarial act?"

The civil law notariat only recognises one notarial act - the *acté authentique* - or the act in public form. The *acté authentique* lies at the very heart of the civil law system itself. It is a genuine art form in its own right.

The *acté authentique* is the hallmark of the civil law notariat and its use sets the civil law notaries apart.

I need hardly say to this audience that the concept of an act in authentic or public form is totally alien to the common law. Since the time of Henry II, the common law had developed its methods of authenticating transactions from completely different theoretical premises to those upon which the civil law was founded.

So what? Our legal systems are different. So what? We don't have authentic acts. So what? The civil law has no concept of discretionary trusts. So what?

The problem is, that in seeking to maintain its status and its monopoly, the civil law notariat has spent far too much time looking at its own navel. By so doing, it has come up with and continues to promote the absurd proposition that the only true notarial act is the *acté authentique*. Therefore, by extension, the only true notaries are the civil law notaries.

At least in recent times they are now officially backing off from that.

Unfortunately the civil law does not yet recognise or appreciate the notarial act in private form, which is our particular contribution to the notarial zeitgeist.

As common law notaries, the notarial act in private form - the notarial certificate - is our stock-in-trade as it were.

The certificate which is signed and sealed by the notary is endorsed upon or appended to another document not usually prepared by the notary *qua* notary. Typically, it relates to or deals with one or more aspects of the document such as its genuine nature or validity, its legal status and legal consequences or more often, the execution of the document and the verification of the identity, capacity and authority of whoever it is who has executed it.

The private form notarial act obtains its evidentiary value abroad, precisely because it has been prepared and authenticated by a notary by the subscription of his signature and the affixing of his official seal.

Why this should trouble the civil law notaries is beyond me, particularly when internationally, a very large number indeed of the acts which they themselves prepare are not authentic acts but are acts in private form, which are for production and acceptance in jurisdictions outside their own.

Which begs the question, if the non-authentic acts are not notarial acts, what are they?

I should also say that the notarial act in private form is not of recent invention. When Richard Brooke wrote his "*Treatise on the Office and Practice of a Notary of England*" in 1839, the notion of the notarial act in private form was well known and well established. Indeed, Brooke spent a great deal of the Treatise on the subject, as well as providing precedents, some of which are still in use today.

I want to now talk a bit about frogs. More particularly I want to talk about the "boiling frog syndrome".

They say that if you drop a frog into boiling water, it will immediately jump out. But, if you put it into cold water and slowly heat the water up, the frog will not perceive the danger it is in and will slip into a tranquil stupor and without any resistance (and with a smile on its face) allow itself to be boiled to death.

So it is with us as common law notaries, and with our ability or inability to react to a number of significant changes which are gradually occurring around us.

It is up to each and every one of us and to the organisations that represent us, to be on guard, to be pro-active to ensure that one day we will not wake up to see that our time has come.

The civil law notariat is facing its challenges as well, but in the short and medium term they are less life-threatening than the challenges that face us in the common law environment.

I don't want to deal with the challenges facing our civil law cousins. That is a matter for them. And besides, they still don't take kindly to advice from the likes of us.

We, as common law notaries, are particularly vulnerable for any number of reasons, but primarily because we are not as entrenched in the legal system as are the notaries of the civil law world and the notaries of the United States.

One of the principal challenges facing us is bureaucratic indifference and lack of knowledge and understanding.

We should never assume that in the common law system, where there are only minimal legislative guidelines governing us, bureaucrats either know or care about notaries, especially in those countries where we have no domestic function - where our work is internationally oriented.

Bureaucracy has a life and an agenda all of its own. We must constantly be vigilant when, for whatever reason - and it is almost never a reason founded on animus - for whatever reason, bureaucrats go off on little frolics which impact on us.

For example, in 1995 Australia became party to the *Apostille Convention.* Due to the sheer size of the State of Western Australia (which is bigger than the whole of Western Europe) and due to the small numbers of notaries in that state, some bureaucrat in the Department of Foreign Affairs and Trade ("**DFAT**"), which affixes apostilles in Australia, decided that Justices of the Peace, who were on duty in courts in order to take affidavits, were "officials connected with the courts or tribunals of the state".

Therefore their signatures and stamps on documents could attract apostilles provided people went to their local courthouse to have their documents or copies of documents certified by the duty JP.

As I understand it, at the time neither the then Western Australian Notaries Committee of the Law Society nor any of the local notaries kicked up a fuss.

As a result, today when you look up "Authentications and Apostilles" on the DFAT website, you find a statement that in Western Australia, documents may be authenticated by Australian notaries public and Western Australian Justices of the Peace.

You then can follow a link headed "Additional Notaries in WA" which takes you to the section of the website of the WA Attorney General's Department dealing with Justices of the Peace. There are more than 3,000 JPs in Western Australia, all of whom are unqualified and whose only training is a requirement to read a handbook which has one chapter on taking affidavits and witnessing documents. It has nothing in it about certificates or notarial practice.

It goes further. Under the heading "Find a Justice of the Peace", you are directed to "Justice of the Peace Document Witnessing Centres" in a number of WA regional and metropolitan locations, only some of which are courthouses. You are told that if you can't attend a Document Witnessing Centre, then you can go to your local JP.

By virtue of bureaucratic indifference and lack of knowledge and lack of action by the notariat, over 3,000 Justices of the Peace are now *de facto* "Additional Western Australian Notaries." - whether or not they are physically in attendance at a court house.

In recent times, the College has raised the matter with DFAT. Let me say that they understand our concerns and I am reasonably certain they will do something about it.

Mind you, Australia is not alone. In the United Kingdom, the Foreign and Commonwealth Office ("**the FCO**") has in my opinion wrongly decided that solicitors who traditionally, in common law jurisdictions, have been admitted to practice as "officers of the Court" are also "officials connected with the courts or tribunals of the state".

Accordingly their signatures and stamps on documents can therefore attract apostilles, which clearly impacts adversely on notarial practice.

I don't know what our English colleagues can or are doing about it. But, if I may say, from the viewpoint of our notariat, it is a worrying trend which must be strongly resisted.

There is also a very serious issue arising out of current attempts by DFAT and the FCO at least to dictate the form and content of notarial acts certifying local and foreign academic credentials.

This is a very important matter. It is a real Pandora's Box. I would prefer not to canvass the issue presently, save to say that in Australia, the College is in serious discussions with DFAT and the Attorney-General's Department in an attempt to resolve the problem generally.

In our discussions so far, there is genuine goodwill all around and I am optimistic that a satisfactory solution is reasonably close.

Without any doubt, the most important challenge facing us now and into the future relates to education and training.

Education and training provide the specialised knowledge required by notaries to competently and professionally carry out their office. It operates at two levels. The first is entry level education and training for those persons who seek appointment to office. The second is continuing education and training for those who hold office.

The key concepts are "competency" and "professionalism". It should never be overlooked that we notaries are not "value neutral technicians"[8] who merely subscribe our names and affix our seals to documents. We are professionals who have a sworn duty to provide a skilful and competent service to the public.

As we all know, professionalism is esoteric and complex. It requires theoretical and practical knowledge that despite the ubiquity of the internet, the twitterati and members of the public generally, simply do not have.

Professionals not only deal with and resolve problems capable of nice, clear cut solutions which, in truth, are the majority of problems requiring resolution. They are also required to resolve the confusing and messy problems in the area so delightfully described by the late Professor Donald Schön as the "swampy lowland" of practice.[9] The competent resolution of those matters is one of the distinguishing traits of the professional.

Within the civil law environment, notarial practice has long been considered to be a specialised field.

The civil law tradition traces its roots back to Roman law as codified by the Emperor Justinian in Constantinople in the sixth century.

"*The Book of the Prefect*" of Constantinople discusses the characteristics and level of knowledge expected of a candidate for membership of the guild of 24 imperial notaries at the beginning of the tenth century.

It was said that a notary

> "must have perfect knowledge of the laws, excellent handwriting, be neither a chatterbox nor insolent, nor have dissolute habits; his character must command respect, his judgement must be sound, he must combine training with intelligence, speak with ease and possess a perfectly correct style …"[10]
>
> (I ask you - what's changed?)

Now here we go. The candidate

> "must know **by heart** the 40 titles of the abridged law code of Basil I, and know the 60 books of the Basilika (also by Basil I); he must also demonstrate a general education without which he might commit errors while writing his acts and err against good style."[11]

By about 1300, notaries in Bologna were required to undertake a six year course of instruction at the University, which was followed by an examination in grammar, latin and the notarial art.

These days, as a rule in the major civil law jurisdictions candidates for appointment as notaries invariably have specialist qualifications and usually must undertake periods of service as employees before being eligible for appointment.

I should however point out in passing, that everything is not rosy in the civil law garden when it comes to the education of notaries. There are a number of countries where the notariat has been admitted to the UINL where education and training is minimal or non-existent.

Sadly, the fact is that, over the years, the level of education required of prospective and practising notaries in the common law jurisdictions has been unsatisfactory to say the least. Actually, "pathetic" is a word which comes to mind.

Until relatively recently, the received wisdom in Australia and New Zealand was that if a person were a senior practising lawyer, he (for it was almost invariably a male) would be able to immediately conduct a competent notarial practice once appointed.

Save in relation to Scrivenor Notaries who, as Bill Kinnear will confirm to us, were and are in a highly qualified class of their own, the same view was held in England and in other parts of the Empire, as to the qualifications required for the appointment of a notary to office.

The theory was that, immediately on appointment, particularly by the Archbishop of Canterbury, there would be a blinding flash of light and the new notary would suddenly know everything.

It may be that in England, being physically closer to the Archbishop and therefore closer to God, the position was different. But let me assure you that in the antipodes, on appointment, new notaries knew nothing and were out on their own.

The truth is that if you are a reasonably competent senior lawyer, being a notary is not that difficult - but it is not that easy either.

Notarial practice, especially these days, can be quite tricky, particularly when you are sloshing through the swampy lowlands. Increasingly, practice is becoming more complex and the responsibilities involved are becoming greater.

Before the war, in Australia, 97% of the population was English or Irish or of English or Irish extraction. Trade and commerce was dominated by England and the Dominions. There were relatively few dealings with "foreigners".

Notarial work typically involved protesting dishonoured bills of exchange, taking the occasional affidavit and preparing charter-parties, bottomry bonds and other shipping documents.

That has now all changed. In Australia, we are now one of the most polyglot nations in the world. Following the fall of the Berlin Wall and as a result of the opening up of world trade and investment in the 1990s, the role of notaries in Australia (as is so in all the other common law jurisdictions) has burgeoned massively. It covers areas which were not even thought of a hundred years ago.

This in turn was accompanied by an increased appreciation of the need for specialist education for notaries.

And, just in case you think that there is actually something new under the sun - the twelfth century saw a revival of commercial and urban life in Mediterranean Europe, which in turn created an increased need for professionals such as notaries who had to undergo specialist training in order to prepare legal documents in support of the resurgent legal and financial activity.

But I digress.

In British Columbia, at the time of their 1911 legislation, no qualifications for appointment were mentioned by the Act. Compare that with the high standard of education required today in BC, where notaries must undergo rigorous training and education, including obtaining a Master's qualification from Simon Fraser University.

In the nineties, in England and Wales, it became mandatory for prospective notaries to complete a Diploma in Notarial Practice, which is now offered by University College London.

New South Wales led the way in Australia in the early nineties by requiring notaries to complete a short course conducted by the College of Law as a pre-condition to appointment.

In Victoria, the passage of the *Public Notaries Act 2001* with its mandatory education requirement, resulted in prospective notaries having to complete a Graduate Diploma in Notarial Practice offered by Victoria University.

In that regard, please forgive me for a bit of advertising. We have now re-jigged our notarial education at VU, so that later this year, in addition to an entry level qualification, we will also be offering a degree of Master of Notarial Science.

The Master's will be the premier qualification for notaries in the common law world. It will be of interest to our civil law cousins as well. Once we are properly bedded down, we will also be promoting the Master's degree to practising notaries outside Australia.

The Societies of Notaries have a serious role in relation to entry level education. It is they who must assist academia in the design and presentation of courses of education. They must constantly liaise with the Universities and other institutions which formally provide training. It is from the ranks of the Societies that teachers must be drawn.

The intervention of the Societies of Notaries in education and training does not stop at entry level. Societies should also have a major role in connection with ongoing professional education and development.

It is beyond question that in today's fast moving world, the knowledge and training required by notaries in order to function effectively and to provide a proper level of service must constantly be maintained and kept up-to-date.

A simple example will suffice. The Australian Securities and Investments Commission ("ASIC") now provides an electronic purchase and download facility for certificates of registration of corporations and extracts of current and historical company information.

Quite apart from the fact that there are notaries out there who are still not aware of the new ASIC service, the notarial certificates required to explain and authenticate the downloaded documents differ to those which were previously used for ASIC certificates with "wet" signatures.

I am not saying that notaries could not work out a new form of certificate for themselves. But it was up to the Societies of Notaries to issue and distribute appropriate practice notes advising their members of the new system and suggesting new forms which could be used. Not all of them did so.

The Societies of Notaries, and in Australia and New Zealand, with the assistance of the ANZCN, are the obvious vehicles to deliver a range of ongoing professional education and development programmes.

CPD activities include such things as

- conferences and seminars
- masterclasses
- events focussed on particular topics
- webinars
- on-line discussions groups
- special interest groups
- ethics advisory services
- newsletters
- practice notices; and
- mentoring programmes

I don't want to discuss CPD activities as such, save to say that it is most important that programmes are planned and not just presented *ad hoc*. In my view, a serious CPD programme should be conducted over a three or four year cycle.

Obviously, a programme can be varied or supplemented as and when specific issues arise. But if you think about it and put a bit of effort into planning, presentation and evaluation, worthwhile programmes will emerge which will be of genuine value to members and therefore to the public they serve.

One of the stated aims of the World Organisation of Notaries is to provide information and education to its members.

Continuing professional development is a perfect place to start. If WON were to act as a pro-active clearing house for CPD programmes developed in member jurisdictions, and elsewhere for that matter, it would provide a most valuable function indeed.

Mr. Chairman,

Our friend, the Secretary-General designate of the Hague Conference, Dr. Christophe Bernasconi, was scheduled to speak at this Conference. Unfortunately, he could not be here. At his request and with the consent of the President, may I be permitted to make a few observations and comments about the *Hague Apostille Convention* and the electronic apostille program.

A knowledge and understanding of the Apostille Convention is essential to the proper conduct of notarial practice. Not a day goes by, when notaries are not required to explain apostilles, where to get them and their technical effect.

The Permanent Bureau of the Hague Conference has produced a series of three publications on the practical operation of the Convention. They may be downloaded from the Hague Conference website, www.hcch.net

The ABCs of Apostilles is a brochure which is primarily addressed to those who use apostilles. It provides short answers to frequently asked questions about apostilles and is a useful aide memoire for notaries.

The second publication on *How to Join and Implement the Hague Apostille Convention* is geared towards prospective Contracting States and is not really relevant for notaries.

The third and newest publication "*The Apostille Handbook*" is a comprehensive reference manual on the subject and is well worth reading generally and dipping into from time to time when difficult questions arise.

The Apostille Convention is the most successful and widely applied of all of the Hague Conference Conventions. There are now 105 states party to the Convention. During the balance of this year, it is expected that the number will rise further.

Literally millions of apostilles are issued around the world each year for the purpose of authenticating public documents required for a huge array of cross-border transactions.

Notarial acts are right up there among the categories of documents to which apostilles are affixed.

As notaries, we have a special duty in relation to the Convention and the affixing of apostilles, particularly when we are authenticating documents bound for the newer states party to the Convention.

What makes you think that because a country has acceded to the *Apostille Convention* and has announced its accession and subsequently the entry into force of the Convention in all its official government media, that all its public servants, lawyers, bank officials, public institutions and authorities, let alone the public generally, will immediately be familiar with the apostille system or even be aware that it has replaced consular legalisation of public documents emanating from other Convention countries.

What makes you think that all these people know anything about legalisation of public documents in the first place?

Even when not asked to do so, notaries are duty bound to ensure that every notarial client who needs to know, is made aware of any requirement by a destination country to have a notarial act or other public document authenticated - either by the chain of legalisation method or increasingly, by the affixing of an apostille.

The Convention commenced life 52 years ago in a wholly paper environment. Times have changed. Due to its importance as an essential tool in the conduct of world trade and commerce, the apostille is being adapted to meet the changing times and to remain relevant to government and individuals and businesses involved in cross-border activities.

The electronic apostille program (the e-APP) is now well and truly on foot. It comprises two components designed and developed by the Permanent Bureau of the Hague Conference.

The first component is the electronic apostille itself, which allows applicants to receive an apostille on-line for a public document.

The second component is the electronic Register which enables contracting states to maintain a publicly searchable electronic register of all apostilles - electronic or not - which have been issued by the Competent Authorities of the State.

Here again, there is a wealth of material available on the Hague Conference website, which I strongly commend to everybody here.

To date, over 160 Competent Authorities in 17 countries have operational e-registers. So far only four countries, including New Zealand, have fully operational and integrated electronic apostille programmes. A number of other countries are well advanced in their preparation.

The e-APP is an integral part of the revolution as to how we, as notaries, will deliver our services in the future. How long it will take for electronic documents for international circulation and electronic apostilles to become a norm is still a matter for speculation.

So watch this space!

Mr. Chairman,

May I return briefly to boiling frogs.

At a purely individual level, the boiling frog syndrome is a genuine threat to each and every one of us.

As individuals, we slowly suicide when we become complacent in what we do , when we suffer from hubris and when we lower our standards and become satisfied with and accept mediocrity in our work.

In some cases, when we get older and are approaching retirement, we become bored with what we do.

The excitement and pleasure of providing a quality professional service to the public isn't nearly as exciting and pleasurable as it once was - particularly when you pick up the phone and have to deal for the umpteenth time with someone who only wants "a signature" and who you know is just shopping around for the lowest price.

And you think to yourself, why should I be pleasant to this person - why shouldn't I just tell him to bugger off and annoy someone else?

It is precisely at times like these you have to remember that you are a professional. You must make every effort to re-invigorate yourself; to go and learn something new; to see how you can improve your services and the presentation of your work; to become involved in your professional organisation; to mentor new notaries; to pass on your knowledge and experience.

Otherwise, just find a good bottle of Irish whiskey or a pint of Guinness (or both), lie in the warm water, sit back, relax and with a smile on your face, slowly expire.

Mr. Chairman,

Despite the challenges which face us, some of which I have touched upon today, I have no doubt that we, as common law notaries, will continue in our essential and important function within the legal system for a good many years yet.

This is subject to the provisos that we all commit and constantly recommit ourselves to education and training for ourselves and those who will follow us and that we commit and constantly recommit ourselves to thorough professionalism and excellence in everything we do.

In conclusion, let me thank you for your attention. Allow me to turn to Ireland's greatest poet, William Butler Yeats and to adapt a line from his play *Cathleen ni Houlihan* and say to you "I have indeed been talking to my friends".

Thank you.

[1] Kathryn Burns, *Notaries Truth and Consequences*, The American Historical Review, Vol 110, April 2005, 350

[2] Ibid

[3] James Lockhart, *Spanish Peru 1532-1560 A Colonial Society* (The University of Wisconsin Press, 1968) 68

[4] Amy Turner Bushnell, *Ruling the Republic of Indians in Seventeenth Century Florida*, an essay found in *Powhatans Mantle : Indians in the Colonial South East* (University of Nebraska Press 2006) 195

[5] See generally John E Seth, *Notaries in the American Colonies*, 32 John Marshall Law Review (1998-1999) 863

[6] A statistic devised by Professor Michael Closen of Chicago

[7] <www.prweb.com/releases/2006/03/prweb352360.htm>

[8] A term coined by the former Chairman of the United States Securities and Exchange Commission, Harold M. Williams

[9] Donald A Schön, *The Reflective Practitioner - How Professionals Think in Action* (Basic Books, 1983) 42

[10] Gugliemo Cavalla (ed) *The Byzantines* (University of Chicago Press 1997) 200-201

[11] Ibid