The Seal and the Oath: Restoring the Honor of Notarial Practice in the Philippines

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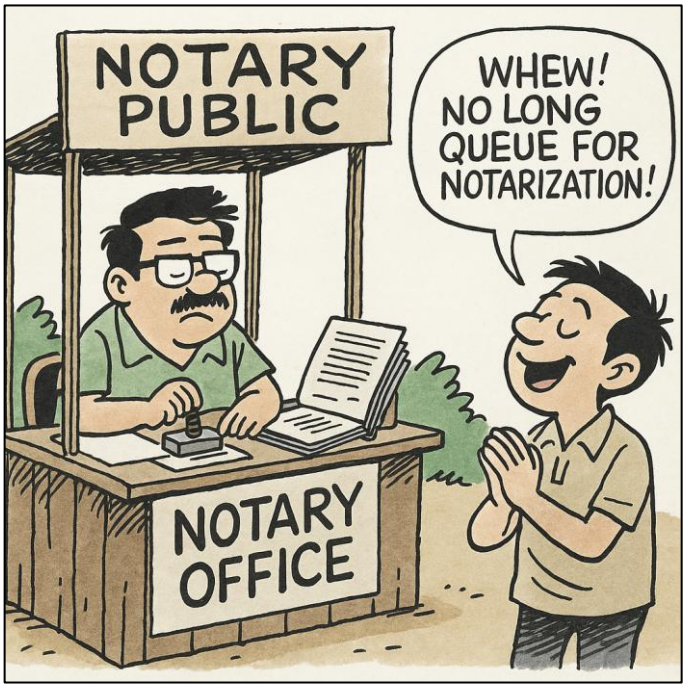
Abstract

This article confronts the current state of the notarial office in the Philippines—a role historically rooted in solemnity, trust, and moral responsibility. Drawing from the Supreme Court's ruling in A.C. No. 11889 and tracing the office's lineage from its ecclesiastical and Roman origins to the present, it reveals how the notary's function has been reduced to mere formality, stripping away its deeper legal and ethical significance.



The piece argues that the decline suffered by the notarial profession is not only procedural but cultural: a collective disregard of the notary's duty as an officer of the law and conscience. To restore the office's honor, it proposes targeted reforms: specialized education blending tradition and modern demands; centralized commissioning paired with a digital registry for oversight; and a reintegration of notarization into the core of legal professionalism and public trust.

Ultimately, this is a call to reclaim the office's core values — where the seal is not just ink on paper, but a pledge of truth and integrity essential to justice and the rule of law.

I. Introduction: The Forgotten Guardian of Legal Truth

There was a time when the notarial office was reserved for men of standing and integrity — lawyers, judges, even clerics — officers of the law and of conscience. To affix one's signature and seal to an instrument was not mere clerical labor; it was an oath, a certification before the Republic that the transaction was real, the parties present, and the truth inviolate. But that office, once steeped in dignity, has been reduced to a shell of itself — a transactional convenience peddled from folding tables, stalls, and perhaps even the backs of motorcycles.

The Supreme Court's decision in *A.C. No. 11889* (13 November 2024) offers a stark reminder of the depths to which this institution has fallen. There, a lawyer-notary was sanctioned for acknowledging a forged deed of sale — a document signed, allegedly, by a party who never appeared before him. The Court did not hesitate to condemn the act: the lawyer had abandoned his duty, compromised legal certainty, and debased the very idea of what a notarial act is supposed to be.

This was not a unique lapse. It was a symptom.

The Philippine notarial system today is plagued by indifference, informality, and a troubling degree of professional apathy. And it is not enough to enforce the rules more strictly. The rules themselves — and the culture that surrounds them — must change. If we are to restore public faith in legal documents, protect the sanctity of transactions, and reassert the moral function of the notary, then we must begin with reform — serious, structural, and unapologetically aspirational.

This article is a call to that reform. It begins with history — because the origins of the notarial office, from the Roman Empire to the ecclesiastical courts of Europe, reveal what we have lost. It then moves to doctrine — because the law still remembers what the practice has forgotten. And it ends with a program — concrete proposals aimed at reclaiming the notary public as a true officer of the law, entrusted not merely with form, but with faith.

II. Historical Roots of the Notarial Office

Long before the birth of the Philippine Republic, before the arrival of American legal institutions, and even before the Spanish Crown imposed its civil codes upon these islands, the notarial office had already taken form — not as an accessory to law, but as a foundation of it.

In the Roman Empire, the *notarius* was no mere scrivener. He was an officer of trust — literate, trained, and tasked with recording judicial proceedings, imperial decrees, and private transactions. His authority came not from clerical function but from public faith. What he committed to writing carried the force of law, bound the parties, and resolved disputes. In a world where power was often personal and memory unreliable, the notary's record became the law’s most faithful servant.

This role deepened in medieval Christendom. As the Church grew into a parallel legal system — with its own courts, codes, and jurisdiction — the notary became an ecclesiastical officer. Within canon law, he bore witness to marriage contracts, confessions, excommunications, and ecclesiastical decrees. His seal did not just authenticate; it sanctified. The moral dimension of the office became inseparable from its legal one — for who could attest to truth if not someone bound by oath, conscience, and calling?

This ecclesiastical character survives to this day. The Catholic Church still appoints notaries under canon law, entrusted with recording legal acts within the Church — from matrimonial dispensations to tribunal judgments. In these acts, the notary does not merely document; he affirms the Church's institutional memory.

The English common law developed along different lines—more adversarial, more oral, less reliant on formal documentation. Yet even there, the notary survived, notably retaining ecclesiastical roots. The Archbishop of Canterbury remains in these modern times the appointing authority for notaries public in England and Wales. This ecclesiastical link persists in certain overseas jurisdictions; for instance, in New Zealand, notaries are still appointed by the Archbishop of Canterbury. In Australia, while most states have transitioned to statutory appointments by State Supreme Courts, Queensland continues to appoint notaries through the

Archbishop of Canterbury. These enduring connections underscore the solemn public trust inherent in the notarial office.

When the English system crossed the Atlantic, the American republics absorbed and refined it. States began regulating notaries as essential to commercial stability and civil order. In many jurisdictions, the notary's seal is not symbolic — it carries evidentiary weight, legal presumption, and the risk of both civil and criminal liability for abuse. The notary became the gatekeeper of trust in a legal culture obsessed — rightly — with formal safeguards.

The Philippines, as is often the case, inherited a hybrid system. We received from Spain the civil law reverence for form and substance; from America, a regulatory framework that made notaries officers of the court. At its best, our system recognized the notary public as a quasi-judicial figure — one who certifies that legal acts are performed knowingly, voluntarily, and lawfully. His presence made private acts public, informal arrangements final, and uncertain claims reliable.

At its worst — and we are perilously near that nadir — the notarial office has become a caricature of itself: transactional, itinerant, and stripped of its gravitas. The fall was not sudden. It is the result of decades of institutional lack of priority, a legal culture that treats notarization as routine, and the absence of meaningful professional formation.

But history has not forgotten. The office of notary was born not of convenience, but of necessity — rooted in law, refined by the Church, and preserved across civilizations because it met a fundamental need: to place truth beyond question. The notary was, and remains, a servant of public faith. And that faith — once broken — cannot be restored by rules alone. It demands the return of solemnity, training, and a profession that remembers what it is entrusted to bear.

III. The Philippine Framework: A Hollow Office Adrift from Its Origins

The erosion of notarial practice in the Philippines is not a modern novelty. As we have already traced, it is a forgetting — a profound loss of institutional memory.

The historical roots discussed in the preceding section were not mere ornament; they were the very scaffolding of the office. Across centuries and jurisdictions, the notary stood not only as a legal functionary but as a moral presence — a bridge between private will and public order, between civil transaction and solemn oath. The office was forged in the Church, refined by the Roman legal tradition, and preserved in both civil and common law systems, each imprinting upon it a shared understanding: the notary was a guardian of legal truth.

This ideal did not vanish overnight. But in the Philippine setting, somewhere along the line, the office was hollowed out. The scaffolding remains — rules, forms, commissions — but the edifice is crumbling.

The 2004 Rules on Notarial Practice, promulgated by the Supreme Court, outline a structure that—on paper—honors the weight of the office. The rules define eligibility, demand personal appearance, mandate a notarial register, and vest the Regional Trial Court Executive Judge with oversight of commissions. Disqualifications are spelled out, sanctions provided, revocation allowed. The legal framework is not deficient.

But structure is not substance.

In lived practice, these rules are observed more in breach than observance. Personal appearance — a rule meant to anchor the notary's act in physical, legal presence — is treated as optional. Signatures are notarized in absentia. Acknowledgments occur without scrutiny. Registers, if kept at all, are scribbled post hoc. Worse still, the setting itself has fallen into indignity: transactions notarized on car hoods, beside sidewalk stalls, through glass windows — law reduced to perfunctory ritual, the seal handed out for the price of convenience.

This erosion has not escaped the attention of the Supreme Court. The dockets are crowded with disciplinary cases — notarial failures that are not merely technical but fundamental. In *A.C. No. 11889*, the respondent notarized a deed of sale without the presence of the parties — a violation so elementary it should have been unthinkable. In *A.C. No. 12412*, a notary certified signatures that were demonstrably forged, without making the proper entries in the notarial register. In *A.C. No. 11317*, notarization occurred in a setting so informal as to defy any pretense of legal solemnity. These are not aberrations. They are symptoms — recurring, predictable, unaddressed.

Consider *A.C. No. 9334*, where a notary admitted to bypassing identity verification out of "respect" for a judge, effectively subordinating legal protocol to personal deference. In another case, *A.C. No. 6634*, a lawyer confessed to notarizing hundreds of documents in Pasig City despite his commission being valid only in Quezon City — a jurisdictional oversight of staggering proportions. Each case names a lawyer. Together, they indict a system.

The deeper malaise, however, is cultural. Notarization has ceased to be viewed as a legal act imbued with duty. It is now seen as clerical — perfunctory, transactional. For clients, it is a box to tick. For lawyers, a trickle of passive income. For the courts, one more administrative burden among many, with little time or bandwidth to police compliance.

We have drifted far from the office we inherited. And what is worse, we no longer seem to notice the distance.

The notary was never meant to be a mere witness. He was — and must remain — a custodian of legal certainty, a figure whose seal not only authenticates but affirms. His role is not to rubber-stamp human affairs, but to give them solemnity, legitimacy, truth. In canon law, as earlier recalled, the notary's act was treated as a *publica instrumenta* — binding even against the dead. In civil law, his presence transformed private intent into public faith. Even in England, where the notarial role developed along narrower lines, the ecclesiastical root endures: the Archbishop of Canterbury retains the power to appoint notaries, not out of nostalgia, but because the role remains fundamentally sacred.

And yet here, in our jurisdiction, the notarial act has been flattened — stripped of theology, ceremony, and consequence. The result is a notarial system that functions in appearance but fails in substance. The seal still bears legal effect — but too often, it no longer bears truth. This is not merely a regulatory problem. It is a moral crisis. A profession that tolerates such decay does not merely betray legal standards — it forfeits public trust.

The solution cannot be rule-making alone. Rules already exist. What is missing is alignment — between law and culture, between framework and function, between the office and its occupant.

To repair the office, we must first remember what it was. And from that memory, we must build anew.

In the next section, we set forth a program of reform — not as idealists crafting dreams, but as lawyers bound by duty to restore honor to a forgotten office.

IV. Proposals for Reform

If the notarial office has fallen into disrepair, it is not because the law has been silent, but because the system has ceased to demand seriousness. The time has come to rebuild—not with bureaucratic adjustments, but with reforms worthy of the office's heritage and essential to its future. Three pillars must support that reconstruction: formation, oversight, and institutional standing.

1. Rigorous Formation: Establishing a Certificate or Diploma in Notarial Practice

The current requirement — that a lawyer in good standing may apply for a notarial commission after a token seminar — is wholly insufficient to the gravity of the role. It has bred a generation of notaries unequipped for the legal, ethical, and historical demands of the office. If the notarial seal is to mean anything again, the training must rise to meet its weight.

A Certificate or Diploma in Notarial Practice must be instituted — rigorous, practice-oriented, and grounded in the doctrinal, historical, and practical realities of the work. It should be delivered through accredited law schools and the IBP, under the oversight of the Supreme Court. The office deserves no less.

That curriculum must look both backward and forward. It must begin with the canon and civil law origins of the notarial office — not as an academic indulgence, but to re-anchor the role in its original character: as a moral and quasi-sacred function. A deep understanding of the notary as officer of both law and conscience must be the baseline.

From that foundation, the training should extend into the full range of contemporary notarial functions — including the role of notarization in real property transactions, contracts, estate instruments, corporate documents, and court affidavits. Special attention must be given to the personal appearance requirement, the notarial register, and the legal consequences of negligent or fraudulent notarization.

But the course must also meet the realities of a changing world. A notary today must be equipped to navigate the landscape of global commerce, cross-border transactions, and digital documentation. The legal and practical implications of the Apostille Convention, electronic notarization, and data integrity must be part of the instruction. This is not a mere updating of old rules — it is the recognition that the notarial act sits at the intersection of tradition and transformation.

Finally, the certificate should not be treated as a perfunctory hurdle. It must be comprehensive in scope, credible in delivery, and consequential in outcome. Completion should be a condition for the initial grant of a notarial commission — not an optional credential, but a threshold of trust.

2. Judicial Oversight: Centralizing the Commissioning Process

The fragmented manner in which notarial commissions are currently granted — handled separately by Executive Judges across jurisdictions — has bred inconsistency, opacity, and, in some instances, conduct that undermines the integrity of the notarial office. The notarial commission is not a mere administrative grant; it is a license to wield a public power. It should not be issued lightly, nor without uniform standards and institutional visibility.

While the notarial commissioning process is formally supervised by the Supreme Court, its fragmented implementation by individual Executive Judges across jurisdictions has resulted in inconsistency, limited transparency, and, at times, questionable practices. What is needed is a more centralized and directly coordinated system — one that imposes uniform standards for qualifications, applies consistent scrutiny to applications, and introduces real accountability in renewals. The authority to commission should remain with the Judiciary, but the process must no longer operate in silos. The standards for granting a commission in Manila must be no different from those in Cebu or Cotabato. A unified and standardized process will tighten the pipeline and elevate the credibility of the commission itself.

Alongside this, a national, digital registry of notarial acts must be established — a secured, searchable platform that records the essential details of every notarized document: parties, nature of instrument, date, and notarial reference. This is not an ornamental reform. It is a necessity in an era where legal documents are forged, recycled, or fabricated with alarming ease.

The current requirement of a physical notarial register — often handwritten, inconsistently maintained, and poorly stored — is obsolete. A centralized database not only deters abuse, but also allows courts, parties, and the public to verify the authenticity of notarized acts with speed and reliability. It becomes a safeguard against fraud, a tool for enforcement, and a reminder that every notarization leaves a trace.

This vision is not far-fetched. The Supreme Court's recent issuance of the Rules on Electronic Notarization (February 2025) is a commendable step in this direction. It signals an institutional awareness that the notarial system must evolve — not merely to digitize form, but to restore substance. The challenge now is to ensure that the rule is not left hanging as a technical option, but scaffolded by the infrastructure and oversight necessary to make it credible and secure.

A digital registry, if properly designed, becomes the backbone of this shift. It can accommodate both physical and electronic notarizations, allowing the legal system to reconcile its historical solemnity with the speed and scale of the digital economy. It lays the groundwork not only for modernization, but for a reassertion of the office's public character.

The commission and the register are two halves of the same reform. One sets the standard for who may act as a notary; the other ensures that every act is recorded, traceable, and

accountable. If the notary is to be seen again as a public officer — not a convenience vendor — this is the institutional backbone required.

3. Legal Practice Reintegration: A Code of Practice for a Public Trust

At the heart of the notarial crisis lies a deeper failure — not of rules, but of perception. Too often, notarization is treated as a sideline, a mere legal formality, handled casually and often carelessly. The result is predictable: neglected responsibilities, procedural shortcuts, and a culture that treats the seal as a stamp-for-hire rather than an instrument of public trust.

This must end. If the notary public is to reclaim his rightful station — not as a document hawker but as a legal officer — the reform must go beyond procedural tweaks or reminders of ethical conduct. What is needed is a comprehensive Code of Notarial Practice: a body of rules and principles that governs the role with clarity, seriousness, and institutional force.

Such a code would recognize notarial work as a distinct, dignified legal function — not an accessory to law practice, but a mode of public service rooted in truth, trust, and legal finality. It would define duties, standardize procedures, clarify ethical boundaries, and impose sanctions with real teeth. The notary, under this code, would be held to a standard befitting the public significance of every act he solemnizes.

The code must cover both the mechanical and the moral: from how registers are kept, to how identity is verified, to what diligence must be exercised in high-risk transactions. But more than rules, it must restate — with force — the philosophy of the notarial role: that the notary stands as a living assurance of authenticity, a custodian of legal order, and a witness not just to signatures but to solemn intention.

This would also signal a shift in how the profession regards notarization. Law schools would be required to teach it. Legal practitioners would be bound by it. The IBP would support compliance. And the courts — especially those with supervisory jurisdiction — would no longer rely on generic disciplinary tools, but a specific framework tailored to the notarial function.

Until the office is held in esteem once more — not just by lawyers, but by the law itself — no reform will fully succeed. To restore the public's trust in the seal, the profession must first restore its own.

V. Conclusion: The Seal and the Oath

We have, for too long, mistaken routine for legitimacy. The notarial act — once a solemn function of law and conscience — has been reduced to a transaction. The seal still embosses documents, but too often without inquiry, without presence, without truth. We pretend it is enough that the paper looks correct. But justice is not appearances. It is authenticity.

The notary public, in origin and essence, was never a mere witness. He was an officer of the Church, later of the Crown, and now, of the Republic. His duty was not only to observe, but to attest — not only to affirm identity, but to affirm truth. The act he performs is juridical. It has legal force because it is presumed to be honest. When that presumption fails, the system fails.

The Supreme Court, in case after case — A.C. No. 11889 among them — has reminded the bar that the notarial office is not ornamental. But reminders are not reform. It is time for the system itself to rise to the office it claims to uphold.

We have proposed a path: rigorous formation, central oversight, cultural reintegration. None of these is radical. All are overdue. And together, they affirm a simple truth — that law must mean what it says, and that those entrusted to give it form must be worthy of the trust.

To be a notary is to speak on behalf of the Republic, to seal with the dignity of the State, and to act under oath. If we cannot take that seriously, we should not be shocked when others stop taking the law seriously too.

It is time — past time — to rebuild the office. Not as it once was for nostalgia's sake, but as it must be, if law is to remain an instrument of truth.