OPINION 10

OFFICIAL OPINION NO. 10

May 11, 1965

Hon. John D. Bottorff
Secretary of State
201 State House
Indianapolis, Indiana 46204

Dear Mr. Bottorff:

This is my answer to your letter of April 26, 1965, in which you request an Official Opinion on the following question:

"We have received numerous inquiries as to whether a rubber stamp of a notary seal would comply with Chapter 76, Section 4 of the Indiana Acts of 1852 (Burns 49-3506). I am informed that several public offices have requested that notaries use this type of seal for photographic purposes. The Marion County Auditor is one such office. We would appreciate an official opinion on this matter."

The Indiana Statute relating to the seal of notaries public reads as follows:

"No notary shall be authorized to act until he shall have procured such a seal as will stamp upon paper a distinct impression, in words or letters, sufficiently indicating his official character, to which may be added such other device as he may choose, and all notarial acts not attested by such seal shall be void." [1 R.S. 1852, ch. 76, § 4] as found in Burns IND. STAT. ANN., § 49-3506.

The use of the word "impression" in the above cited statute creates an ambiguity. The word "impression" is defined in Webster's New World Dictionary, The World Publishing Company 1958, p. 731, as follows:

"1. an impressing. 2. a result or effect of impressing; specifically, a) a mark, imprint, etc. made by physical pressure. b) an effect produced on the mind or senses by some force or influence; as, his music makes little impression on me. c) the effect pro-
duced by any effort or activity: as, our attempt at cleaning made no *impression* on the dirt.” (Emphasis added.)

In an annotation entitled, “What amounts to notary’s seal,” in 7 A.L.R. 1663, 1664 the following statement is found:

“... it is now almost universally conceded that it is enough, at least in the absence of positive law prescribing otherwise, that the impress of the seal is made upon the paper only.” [1920]

In the case of *Pierce v. Indseth*, 106 U.S. 546, 27 L. Ed. 254, 1 Sup. Ct. 418 (1882), the Supreme Court of the United States held that a notary seal impressed directly upon paper by a dye with which ink was used was sufficient.

At page 549 of 106 U.S. the court states:

“... It is the seal which authenticates, and not the substance on which it is impressed, and where the court can recognize its identity, they should not be called upon to analyze the material which exhibits it.”

In 1955 O.A.G., page 130, No. 34, it was concluded that professional engineers and land surveyors could properly use a rubber stamp containing a design approved by the Board of Registration for Professional Engineers and Land Surveyors as a seal.

In 1955 O.A.G., p. 204, No. 49, the following conclusion was reached with respect to the use of a rubber stamp as the official seal of architects:

“... a rubber stamp containing the required design and information may be legally used by an architect with which to stamp his working drawings, reports and specifications. ...”

It is my opinion, based upon the above cited authorities, that the use of a rubber stamp which sufficiently indicates the official character of the notary public, as a seal would satisfy the requirements of Burns IND. STAT. ANN., § 49-3506, *supra*. 