

UNIFORM  
LAWS  
ANNOTATED

CIVIL PROCEDURAL  
AND  
REMEDIAL LAWS

*MASTER EDITION*

# UNIFORM LAWS ANNOTATED

**Civil Procedural and Remedial Laws**

**With  
Annotations From State and Federal Courts**

**ST. PAUL, MINN.  
WEST PUBLISHING CO.**

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## EXPLANATION

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New Volumes 12 and 13 of the Master Edition of Uniform Laws Annotated contain the text of the following twenty-two Uniform Acts:

### Volume 12

Acknowledgment Act  
Aircraft Financial Responsibility Act  
Certification of Questions of Law Act  
Contribution Among Tortfeasors Act  
Declaratory Judgments Act

### Volume 13

Eminent Domain Code  
Enforcement of Foreign Judgments Act  
Evidence, Uniform Rules of  
Facsimile Signatures of Public Officials Act  
Foreign Money Judgments Recognition Act  
Interstate and International Procedure Act  
Jury Selection and Service Act  
Motor Vehicle Accident Reparations Act  
Perpetuation of Testimony Act  
Photographic Copies of Business and Public Records as  
Evidence Act  
Preservation of Private Business Records Act  
Public Assembly Act  
Recognition of Acknowledgments Act  
Single Publication Act  
Statute of Limitations on Foreign Claims Act  
Statutory Construction Act  
Voting by New Residents in Presidential Elections Act

These acts were drafted by the National Conference of Commissioners on Uniform State Laws and recommended for adoption in all states. These new volumes combine the twenty-two Uniform Acts relating to civil procedural and remedial laws for convenient reference to the text of such statutes and the up-to-date judicial constructions thereof in all of the adopting jurisdictions.

## EXPLANATION

### NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM LAWS

The National Conference of Commissioners on Uniform State Laws is composed of Commissioners from each of the states, the District of Columbia and Puerto Rico. In thirty-three of these jurisdictions the Commissioners are appointed by the chief executive acting under express legislative authority. In the other jurisdictions the appointments are made by general executive authority. There are usually three representatives from each jurisdiction. The term of appointment varies, but three years is the usual period. The Commissioners are chosen from the legal profession, being lawyers and judges of standing and experience, and teachers of law in some of the leading law schools. They are united in a permanent organization, under a constitution and by-laws, and meet in Annual Conference in the same vicinity as the American Bar Association, usually for five or six days immediately preceding the meeting of that Association. The record of the activities of the National Conference, the reports of its committees, and its approved acts are printed in the Annual Proceedings.

The object of the National Conference, as stated in its constitution, is "to promote uniformity in state laws on all subjects where uniformity is deemed desirable and practicable." The National Conference works through standing and special committees. In recent years all proposals of subjects for legislation are referred to a standing Committee on Scope and Program. After due investigation, and sometimes a hearing of parties interested, this committee reports whether the subject is one upon which it is desirable and feasible to draft a uniform law. If the National Conference decides to take up the subject, it refers the same to a special committee with instructions to report a draft of an act. With respect to some of the more important acts, it has been customary to employ an expert draftsman. Tentative drafts of acts are submitted from year to year and are discussed section by section. Each uniform act is thus the result of one or more tentative drafts subjected to the criticism, correction, and emendation of the Commissioners, who represent the experience and judgment of a select body of lawyers chosen from every part of the United States. When finally approved by the National Conference, the uniform acts are recommended for general adoption throughout the jurisdiction of the United States and are submitted to the American Bar Association for its approval.

## EXPLANATION

### OFFICIAL COMMENTS

The notes or comments prepared by the Commissioners on Uniform State Laws in explanation of a particular Act appear under the Commissioners' Prefatory Note preceding the text of such Act while the notes and comments prepared in explanation of specific sections of an Act are carried under the relevant sections thereof.

### ACTION IN ADOPTING JURISDICTIONS

Variations that occur between an Official Uniform Act text section and the corresponding text section of an adopting jurisdiction are carried under the heading "Action in Adopting Jurisdictions". Under this heading in the sections affected will be found an alphabetical listing of the relevant jurisdictions with an explanatory note pointing out the differences between the texts.

In many jurisdictions, additional provisions that are not contained in the Official Text have been enacted. These provisions are reflected in the general statutory notes preceding the text of the particular Act.

### ANNOTATIONS OR NOTES OF DECISIONS

The annotations or constructions by the courts of the Uniform Acts herein are complete from earliest times to date. They cover all decisions of courts of record in the adopting jurisdictions, as well as those of the Supreme Court of the United States and other Federal Courts construing such Uniform Acts in the following reports:

<i>Reports</i>	<i>Abbreviations</i>
Atlantic Reporter .....	A.
Atlantic Reporter, Second Series .....	A.2d
New York Supplement .....	N.Y.S.
New York Supplement, Second Series .....	N.Y.S.2d
North Eastern Reporter .....	N.E.
North Eastern Reporter, Second Series .....	N.E.2d
North Western Reporter .....	N.W.
North Western Reporter, Second Series .....	N.W.2d
Pacific Reporter .....	P.
Pacific Reporter, Second Series .....	P.2d
South Eastern Reporter .....	S.E.
South Eastern Reporter, Second Series .....	S.E.2d
South Western Reporter .....	S.W.
South Western Reporter, Second Series .....	S.W.2d

## EXPLANATION

<i>Reports</i>	<i>Abbreviations</i>
Southern Reporter .....	So.
Southern Reporter, Second Series .....	So.2d
Federal Reporter .....	F.
Federal Reporter, Second Series .....	F.2d
Federal Supplement .....	F.Supp.
Federal Rules Decisions .....	F.R.D.
Supreme Court Reporter .....	S.Ct.
United States Reports .....	U.S.
Lawyers' Edition .....	L.Ed.
Lawyers' Edition, Second Series .....	L.Ed.2d
Other Standard Reports	

The annotations appear under numbered notes so that the user, by referring to the same numbered note in the Pocket Part, can readily locate the most recent decisions on the same point.

An alphabetical index to the annotations or constructions by the courts will be found preceding the annotations under each section.

## LAW REVIEW COMMENTARIES

Copious references to informative articles and discussions in Law Reviews and other legal periodicals, relating to various aspects of the Uniform Acts herein, appear under the sections to which they are pertinent.

## LIBRARY REFERENCES

Another helpful feature of this edition consists of the references keyed to topics in the American Digest System, wherein cases from all jurisdictions on related material are annotated, and to sections of Corpus Juris Secundum which discuss the prevailing authority on related subject matter.

## INDEX TO TEXT

Separate alphabetical descriptive-word indices to the text of the individual Uniform Acts contained in both volumes will be found at the end of each volume following the divider.

THE PUBLISHER

June, 1975

## Acknowledgment

### Official Text and Comments

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**A**cknowledgment is gratefully made to The American Law Institute and to the National Conference of Commissioners on Uniform State Laws for permission to reproduce the official Text and Comments for the Acts included herein.

THE PUBLISHER

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# CITE THIS BOOK

Uniform ——— Act (U.L.A.) § —.

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# UNIFORM ACKNOWLEDGMENT ACT

*Table of Jurisdictions Wherein Act Has Been Adopted*

Jurisdiction	Laws	Effective Date	Statutory Citation
Arizona .....	1943, c. 80	3-22-1943 *	A.R.S. §§ 33-511 to 33-513.
Arkansas .....	1943, Act 169	3-4-1943 *	Ark.Stats. §§ 49-101 to 49-114.
Connecticut .....	1961, No. 65	4-25-1961 *	C.G.S.A. §§ 1-28 to 1-41.
Hawaii .....			HRS 502-41 et seq.
Idaho .....			I.C. § 55-701 et seq.
Maryland .....	1941, c. 219	6-1-1941	Code 1957, art. 18, §§ 1 to 16.
Massachusetts .....		1-1-1921	M.G.L.A. c. 183 §§ 30, 31, 33, 41, 42; c. 183 App.Forms 13 to 16; c. 222 § 11.
Michigan .....	1895, No. 185	8-30-1895	M.C.L.A. §§ 565.251 to 565.256.
Montana .....			R.C.M.1947, § 39-101 et seq.
New Hampshire .....	1943, c. 97	3-30-1943	RSA 456:1 to 456:15.
New Mexico .....	1929, c. 13		1953 Comp. § 43-1-4 et seq.
North Dakota .....			NDCC 47-19-13 et seq.
Panama Canal Zone ...	1962, P.L. 87-845	1-2-1963	4 C.Z.C. § 721 et seq.
Pennsylvania .....	1941, p. 490	7-24-1941	21 P.S. §§ 291.1 to 291.13.
South Dakota .....	1941, c. 215	3-7-1941 *	SDCL §§ 18-5-1 to 18-5-18.
Utah .....			U.C.A.1953 57-2-1 to 57-2-17.
Virgin Islands .....	1957, Act 160	9-1-1957	28 V.I.C. §§ 81 to 93.
Wisconsin .....	1943, c. 289	6-15-1943 *	W.S.A. 706.07.
Wyoming .....	1965, c. 72	1-1-1966	W.S.1957, § 34-50.1 et seq.

\* Date of approval.

## Historical Note

The Uniform Acknowledgment Act was approved by the National Conference of Commissioners on Uniform State Laws, and the American Bar Association, in 1939. It was subse-

quently amended in 1942, 1949, 1955 and 1960. The original Uniform Acknowledgment Act of 1892 was declared obsolete by the National Conference in 1939.

## Commissioners' Prefatory Note (1960 Amendment)

In 1892 the Conference of Commissioners on Uniform State Laws adopted an Act for the acknowledgment and execution of written instruments. In 1914 the Conference adopted an Act for the acknowledgment of written instruments taken outside the United States.

These two Acts differed in many essential respects and at later sessions of the Conference it was concluded to rewrite the Acts so as to eliminate the confusion of inharmonious and contradictory provisions. The matter was accordingly referred to the appropriate section of the Conference, which made an exhaustive study of the subject, as a result of which a Uniform Act was adopted at the 1939 Conference of the Commissioners on Uniform State Laws held at San Francisco, California.

In the Act adopted there is no attempt to say what instruments shall be acknowledged—the Act merely provides that where by the laws of the State the acknowledgment of an instrument is required to be made,

## ACKNOWLEDGMENT ACT

it may be made in the manner and form now provided by the law of the State or in the manner and form as prescribed by the Act. It should be explained to the Legislatures that there is no attempt to repeal the existing laws on the subject but the Act proposed is merely permissive in that an acknowledgment may be made either in the manner and form now provided by the law of the state or in the manner and form fixed by this Act. Thus a modern, uniform Act is being proposed for adoption in those states which desire it, without any attempt to alter or change the existing form and method in the event that form or method should be preferred over that proposed.

The Act likewise provides for the recognition within the State of acknowledgments made in other states, provided they be authenticated in the manner prescribed by Section 9, Sub-section 2 of the Act.

In addition to the adoption of the Act by the Conference of Commissioners on Uniform State Laws, this Act has likewise had approval of the American Bar Association, and it is accordingly recommended to the States for adoption in the strong belief that it represents a decided improvement in legislation on the subject.

There is not only a demand for a more modern enactment on acknowledgments in many of the States, but more uniformity on the subject in all the states. This act will provide both without disturbing the existing law for those who want to use it.

At the annual meeting of the Conference in Detroit, Michigan, in 1942, the Uniform Acknowledgment Act was amended by adding Section 11 which provides for acknowledgments by persons serving in or with the Armed Forces of the United States within or without the United States.

At the annual meeting of the Conference in St. Louis, Missouri, in 1949, the Uniform Acknowledgment Act was further amended to permit acknowledgments to be made before attorneys at law in those jurisdictions where attorneys are so authorized, and to provide for facsimile signatures on certificates authenticating the official character of the officer taking the acknowledgment.

The 1949 amendment prescribed no form of certificate to be executed by the authenticating official, although Section 7 contains forms of certificate for the officer taking the acknowledgment. In consequence, court clerks executing certificates of authentication under the Act had to word these to meet the varying requirements of other states. Therefore, the act was amended in 1955 to prescribe a uniform form of certificate for authenticating officials.

In 1960, upon the recommendation of the Department of Defense, through the office of its General Counsel, Section 11 of the Uniform Acknowledgment Act was amended to include the dependents of service members. It is the considered opinion that such an extension to include service dependents will prove of considerable benefit particularly in the case of dependents who are overseas. The amendment also includes the Air Force which is recognized as a separate entity.

## ACKNOWLEDGMENT ACT

The 1960 amendment to Section 11 clarifies and makes more specific the identification of the person who is serving in the Armed Forces or his dependents by citing the individual serial number of the serviceman. In this way the serviceman and his dependents are advantaged to the extent that acknowledgments in many instances are taken under transitory conditions and there is a frequent similarity and confusion of names. Likewise, the serial number of the officer is noted along with his signature, rank and command which is of assistance in readily locating the officer in the event of change of duty.

The Act as applied to servicemen has been widely and successfully utilized during the period of World War II and thereafter. The benefits of extending the Act to dependents of those in the Armed Services have been accentuated with the number of families resident with servicemen in the overseas area.

### Commissioners' Prefatory Note (1939 Act)

In 1892 the Conference of Commissioners on Uniform State Laws adopted an Act for the acknowledgment and execution of written instruments. In 1914 the Conference adopted an Act for the acknowledgment of written instruments taken outside the United States. See Uniform Acknowledgments Act, Foreign [withdrawn in 1943 as obsolete].

These two Acts differed in many essential respects and at later sessions of the Conference it was concluded to rewrite the Acts so as to eliminate the confusion of inharmonious and contradictory provisions. The matter was accordingly referred to the appropriate section of the conference, which made an exhaustive study of the subject, as a result of which a Uniform Act was adopted at the 1939 Conference of the Commissioners on Uniform State Laws held at San Francisco, California, and which is now being presented to the Legislatures of the various states for adoption.

In the Act adopted there is no attempt to say what instruments shall be acknowledged—the Act merely provides that where by the laws of the State the acknowledgment of an instrument is required to be made, it may be made in the manner and form now provided by the law of the State or in the manner and form as prescribed by the Act. It should be explained to the Legislatures that there is no attempt to repeal the existing laws on the subject but the Act proposed is merely permissive in that an acknowledgment may be made either in the manner and form now provided by the law of the state or in the manner and form fixed by this Act. Thus a modern, uniform Act is being proposed for adoption in those states which desire it, without any attempt to alter or change the existing form and method in the event that form or method should be preferred over that proposed.

The Act likewise provides for the recognition within the State of acknowledgments made in other states, provided they be authenticated in the manner prescribed by Section 9, Subsection 2 of the Act.

## ACKNOWLEDGMENT ACT

In addition to the adoption of the Act by the Conference of Commissioners on Uniform State Laws, this Act has likewise had approval of the American Bar Association, and it is accordingly recommended to the States for adoption in the strong belief that it represents a decided improvement in legislation on the subject.

There is not only a demand for a more modern enactment on acknowledgments in many of the States, but more uniformity on the subject in all the states. This Act will provide both without disturbing the existing law for those who want to use it.

### General Statutory Notes

**Arizona.** Adds section as follows:

**"§ 33-513. Action to correct certificate of acknowledgment**

"When an acknowledgment is properly made, but defectively certified, any party interested may bring an action in the superior court to obtain a judgment correcting the certificate."

**Hawaii.** The Hawaii Act is a substantial adoption of the major provisions of the Uniform Act but contains numerous variations, omissions and additional matter which cannot be clearly indicated by statutory notes.

**Idaho.** The Idaho Act is a substantial adoption of the major provisions of the Uniform Act but contains numerous variations, omissions and additional matter which cannot be clearly indicated by statutory notes.

**Maryland.** Adds sections as follows:

**"§ 15. Performance of notarial acts before commissioned officers.**

"(a) When authorized.—In addition to the acknowledgment of instruments and the performance of other notarial acts in the manner and form and as otherwise authorized by law, instruments may be acknowledged, documents attested, oaths and affirmations administered, depositions and affidavits executed, and other notarial acts performed, before or by any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the Army or Marine Corps, or with the rank of ensign or higher in the Navy or Coast Guard, or with equivalent rank

in any other component part of the armed forces of the United States, by any person who either (1) is a member of the armed forces of the United States, or (2) is serving as a merchant seaman outside the limits of the United States included within the forty-eight states and the District of Columbia; or (3) is outside said limits by permission, assignment or direction of any department or official of the United States government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged.

"(b) Validation of such acts heretofore done.—Such acknowledgment of instruments, attestation of documents, administration of oaths and affirmations, execution of depositions and affidavits, and performance of other notarial acts, heretofore or hereafter made or taken, are hereby declared legal, valid and binding, and instruments and documents so acknowledged, authenticated, or sworn to shall be admissible in evidence and eligible to record in this State under the same circumstances, and with the same force and effect as if such acknowledgment, attestation, oath, affirmation, deposition, affidavit, or other notarial act, had been made or taken within this State before or by a duly qualified officer or official as otherwise provided by law.

"(c) What certificate to show.—In the taking of acknowledgments and the performing of other notarial acts requiring certification, a certificate endorsed upon or attached to the instrument or document, which shows the date of the notarial act and which states, in substance, that the person appearing before the officer

## ACKNOWLEDGMENT ACT

acknowledged the instrument as his act or made or signed the instrument or document under oath, shall be sufficient for all intents and purposes. The instrument or document shall not be rendered invalid by the failure to state the place of execution or acknowledgment.

"(d) Prima facie evidence of authority.—If the signature, rank, and branch of service or subdivision thereof, of any such commissioned officer appear upon such instrument or document or certificate, no further proof of the authority of such officer so to act shall be required and such action by such commissioned officer shall be prima facie evidence that the person making such oath or acknowledgment is within the purview of this section."

### "§ 16. Validation of certain acknowledgments.

"Any legal instrument which has been properly acknowledged within the two years next preceding June 1, 1953, according to the laws and practices then existing, shall not be construed to be defective or wrongfully acknowledged by reason of any provision contained in Chapter 404, Acts 1953, but the same shall be construed and treated as properly acknowledged for all the purposes of said chapter."

**Massachusetts.** The Massachusetts Act is a substantial adoption of the major provisions of the Uniform Act but contains numerous variations, omissions and additional matter which cannot be clearly indicated by statutory notes.

**Michigan.** The Michigan Act is a substantial adoption of the major provisions of the Uniform Act but contains numerous variations, omissions and additional material which cannot be clearly indicated by statutory notes.

**Minnesota.** Repealed Acknowledgment Act (M.S.A. §§ 358.12, 358.13, 358.22, 358.23, 358.24, 358.26 and 358.27) by L.1973, c. 116.

**Montana.** The Montana Act is a substantial adoption of the major provisions of the Uniform Act but contains numerous variations, omissions and additional matter which cannot be clearly indicated by statutory notes.

**New Hampshire.** Adds section as follows: "**456:2 Validity of Earlier Acknowledgments.** All acknowledgments of written instruments made since March 30, 1943, pursuant to existing custom in this state are hereby declared to be valid."

**New Mexico.** The New Mexico Act is a substantial adoption of the major provisions of the Uniform Act but contains numerous variations, omissions and additional matter which cannot be clearly indicated by statutory notes.

**North Dakota.** The North Dakota Act is a substantial adoption of the major provisions of the Uniform Act but contains numerous variations, omissions and additional matter which cannot be clearly indicated by statutory notes.

**Oregon.** The adoption of this act by L.1941, c. 413, was repealed by L. 1945, c. 380, § 6, eff. March 26, 1945. The repealing act enacted new provisions relating to acknowledgments, which, while similar in some respects to the Uniform Act, do not constitute a substantial adoption thereof.

**Panama Canal Zone.** The Canal Zone Act is a substantial adoption of the major provisions of the Uniform Act, but it contains a number of variations, omissions and additional matter, which cannot be clearly indicated by statutory notes.

**Utah.** The Utah Act is a substantial adoption of the major provisions of the Uniform Act but contains numerous variations, omissions and additional matter which cannot be clearly indicated by statutory notes.

**Wisconsin.** Adds provision as follows: "**Absence of seal or witnesses.** The absence of a seal or of witnesses to an instrument which is acknowledged as provided by subs. (7)(a) to (e) and (8) to (11) shall not render the instrument unrecordable."

**Wyoming.** The Wyoming Act is a substantial adoption of the major provisions of the Uniform Act but contains numerous variations, omissions and additional matter which cannot be clearly indicated by statutory notes.

# UNIFORM ACKNOWLEDGMENT ACT

An Act Relating to Acknowledgments of Written Instruments and to Make Uniform the Law with Relation Thereto

1939 ACT

AS AMENDED 1960

## Sec.

1. Acknowledgment of Instruments.
2. Acknowledgment Within the State.
3. Acknowledgment Within the United States.
4. Acknowledgment Without the United States.
5. Requisites of Acknowledgment.
6. Acknowledgment by a Married Woman.
7. Forms of Certificates.
8. Execution of Certificate.
9. Authentication of Acknowledgments.
10. Acknowledgments Under Laws of Other States.
11. Acknowledgments by Persons Serving In or With the Armed Forces of the United States or their Dependents, Within or Without the United States.
12. Acknowledgments Not Affected by This Act.
13. Uniformity of Interpretation.
14. Name of Act.
15. Time of Taking Effect.

*Be it enacted . . . . .*

## § 1. [Acknowledgment of Instruments]

Any instrument may be acknowledged in the manner and form now provided by the laws of this State, or as provided by this Act.

### Action in Adopting Jurisdictions

#### Varlations from Official Text:

Arizona. Omits this section.

New Hampshire. Substitutes "as otherwise" for "now" and inserts "and customs" following "laws".

### Law Review Commentaries

Effect of interest in instrument of officer taking acknowledgment. 1929 Wis.L.Rev. 108.

Marketability of title, equitable restrictions. Joseph I. Swietlik. 41

Marquette L.Rev. 227 (Winter 1957-58).

Merchantability of title. 1968 Wis.L.Rev. 937.

Proposed title legislation in real property law. Eldred Dede. 40 Wis.Bar Bull. 29 (April 1967).



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## § 1

Suggested solution to the problem of "marketable title". Ray J. Aiken. 50 Marquette L.Rev. 15 (1966).

Title standards. Eldred Dede. 41 Wis.Bar Bull. 6 (April 1968).

### Library References

Acknowledgment ⇨3.

C.J.S. Acknowledgments § 5.

### Notes of Decisions

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Definition of acknowledgment 1  
Evidence 5  
Unacknowledged instruments, force and effect 4  
Verification distinguished from acknowledgment 2

#### 3. Alternative procedures for acknowledgments

This section providing that any instrument may be acknowledged in the manner and form otherwise provided by law, or as provided by this article is permissive and provides an alternative law on acknowledgment. Valley Nat. Bank of Ariz. v. Avco Development Co., 1971, 480 P.2d 671, 14 Ariz.App. 56.

In determining whether this act supersedes previous laws on acknowledgments or provides an alternative law on acknowledgments, the Supreme Court considered the prefatory note of the commissioners on uniform state law to the draft adopted by the legislature. Rumph v. Lester, 1943, 172 S.W.2d 916, 205 Ark. 1147.

This act does not repeal, change, or modify or impair previous laws on acknowledgment but provides an alternative system for acknowledgments and is merely "permissive." Id.

#### 1. Definition of acknowledgment

"Acknowledgment" of document is a public declaration or formal statement of person executing instrument made to an official authorized to take acknowledgment that execution of instrument was his free act and deed. State v. Wolfe, 1968, 239 A.2d 509, 156 Conn. 199.

An "acknowledgment" is a formal declaration or admission before an authorized public officer by a person who has executed an instrument that such instrument is his act and deed. Pardo v. Creamer, 1958, 310 S.W.2d 218, 228 Ark. 746.

#### 2. Verification distinguished from acknowledgment

An "acknowledgment" is a verification of fact of execution of instrument but not of its contents, while a "verification" is a sworn statement of truth of facts stated in instrument verified, and always involves administration of an oath. Bell & Zajicek, Inc. v. Heyward-Robinson Co., 1963, 182 A.2d 339, 23 Conn.Sup. 296.

"Acknowledgment" shows, merely prima facie, that instrument was duly executed, whereas "verification" is affidavit attached to statement as to truth of matters therein set forth. D. J. Fair Lumber Co. v. Karlin, 1967, 430 P.2d 222, 199 Kan. 366.

#### 4. Unacknowledged instruments, force and effect

A legal instrument requires no acknowledgment in order to make it valid as between the parties. Faust v. Heckler, 1948, 58 A.2d 147, 359 Pa. 19.

Option agreement giving option to purchase realty which was not acknowledged was not entitled to be recorded, and recordation of it gave no constructive notice. Clarke v. Brunk, 1947, 55 A.2d 919, 189 Md. 353.

Where property conveyed was not the grantor's homestead, unacknowledged deed was good as between the parties, and alleged fact that notary