

No. 105

**NOTARY PUBLIC—ACKNOWLEDGMENT, who may
take—MOTOR VEHICLE—TRANSFER OF TITLE**

Held: Any officer authorized by statute to take or certify acknowledgment of an instrument may certify acknowledgments of transfer of title certificate under Chapter 72, Laws of 1937.

April 29, 1941.

Mr. John D. French
County Attorney
Lake County
Polson, Montana

Dear Mr. French:

I have your letter requesting an opinion as to whether, under the provisions of Section 1758.2, Revised Codes of Montana, 1935, as amended by Chapter 72, Laws of 1937, only a notary public may take acknowledgments.

Paragraph (a) of Section 1758.2 before amendment read as follows:

“Upon a transfer of the title or interest of a legal owner or owners in or to a vehicle registered under the provisions of this act as heretofore required, the person or persons whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of ownership issued for such vehicle, together with the address of the transferee, in the appropriate spaces provided upon the reverse of such certificate.”

Chapter 72, Laws of 1937, amended this particular paragraph by adding “and their signatures must be acknowledged before a notary public.”

Prior to amendment, it was not required the signatures of a transfer of certificate of title be acknowledged. It would seem, therefore, that—by the amendment requiring acknowledgment—the legislature merely intended the certificate be acknowledged before an officer authorized by law to take acknowledgments. There could be no object or purpose in restricting the acknowledgment of the instrument here in question before a notary public.

Section 6905, Revised Codes of Montana, 1935, provides:

“The proof of acknowledgment of an instrument may be made at any place within this State before a justice or clerk of the Supreme Court, or a judge of the District Court.”

And Section 6906 provides:

“The proof of acknowledgment of an instrument may be made in this State within the city, county, or district for which the officer was elected or appointed, before either:

1. A clerk of a court of record; or,
2. A county clerk; or,
3. A notary public; or,
4. A justice of the peace; or,
5. A United States Commissioner.”

And Section 6909 provides that, when such officers mentioned are authorized to appoint a deputy, the acknowledgment or proof may be taken by such deputy in the name of his principal.

It is therefore my opinion the acknowledgment of transfer of title certificates, under paragraph (1) of Section 1758.2, as amended by Chapter 72, Laws of 1937, may be made before a notary public or any officer authorized by statute to take acknowledgments.

Sincerely yours,

JOHN W. BONNER
Attorney General