The Use Of A QR Code On A Notary Deed Is A Manifestation Of The Obligations Of A Notary Under The Law

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Abstract

The rampant fraud in society, especially the existence of parties claiming to be notaries (being fake notaries) and making deeds occur in the community and are very disturbing, have occurred in several areas, one of which is in Sleman. The problem that is taken from this research is whether the benefits of using Quick Response code (QR code) in making a notary deed? The purpose of this research is to find out information about the benefits of QR codes in making notarial deeds in order to provide security guarantees for the parties in the notarial deed. The research method is descriptive and explanatory research, the research approach used is empirical, the types and sources of data from primary and secondary data. While the data collection technique is by means of interviews (interviews with notaries who have used the QR code on the deed they have made), direct observation (by looking at the forms or models of deeds made) and literature study. Data collection techniques with data reduction steps, data presentation, drawing conclusions. The conclusion from the research is that the use of QR Code in making notarial deeds does not violate the provisions of the Law, even in accordance with Article 16 paragraph (1) letter g UUJN-P, that notaries are obliged to act honestly, thoroughly, independently, not taking sides, and protecting interests. the parties involved in legal action.

Keywords: Notary; QR Code; Notary Deed.

I. Introduction

The shifting of human lifestyles due to developments in information technology can be seen in everyday life, from the traditional transactions of exchanging goods for money, now to electronic transactions involving internet technology such as online shopping, payment for electricity, telephone, and even taxes through the internet. banking and other electronic media as a form of utilizing existing information technology.[1] The influence of information technology on its development also affects notaries in carrying out their duties and positions.

In the law on electronic information and transactions (UU ITE), the meaning of information technology in Article 1 point 3 of the ITE Law is a technique for collecting, preparing, storing, processing, announcing, analyzing, and / or disseminating

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[1] Ardoni, Teknologi Informasi: *Kesiapan Pustakawan Memanfaatkannya*, Jurnal Studi Perpustakaan dan Informasi, edisi no.2 Vol.1, 2005, Page.34.

information. In addition, according to Article 1 point 2 of the ITE Law, the meaning of Electronic Transactions is a legal act that is carried out using computers, computer networks, and / or other electronic media. Thus, if it is linked to a notary deed, with information technology, the notary can store data that is owned by the notary, including the notary's identity data and deeds made by the notary into the information system using electronic media such as computers.

At this time with the very rapid development of technology and information, making deeds can also use computers and information technology as a support, even in its current development, storage methods are also growing. In the past, archiving was only done manually, now with information technology, it can be done through electronic systems. Currently, there are quite a number of Notary services that utilize electronic media, such as the internet.[2] The notary's reach in utilizing information technology has great opportunities. However, it must still adhere to the rules relating to the position of notary public and the use of information technology, including Law Number 11 of 2008 concerning Electronic Information and Transactions (hereinafter referred to as the ITE Law) and Law Number 30 of 2004 concerning Notary Position as already amended by Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN-P). In Article 16 paragraph (1) letter a UUJN-P, it states that in carrying out his / her position, the Notary is obliged to act trustworthy, honestly, thoroughly, independently, and to protect the interests of the parties involved in legal actions. Article 16 paragraph (1) letter a UUJN-P, regarding the precautionary measures taken by a Notary, one of which is by taking personal security measures or securing the deeds he has drawn up. This safeguard is security against the possibility of actions by other parties who want to claim to be Notaries and make deeds, or security from parties making deeds on behalf of certain Notaries.

Notaries can take actions related to making deeds and keeping deeds as long as they do not violate the rules contained in the Law on Notary Position. Likewise, when using information technology for deed storage. in fact, there are various problems in the notary world that can actually be prevented by utilizing information technology. Among them are parties claiming to be notaries who then make deeds. The incident of someone

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[2] Sutan Remi Sjahdeni, 2002, *Sistem Pengamanan E-Commerce,* Jurnal Hukum Bisnis, Volume 18, page.6

claiming to be a notary or being a fake notary has ever happened in Sleman, the beginning of the incident was a person named Siti Fatimah who sold land through an online site, then the transaction was carried out at a notary office with a fake notary made by Siti Fatimah.[3] A fake notary, means that the deed he makes must be fake, and his identity as a notary must also be faked.

Among the existing methods, the storage and creation of deeds can take advantage of information technology by using the Quick response code (QR Code), which is attached to the notary deed. The use of QR Code can be used because in the regulations regarding the position of a Notary there is no prohibition, but so far not many have used this technology to safeguard Notaries in making copies of deeds and keeping the minuta deeds. So that in reality there are still parties who become fake Notaries to make deeds. This indicates that the position of a notary is less secure due to acts of deed forgery, and a notary requires a method of storing a minimum of deeds and making copies of deeds that can truly maintain the security of the notary's position.

This research is an empirical research, while previous studies are normative research. Although several studies have written about electronic documents stored by notaries that can be used as evidence, so far there has been no research that addresses the urgency of using information technology, in this case the use of qr code on notary deeds to prevent deed forgery. Several studies that are relevant to the author's research, for example; First, the Judicial Review of Notary Deeds on the Enforcement of Cyber Notary in Indonesia according to Law Number 2 of 2014. Drafted by Fahma Rahman Wijanarko. Journal of ISSN Repertorium: 2355-2646, Volume II No.2 July-December 2015. Master of Notary Law, Sebelas Maret University, Surakarta. This study discusses the power of notary deed proof of the enforcement of cyber notary. The result of his research is that it is known that the power of proof of notary deeds on the enforcement of cyber notaries based on the Notary Position Law and positive law in Indonesia is that it does not have perfect proof like an authentic deed. Second, the application of cyber Notary in Indonesia in terms of Law Number 30 of 2004 concerning Notary Position. made by Agung Fajar Matra. Thesis, Faculty of Law, Master of Notary, University of Indonesia. In 2012. Which examines the concept that examines the concept of cyber notary in Indonesia, the results

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[3]   https://news.detik.com/berita-jawa-tengah/d-3628311/polisi-ungkap-kasus-notaris-palsu-di-sleman, access at September 10 2020.

of his research are that the concept of cyber notary cannot be fully implemented in Indonesia.

Seeing these things, this research is different from previous research, namely this research focuses more on the use of information technology related to the making of notary deeds. On the other hand, it also analyzes the actions that can be taken by a notary to protect themselves from fake deeds, while still fulfilling the cyber notary element. In the research, interviews were conducted with Notary Muhammad Hafidh, a Notary based in the city of Semarang. He is a Notary who has used information technology, namely the use of QR Code on his deed. With the doctrinal method and empirical data carried out by the author, the results of the study are more accurate because the authors see the realities of the notary in carrying out their duties and positions, especially notaries who have used information technology and notaries. This research focuses on making Muhammad Hafidh Notary as one of the interviewees because not many Notaries use real information technology (using QR Code on the deed he makes). The purpose of this research is to explore information about the deed making model by utilizing information technology in order to better guarantee the security of the Notary and fulfill the Cyber notary element, while the benefit of the research is to contribute knowledge about the deed making model by utilizing information technology to better guarantee the security of the Notary and meets the elements of Cyber Notary. The problem raised from this study is what is the benefit of using a Quick Response code (QR code) in making notary deeds? This issue is very important to discuss because of the increasing prevalence of fraud in the community on behalf of notaries, on the other hand, so far not many Notaries have used QR codes in making deeds, one of which is to ensure the security / interests of the parties in the deed.

II.   Method

This research is analytical descriptive because it makes systematic, factual, and accurate recordings of the facts and characteristics of a particular population or area[4] and is explanatory, because it examines why a situation in society can occur.

The research approach is Empirical or qualitative and also uses a legal assistant. While the data collection technique is by interviewing a notary who has used the QR code on

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[4] Suryabrata sumadi, Metode Penelitian, Rajawali Pers, Jakarta, 1992, page. 18

the deed he has made, as well as direct observation at the notary office of Muhammad Hafidh, SH, who is domiciled in the city of Semarang by looking at the notary deed making model using QR Code. And literature study to get data. data analysis technique is done by steps; data reduction, data presentation, then drawing conclusions

III. Main Heading of the Analysis or Results

Notary Deed Making Model Using QR Code

In social life, a notary must be reliable by the community when the community needs legal services. Providing services to people who need legal services, including being able to maintain client confidentiality, providing assurance that the deed made by the Notary is a deed that has strong evidentiary power and what also needs to be considered is that the notary must not side with the client, the notary must be neutral. Notary is a certain position that carries out the profession in legal services to the public who need protection and guarantees in order to achieve legal certainty.[5]

one of the meanings of *Amtbtenaren* is Official, thus *Openbare Amtbtenaren* is an official who has duties related to the public interest, so it is appropriate if Openbare Amtbtenaren is defined as a Public Official. Specifically with regard to Openbare Amtbtenaren which is translated as General official, it is defined as an official who is assigned the task of making an authentic deed that serves the public interest and such qualifications are given to a notary. In Article 1 Notary Ambt in Nederlands Indie (Stbl.1860: 3), which is translated by GHS Lumban Tobing into a public official, which reads "Notary is a public official who is the only one authorized to make authentic deeds regarding all actions, agreements and stipulations which required by a general rule or by an interested party to be stated in an authentic deed, guarantee the certainty of the date, keep the deed, all as long as the making of the deed is not assigned or excluded to an official or other person.

According to Sudikno Mertokusumo, a deed is a signed letter containing the events that form the basis of a right or engagement, which was made from the beginning on purpose for proof. Thus, deeds are different from letters. The word deed does not mean a letter, but must be interpreted as a legal act, derived from the word acte which in French means action.

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[5] Djuhad Mahja, *Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris*, Durat Bahagia, Jakarta, 2005, page. 59

As stated in Article 1868 of the Civil Code (KUHPerdata) that an Authentic Deed is a deed made by or before a Notary according to the form and procedure stipulated in the Law. The phrase "at the place where the deed is made" in Article 1868 of the Civil Code, relates to the domicile of the Notary, that the Notary has a domicile in the district or city (Article 18 paragraph (1) UUJN). The area of office of a Notary covers the entire province from the place of his domicile (Article 18 paragraph (2) UUJN).

In terms of the authority to make authentic deeds, Article 15 paragraph (1) UUJN-P states that notaries are authorized to make authentic deeds regarding all actions, agreements, and stipulations required by statutory regulations and / or that the interested party wants to be stated in authentic deed, guaranteeing the certainty of the date of making the deed, giving grosse, copy and excerpt of the deed, all of that as long as the deed is made or not assigned or excluded to other officials or other people stipulated by law.

The usefulness of information technology has been described in Article 4 of the UUITE. Especially in Article 4 point 3 regarding the benefits of information technology to increase the effectiveness and efficiency, effectiveness and efficiency, for example, when dealing with clients, they can use WhatsApp, Blackberry massenger or e-mail media. So far this online media is the one most often used when notaries communicate with clients. Although by notaries, these media can not be widely used, either because of notary habits or because of the rules that limit them.

According to A.W Voors, as a general official, a notary has two types of work, namely: first Extralegal work is work entrusted to him in a position with the aim of guaranteeing and maintaining legal certainty by prioritizing the interests of those who are weak and lack understanding, for example conducting legal counseling. And second, Legal work is work that is ordered by law related to the duties of a notary as an official to carry out some government powers, such as providing a certainty of the date, signature and information in a deed replacing the signature and making a grosse.[6]

The extralegal action taken by Notary Muhammad Hafidh was by attaching a QR Code to the deed he made. The cover of the QR Code deed contains the identity of the notary

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[6] Tan Thong Kie, *Studi Notariat & Serba Serbi Praktek Notaris*, Jakarta: PT Ichtiar Baru Van Hoeve, 2007, page. 452-454.

maker of the deed (Notary's name, address and e-mail, office address, telephone number, Notary's decree, member card number of the Indonesian Notary Association). The inside of the deed for each sheet is attached with a QR Code containing the identity of the deed and the identity of the parties (title of deed, deed number, date of deed, identity of the parties, contents of deed, and office info). This is done as a form of providing legal certainty for the deed made by the Notary. certainty that the deed is authentic and correct made by the notary concerned.

A. Implementation Notary Deed Making Model Using QR Code

At this time, a notary has initiated a discourse on securing deeds. This is evidenced by the existence of the Indonesia Notary Community which is now working together to utilize information technology in making deeds.[7] Information technology is used to facilitate the work of a notary public, especially in checking the authenticity of a deed.

Notaries in utilizing information technology require strict legal protection so that in carrying out their duties and authorities they do not conflict with other laws. The concept of legal protection for notaries cannot be separated from the concept of legal protection in general. According to Harjono, legal protection must be interpreted as protection using legal means or protection provided by law.[8] The forms of application of the concept of cyber notary in Indonesia became clear after the enactment of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary as stated in the Elucidation of Article 15 paragraph 3, namely what is meant by "other authorities which are regulated in laws and regulations ", among other things, the authority to certify transactions conducted electronically (cyber notary), make a pledge deed of endowments, and aircraft mortgages.

Cyber notary is a notary concept in general that carries out the function of a notary by applying it to transactions or relationships electronically via the internet as the main media in its performance to make a notary deed and leads to the form of a deed that is initially valid if it is written on paper, leading to the deed automatically. electronically (electronic deed) or in the form of an electronic document. In Indonesian positive law,

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[7] http://medianotaris.com/belajar_membuat_barcode_akta_bersama_inc_berita579.html. access at September 10 2020.

[8] Hardjono, *Konstitusi sebagai Rumah Bangsa*. Sekretariat Jendral dan Kepaniteraan Mahkamah Konstitusi. Jakarta. 2008. hlm.375

there are several regulations that provide opportunities for the realization of the concept of cyber notary, including Article 5 paragraph (2) and paragraph (3) UUITE. Thus, when a Notary utilizes information technology in carrying out his duties and positions, in addition to being subject to the Notary's code of ethics and UUJN and UUJN-P, the Notary must also understand and comply with the rules in the ITE Law, as a reference when using information technology.

According to Emma Nurita, the concept of cyber notary can temporarily be interpreted as a notary who carries out his / her duties or authority based on information technology, which is related to the duties and functions of a notary, especially in making deeds. Then according to Brian Amy Prastyo, the essence of cyber notary currently has no binding definition. However, it can be interpreted as a notary who carries out his duties or authority based on information technology. Of course it is not the legality of using a cellphone or facsimile for communication between a notary and his client. But related to the duties and functions of a notary, especially in making deeds.

Information technology is used by Notary Muhammad Hafidh, SH, to store and read information about deeds made by Notaries by means of the internet. With this barcode, every notary deed that is made is then entered into cyberspace, including regarding the title of the deed, the deed number, the date of signing the deed, the identity of the Notary, the identity of the parties and so on. After that the deed information can be stored using the QR code facility. With the use of this qr code, when the notary will open the information about the deed he has made, the notary will just have to scan the barcode, which will then appear information about the deed which can be seen in detail in accordance with the deed written on paper.

By using a QR Code, both Notaries and parties are expected to have a QR Scaner (usually downloaded from the play store on a smart phone), which is used to read the QR Code that has been attached to the cover and contents of the Notary's deed. for Notaries, QR Code can provide security or a shield from the possibility of forgery of deeds made. On the other hand, if this QR Code is also used by all Notaries, it can help the Notary to detect the truth or authenticity of a deed.

By looking at the various rules that can be used as a reference for notaries in carrying out their duties, especially regarding the storage of minuta deeds and making copies of deeds,

laws can become basic values of social life, the application of laws is seen as legal justification that reflects collective desires. [9]

For Notary Muhammad Hafidh and several Notaries, in terms of storing minuta deeds and making copies of deeds using information technology it is only limited to being stored in soft file form after typing. Meanwhile, the storage of the Minuta which has the original signature of the Notary and the parties remain in accordance with Article 16 paragraph 1g of the UUJN-P, namely by binding the deeds made in one month into a book containing no more than 50 deeds, and if the number of deeds cannot be published in one book, these deeds can be bound into more than one book, and record the minimum number of deeds, month and year of manufacture, on the cover of each book.

In other words, currently making deeds using information technology is limited to typing and storing soft files. So that matters regarding the security and authenticity of the contents of deeds stored in the electronic system have not been able to guarantee security for the Notary.

Barriers to the use of information technology for notaries in carrying out their duties and positions are indeed based on various policies made by the government. when the use of information technology for notaries is not yet adequate, then the government should be responsible for ensuring that the implementation of activities (use of information technology among notaries) is in accordance with statutory regulations and all procedures referred to in this law.

However, in fact, in implementing the use of information technology for notaries, it is necessary to pay attention to the development of society and the development of information technology itself. So that the development of information technology with the development of community needs can run in harmony. There needs to be several new regulations related to the use of information technology for notaries, especially in terms of making copies of deeds and keeping the minimum deeds. This is necessary because if regulations are not good or do not meet the conditions of society, it will result in bad

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[9] Anthon F Susanto, Semiotika Hukum (dari deskontruksi menuju progresivitas makna). Bandung:Refika Aditama.2005.page.185

government, on the other hand, fair or good regulations will produce a stable society and bring happiness to everyone.[10]

In the life of a society that is very rapidly developing information technology, in fact there are several methods of safe storage by utilizing information technology. Currently, the most possible way to be used in data storage is by using the Quick Response Code or commonly called the QR Code. Currently, QR codes have been widely used to store various data, including stock data or other information related to a product.

When compared to barcodes, QR codes are still superior because they have two sides that contain data, so they can load more data. The function of the QR Code is almost the same as the barcode system we know so far, which is used to identify an object or information that is attached to the barcode, but this QR Code can be used more widely for all kinds of needs such as being installed on business cards, in advertisements and so on. If it is related to the duties of the Notary Public in keeping the minimum deeds and making copies of deeds, the QR Code can be attached to the deed. QR Code itself can be filled with product code (text), website address and contact information containing name, address and telephone number.

To read the code system in the QR Code, you don't need a special scanning tool like the barcode that can usually be found in supermarkets or other offices, but enough with a Hand Phone that has a camera function plus special software to read QR codes.

If it is linked in carrying out the duties and positions of the Notary in keeping the Minuta deed and making copies of the deed, this QR Code can be attached to the deed which then when scanned, the information and details of the contents of the deed can be opened through an electronic system. Such a thing can provide security guarantees for the Notary, namely in the form of certainty that the contents of the deed are in accordance with the original when the parties are drafted and signed. However, this has not been utilized by the notary either for safekeeping purposes or in the deed drafting process.

B. *Legal Analysis Of The Use Of QR Codes*

Regarding the principle of justice related to the provision of security guarantees for Notaries when using information technology for storing minimum deeds and making

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[10] Linda Smith and William Reaper, Ide-Ide Filsafat dan agama dulu dan sekarang. Penerjemah P.Hardono Hadi, Kanisus. Jakarta.2000.page.107

copies of deeds. By using the QR Code that is attached to the Notary's deed, it provides security for the Notary against the deed he makes so that when the copy of the deed cannot be changed by other parties. On the other hand, it also provides justice for the parties in the deed, namely that it guarantees that the contents of the deed remain the same as the minimum deed kept by the notary

Article 16 paragraph (1) letter a, which states that Notaries have the obligation to "act trustworthy, honestly, thoroughly, independently, impartially, and safeguard the interests of the parties involved in making deeds.

If you look at the UUJN-P, then in terms of storing minimum deeds, the actual storage of deeds is still in accordance with Article 16 paragraph (1) letter g, and this is also what the Notary is currently doing amidst the rapid development of information technology in terms of data storage utilization, but in addition to In that regard, notaries need to also pay attention to regulations regarding archiving, considering that notary deeds are also state archives. On the other hand, the notary's use of information technology for keeping the minimum deeds has not been widely used by notaries.

This shows that even though the law does not explicitly and in detail about the method of storage that must be done when utilizing information technology, the Notary also pays attention to storage habits when a Notary utilizes information technology.[11]

When viewed from a juridical point of view, the minimum deposit of deeds has been stipulated in UUJN-P Article 16 paragraph 1 letters a and g. So that the Notary is obliged to keep it intact and not lost. The existence of information technology provides an answer for the Notary to keep the Notary's deed safely so that there is no change in the future. The method that can be done is by using the QR Code on the deed made by a notary. By embedding a QR Code which contains data about the deed and identity of the Notary, it can be done.

With the use of this qr code, when the notary will open the information about the deed he has made, the notary will just have to scan the barcode, then the information about the deed can be seen in detail according to the deed written on paper. This barcode is then printed on the deed made by the notary. So, the existence of a qr code can show that

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[11] Lumban Tobing, G.H.S., 1999. Peraturan Jabatan Notaris, Erlangga, Jakarta. Page.328

the Notary deed is genuine or fake, because if the qr code is scanned, all information regarding the deed will come out which has the same contents as that which has been printed on the deed paper, if it is not the same or does not issue any information regarding deed then the deed is a fake deed.

Regarding the use of information technology by a Notary, it can also be based on Article 15 paragraph (3) UUJN-P which states that the Notary has other powers regulated in the laws and regulations, furthermore in the explanation referred to as other authorities regulated in statutory regulations, among others , the authority to certify transactions conducted electronically (cyber Notary), make waqf pledge deeds, and aircraft mortgages.

According to Government Regulation number 82 of 2012 concerning the operation of electronic systems, electronic certificates are certificates that are electronic in nature containing electronic signatures and identities that indicate the legal subject status of the parties in electronic transactions issued by electronic certification operators. Thus, there is an opportunity for the Notary Public to take advantage of information technology in the storage of deeds he makes. Notaries can also do a number of ways as long as they do not conflict with existing regulations.

Regarding the principle of justice related to the provision of security guarantees for Notaries when using information technology for storing minimum deeds and making copies of deeds. By using the QR Code that is attached to the Notary deed, it provides security for the Notary against the deed he makes so that when the copy of the deed cannot be changed by another party. On the other hand, it also provides justice for the parties to the deed, namely that it guarantees that the contents of the deed remain the same as the minimum deed kept by the notary. The parties also receive certainty regarding the correctness of the identity of the Notary who made the deed.

The use of QR Code as a way to save the minimum deed and make a copy of the deed can be felt by the Notary and the parties to the deed. They have certainty regarding the contents of the deed which remains the same as when the deed was approved and signed by the parties. This can prevent deed forgery in the future, especially if there is a postponement of the date, this can be avoided by using this QR Code. Because the information system also contains data regarding the date when the deed was made.

The method that can be done by a Notary in making deeds by utilizing information technology using QR Code can be done by downloading the QR Code Generator application. With this application, the Notary Public can make their own code on the deed, which is then filled in with the data related to the deed and the identity of the Notary which is then attached to the Notary deed.

Furthermore, besides downloading the QR Code Generator application, the Notary also downloads the QR Code Scanner application as an application to read the information contained in the QR Code. QR Scanner can not only be downloaded on a mobile phone, but can also be used on a computer or laptop that has a camera, as a medium for reading QR Code images.

IV. Conclusion

The conclusion of this research is that the use of information technology in making notary deeds is very possible for notaries. In connection with efforts to ensure the security of a notary deed from fraud, the use of the QR Code that is applied to the notary deed may be carried out. this is not against the law, especially the law on the position of notary public, because in that law there is no prohibition on the application of the QR code on notary deeds. In fact, the application of the QR Code on notary deeds is actually a form of the implementation of Article 16, that notaries are obliged to act honestly, thoroughly, independently, impartially and safeguard the interests of the parties involved in making deeds. in the case that the application of the QR Code on a notary deed is a form of safeguarding the interests of the parties involved in making deeds. that is, to ensure that no other party can falsify the notary deed that has been made (because in the QR Code that has been applied to the notary deed there is special information stored which only the notary who made the deed knows).

V. Acknowledgments

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