

## CHAPTER 599

## JUDICIAL NOTICE AND PROOF; JUDICIAL RECORDS AND DECISIONS.

**599.01 LAWS OF FOREIGN COUNTRIES.**

**HISTORY.** R.S. 1851 c. 95 s. 58; P.S. 1858 c. 84 s. 58; G.S. 1866 s. 73 s. 53; G.S. 1878 c. 73 s. 59; G.S. 1894 s. 5718; R.L. 1905 s. 4698; G.S. 1913 s. 8413; G.S. 1923 s. 9852; M.S. 1927 s. 9852.

The uniform proof of statutes act has been adopted in Alaska, Arizona, California, Hawaii, Idaho, Illinois, Indiana, Kansas, Louisiana, Maryland, Michigan, Nevada, North Dakota, Ohio, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Utah, and Washington.

See as to what constitutes the crime of adultery. Statutes passed in 1852 raise no presumption of what the law was in 1845. The production of the statutes of another state may raise the presumption that the law has continued to be the same as at the date of passage, but it cannot run retrospectively. *State v Armstrong*, 4 M 344 (251).

The effect of General Statutes 1913, Section 8413 (section 599.01), permits parol proof of the tenor and effect of foreign laws as facts, and a person who professes knowledge of the foreign laws may testify as to their tenor and effect, although not a lawyer or learned in the law of such country. *Henrickson's Estate*, 163 M 176, 203 NW 778.

Full faith and credit. 20 MLR 187.

**599.02 STATUTES OF OTHER STATES.**

**HISTORY.** R.S. 1851 c. 95 s. 56; P.S. 1858 c. 84 s. 56; G.S. 1866 c. 73 s. 51; G.S. 1878 c. 73 s. 57; G.S. 1894 s. 5715; R.L. 1905 s. 4701; G.S. 1913 s. 8416; G.S. 1923 s. 9855; M.S. 1927 s 9855.

See, *State v Armstrong*, 4 M 344 (251).

As to proof of the Iowa statutes, General Statutes 1894, Section 5715 (section 599.02), is plain and there should be no difficulty in complying with its terms. *Merz v Chgo. & N. W.* 86 M 33, 90 NW 7.

**599.03 COMMON LAW OF OTHER STATES.**

**HISTORY.** R.S. 1851 c. 95 s. 57; P.S. 1858 c. 84 s. 57; G.S. 1866 c. 73 s. 52; G.S. 1878 c. 73 s. 58; G.S. 1894 s. 5716; R.L. 1905 s. 4702; G.S. 1913 s. 8417; G.S. 1923 s. 9856; M.S. 1927 s. 9856.

**599.04 COURTS TO TAKE JUDICIAL NOTICE.**

**HISTORY.** 1939 c. 77 s. 1; M. Supp. s. 9852-1.

Sections 599.04 to 599.10 is the uniform notice of foreign act adopted by the following states: Connecticut, Hawaii, Illinois, Indiana, Kentucky, Maine, Maryland, Minnesota, Montana, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Washington, and Wyoming.

There is no presumption that a person knows the laws of another state. Even the courts are not required to take notice of the laws of other states under the uniform judicial notice of foreign law act, Laws 1939, Chapter 77 (sections 599.04 to 599.10). *Daniel's Estate*, 208 M 434, 294 NW 465.

In an action upon a foreign judgment, the evidence was sufficient to support findings that the foreign court had jurisdiction and rendered a judgment, in

# MINNESOTA STATUTES 1945 ANNOTATIONS

## 599.05 JUDICIAL NOTICE AND PROOF, ETC.

4006

proper form, against this defendant. *Patterson v Consumer's Roofing*, 209 M 51, 295 NW 401.

Conflict of laws; judicial notice of foreign law. 25 MLR 647.

## 599.05 COURTS MAY OBTAIN INFORMATION; HOW.

HISTORY. 1939 c. 77 s. 2; M. Supp. s. 9852-2.

## 599.06 DETERMINATION TO BE MADE BY COURT.

HISTORY. 1939 c. 77 s. 3; M. Supp. s. 9852-3.

## 599.07 EVIDENCE.

HISTORY. 1939 c. 77 s. 4; M. Supp. s. 9852-4.

## 599.08 ISSUE FOR COURT.

HISTORY. 1939 c. 77 s. 5; M. Supp. s. 9852-5.

## 599.09 INTERPRETATION OF SECTIONS 599.04 TO 599.10.

HISTORY. 1939 c. 77 s. 6; M. Supp. s. 9852-6.

## 599.10 CITATION.

HISTORY. 1939 c. 77 s. 7; M. Supp. s. 9852-7.

## 599.11 RECORDS OF FOREIGN COURTS.

HISTORY. R.S. 1851 c. 95 s. 54; P.S. 1858 c. 84 s. 54; G.S. 1866 c. 73 s. 49; G.S. 1878 c. 73 s. 54; G.S. 1894 s. 5706; 1899 c. 150; R.L. 1905 s. 4697; G.S. 1913 s. 8412; G.S. 1923 s. 9851; M.S. 1927 s. 9851.

An exemplification of a judgment rendered by a justice of the peace in Illinois, who has deceased, and certified to by the justice of the peace who is by the laws of the state entitled to the custody of the docket and papers of the deceased justice, is not evidence in the courts of this state by virtue of General Statutes 1866, Chapter 73, Section 80 (section 599.24). The court of such deceased justice not having been a court of record, such exemplification would not have been evidence under General Statutes 1866, Chapter 73, Section 49 (section 599.11). *Bryan v Farnsworth*, 19 M 239 (198).

A copy of the organization certificate of a national bank, certified and sealed by the comptroller of the currency, is legal and sufficient evidence of the corporate existence of such bank. Certain copies authenticated in compliance with the act of congress of May 27, 1790; with General Statutes 1866, Chapter 73, Section 19; General Statutes 1866, Chapter 77, Section 6; General Statutes 1866, Chapter 73, Section 66, and Laws 1869, Chapter 63, were properly received in evidence. *First National v Davis*, 20 M 234 (212).

A copy of the proceeding of a court of another state is admissible here if authenticated according to the statute of this state, though not according to the act of congress. *Ellis' Estate*, 55 M 401, 56 NW 1056.

Copies of the record of deeds and other similar private writings made in a sister state are admissible in evidence in the courts of this state under the federal statutes when properly certified and authenticated; but they will be given such force and effect only as is given thereto by the law of the state from which they are taken, and it must appear that the record was one which was authorized and provided for by the statutes of that state. No presumption exists that the statutory law of a sister state is the same as that of this state. *Wilcox v Bergman*, 96 M 219, 104 NW 955.

The municipal court of Barron county, Wisconsin, is a court of record. The municipal judge certified to the proceedings before him and to the records of his

# MINNESOTA STATUTES 1945 ANNOTATIONS

4007

JUDICIAL NOTICE AND PROOF, ETC. 599.14

court. The clerk of the circuit court of Barron county certified to his signature and the official character of the municipal judge, and the credit to be given his acts. The judgment was properly proved. *Spielman v Molitor*, 168 M 283, 210 NW 85.

The Chicago judgment is entitled to the faith and credit it would have in Illinois, where it was rendered; but there was no pleading the statute or decision law of Illinois. Under proper pleadings in a suit in Minnesota entered on a *cognovit* note in Illinois, the defendant may interpose fraud, or fraud and mistake, because this in effect may be done in Illinois. *Wismoc v Martin*, 186 M 597, 244 NW 76.

An alien naturalized under the laws of the United States is a citizen of the state where he resides. Where both parties are citizens of the state where suit is brought, the federal court has no jurisdiction, and the cause will be remanded. Where there is reason to doubt the existence of jurisdictional facts, the parties may be examined upon the question, and the court may direct the proper pleading to be filed to raise the issue involved in such question. *Gribble v Pioneer Press*, 15 F 689.

Full faith and credit. 20 MLR 187.

## 599.12 PRINTED COPIES OF STATUTES.

HISTORY. R.S. 1851 c. 95 s. 55; P.S. 1858 c. 84 s. 55; G.S. 1866 c. 73 s. 50; G.S. 1878 c. 73 s. 55; G.S. 1894 s. 5707; R.L. 1905 s. 4699; G.S. 1913 s. 8414; G.S. 1923 s. 9853; M.S. 1927 s. 9853.

The fact that a bill was duly enrolled, authenticated by the proper officers of each house, signed by the governor, and filed with the secretary of state, is not conclusive that it was passed in a constitutional manner, but the courts may look to the legislative journals to ascertain that fact. Evidence to overcome the presumption in favor of the bill must be clear and strong and must show violation of the constitution beyond a reasonable doubt. The presumption is not overcome by a mere silence of the legislative journals. The act stands as law, unless it affirmatively appears on the face of the journal that some constitutional requirement was not followed. *State ex rel v Wagner*, 130 M 424, 153 NW 749.

There are two enrolled bills. Both are duly authenticated. They contradict each other. One must stand and the other fall. The question is which one the legislature intended to enact. The senate journal shows that the words found in Chapter 328 were not found in Chapter 385, were not in the bill the senate passed. Manifestly, when the bill was enrolled, after it passed both houses, the words "producer or distributor of electric power" were erroneously included. Chapter 385, instead of Chapter 328, is the law of the state. *Jaques v Pike Rapids Power*, 172 M 306, 215 NW 221.

Laws 1931, Chapter 205, amending sections of the law relating to enforcement of stockholders' liability was effective, but contained a proviso as to time of enforcement, and the time limit having expired, defendant's demurrer is sustained. *Sweet v Richardson*, 189 M 489, 250 NW 46.

## 599.13 MUNICIPAL ORDINANCES.

HISTORY. 1873 c. 68 s. 1; G.S. 1878 c. 73 s. 60; G.S. 1894 s. 5719; 1902 c. 65; R.L. 1905 s. 4700; G.S. 1913 s. 8415; G.S. 1923 s. 9854; M.S. 1927 s. 9854.

The rule that objection should be made in time and with sufficient definiteness to enable the trial court to rule upon it applies to a motion to strike out the record of the city council relative to the resolution in question. Nowhere did defendant's counsel make specific objection that the resolution was inadmissible because not published. *Klatz v Win. & St. Peter*, 68 M 351, 71 NW 257.

## 599.14 RECORDS OF SURVEYS, EVIDENCE WHEN.

HISTORY. 1899 c. 284; R.L. 1905 s. 4703; G.S. 1913 s. 8418; G.S. 1923 s. 9857; M.S. 1927 s. 9857.

# MINNESOTA STATUTES 1945 ANNOTATIONS

## 599.15 JUDICIAL NOTICE AND PROOF, ETC.

4008

Laws 1899, Chapter 284, is valid, and applies to all actions, including those wholly between private parties and those pending at the time it was enacted; and the prima facie case made on the trial of this action by the introduction in evidence of such records, plats, and surveys was not conclusively rebutted by other undisputed evidence, and the trial court rightly granted a new trial. *Fish v Chgo*, St. P. 82 M 9, 84 NW 458; 84 M 180, 87 NW 606.

Under Laws 1899, Chapter 284, records of surveys of municipal engineering departments were made prima facie evidence of the correctness of their contents. The law as applied in similar cases has been upheld. Their provisions but create a rule of evidence in which there is no vested right. The prima facie case, which the statute purports to create, simply means that the burden of going forward with the evidence shifts. *State Fire Marshal v Sherman*, 201 M 596, 277 NW 249.

## 599.15 COPIES OF DECISIONS, CERTIFIED BY LIBRARIAN.

HISTORY. 1879 c. 89 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 73 s. 58a; G.S. 1894 s. 5717; R.L. 1905 s. 4704; G.S. 1913 s. 8419; G.S. 1923 s. 9858; M.S. 1927 s. 9858.

## 599.16 LAND OFFICE RECEIPTS, EVIDENCE OF TITLE.

HISTORY. R.S. 1851 c. 95 s. 88; P.S. 1858 c. 84 s. 88; G.S. 1866 c. 73 s. 84; 1878 c. 51 s. 1; G.S. 1878 c. 73 ss. 91, 94; G.S. 1894 ss. 5753, 5757; R.L. 1905 s. 4732; G.S. 1913 s. 8450; G.S. 1923 s. 9889; M.S. 1927 s. 9889.

Township plats from the United States land office, certified by the register and receiver, and offered to show that the land on which the logs were cut was the property of the United States, are not admissible to prove title. *Walsh v Kattenburgh*, 8 M 127 (99).

The fact of entry and location by any one may be shown by a certified abstract taken from the books and records of the local land office of the district wherein the tract is situate, properly authenticated by the register of the office. *Tidd v Rines*, 26 M 201, 2 NW 497.

The land office certificates are prima facie evidence of a preemption right commenced in May, 1868, and consummated in June 1872. *Winona & St. Peter v Randall*, 29 M 283, 13 NW 127.

The claimant made final proof, paid for his land, and received final receipt or certificate. Later, the commissioner suspended proceedings and demanded further proof. As against the preemption, the land was subject to taxation from the date of the receipt, even if the order respecting further proof had not been complied with. *County of Polk v Hunter*, 42 M 312, 44 NW 201.

Certain certificates and letters of the register of the local land office and the commissioner of the general land office are mere legal conclusions of said officers as to the legal effect of records in the register's office and of no weight as evidence. *Preiner v Meyer*, 67 M 197, 69 NW 887.

The courts will not assume jurisdiction in disputes over title to United States government lands, where the title is still pending and undetermined in the government land department; but the court will take jurisdiction upon the right of possession only. *Matthews v O'Brien*, 84 M 505, 88 NW 12.

The state courts have no jurisdiction over the proprietary title of the United States to land within the state, and a decree of registration under the Torrens' act, rendered before the United States has parted with such proprietary title, is a nullity as against the United States and its subsequent vendees. *Shevlin v Fogarty*, 130 M 456, 153 NW 871.

## 599.17 LAND OFFICE CERTIFICATE EVIDENCE OF TITLE.

HISTORY. 1878 c. 52 s. 2; G.S. 1878 c. 73 s. 92; G.S. 1894 s. 5754; R.L. 1905 s. 4733; G.S. 1913 s. 8451; G.S. 1923 s. 9890; M.S. 1927 s. 9890.

The papers filed by plaintiff with the register of deeds as proved by copy is prima facie evidence of a title to the land in controversy, which passed out of the

# MINNESOTA STATUTES 1945 ANNOTATIONS

4009

JUDICIAL NOTICE AND PROOF, ETC. 599.20

United States as of March 3, 1865, and to which plaintiff has succeeded. *Winona & St. Peter v Randall*, 29 M 283, 13 NW 127.

The allegation of plaintiff that on a certain day she "duly made timber culture entry number 1723" at a local land office, "conformably to the first section of the 'timber culture act of 1878', whereby she became possessed of and entitled to the possession of the land", did not state facts sufficient to constitute a cause of action against a defendant in actual possession. *Schultz v Hadler*, 39 M 191, 39 NW 97.

See *Preiner v Meyer*, 67 M 197, 69 NW 887.

The courts have no jurisdiction in controversies involving equitable rights to public lands except in possessory actions, so long as the legal title remains in the federal government. *Sims v Morrison*, 92 M 341, 100 NW 88.

The assignee of a soldier's additional homestead certificate, upon filing an application for a specific tract of land, acquires an equitable title therein, which ripens into a legal title, relating back to the date of application, upon issuance of the government patent. This may be conveyed by quitclaim deed and when the patent issues, it inures to the benefit of the grantee. After the patent issues, the grantee may maintain an action in trespass upon the land committed after the date of the application and before the confirmation thereof. *Gilbert v McDonald*, 94 M 289, 102 NW 712.

## 599.18 CERTIFICATE OF DEPARTMENT OFFICER.

HISTORY. 1893 c. 57 s. 1; G.S. 1894 s. 5755; R.L. 1905 s. 4734; G.S. 1913 s. 8452; G.S. 1923 s. 9891; M.S. 1927 s. 9891.

## 599.19 PATENTS AND DUPLICATES.

HISTORY. G.S. 1866 c. 73 s. 85; G.S. 1878 c. 73 s. 93; G.S. 1894 s. 5756; R.L. 1905 s. 4735; G.S. 1913 s. 8454; G.S. 1923 s. 9893; M.S. 1927 s. 9893.

Laches does not bar suit by the government to set aside a patent to public land. Under Minnesota statutes authorizing recording of government patents and making properly recorded instruments notice to subsequent purchasers, purchasers from a prior patentee are chargeable with notice of a junior recorded patent, and are chargeable through such patent with knowledge that, on account of the junior patentee's prior application to enter the land, the senior patentee was not entitled to the land as against him. *United States v Wesely*, 189 F 276.

## 599.20 PLATS OF SURVEYS FROM LAND OFFICE; CERTIFICATE OF COUNTY SURVEYOR.

HISTORY. R.S. 1851 c. 8 art. 7 s. 2; R.S. 1851 c. 85 s. 90; 1856 c. 13; P.S. 1858 c. 7 s. 84; P.S. 1858 c. 84 s. 90; 1864 c. 34; G.S. 1866 c. 73 s. 86; G.S. 1878 c. 73 s. 95; G.S. 1894 s. 5758; R.L. 1905 s. 4736; G.S. 1913 s. 8455; G.S. 1923 s. 9894; M.S. 1927 s. 9894.

When government land, held by a preemptor is flowed with water by reason of a dam erected on a water course before the patent is issued, and subsequently to the issuance of the patent, and within the statutory time he brings action for damages, the certificate of the register is competent evidence to show the filing of the declaratory statement. *Dorman v Ames*, 12 M 451 (347).

An exhibit, set out at length in the opinion, being a transcript from records of the land office, was properly received in evidence. *Washburn v Mendenhall*, 21 M 332.

Facts of entry and location may be shown by a certified abstract taken from the books and records of the local land office properly authenticated by the register. *Tidd v Rines*, 26 M 201, 2 NW 497.

When one contemplating the platting of his land as a town site employs the county surveyor to make a survey, and a plat is made accordingly, and the county surveyor attaches to the plat his official certificate, the survey is an official one, and the record of it, including the "field notes and calculations", is official,

# MINNESOTA STATUTES 1945 ANNOTATIONS

## 599.21 JUDICIAL NOTICE AND PROOF, ETC.

4010

and should be transmitted by the county surveyor to his successor in office. State ex rel v Patton, 62 M 388, 64 NW 922.

Where the official survey shows that the meander line and shore line coincide, it is prima facie evidence of the location of the shoreline; but as it is only prima facie, any variation of the meander line from the actual shore line may be shown by other evidence. In re County Ditch, 151 M 295, 186 NW 711.

### 599.21 TRANSCRIPT FROM JUSTICE'S DOCKET; USE AS EVIDENCE.

HISTORY. R.S. 1851 c. 95 ss. 82, 83; P.S. 1858 c. 84 ss. 82, 83; G.S. 1866 c. 73 ss. 76, 77; 1871 c. 70 s. 1; G.S. 1878 c. 65 s. 75; G.S. 1878 c. 73 ss. 83, 84; G.S. 1894 ss. 5029, 5745, 5746; R.L. 1905 ss. 4724, 4725; G.S. 1913 ss. 8442, 8443; G.S. 1923 ss. 9881, 9882; M.S. 1927 ss. 9881, 9882.

After the filing of a transcript of a justice's judgment in the office of the clerk of the district court, and the entry of such judgment in the docket of district court judgments, exemplifications of such transcript and docket entry, attested by the clerk, with the seal of the court annexed, are competent evidence to prove the judgment. Herrick v Ammerman, 32 M 544, 21 NW 836.

### 599.22 PROCEEDINGS BEFORE JUSTICE, WHEN NOT WRITTEN.

HISTORY. R.S. 1851 c. 95 s. 84; P.S. 1858 c. 84 s. 84; G.S. 1866 c. 73 s. 78; G.S. 1878 c. 73 s. 85; G.S. 1894 s. 5747; R.L. 1905 s. 4726; G.S. 1913 s. 8444; G.S. 1923 s. 9883; M.S. 1927 s. 9883.

### 599.23 CERTIFICATE OF CONVICTION.

HISTORY. R.S. 1851 c. 69 s. 191; P.S. 1858 c. 59 s. 205; G.S. 1866 c. 73 s. 79; G.S. 1878 c. 73 s. 86; G.S. 1894 s. 5748; R.L. 1905 s. 4727; G.S. 1913 s. 8445; G.S. 1923 s. 9884; M.S. 1927 s. 9884.

### 599.24 EXEMPLIFICATION OF JUDGMENT IN ANOTHER STATE.

HISTORY. R.S. 1851 c. 95 s. 59; P.S. 1858 c. 84 s. 59; G.S. 1866 c. 73 s. 80; G.S. 1878 c. 73 s. 87; 1889 c. 107 s. 1; G.S. 1894 s. 5749; R.L. 1905 s. 4728; G.S. 1913 s. 8446; G.S. 1923 s. 9885; M.S. 1927 s. 9885.

NOTE: See, Bryan v Farnsworth, 19 M 239 (198), under section 599.11.

A true and correct copy of all proceedings in the case from the docket of the justice, duly authenticated as required by this section is all that is required. Smith v Petrie, 70 M 433, 73 NW 155.

NOTE: See, Spielman v Molitor, 168 M 282, 210 NW 15, section 599.11.

### 599.25 MINUTES OF CONVICTION AND JUDGMENT.

HISTORY. 1852 Amend. p. 29; P.S. 1858 c. 118 s. 44; G.S. 1866 c. 73 s. 74; G.S. 1878 c. 73 s. 81; G.S. 1894 s. 5743; R.L. 1905 s. 4723; G.S. 1913 s. 8441; G.S. 1923 s. 9880; M.S. 1927 s. 9880.

The indictment pleaded a former conviction, and that said judgment of conviction had not been reversed or set aside. The state having proved the former conviction by offering in evidence the judgment roll, the burden was on the defendant to show, if such were the fact, that the judgment had been reversed or set aside. State v Findling, 123 M 417, 144 NW 142.