

**CHAPTER 599****JUDICIAL NOTICE, PROOF; JUDICIAL RECORDS, DECISIONS****599.01 LAWS OF FOREIGN COUNTRIES**

In an action to recover on a conventional promissory note, certain parol testimony was inadmissible to vary the terms of the instrument. It was error to receive such testimony. *Hogan v Church of St. Anne*, 237 M 52, 53 NW(2d) 449.

**599.03 COMMON LAW OF OTHER STATES**

It will be presumed, in the absence of pleading and proof to the contrary, that common law prevails in a sister state and that it is the same as in the state of the forum. *Knutson v Lambert*, 235 M 328, 51 NW(2d) 580.

**599.04 COURTS TO TAKE JUDICIAL NOTICE**

NOTE: The Uniform Judicial Notice of Foreign Law Act was enacted in Minnesota by Laws 1939, Chapter 77 and coded as sections 599.04 to 599.10. It has been adopted in the following states: Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Minnesota, Missouri, Montana, Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Washington, Wisconsin, and Wyoming.

The courts do not take judicial notice of the practical construction or definition of a word, and to receive consideration the construction must be developed by evidence and appear in the record. *Hansen v Hayes*, 225 M 48, 29 NW(2d) 473.

**599.07 EVIDENCE**

Medical books, however celebrated their authors, are not admissible in evidence; but where an expert witness has based his opinion upon a particular medical book, he may be cross-examined with reference to it and parts of the book which contradict him may be read into the record. *Briggs v Chicago, Great Western Ry. Co.*, ..... M ....., 57 NW(2d) 572.

**599.11 RECORDS OF FOREIGN COURTS**

Diplomatic immunity; applicability of the rule of *Erie Railway Company v Tomkins* to international law. 33 MLR 540.

A document contained in the record of the Missouri action by a subpurchaser against a purchaser for breach of the purchaser's warranties, which was designated as a judgment, and which included, in addition to the verdict, a statement that it was adjudged by the court that the subpurchaser should recover the amount of the verdict, was equivalent to a final judgment, and, therefore, was *res judicata* upon the issue of breach of warranty in a subsequent action by the subrogee of the original purchaser against the original seller for the amount of the verdict and expenses incurred in defending the subpurchaser's action. The court did not err in receiving a certified copy of a "judgment" and other documents of the circuit court of the city of St. Louis, submitted by plaintiff, although not authenticated as required by section 599.11, where the defendant's counsel specifically waived objection thereto because of such lack of authentication. *Liberty Mutual Insurance Co. v Clark*, ..... M ....., 59 NW(2d) 899.

**599.13 MUNICIPAL ORDINANCES**

Upon the expiration of three years from date of publication of zoning ordinance with map attached and made a part thereof, such ordinance, together with map thus

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published, became the official zoning map of the city, even though discrepancies existed between such map and the map referred to by the city council at the time the ordinance was adopted, said statute making such publication conclusive proof of the regularity and adoption thereof from and after three years from date of publication. *Barber v City of Minneapolis*, 227 M 77, 34 NW(2d) 711.

The acts of a municipality relative to the issuance of building permits under a zoning ordinance for the construction of various types of commercial or industrial plants fall within the governmental rather than proprietary functions of such municipality, and in consequence estoppel will not lie against it for its acts performed in connection therewith. *Barber v City of Minneapolis*, 227 M 77, 34 NW(2d) 711.

As the city charter of the city of Faribault requires that a zoning map which is made a part of the zoning ordinance must be published, any publication without showing the map renders the ordinance void because it did not comply with the statute, the ordinance not having been published in full. OAG Jan. 6, 1949 (59-A-32).

## CHAPTER 600

### DOCUMENTS AS EVIDENCE

#### 600.01 BUSINESS

NOTE: Sections 600.01 to 600.04, State Uniform Business Records as Evidence Act, has been adopted by the following states: California, Delaware, Florida, Hawaii, Idaho, Minnesota, Missouri, Montana, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Washington, and Wyoming.

Book value of corporation's stock is only a minor element to be considered with other factors in determining the true value of stock, and is of little weight standing alone. *Warner v Warner Co.*, 226 M 565, 33 NW(2d) 721.

An amended or superseded pleading is admissible against the party interposing it even though signed only by counsel, although the party against whom it is admitted for the purposes of impeachment may show that he did not have knowledge of its contents. Such proof goes to the weight of the evidence but does not affect its admissibility. *Krumholz v Rusak*, 230 M 178, 41 NW (2d) 177.

#### 600.02 BUSINESS RECORDS AS EVIDENCE

In an action to recover damages for injuries for which the plaintiff was hospitalized, the hospital record of plaintiff's treatment with notations stamped thereon that plaintiff should be held for police was inadmissible under the Uniform Business Records as Evidence Act, since the notation did not relate to the business of hospitalization and was not germane to the condition for which plaintiff was hospitalized. *Flemming v Thorson et al*, 231 M 343, 43 NW(2d) 225.

In a taxpayer's proceeding challenging the validity of an assessment, the refusal to admit the taxpayer's income tax returns in evidence was not an abuse of discretion where the witness did not prepare them and testified that all the information thereon came from original books and records of taxpayer kept by the witness and such records were not offered in evidence and the accountant who prepared the tax was not available. *Schleiff v Freeborn County*, 231 M 389, 43 NW(2d) 265.

#### 600.05 ACCOUNT BOOKS, LOOSE-LEAF SYSTEM

The burden of producing evidence to verify the accounts shifted to the accounting partner, once it was shown that he had exclusive control over the books, that the books were not in current condition or approximately accurate, and that he had an interest adverse to the partnership.