

MINNESOTA STATUTES 1953 ANNOTATIONS

600.01 DOCUMENTS AS EVIDENCE

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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An amended or superseded pleading is admissible against the party interposing it even though signed only by counsel, although the party against whom it is admitted for the purposes of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.

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DOCUMENTS AS EVIDENCE 600.18

Exhibits purporting to be the true and accurate account of a turkey partnership, prepared near the time of trial by a third person, stranger to the suit, from data furnished by the accounting partner, were improperly received in evidence, since there was no foundation showing that the records of the accounting partner or that the exhibits were made contemporaneously in the course of regular business. Where the evidence indicated self-dealing by the accounting partner and breach of fiduciary relation, it was abuse of discretion to receive the exhibits. Testimony as to the average consumption of feed by turkey flocks in a large geographic area was too remote from the conditions of the partnership in question to sustain feed charges made by an accounting partner who was simultaneously conducting his own feed business for profit. *Wilson v Moline*, 229 M 164, 39 NW(2d) 202.

600.08 LETTERPRESS COPIES

HISTORY. 1893 c 56 s 1; GS 1894 s 5741; RL 1905 s 4721; GS 1913 s 8439.

600.135 PHOTOGRAPHIC COPIES OF BUSINESS AND PUBLIC RECORDS

HISTORY. 1951 c 125 s 1-3; 1953 c 190 s 1.

NOTE: This is the Uniform Photographic Copies of Business and Public Records as Evidence Act, and has been adopted by Florida, Minnesota, and South Dakota.

Microfilms of records are admissible in evidence but on the question of whether a document is genuine nothing can take the place of the original. Indentations on paper produced by light are not shown in a photograph. Indentations of the seal are not shown. The copy may be received in evidence but whether the original may safely be destroyed is something the custodian of the original must determine. OAG June 2, 1952 (851).

600.15 BILLS AND NOTES; ENDORSEMENT; SIGNATURE TO INSTRUMENTS PRESUMED

In an action for breach of contract to instal hot water boilers in defendant's building where the order blank was written but not signed, the trial court was justified in refusing an instruction that "when parties make the reduction of the agreement to writing and its signature by them is a condition precedent to its completion, it will not be a contract until that is done, and this is true although all the terms of the contract have been agreed upon. *Krumholz v Rusak*, 229 M 178, 41 NW(2d) 177.

600.17 COPIES OF GOVERNMENT RECORDS AND DOCUMENTS

Laws 1947, Chapter 405, provides that authenticated copies of all documents—including books and records—in any of the executive departments of the federal government, or of any corporation wholly owned by the United States, shall be admitted in evidence equally with the originals when under the seal of the department or corporation. Books, records of account, and minutes of proceedings, or their sealed authenticated copies, are also made admissible as evidence of any act or transaction of which they are a memorandum. 32 MLR 376.

In consolidated actions against a commercial airline, operating pursuant to a contract with the federal government to transport men, to recover for the death of one passenger and injuries to two others, the records of investigations and inquiries concerning the crash which contained expressions of opinion or the exercise of judgment and description were not admissible as "public records." *Barnes v Northwest Airlines*, 233 M 410, 47 NW(2d) 180.

600.18 FEDERAL CENSUS, POPULATION

The several political divisions of the state for all purposes shall be deemed to have the population disclosed by the federal census from and after the date upon which certified copies thereof shall have been filed in the office of Secretary of State, in accordance with the provisions of section 600.18. As to the 1950 census the filing

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occurred on July 30, 1951. It necessarily follows that as of that date the 1950 census figures are to be applied in determining the salaries. OAG Sept. 11, 1951 (56-A).

The "official announcement" of decennial census figures of the city is construed to mean the date upon which the certified copies are filed by the governor with the secretary of state. OAG June 27, 1951 (56-A-64-S).

Where electors of an unorganized territory elected a chairman of the school board in the fall of 1950 under Laws 1941, Chapter 541, and change of population in the county became effective in December, 1951, the chairman was elected for a four year term, beginning January 1, 1951, notwithstanding the fact that Laws 1951, Chapter 496, took effect before the change of population became effective. OAG Dec. 21, 1951 (161-A-9).

If the director of the bureau of the federal census has authority to make a special census of school districts and does so and that a certified copy thereof showing the population of the school district is obtained by the governor and filed with the secretary of state, such special census can be used in determining the tax levy of the school district under the per capita tax law. OAG Aug. 16, 1950 (519-M).

600.21 COPIES OF RECORD OF DEATH; RECORDATION IN OFFICE OF REGISTER OF DEEDS

HISTORY. 1913 c 251 s 1; 1953 c 150 s 1.

600.23 REGISTERS AND CLERKS

The register of deeds should accept and file notice of a factor's lien though presented to him more than 15 days after the date of the execution of the written agreement. OAG June 22, 1948 (373-B-11).

600.24 FINDING OF PRESUMED DEATH UNDER FEDERAL MISSING PERSONS ACT

Evidence of death under Federal Missing Persons Act. 33 MLR 43.

CHAPTER 602

CONSTRUCTION STATUTES, EVIDENCE

602.01 CERTAIN STATEMENTS PRESUMED TO BE FRAUDULENT

The statutory presumption of fraud in obtaining a written statement from the plaintiff within 30 days after his injuries were sustained wholly disappear upon the introduction of evidence. *Koenigs v Thome*, 226 M 14, 31 NW(2d) 537.

If evidence as a whole so overwhelmingly preponderates in favor of a party as to leave no doubt as to factual truth, he is entitled to a directed verdict as a matter of law even though there is some evidence which, if standing alone, would justify a verdict to the contrary. *Hanson v Homeland Co.*, 232 M 403, 45 NW(2d) 637.

A party has a right to explain contradictory statements made by him which have been received in evidence and the fact that certain statements made by a witness are inconsistent does little to impair the credibility of such witness when the inconsistency has been explained by the witness and his testimony is otherwise corroborated by independent evidence. *Hanson v Homeland Co.*, 232 M 403, 45 NW(2d) 637.

The statutory requirement that a copy of a written statement obtained from and signed by an injured person must be given to the injured person within thirty days after the statement was procured as a prerequisite to admissibility of such