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JUDICIAL NOTICE — THE ILLINOIS ANOMALY!

by HARRY G. FINS*

INTRODUCTION

Judicial notice is a doctrine which requires a court to treat as established evidence in the case "those facts which are a matter of common and general knowledge and which are established and known within the limits of the jurisdiction of the court."¹ In this context, no problem arises when a court takes judicial notice of well known geographical or social facts. However, judicial notice of court proceedings and state or municipal records presents difficulties deserving the attention of the Illinois General Assembly, for the Illinois courts follow opposing standards in the application of the doctrine of judicial notice. At the trial level, the scope is very narrow; on review, the scope is broad.

An Illinois trial judge may take judicial notice of the records in a pending case over which he is presiding. By statute,² he is required to take judicial notice of the statutes and common law of other states and of the municipal or county ordinances within the jurisdiction of his court. He may not take judicial notice of other proceedings in the same trial court, or of municipal or county ordinances outside the territorial limits of his court. These limitations upon Illinois trial courts constitute an inconsistency which has long been in need of correction. Under the home rule provisions of the 1970 Illinois Constitution,³ this incongruity becomes even more apparent, since greater autonomy is granted to local governmental units. Subject to preemption by the General Assembly, municipal and county

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¹ *Palmer v. Mitchell*, 57 Ill. App. 2d 160, 167, 206 N.E.2d 776, 779 (1965); *accord*, *Sundene v. Koppenhoefer*, 343 Ill. App. 164, 98 N.E.2d 538 (1951); *Sproul v. Springman*, 316 Ill. 271, 147 N.E. 131 (1925).

² ILL. REV. STAT. ch. 51, § 48a (1973). To the same effect is *Ashland Savings & Loan Ass'n v. Aetna Ins. Co.*, Ill. App. Ct., 1st Dist. No. 56473, decided February 19, 1974.

³ ILL. CONST. art. VII, § 6 (1970).

ordinances of home rule units are treated equivalently with state statutes, within the territorial confines of their governmental unit. Nevertheless, while Illinois trial courts are prohibited from taking judicial notice of these ordinances existing in Illinois — ordinances which are as binding and applicable as statutes — these same trial courts are bound to take judicial notice of statutes existing in other states.

On the appellate level the application of the doctrine is markedly different. A reviewing court takes judicial notice of the case immediately before it, as well as of other cases pending in or decided by that court, and of trial court or administrative agency proceedings pertinent to the case before the reviewing tribunal.

The broad discretion permitted Illinois appellate courts in taking judicial notice, contrasted with the limitations imposed upon trial courts, presents an anomaly in the Illinois procedural system. The distinctions between courts of original and appellate jurisdiction do not provide logical grounds for these inconsistencies, particularly in considering the statutory command to take judicial notice of state laws outside the territorial limits of *any* Illinois court. This anomaly should be eliminated by expanding, through legislative enactment, the scope of judicial notice at the trial level.

NARROW SCOPE IN TRIAL COURT

Although a trial judge takes judicial notice of the records in a pending case over which he is presiding, he is not permitted to take judicial notice of the records of any other proceeding in the same trial court, even where the facts and circumstances of such other proceeding are within the personal knowledge of the presiding judge. As a general rule, “[r]ecord proof is required in all . . . cases, unless the [facts are] properly admitted.”⁴ Under present law, a trial court is precluded from taking judicial notice of a prior proceeding, even though a subsequent proceeding involves the same parties and the same subject matter.⁵

⁴ *Streeter v. Streeter*, 43 Ill. 155, 164 (1867). The parties had previously been divorced in the same court. The court refused to take judicial notice of this fact. The court stated:

We do not admit the court could take judicial notice of the fact that the parties were divorced, even if the decree of divorce was pronounced by the court trying these issues. Record proof is required in all such cases, unless the fact be properly admitted. The court or judge who granted the divorce is not permitted to call in requisition his own personal knowledge or recollection of the fact that such a decree had passed at any time.

Id. at 164.

⁵ See *People v. Carr*, 265 Ill. 220, 106 N.E. 801 (1914), where the court said:

The case at bar is not the same proceeding as either of the two former *Carr* cases although it is between the same parties and involves the same subject matter, and the county court therefore could not take

This incongruous rule emanates from a rationale which considers facts from a prior proceeding — facts known to the parties and to the court in the pending action — as being within the personal knowledge of the court *only*. Since these facts are not common and general knowledge, they fall outside the scope of the doctrine, and record proof is required.⁶

Trial courts in Illinois have attempted to avoid such a narrow application of the doctrine whenever possible. In *State Farm Mutual Automobile Insurance Co. v. Grebner*,⁷ the plaintiff attached the pleadings from a prior case to his complaint as an exhibit in the pending action. The Illinois Appellate Court, Second District, recognized the above mentioned rule that a trial court may not take judicial notice of prior proceedings in a separate case in the same court, even though the facts are within the personal knowledge of the presiding judge. The reviewing court, however, distinguished the case from others involving a similar issue by holding that since the pleadings of the prior case were attached to the complaint as an exhibit, they were, therefore, before the trial court for all purposes.⁸

To state that, for purposes of judicial notice, the simple

judicial notice of the contents of the record in either of the two former cases. A court will take judicial notice of its own records and thus dispense with proof identifying such records, but it will not take judicial notice of the contents of any of its records except the one in the proceeding before it.

Id. at 229, 106 N.E. at 804. *Accord*, *People v. McKinlay*, 367 Ill. 504, 11 N.E.2d 933 (1937); *People v. Hunt*, 357 Ill. 39, 190 N.E. 809 (1934); *Donner v. Bd. of Highway Comm'rs*, 278 Ill. 189, 115 N.E. 831 (1917).

⁶ In *Palmer v. Mitchell*, 57 Ill. App. 2d 160, 206 N.E.2d 776 (1965), the Appellate Court, First District, stated:

Finally, it was error for the trial judge to take judicial notice of certain evidence which had been heard in the trial of the principal case. The doctrine of judicial notice operates to admit into evidence, without formal proof, those facts which are a matter of common and general knowledge and which are established and known within the limits of the jurisdiction of the court. . . . The facts of which the trial judge took judicial notice do not meet this requirement; indeed the facts which the trial judge had heard in the trial of the principal case were not a matter of common and general knowledge, but were within his personal knowledge only. Moreover, while courts take judicial notice of their records in a pending case, they cannot do so with respect to records of other proceedings.

Id. at 167, 206 N.E.2d at 779 (citations omitted).

⁷ 132 Ill. App. 2d 234, 269 N.E.2d 337 (1971).

⁸ *Accord*, *In re Estate of Fornof*, 96 Ill. App. 2d 260, 238 N.E.2d 240 (1968), where the Appellate Court, Fourth District, said:

While courts take judicial notice of their records in a pending case, they cannot do so in respect to records of other proceedings even where the facts are within the personal knowledge of the court. . . . Counsel for appellants urged that *City of East St. Louis v. Touchette*, 14 Ill. 2d 243, 150 N.E.2d 178, and *Borin v. Borin*, 335 Ill. App. 450, 82 N.E.2d 70 control. Neither case supports the view. In *Touchette* the documents in issue had been admitted into evidence as exhibits in the pending suit. In *Borin* the authority is confined to the pending case for the matters at issue upon an amended complaint were raised in the original complaint.

Id. at 264, 238 N.E.2d at 243.

tactical maneuver of appending the pleadings of a prior proceeding to the complaint in a subsequent action will always meet with the approval of a reviewing court stretches the holding in the *Grebner* case to an unwarranted extreme. But given the propensity of trial courts toward a broader application of judicial notice, *Grebner* indicates that wise pleading may permit a wider application of judicial notice at the trial level than would otherwise be possible.

BROAD SCOPE IN REVIEWING COURT

Reviewing courts take judicial notice of proceedings in other cases pending in or decided by the reviewing court and also take judicial notice of trial court and administrative agency proceedings in related matters.⁹ Illinois courts of review have reiterated this rule to the point where it is now established law.

Reviewing Court Proceedings

In *Blyman v. Shelby Loan & Trust Co.*,¹⁰ a case involving the partition of real estate, the Illinois Supreme Court stated:

It may be further observed that there is pending in this court an appeal, No. 27066, from the order of the circuit court of Shelby county of October 10, 1942, admitting to probate on a hearing *de novo*, the purported will of Blyman dated February 5, 1937. Of the record in that case this court takes judicial notice.¹¹

The case of *People v. O'Malley*¹² involved a criminal conviction for embezzlement, and the case of *In re O'Malley*¹³ involved a disbarment proceeding. The Supreme Court of Illinois, in the latter proceeding, declared:

This court takes judicial notice of the facts stated in *People v. O'Malley*, *ante*, p. 165, in which an opinion was adopted at the September Term, 1949, of this court, and in which a rehearing has been denied at this term.¹⁴

The case of *Fox v. Fox Valley Trotting Club*¹⁵ involved an action for an accounting of moneys due to the plaintiff in a lease of his racing premises with the defendant corporation, and the case of *Fox v. Fox*¹⁶ was an action for divorce on the ground of cruelty and drunkenness. In the divorce case, the court said:

In the complaint filed in the case of *Fox v. Fox Valley Trotting Club*, (8 Ill.2d 571, 572) he [the husband] valued the Exposition Park property at \$1,500,000. This court will take judicial notice

⁹ In *United States v. Pink*, 315 U.S. 203 (1941), the Supreme Court of the United States said "[T]here is no reason why we cannot take judicial notice of the record in this Court of the *Moscow* case." *Id.* at 216.

¹⁰ 382 Ill. 415, 47 N.E.2d 706 (1943).

¹¹ *Id.* at 419-20, 47 N.E.2d at 708.

¹² 404 Ill. 165, 88 N.E.2d 454 (1949).

¹³ 404 Ill. 257, 88 N.E.2d 881 (1949).

¹⁴ *Id.* at 258, 88 N.E.2d at 881.

¹⁵ 8 Ill. 2d 571, 134 N.E.2d 806 (1956).

¹⁶ 9 Ill. 2d 509, 138 N.E.2d 547 (1956).

of its own records. (*People ex rel. Holzapple v. Ragen*, 2 Ill. 2d 124, 130; *Lee v. Finley*, 413 Ill. 445, 447.)¹⁷

Futhermore, appellate application of the doctrine of judicial notice is not limited to facts or pleadings involved in the case on appeal, and reviewing courts will also take judicial notice of records, briefs and abstracts filed in prior appeals.¹⁸

Trial Court Proceedings

In *People v. Orr*¹⁹ the defendant sought review to reverse a conviction for armed robbery after sentencing by the Circuit Court of Sangamon County to the Illinois State Penitentiary for the term of his natural life. On its own motion, the Illinois Supreme Court took cognizance of trial court proceedings initiated by the defendant:

Without suggestion of counsel, this court takes judicial notice of the fact that the defendant, *pro se*, heretofore filed a petition in the circuit court of Sangamon County, Illinois, for relief under the Post-Conviction Hearing Act. (*People ex rel. Holzapple v. Regan*, 2 Ill.2d 124, 130; *Lee v. Finley*, 413 Ill. 445, 447.)²⁰

In *People v. Raby*²¹ the Supreme Court of Illinois took judicial notice of a decision by a federal district court in Illinois.²² Likewise, in *People v. Young*²³ the Appellate Court of Illinois, First District, took judicial notice of the same federal district court decision.²⁴

In *Wagner v. Fawcett Publications*²⁵ an action was brought in the United States District Court for the Northern District of Illinois, on the basis of diversity of citizenship, to recover for an alleged invasion of privacy, which (under *Erie Railroad Co. v. Tompkins*²⁶) required the application of Illinois law. The United States Court of Appeals for the Seventh Circuit took "judicial notice of certain proceedings in the Criminal Court of Cook County, Illinois, Case No. 57-3193 *People v. Robert Max Fleig*"²⁷

In *Jones v. Jones*²⁸ an action was filed in the United States

¹⁷ *Id.* at 517-18, 138 N.E.2d at 552.

¹⁸ *People v. Jefferson*, 8 Ill. App. 3d 839, 291 N.E.2d 223 (1972); *Cohen v. Receivable Finance Co.*, 7 Ill. App. 3d 869, 288 N.E.2d 894 (1972); *Briskin v. Briskin Manufacturing Co.*, 6 Ill. App. 3d 740, 286 N.E.2d 571 (1972); *People ex rel. Maeras v. C. B. & Q. R.R.*, 36 Ill. 2d 585, 224 N.E.2d 248 (1967).

¹⁹ 10 Ill. 2d 95, 139 N.E.2d 212 (1956).

²⁰ *Id.* at 99, 139 N.E.2d at 215.

²¹ 40 Ill. 2d 392, 240 N.E.2d 595 (1968).

²² *Id.* at 398-99, 240 N.E.2d at 599. The opinion of the Federal District Court for the Northern District of Illinois which the court took judicial notice of, was that in *Landry v. Daley*, 280 F. Supp. 938 (N.D. Ill., 1968).

²³ 100 Ill. App. 2d 20, 241 N.E.2d 587 (1968).

²⁴ *Id.* at 24, 241 N.E.2d at 589.

²⁵ 307 F.2d 409 (7th Cir. 1962), *cert. denied*, 372 U.S. 909 (1963).

²⁶ 304 U.S. 64 (1938).

²⁷ 307 F.2d 409, 411 (1962).

²⁸ 410 F.2d 365 (1969), *cert. denied*, 396 U.S. 1013 (1970).

District Court for the Northern District of Illinois, and, on review thereof, the United States Court of Appeals for the Seventh Circuit said:

The Court takes judicial notice of a series of legal actions between the Jones' in the Illinois courts beginning in the middle 1950's. Plaintiff-appellant Jones and defendant-appellee Jones were husband and wife and the various actions filed dealt with their marital matters.²⁹

In a recent indemnity action³⁰ wherein plaintiff sought recovery of sums paid in settlement to the estates of four individuals killed in a collision between the car in which they were riding and a truck operated by plaintiff's insured, the court, in a footnote, stated: "Plaintiff failed to introduce the complaints into evidence, but we have chosen to take judicial notice of their contents."³¹

Perhaps the most pronounced indication of the broad scope of judicial notice when applied by reviewing courts in Illinois is the 1971 case of *People v. Siglar*³² wherein the Illinois Supreme Court took judicial notice of an administrative custom:

The State urges that we should take judicial notice that in Randolph County it is the custom to hold only two criminal jury sessions each year — one in the spring and one in the fall — and that when defendant moved to continue his trial from February 24, 1969, it was with full knowledge that he would not be brought to trial until sometime in the fall of 1969. Ours is a unified court system and this court will take judicial notice of its records.³³

Recently, the Supreme Court of Illinois considered judicial notice extensively in *Walsh v. Union Oil Co.*³⁴ The court summarized the application of the doctrine in Illinois by stating:

The plaintiff, citing, *inter alia*, *People ex rel. Winkler v. Chicago and Eastern Illinois Ry. Co.*, 336 Ill. 506, 519, contends that a court cannot take judicial notice of proceedings in cases other than the one before it. While it is often said that courts will not judicially notice the proceedings or the record in another cause, courts have taken judicial notice of other proceedings as where a holding in one cause, with substantially the same parties, is determinative of the pending case. For example, in *Butler v. Eaton*, 141 U.S. 240, 35 L. Ed. 713, 11 S. Ct. 985, the Supreme Court considered an appeal in which the trial court had based the

²⁹ *Id.* at 365-66.

³⁰ *St. Paul Fire & Marine Insurance Co. v. Michelin Tire Corp.*, 12 Ill. App. 3d 165, 298 N.E.2d 289 (1973).

³¹ *Id.* at 171, 298 N.E.2d at 293. See notes 6-9 *supra* and accompanying text which indicate that such an application of judicial notice by an Illinois trial court is prohibited unless the prior pleadings have been admitted into evidence or appended to the pleadings in the instant action.

³² 49 Ill. 2d 491, 274 N.E.2d 65 (1971).

³³ *Id.* at 495-96, 274 N.E.2d at 67; *accord*, *Fox v. Fox*, 9 Ill. 2d 509, 518, 138 N.E.2d 547, 552 (1956).

³⁴ 53 Ill. 2d 295, 291 N.E.2d 644 (1972).

appellant's liability on a judgment in a companion case, which the Supreme Court had subsequently reversed. The court observed that if only the record in the case before it were to be considered, there was no error, but it said that its decision in the other case had rendered void the whole basis of the appellant's defense in the case pending before the court. The court questioned: 'Are we then bound to affirm the judgment and send it back for ulterior proceedings in the court below, or may we, having the judgment before us, and under our control for affirmance, reversal or modification, and having judicial knowledge of the total present insufficiency of the ground which supports it, set it aside as devoid of any legal basis, and give such judgment in the case as would and ought to be rendered upon a writ of error . . . or other proper proceedings for revoking a judgment which has become invalid from some extraneous matter? . . . It is apparent from an inspection of the record that the whole foundation of that part of the judgment which is in favor of the defendant is, to our judicial knowledge, without any validity, force or effect, and ought never to have existed. . . . Upon full consideration of the matter we have come to the conclusion that we may dispose of the case here.'³⁵

Recently, the Appellate Court for the First District summarized the situation as follows:

First, that judges ought not to be more ignorant than the rest of mankind; that courts should at least know what everyone else knows;

Second, that courts must read pleadings as though containing a statement of all matters of which they are required to take judicial notice, even when the pleadings contain express allegations to the contrary; and

Third, that the failure or even refusal of a trial court to take judicial notice of a fact does not prevent an appellate court from doing so.³⁶

Administrative Agency Proceedings

In *Nordine v. Illinois Power Co.*,³⁷ the Supreme Court of Illinois commanded that Illinois reviewing courts take judicial notice of the orders and decisions of administrative agencies. The court said that "[o]rders and decisions of the Illinois Public Utilities Commission (now Illinois Commerce Commission) are public records, (Ill. Rev. Stat. 1963, chap. 111 2/3, par. 8) and as such we take judicial notice of them."³⁸

More recently, in *People ex rel. Newdelman v. Weaver*,³⁹ the Supreme Court of Illinois reiterated that view by applying

³⁵ *Id.* at 299-300, 291 N.E.2d at 647.

³⁶ *Wheeler v. Aetna Casualty & Surety Co.*, 11 Ill. App. 3d 841, 854, 298 N.E.2d 329, 338 (1973).

³⁷ 32 Ill.2d 421, 206 N.E.2d 709 (1965).

³⁸ *Id.* at 428, 206 N.E.2d at 713. *Cf.* *Department of Pub. Welfare v. Bohleber*, 21 Ill. 2d 587, 173 N.E.2d 457 (1961); *Gadlin v. Auditor of Pub. Accounts*, 414 Ill. 89, 110 N.E.2d 234 (1953); *Scotfield v. Bd. of Educ.*, 411 Ill. 11, 103 N.E.2d 640 (1952).

³⁹ 50 Ill. 2d 237, 278 N.E.2d 81 (1972).

the doctrine in accordance with the rule announced in the *Nordine* case:

After the appeal in the matter before us was filed, the Illinois Director, in compliance with the holding in *Figures v. Swank*, issued a directive in which he changed his policy and authorized the furnishing of security deposits in proper cases. Though the directive does not appear in the record here, it can be judicially noticed.⁴⁰

In *American National Bank and Trust Co. v. City of Chicago*,⁴¹ it was held that not only were administrative agency proceedings, orders and decisions matters appropriate to judicial notice, but under certain circumstances, ordinances, decisions and rulings of municipalities were also to be judicially noticed:

In December of 1969, almost a year after the trial in this case, and while this appeal was pending, the plaintiff submitted to the Chicago City Council an application for a change in the zoning classification of the subject property from R-4 to R-5. This application was denied. These facts were made a part of the brief filed by the plaintiff in this Court irregardless [*sic*] of the fact that they were not a part of the record in the trial court proceedings. The obvious reason that these events concerning the additional application were not of record was that they had not yet occurred at the time of trial. The defendant in its brief has responded to the plaintiff's inclusion of these matters. Although this Court may not normally consider matters *de hors* the record, we will, for the purposes of clarity, take judicial notice of this belated application and the action of the City Council thereon. We are able to do this since the ordinances, decisions and rulings of the City Council are matters of public record, and as such this Court may take judicial notice thereof.⁴²

In response to a recent challenge that Illinois courts of review had expanded the scope of judicial notice at the appellate level beyond its proper dimensions, the Illinois Supreme Court, in *Illinois Bell Tel. Co. v. Illinois Commerce Comm'n*,⁴³ stated:

The Commission argues that its orders in those cases which it considered subsequent to its decision of this case are not included in the record, are "dehors the record," are not appropriate subjects of judicial notice, and may not, therefore, be considered by this court. Concerning the Commission's contention that this court may not take notice of its actions in proceedings subsequent to the one under review, we are of the opinion that as a tribunal charged with the duty to review the orders of the Commission this court is not required either by constitutional limitation [or] precedent to perform its judicial functions in a vacuum, and is free to notice those matters which cast light on the issues presented, particularly when, as here, the litigants and numerous *amici* have been given the opportunity to present briefs and argument on the

⁴⁰ *Id.* at 240-41, 278 N.E.2d at 83.

⁴¹ 4 Ill. App. 3d 127, 280 N.E.2d 567 (1971).

⁴² *Id.* at 129-30, 280 N.E.2d at 569.

⁴³ 55 Ill. 2d 461, 303 N.E.2d 364, 368 (1973).

precise question to which the subsequent orders of the Commission relate.⁴⁴

Illinois reviewing courts also take judicial notice of Board of Review decisions as to unemployment compensation⁴⁵ and of the records of the Department of Corrections, Pardon and Parole Board.⁴⁶ In *Mystic Tape v. Illinois Pollution Control Board*⁴⁷ the reviewing court took judicial notice of numerous decisions of the Illinois Control Board.

COMMON LAW AND STATUTES OF OTHER STATES

The Uniform Judicial Notice of Foreign Law Act, which was enacted in Illinois in 1939, provides in section 1 thereof:

Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.⁴⁸

By virtue of the above statute, the Supreme Court of Illinois, in *Moscow v. Mutual Life Insurance Co.*,⁴⁹ took judicial notice of the common law of Pennsylvania. In *Hyatt v. Cox*,⁵⁰ the court said: "The trial court and this court are required by statute to take judicial notice of the case law of our sister states. Ill. Rev. Stats. 1961, c51, § 48b and § 48g."⁵¹

ILLINOIS JUDICIAL NOTICE STATUTE

Section 1 of "An Act in relation to judicial notice" provides:

Every court of original jurisdiction, in addition to the matters of which courts of original jurisdiction have heretofore been required to take judicial notice, shall take judicial notice of the following:

First. All general ordinances of every municipal corporation within the city, county, judicial circuit or other territory for which such court has been established, or within the city, county or judicial circuit from which a case has been brought to such court by change of venue or otherwise.

Second. All ordinances of every county within the county, judicial circuit or other territory for which such court has been established, or within the county or judicial circuit from which a case has been brought to such court by change of venue or otherwise.

⁴⁴ *Id.* at 468, 303 N.E.2d at 368.

⁴⁵ *Roundtree v. Bd. of Review*, 4 Ill. App. 3d 695, 281 N.E.2d 360 (1972). *Accord*, *Huggins v. Bd. of Review*, 10 Ill. App. 3d 140, 294 N.E.2d 32 (1973).

⁴⁶ *People v. Bryan*, 5 Ill. App. 3d 1006, 284 N.E.2d 706 (1972). *See also* *People v. Dupree*, No. 56208, 1st Dist. (decided January 2, 1974).

⁴⁷ No. 58600, 1st Dist. (decided December 28, 1973).

⁴⁸ ILL. REV. STAT. ch. 51, § 48(g) (1973).

⁴⁹ 387 Ill. 378, 56 N.E.2d 399 (1944).

⁵⁰ 57 Ill. App. 2d 293, 206 N.E.2d 260 (1965).

⁵¹ *Id.* at 297, 206 N.E.2d at 262.

Third. All laws of a public nature enacted by any state or territory of the United States.

Fourth. All rules of practice in force in the court from which a case has been transferred by change of venue or otherwise.⁵²

This section of the present Illinois statute is inadequate and should be amended for several reasons.

Home rule under the 1970 Illinois Constitution places county and municipal ordinances on a level almost equal to state statutes.⁵³ Since the Illinois courts take judicial notice of the common law and statutory law of all the fifty states, there is no reason why Illinois circuit courts should not take judicial notice of the ordinances of Illinois counties and municipalities or governmental units outside the geographical boundaries of the court. Likewise, there is no reason why the circuit courts should not take judicial notice of other cases pending or disposed of in their own courts or in other Illinois courts and of administrative decisions and public records in Illinois in precisely the same manner as Illinois reviewing courts do.

Furthermore, where a complaint alleges that the plaintiff is a corporation by virtue of a corporate charter issued on a specified date by the Illinois Secretary of State, the truth of this allegation is to be determined by a public record, which fact can be verified by a telephone call. Why should anything else be necessary to prove this fact? The same is true of a foreign corporation which is licensed to do business in Illinois. The same is true of a security interest recorded with the Illinois Secretary of State under the Uniform Commercial Code or the Illinois Vehicle Code, and, likewise, the same is true of a deed or mortgage recorded in the office of the recorder of deeds in the county. These facts can be verified by merely looking at the original document or a microfilm of it in the appropriate office.

In section 1 of "An Act in relation to judicial notice," quoted above, the "First" and "Second" clauses are too narrow and should be broadened. The "Third" clause is superseded by section 1 of the Uniform Judicial Notice of Foreign Law Act, quoted above. The "Fourth" clause is too limited and should also be broadened.

Section 2 of the Uniform Judicial Notice of Foreign Law Act provides: "The court may inform itself of such laws in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information."⁵⁴ A similar

⁵² ILL. REV. STAT. ch. 51, § 48(a) (1971).

⁵³ See *City of Des Plaines v. Metropolitan Sanitary Dist. of Chicago*, 16 Ill. App. 3d 23, 305 N.E.2d 639 (1973), *rehearing denied*, January 2, 1974.

⁵⁴ ILL. REV. STAT. ch. 51, § 48(h) (1971.)

provision should be included with regard to ordinances, public records and rules of practice.

To bring about the appropriate improvements in the law, the following bill is proposed:

An Act to amend Section 1 of "An Act in relation to judicial notice", approved June 1, 1929, as amended.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1 of "An Act in relation to judicial notice", approved June 1, 1929, as amended, is amended to read as follows:

Sec. 1. Every court of original jurisdiction, in addition to the matters of which courts of original jurisdiction have heretofore been required to take judicial notice, shall take judicial notice of the following:

First. All general ordinances of every municipal corporation within the city, county, judicial circuit or other territory for which such court has been established, or within the city, county or judicial circuit from which a case has been brought to such court by change of venue or otherwise. All ordinances of "municipalities" and of "units of local government" (as defined by Section 1 of Article VII of the Constitution) and of school districts in this State.

Second. All ordinances of every county within the county, judicial circuit or other territory for which such court has been established, or within the county or judicial circuit from which a case has been brought by such court by change of venue or otherwise. All cases pending in or disposed of in any court or administrative agency in this State.

Third. All laws of a public nature enacted by any state or territory of the United States. All public records in this State.

Fourth. All rules of practice in force in the court from which a case has been transferred by change of venue or otherwise, any court or in any administrative agency of this State.

The court may inform itself of the matter to be judicially noticed in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.

The enactment of this proposed bill or one similar to it would help to alleviate the present burden placed on trial courts and result in a more uniform application of the doctrine of judicial notice in both the trial and appellate courts of this state.