

**305 MEASUREMENTS**

There is testimony with reference to both observations and measurements of distances. Testimony based on casual observation or estimate must yield to that based on measurements by disinterested, unimpeached witnesses.

**COMMENT**

This instruction was approved by the Committee in 1960 and revised in 1986. The comment was updated in 1982 and 1986. The comment was reviewed without change in 1989.

Consolidated Papers, Inc. v. ILHR Dep't, 76 Wis.2d 210, 221, 251 N.W.2d 69 (1977); Capital Sand & Gravel Co. v. Waffan Schmidt, 71 Wis.2d 227, 234, 237 N.W.2d 745 (1976); Scalzo v. Marsh, 13 Wis.2d 126, 150, 108 N.W.2d 163 (1961).

The phrase "disinterested and unimpeached" is proper. Jacobson v. Milwaukee, 262 Wis. 256, 260, 55 N.W.2d 1, 3 (1952), citing Wanta v. Milwaukee Elec. Ry. & Light Co., 148 Wis. 295, 298, 134 N.W. 133, 135 (1912); Serkowski v. Wolf, 251 Wis. 595, 601, 30 N.W.2d 223, 226 (1947).

In Milwaukee Trust Co. v. Milwaukee, 151 Wis. 224, 230, 138 N.W. 707, 710 (1912), the word "witnesses" was not qualified.

In Capital Sand & Gravel Co., supra, the court recognized that "in the area of measurement testimony, not only must testimony based on memory or casual observation yield to that which is based on actual measurement but, in addition, it is not to be rejected in the absence of opposing proof." (Citing Serkowski, supra.)