

Sec. 5. In case of vacancy in said office for sixty days or more, a district judge of the county may, on application of any party to any proceeding pending in the superior court enter an order directed to the clerk of that court or his deputy or the acting clerk, directing such clerk to forthwith transmit to said district court the files and exhibits in said cause, together with a certified copy of the record in said cause, and thereupon said cause shall be disposed of in the district court as though originally brought therein.

That section six thousand nine hundred thirty-four (6934) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 6. Question of abolishing court to be submitted. Upon the filing with the city clerk of the petition of two hundred of the qualified electors of any city in which a superior court is now or hereafter established, the mayor shall at least ten days before any general election or election for city officers, issue a proclamation submitting to the qualified voters of said city the proposition to abolish the superior court. The ballots shall be printed in the following form: "Shall the proposition to abolish the superior court of be adopted?", and the election shall be conducted in all respects in accordance with the provisions of the election law.

Approved February 8, 1924.

CHAPTER 146

CIVIL ACTIONS

S. F. 287

AN ACT to amend, revise, and codify section seven thousand one hundred forty-eight (7148) of the compiled code of Iowa, relating to the place of bringing actions.

Be It Enacted by the General Assembly of the State of Iowa:

That section seven thousand one hundred forty-eight (7148) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Section 1. Against construction companies. An action may be brought against any corporation, company, or person engaged in the construction of a railway, canal, telegraph or telephone line, highway or public drainage improvement, on any contract relating thereto, or to any part thereof, or for damages in any manner growing out of the contract or work thereunder, in any county where such contract was made, or performed in whole or in part, or where the work was done out of which the damage claimed arose.

Approved January 4, 1924.

CHAPTER 147

COMMENCING ACTIONS

H. F. 228

AN ACT to amend, revise, and codify sections seven thousand one hundred sixty-three (7163), seven thousand one hundred seventy-one (7171) to seven thousand one hundred seventy-three (7173), inclusive, seven thousand one hundred

eighty (7180), seven thousand one hundred eighty-one (7181), seven thousand one hundred eighty-three (7183) to seven thousand one hundred eighty-five (7185), inclusive, and seven thousand one hundred eighty-nine (7189), of the compiled code of Iowa, relating to the manner of commencing actions.

Be It Enacted by the General Assembly of the State of Iowa:

That section seven thousand one hundred sixty-three (7163) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Section 1. Method of service. The notice shall be served as follows:

1. By reading it to the defendant or offering to do so in case he neglects or refuses to hear it read, and in either case by delivering him personally a copy thereof, or, if he refuses to receive it, offering to do so.

2. If not found within the county of his residence, or if, because of his sickness or other disability, personal service can not be made upon him, by leaving a copy thereof at his usual place of residence with some member of his family over fourteen (14) years of age, or with the person having the care and custody of him, or with the head of the family where he resides.

3. By taking an acknowledgment of the service indorsed thereon, dated and signed by the defendant.

That sections seven thousand one hundred seventy-one (7171) to seven thousand one hundred seventy-three (7173), inclusive, of the compiled Code of Iowa are amended, revised, and codified to read as follows:

Sec. 2. Service on insane person out of hospital. When a defendant has been judicially declared to be of unsound mind and is not confined in any state hospital for the insane, service must be made upon him and upon his guardian, and, if he have none, or if the guardian institutes the action, then upon the spouse, or the person having the care or custody of him or with whom he lives.

Sec. 3. Service of notice upon inmate of certain institutions. Every civil process addressed to any inmate of the department of the state university hospital for the medical and surgical treatment of indigent persons, of the psychopathic ward of said hospital or of any institution in charge of the board of control shall be served upon him, unless otherwise specially provided by law, by the person in charge of the institution of which he is an inmate, in the same manner as original notices are required to be served, and by delivering to him a correct copy of the petition or application. The person serving such process shall make return accordingly in the same manner and with the same effect as sheriffs in other cases. The process shall also be served on the spouse of such inmate if found within the state, but upon the filing of an affidavit that said spouse, after diligent search and inquiry has been made, can not be found within this state, such spouse may be served with notice by publication as in the case of an original notice.

Sec. 4. Service on county. If the county is a party to any action, service of process may be made on the chairman of the board of supervisors or county auditor.

That sections seven thousand one hundred eighty (7180), seven thousand one hundred eighty-one (7181), and seven thousand one hundred eighty-three (7183) to seven thousand one hundred eighty-five (7185), inclusive, of the compiled Code of Iowa are amended, revised, and codified to read as follows:

Sec. 5. Unknown defendants. Where it is necessary to make an unknown person defendant, the petition shall be sworn to and state the claim of plain-

tiff with reference to the property involved in the action, that the name and residence of such person is unknown to the plaintiff, and that he has sought diligently to learn the same. The notice thereof shall contain the name of the plaintiff, a description of the property, the claim of the plaintiff thereto, the relief demanded, the name of the court, and the term in which appearance must be made. Such notice must be entitled in the name of the plaintiff against the unknown claimants of the property and shall be signed by the plaintiff or his attorney.

Sec. 6. Method of publication. The publication must be of the original notice required for the commencement of actions, once each week for four (4) consecutive weeks, before or after the filing of the petition, in some newspaper of general circulation published in the county where the petition is or will be filed, selected by the plaintiff or his attorney.

Sec. 7. When complete - proof. When the foregoing provisions have been complied with, the defendant so notified shall be required to appear as if personally served on the day of the last publication, within the county in which the petition is filed, proof thereof being made by the affidavit of the publisher or his foreman, and filed before default is taken.

That section seven thousand one hundred eighty-nine (7189) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 8. Lis pendens. When any part of real property, the subject of an action, is situated in any other county than the one in which the action is brought, or when the action is brought in the superior court, the plaintiff must, in order to affect third persons with constructive notice of the pendency thereof, file with the clerk of the district court of such county a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the property in that county affected thereby, who shall at once index and enter a memorandum thereof in the incumbrance book, and, from the time of such indexing, the pendency of the action shall be a constructive notice to subsequent purchasers or incumbrancers thereof, who shall be bound by all the proceedings taken after the filing of such notice, to the same extent as if parties to the action. Within two (2) months after the determination of the action, there shall also be filed with such clerk a certified copy of the final order, judgment or decree, who shall enter and index the same as though rendered in that county, or such notice of pendency shall cease to be constructive notice.

Approved March 5, 1924.

CHAPTER 148

PLEADINGS

S. F. 229

AN ACT to amend, revise, and codify sections seven thousand two hundred three (7203), seven thousand two hundred eight (7208), seven thousand two hundred nine (7209), seven thousand two hundred twelve (7212), seven thousand two hundred eighteen (7218), and seven thousand two hundred twenty-two (7222) of the compiled code of Iowa, relating to pleadings.

Be It Enacted by the General Assembly of the State of Iowa:

That section seven thousand two hundred three (7203) of the compiled Code of