

It shall not be sufficient to state the grounds of demurrer in the foregoing terms.

That section seven thousand two hundred twelve (7212) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 8. When any ground of demurrer or of motion to dismiss, as the case may be, does not appear on the face of the petition, cross petition, or counterclaim the issue may be raised by answer or reply.

Sec. 9. Objection raised by answer - arrest of judgment. When any petition, cross petition, or counterclaim fails to state a cause of action, or any answer or reply a defense, advantage may be taken thereof by a motion in arrest of judgment, numbering and specifying the grounds thereof.

Approved January 25, 1924.

CHAPTER 149

EVIDENCE IN CIVIL ACTIONS

H. F. 230

AN ACT to amend, revise, and codify sections seventy-three hundred sixty-two (7362), seventy-three hundred ninety-two (7392) and seventy-three hundred ninety-eight (7398) of the compiled code of Iowa, relating to evidence.

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

That section seventy-three hundred sixty-two (7362) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Section 1. Production of books and papers. The petition for that purpose shall be verified, and must state the facts expected to be proved by such books or papers, and that, as the petitioner believes, such books and papers are under the control of the party against whom the rule is sought, and must show wherein they are material. The rule shall thereupon be granted to produce the books and papers, or show cause to the contrary, if the court deems such rule expedient and proper.

That section seventy-three hundred ninety-two (7392) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 2. Depositions - when taken and by whom. After the commencement of a civil action or other proceeding, if the witness is, or is about to go, beyond the reach of a subpoena, or is for any other cause expected to be unable to attend court at the time of trial, the party wishing his testimony may take his deposition in writing before any person having authority to administer oaths; and if the action is triable by equitable proceedings, then without any other reason therefor either party may so take the deposition of any witness.

That section seventy-three hundred ninety-eight (7398) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 6. Who may act as commissioner. Such commission may issue to any of the following named officers who may be designated in the notice and in the commission, either by the name of office of such officer or by his individual name and official style, to wit:

1. The clerk or any judge of any court of record.
2. Any commissioner appointed by the governor of this state to take acknowledgements of deeds in another state.
3. Any notary public.
4. Any consul or consular agent of the United States.
5. When the witness is in the military or naval service of the United States, any commissioned officer under whose command he is serving, or any commissioned officer in the judge advocate general's department.

Sec. 7. Blank subpoenas - contempt. Any officer or commissioner before whom a deposition is to be taken within the state shall be supplied by the clerk of the district court with necessary blank subpoenas duly signed by such clerk under the seal of such court, which may be served as subpoenas in the district court. Any witness who refuses to obey such subpoena or after appearance refuses to testify shall be reported by the officer or commissioner to the district court of the county where the subpoena was issued or to a judge thereof who shall thereupon proceed as if the refusal had occurred in the district court.

Sec. 8. Commissioner designated by court or parties. Such commission may also issue to any person designated by the court for that purpose or agreed upon by the parties, such person being named in the notice.

Sec. 9. Specification of place of taking. If the commission issue to any officer or person for the taking of the deposition in any of the United States or in Canada, the name of the state or province and county in which the deposition is to be taken shall be specified in the notice and commission; otherwise it shall be sufficient to name the state, territory, or district and town or city.

Approved April 16, 1924.

CHAPTER 150

TRIAL AND JUDGMENT

S. F. 231

AN ACT to amend, revise, and codify sections seven thousand four hundred forty-seven (7447), seven thousand four hundred fifty (7450), seven thousand four hundred fifty-one (7451), and seven thousand five hundred eighty-one (7581) of the compiled code of Iowa, relating to trial and judgment.

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

That section seven thousand four hundred forty-seven (7447) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Section 1. Equitable actions - evidence - trial anew on appeal. In actions cognizable in equity, wherein issues of fact are joined, the court may order the evidence or any part thereof to be taken in the form of depositions, or either party may take depositions as authorized by law, and shall be entitled to a continuance to the second term for that purpose. The evidence in such actions shall be presented on appeal to the supreme court, which shall try such causes anew.

That sections seven thousand four hundred fifty (7450) and seven thousand four hundred fifty-one (7451) of the compiled Code of Iowa are amended, revised, and codified to read as follows: