

January 26, 1951.
Judiciary No. 1.

House File 227
By PALMER.

Passed House, Date
Vote: Ayes..... Nays.....
Passed Senate, Date
Vote: Ayes..... Nays.....
Approved

A BILL FOR

An Act to legalize and validate orders, judgments and decrees entered prior to July 4, 1951, upon service of notice by publication or posting.

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

1 Section 1. In all actions or in proceedings in probate
2 where an order, judgment or decree has been entered prior to July
3 4, 1951, upon service of notice by publication as provided by Rule
4 Sixty (60) of the Iowa Rules of Civil Procedure or any statute
5 authorizing publication of notice and in effect prior thereto, or
6 upon service of notice by publication or posting pursuant to any
7 order, judgment, or decree of any court of competent jurisdiction
8 in the State of Iowa, all such orders, judgments or decrees based
9 thereon are hereby declared valid and of full force and effect, and
10 no action shall be maintained in any court to question such order,
11 judgment or decree unless the claimant, his agent or attorney, or
12 if he be a minor or under legal disability, his guardian, trustee
13 or either parent, shall within one (1) year from July 4, 1951, file
14 in the office of the Clerk of the District Court where such decree
15 or order was entered a statement in writing, duly acknowledged,
16 claiming a good defense to the action or proceeding in which such

17 order, judgment or decree was entered, or that such order, judgment
18 or decree, is void as to such claimant, and stating the facts upon
19 which such claim is based. Such claim shall be entered by the
20 Clerk in the docket record of the action in which the order,
21 judgment or decree was entered or in the probate docket, if such
22 order, judgment or decree shall be in any proceeding in probate,
23 and indexed so as to refer to such order, judgment or decree.

1 Sec. 2. This act shall not affect pending litigation
2 and shall not operate to revive rights or claims previously barred,
3 or permit any action to be brought or maintained upon any claim
4 or cause of action which was barred by rule, law or statute in
5 force prior to July 4, 1951.

EXPLANATION OF H. F. 227

The Supreme Court of the United States in a recent decision known as Mullane vs. Central Hanover Bank & Trust Co., cast doubt upon all of the orders, judgments and decrees of the courts of this state based upon notice by publication or posting where actual notice had not been given to the parties involved. The effect of the Mullane decision has been extensively discussed among judges and lawyers in this state and the Advisory Committee of the Supreme Court has recommended changes in the Rules of Civil Procedure so that they will comply with the standards laid down by the Mullane decision. If such Rules are filed with the legislature and not changed by the legislature, they will become effective July 1, 1951, but it is of the utmost importance that the orders, judgments and decrees of this court entered prior to July 1, 1951, based upon compliance with the practice as it was understood by the Bar and approved by the courts of this state, should be legalized. The purpose of this statute is to validate all such orders, judgments and decrees by providing a period of limitations within which claims may be filed and, if not filed, the orders, judgments and decrees will be valid.