

January 26, 1951.  
Judiciary No. 1.

House File 228  
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, where acceptance of service of notice, delivery of copy thereof or posting or proof of posting was done by an attorney or his agent.

*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 was entered prior to July 4,  
3 1951, upon any notice provided by the Iowa Rules of Civil Procedure  
4 or any other statute authorizing notice and in effect prior thereto  
5 or upon service of notice by publication or posting pursuant to  
6 any order, judgment or decree of any court of competent juris-  
7 diction in the State of Iowa, and the acceptance of service of  
8 any such notice or the delivery of copy thereof or the posting  
9 or proof of posting of any such notice was taken or made by an  
10 attorney or his agent, the service of such notice, delivery of  
11 copy thereof and the posting and proof of posting are hereby  
12 declared valid and of the same force and effect as if such acts  
13 were done by any person competent to perform such acts under the  
14 rules of procedure and the laws and statutes of the State of Iowa

15 at the time thereof, and no action shall be maintained in any  
16 court to question such notice or the validity thereof by reason  
17 of such acceptance, delivery, posting or proof of service unless  
18 the claimant, his agent or attorney, or if he be a minor or under  
19 legal disability, his guardian, trustee or either parent, shall  
20 within one (1) year from July 4, 1951, file in the office of the  
21 Clerk of the District Court where such decree or order was entered  
22 a statement in writing, duly acknowledged, claiming a good defense  
23 to the action or proceeding in which such order, judgment or decree  
24 was entered, and stating the facts upon which such claim is based.  
25 Such claim shall be entered by the Clerk in the docket record of  
26 the action in which the order, judgment or decree was entered or  
27 in the probate docket, if such order, judgment or decree shall be  
28 in any proceeding in probate, and indexed so as to refer to such  
29 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. 228

On December 13, 1950, the Supreme Court of Iowa decided the case of Collinson vs. City of Dubuque construing Rules 52 and 56 of the Rules of Civil Procedure as preventing an attorney or his agent from taking an acceptance of service, and the decision invalidated a notice where the acceptance of service had been taken by an attorney. This decision was contrary to the interpretation which had been generally placed upon the rules by the members of the Bar of this state and many judgments and decrees have been entered in cases where the acceptance of service was handled by the attorney for the plaintiff. The situation is particularly acute in divorce and title matters and the decision casts serious doubt upon the status of many divorced persons and the titles to many pieces of property. The Advisory Committee to the Supreme Court has recommended a change in the rules to take care of the situation in the future and it is the purpose of this Bill to legalize the acceptance of service or the posting of notices by attorneys or their agents prior to July 4, 1951.