TITLE 9
EVIDENCE

CHAPTER 13
RIGHTS AND DUTIES OF WITNESSES

9-1301. ATTENDANCE OF WITNESSES. A witness, served with a subpoena, must attend at the time appointed, with any papers under his control, required by the subpoena, and answer all pertinent and legal questions, and, unless sooner discharged, must remain until the testimony is closed.

[(9-1301) C.C.P. 1881, sec. 977; R.S., R.C., & C.L., sec. 6090; C.S., sec. 8043; I.C.A., sec. 16-1301.]

9-1302. PRIVILEGE OF WITNESSES -- QUESTIONS REQUIRED TO BE ANSWERED. A witness must answer questions legal and pertinent to the matter in issue, though his answer may establish a claim against himself; but he need not give an answer which will have a tendency to subject him to punishment for a felony; nor need he give an answer which will have a direct tendency to degrade his character, unless it be the very fact in issue, or to a fact from which the fact in issue would be presumed. But a witness must answer as to the fact of his previous conviction for felony.

[(9-1302) C.C.P. 1881, sec. 978; R.S., R.C., & C.L., sec. 6091; C.S., sec. 8044; I.C.A., sec. 16-1302.]

9-1303. PRIVILEGE FROM ARREST. Every person who has been, in good faith, served with a subpoena to attend as a witness before a court, judge, commissioner, referee or other person in a case where the disobedience of the witness may be punished as a contempt, is exonerated from arrest in a civil action while going to the place of attendance, necessarily remaining there, and returning therefrom.

[(9-1303) C.C.P. 1881, sec. 797; R.S., R.C., & C.L., sec. 6092; C.S., sec. 8045; I.C.A., sec. 16-1303.]

9-1304. ARREST IN VIOLATION OF PRECEDING SECTION -- CONTEMPT -- CIVIL LIABILITY. The arrest of a witness contrary to the preceding section is void, and, when wilfully made, is a contempt of the court; and the person making it is responsible to the witness arrested for double the amount of the damages which may be assessed against him, and is also liable to an action at the suit of the party serving the witness with the subpoena, for the damages sustained by him in consequence of the arrest.

[(9-1304) C.C.P. 1881, sec. 980; R.S., R.C., & C.L., sec. 6093; C.S., sec. 8046; I.C.A., sec. 16-1304.]

9-1305. LIABILITY OF OFFICER MAKING ARREST. An officer is not liable to the party for making the arrest in ignorance of the facts creating the exoneration, but is liable for any subsequent detention of the party, if such party claim the exemption, and make an affidavit stating:

1. That he has been served with a subpoena to attend as a witness before a court, officer or other person, specifying the same, the place of attendance and the action or proceeding in which the subpoena was issued; and,

2. That he has not thus been served by his own procurement, with the intention of avoiding an arrest.

3. That he is at the time going to the place of attendance, or returning therefrom, or remaining there in obedience to the subpoena.

The affidavit may be taken by the officer and exonerates him from liability for discharging the witness when arrested.

[(9-1305) C.C.P. 1881, sec. 981; R.S., R.C., & C.L., sec. 6094; C.S., sec. 8047; I.C.A., sec. 16-1305.]

9-1306. DISCHARGE FROM ARREST -- WHO MAY GRANT. The court or officer issuing the subpoena, and the court or officer before whom the attendance is required, may discharge the witness from an arrest made in violation of the provisions of this chapter. If the court has adjourned before the arrest, or before application for the discharge, a judge of the court may grant the discharge.

[(9-1306) C.C.P. 1881, sec. 982; R.S., R.C., & C.L., sec. 6095; C.S., sec. 8048; I.C.A., sec. 16-1306; am. 1969, ch. 126, sec. 10, p. 388.]