

Proviso. shall be rendered incompetent by judgment of law, or in the event of his, her, or their removal, so that their testimony cannot be obtained in the ordinary way on trial, may be used as evidence: *Provided*, That nothing herein contained shall be so construed as to prevent any legal exception being made and allowed to the reading of any such deposition, in any trial at law or in equity, in which the same may be introduced as evidence.

Acts repealed. SEC. 14. The act, entitled "An act concerning depositions," approved, April 12th, 1837, as well as all other acts, and parts of acts, which shall come within the purview of, or be repugnant to, this act, be, and the same are hereby, repealed: *Provided*,

Proviso, touching depositions taken under existing laws. That nothing in this act contained shall be so construed as to affect any deposition heretofore taken in conformity with the existing laws, or to affect any deposition or depositions which may be hereafter taken upon interrogatories now filed, or which may be filed before this act shall take effect, or which shall or may be approved by any court in this Territory, so long as the existing laws shall remain in force.

This act to take effect on the first day of April next.

APPROVED, December 19, 1838.

DISTRICT PROSECUTORS.

AN ACT providing for the appointment of District Prosecutors, and defining their duties.

District prosecutor in each judicial district. SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That there shall be a district prosecutor appointed by the Governor, by and with the advice and consent of the Council, in each judicial district in this Territory, who shall hold his office for two years, unless sooner removed, from and after his appointment.

Their duties. SEC. 2. It shall be the duty of the district prosecutor, in each judicial district, to prosecute all pleas, complaints, indictments, and presentments, and prosecute all suits against delinquent sheriffs and collectors of the Territory, and county revenue, and all other persons who now are or may hereafter be indebted to the Territory, or any of the counties in their respective districts, where the Territory or county may

be a party, except in cases where complaint shall be made in the name of the Territory for the benefit of some third person.

SEC. 3. And the said prosecutor, before he enters on the duties of his office, shall take an oath, which oath shall be administered by the district judge of the district for which he may be appointed, faithfully to discharge the duties of his office, which oath it shall be the duty of the district judge to administer, and endorse on the back of the commission; and he shall moreover execute a bond, with security to be approved by the district judge aforesaid, in the penalty of five thousand dollars, payable to the United States, conditioned for the faithful discharge of his duty as prescribed by law, and for the prompt payment of all sums of money that may come to his hands, by virtue of said office, to the person or persons authorized to receive the same; which bond it shall be the duty of the said district judge to take and forward to the office of the Secretary of the Territory to be filed, and suit may be brought on the same for delinquency and defalcation as in case of other civil officers.

SEC. 4. That whenever a vacancy shall happen by the death, resignation, or removal from office, of the prosecutor in any district in this Territory, it shall be the duty of the Governor, upon being notified of the same, to appoint some fit person to fill such vacancy until the next meeting of the Legislative Assembly.

SEC. 5. That the said district attorneys shall give their advice to the civil officers of their respective districts, touching any matter in which the public have an interest; and the said district attorneys shall receive such compensation for their services, as the board of county commissioners of their respective counties shall from time to time deem proper, either as an annual salary, or by making payment on the bills for services rendered, as they shall judge best.

APPROVED, January 15, 1839.

DIVORCE.

AN ACT concerning Divorce.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That divorces from the bonds of matrimony shall be adjudged and

For what causes divorces may be decreed.