

- which shall have been used and exercised for the term of twenty years prior to the commencement of such proceeding, nor shall any proceeding be commenced under this act against any officer to oust him or her from office, unless such proceeding shall be commenced within three years next after the cause of such ouster, or right to hold such office, shall have arisen: *Provided*, That such proceedings under this act may be had, and the same shall not be barred in any of the above cases, if commenced within two years from the passage of this act.
- Actions, when to be commenced.** SEC. 26. Appeals may be taken from the decision of the district court only in cases wherein a corporation is a party to any proceedings under this act, upon such terms as the said district court shall prescribe, but in all cases writs of error may be prosecuted whenever the supreme court or any of the judges thereof, in vacation, upon being presented with a copy of the record, shall certify that there is reasonable cause for the bringing such writ. The said supreme court or judge, in vacation, may impose such terms and conditions upon the party wishing to prosecute such writ of error as to the said court or judge shall seem reasonable and just. The allowance of a writ of error shall operate, after notice thereof, as a stay of proceedings in the district court until the determination, but writs of error, without supersedeas shall issue as writs of right as in other cases.
- Proviso.**
- Appeals, when and to whom allowed.**
- Writs of error, how they shall operate.**
- This act in force, May 1st, 1839.** SEC. 27. This act to take effect, and be in force from and after the first day of May next.
- APPROVED, December 20, 1838.

RECORDERS.

AN ACT relating to the office of Recorder of Deeds, &c.

- Recorder's office in each organized county.** SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That there shall be an office of recorder of deeds, in each and every organized county in this Territory, which shall be called and styled the recorder's office; and said office shall be kept at the county seat of each organized county, and the recorder shall duly attend to the duties of the same, shall provide good, large, well bound books, of royal or other large paper, which shall be paid for out of the county treasury, wherein

he shall record, in a fair and legible hand, all deeds and conveyances which shall be brought to him for that purpose, according to law.

SEC. 2. That every two years there shall be a poll opened, at the annual election, for recorder of deeds for each organized county in this Territory, and the election shall be conducted as other elections for county officers, and the person having the highest number of legal votes, shall receive a certificate of election from the county commissioners' clerk. And after receiving his certificate of election shall, within ten days thereafter, give bond, with two good and sufficient securities, in the penal sum of five hundred dollars, to the county commissioners of the county for which he is elected, and to their successors in office, conditioned for the true and faithful performance of the duties of his office, and to deliver up the records, papers, and effects, to his said office belonging, safe and undefaced to his successor in office; which said respective bonds shall be filed in the office of the clerk of the county commissioners' court for the county for which said recorder is elected, and there safely kept in order to be made use of, for making satisfaction to the parties that shall be aggrieved, as is or shall be directed by law.

Recorder to be elected biennially.

Bond.

Condition.

SEC. 3. And no recorder of deeds, hereafter to be elected as aforesaid, shall enter upon or officiate in his said office before he hath given such security as aforesaid, upon pain of forfeiting the sum of one hundred and fifty dollars, one half to the use of the county, the other for the use of the party complaining, but no record made by such recorder of deeds shall be vacated, or so avoided as to operate against the parties to the instrument recorded, by reason of such recorder not giving such bond.

Penalty for officiating before security be given.

SEC. 4. Every recorder of deeds shall keep a fair book in which he shall immediately make an entry of every deed or writing brought into his office to be recorded, mentioning therein the date, the parties, the place where the lands, tenements, hereditaments, granted or conveyed by the said deed or writing, are situated, dating the entry on the day on which such deed or writing was filed in his office, and shall record all such deeds and writings in regular succession according to the priority of time of their being brought into his said office, and shall also make and keep a complete alphabetical index to each record book, showing the page on which each instrument is

Entry book.

Deeds to be recorded in succession.

Index.

Recorded, with the names of the parties thereto; he shall give a receipt to the person bringing such deed or writing to be recorded, bearing date on the same day as the entry, and containing the abstract aforesaid: *Provided*. That it shall be the duty of all recorders under this act to file immediately all deeds and papers which may be presented to them for record, and they shall note, on the back of the same, the hour and the day when the same were filed.

Fees. SEC. 5. And as a compensation for the duties to be performed by said recorder of deeds, that the following be his lawful fees, which he may demand and collect for recording all deeds, mortgages, and other instruments of writing; for every one hundred words, twelve cents; for copies of the same, when requested, for every one hundred words, twelve cents; for every official certificate, with seal, when requested, twenty-five cents.

Recorders now in office. SEC. 6. But nothing herein contained shall be so construed as to affect or remove from office any recorder of deeds now elected in this Territory, until an election take place in each organized county, either general or special, and the newly elected recorder is sworn into office. That all acts, or parts of acts, now in force in this Territory, relating to the recorder of deeds, be and the same are hereby repealed from the taking effect of this act.

SEC. 7. This act to take effect and be in force from and after the first day of March next.

APPROVED, January 19, 1839.

REPLEVIN.

AN ACT regulating the action of Replevin.

Action of replevin, when, by whom, and for what purpose instituted. SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That where any goods and chattels are wrongfully detained, an action of replevin may be brought for the recovery of such property, by the person entitled to the immediate possession thereof, or, in his name, by any person duly authorized, by him, for that purpose.

Affidavit, when and with whom filed, and what shall be set forth therein. SEC. 2. The writ, in this action, shall not issue without an affidavit of the plaintiff, his agent or attorney, shall have been filed in the office of the clerk by whom such writ is to be issued, stating that such goods and chattels are wrongfully detained by the