

letters, when so certified and produced, shall be conclusive evidence of the ability of such person to institute such suit.

Letters to be recorded.

SEC. 3. Any foreign executor or administrator may produce his letters testamentary or of administration to any court of probate in any county in this territory, wherein there is any estate belonging to the testate or intestate, and have the same recorded therein, and thereafter shall be as fully empowered to administer upon the estate of his testate or intestate within this territory, as if letters testamentary or of administration had been originally granted by some court of probate within this territory.

Empowered to administer.

When to take effect.

SEC. 4. This act to take effect from and after its passage.

Approved December 20, 1839.

[Chap. 7.]

AN ACT to provide for the organization of the county of Delaware, and to locate the seat of justice thereof.

County organized.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the county of Delaware shall be organized for county purposes, as other counties of this territory have heretofore been organized.

Seat of justice.

SEC. 2. The seat of justice of said county shall be located by three commissioners non-residents of said county, which said commissioners shall meet together on or before the first day of May next, eighteen hundred and forty, and forthwith proceed to examine into and determine upon the most eligible point for the county seat of said county, having reference, as far as practicable, to a central situation, and also to the convenience of the present and prospective population.

Commissioners to take oath.

SEC. 3. The said commissioners shall, before they enter upon the performance of their said duties, take and subscribe before some district judge or justice of the peace the following oath, to wit: "I

one of the commissioners appointed to locate the seat of justice in and for the county of Delaware, do hereby swear before Almighty God, the searcher of all hearts, that I will perform the duties imposed by said appointment honestly and faithfully according to the best of my understanding and abilities, and according to the law relative to locating said county seat. And I do further swear as

aforesaid, that I am not interested in said location in any manner whatever, present or in expectancy, but that in locating said county seat, I will be actuated only by a desire for the best interests of said county, without the slightest partiality towards any person or persons, and without any bias from fear, favor or recompense, or the hope of gain or advantage to myself in any respect whatsoever.

SEC. 4. So soon as convenient, not exceeding fifteen days after the location shall have been made, the said commissioners or a majority of them shall make out and return to the governor a full statement or report of the place selected, describing the same as fully as practicable, which report, together with the foregoing affidavits, shall be filed in the office of the secretary of the territory, to remain of public record. ^{Return to be filed.}

SEC. 5. The county shall, so soon as said report shall be filed, be considered as a separate county, and shall have all the privileges and be subject to all laws and provisions now in force or that may be hereafter in force in regard to the counties of this territory, and shall proceed hereafter to elect their county officers at the same time and in the same manner as in other organized counties. ^{To elect officers.}

SEC. 6. The first general election shall be held for the whole county at the houses of Wm. Eads, J. Schwartz and Morland, and thereafter the county shall be divided by the county commissioners elect into precincts at the first regular meeting of their board after said first general election, so as to suit the convenience of the inhabitants generally. And the judges of said election shall seal up and direct the returns of the same to the clerk of the commissioners' court of Du Buque county, and the said commissioners shall proceed to open and canvass the said returns and enter the same upon their records, and shall issue certificates notifying the persons having a majority of votes for the different offices. ^{First election.}

SEC. 7. The commissioners appointed to locate the seat of justice as aforesaid, shall receive three dollars per diem for the time they shall be actually engaged in locating the same, not exceeding ten days, together with three dollars for every twenty miles travel in going and returning to and from said county. ^{Pay of commissioners.}

Commission-
ers appointed.

SEC. 8. S. B. Umstead, of Clayton county, Shadrach Burliston, of Jackson county, and Paul Cain, of Du Buque county, shall [be] and they are hereby appointed commissioners to locate said county seat under the provisions of this act.

Approved December 20, 1839.

[Chap. 8.]

AN ACT to district the county of Henry into three county commissioners' districts.

Districts
defined.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That the said county shall be divided into three county commissioners' districts, as follows, to wit: That all that portion of the county of Henry that is included in range five, shall be known as district number one, and all that portion of said county that is included in range six shall be known as district number two, and that portion of said county which is included in range seven shall be known as district number three.

Mode of elect-
ing commis-
sioners.

SEC. 2. *Be it further enacted,* That at the next general election there shall be elected from district number one, one county commissioner, and that thereafter annually there shall be elected from each district one county commissioner alternately, according to provision of the law regulating general elections.

Approved December 23, 1839.

[Chap. 9.]

AN ACT to authorize evidence by the oath of parties.

Party in suit
witness for his
antagonist.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That either party in any suit in any court within this territory, such suit being founded on contract, may cause the opposite party, or any person of such party, to be subpoenaed as a witness, in the same manner, and with like effect, as any other person. If the party after being personally subpoenaed, fail to attend the trial personally, and such failure be not accounted for, the court may allow the other party to be sworn and examined as a witness in all cases and with like effect as if the subpoenaed party had been personally present and had refused to testify.

Party witness
for himself.