

certificate, stating the name of the killer, the age of the wolf, and the time when killed; and said justice shall receive, for his services above mentioned, twelve and one-half cents. And it shall be the duty of said justice to destroy the scalp upon granting such certificate.

County commissioners to order payment.

SEC. 3. When any certificate granted under the provisions of this act, is presented to the board of county commissioners of the county where the certificate was issued; said board of commissioners shall order that the person presenting said certificate be paid out of the county treasury, the sum to which he is entitled under the provisions of the first section of this act.

Approved January 7, 1840.

[Chap. 28.]

AN ACT to regulate Conveyances.

Person having use to be deemed in lawful seizin.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That when any person becomes seized of any real estate to the use, confidence or trust of any other person, civil, or natural, the person who has such use, confidence or trust in fee simple, for term of life, or of years, or otherwise, or in remainder or reversion, shall be deemed forthwith in lawful seizin, estate and possession of the same real estate, remainder or reversion in such like estates, and after the same quality, manner, form and condition as he is in the use, confidence or trust.

Heirs not necessary to fee simple.

SEC. 2. The term "heirs" or other words of inheritance shall not be necessary to create or convey an estate in fee simple; and every conveyance of any real estate hereafter executed shall pass all the estate of the grantor, unless the intent to pass a less estate shall appear by express terms, or be necessarily implied in the term of the grant.

Subsequent estate to pass.

SEC. 3. If any person shall convey any real estate by a conveyance purporting to convey the same in fee simple absolute, and shall not at the time of such conveyance, have the legal estate in such real estate, but shall afterwards acquire the same, the legal estate subsequently acquired shall immediately pass to the grantee, and such conveyance shall be as valid as if such legal estate had been in the grantor at the time of the conveyance.

SEC. 4. Any person claiming title to any real estate may, notwithstanding there may be an adverse possession thereof, sell and convey his interest therein in the same manner and with like effect as if he was in the actual possession thereof.

SEC. 5. Every interest in real estate granted or devised to two or more persons, (other than to executors and trustees as such) shall be a tenancy in common, unless expressly declared in such grant or devise to be in joint tenancy.

SEC. 6. The words "grant, bargain and sell," in all conveyances in which any estate of inheritance in fee simple is limited, shall, unless restrained by express terms contained in such conveyance be construed to be the following express covenants on the part of the grantor for himself and his heirs to the grantee, his heirs and assigns:

First. That the grantor was, at the time of the execution of such conveyance, seized of an inde-feasible estate in fee simple in the real estate thereby granted;

Second. That such real estate was, at the time of the execution of such conveyance, free from incum-brance done or suffered by the grantor, or any per-son claiming under him;

Third. For further assurance of such real estate to be made by the grantor and his heirs to the grantee, his heirs and assigns, and may be sued upon in the same manner as if such covenants were expressly inserted in the conveyance;

Fourth. Every instrument in writing that con-veys any real estate, or whereby any real estate may be affected in law or equity, shall be acknow-ledged or proved and certified in the manner herein prescribed.

SEC. 7. The proof or acknowledgment of every such instrument shall be taken by some one of the following courts or officers:

First. If acknowledged or proved within this territory, by some court having a seal, or some judge, justice or clerk thereof, or some justice of the peace or notary public of the county in which the real estate conveyed or effected is situated;

Second. If acknowledged or proved without this territory, and within the United States, by any court of the United States, or of any state or terri-tory, having a seal, or the clerk of any such court;

Third. If acknowledged or proved without the United States, by any court of any state, kingdom or empire, having a seal, or the mayor of any city, having an official seal.

Certificate. SEC. 8. Every court or officer that shall take the proof or acknowledgment of any such instrument in writing, or the relinquishment of the dower of a married woman on any conveyance of the real estate of her husband, shall grant a certificate thereof, and cause such certificate to be endorsed on such instrument or conveyance.

How tested. SEC. 9. Such certificate shall be,
First. When granted by a court, under the seal of the court;

Second. When granted by the clerk of a court, under the hand of the clerk and seal of the court of which he is clerk;

Third. When granted by an officer who has a seal of office, under the hand and official seal of such officer;

Fourth. When granted by an officer who has no seal of office, under the hand of such officer.

Grantor to be personally known, or
SEC. 10. No acknowledgment of any instrument in writing that conveys any real estate, or whereby any real estate may be affected in law or equity, shall be taken, unless the person offering to make such acknowledgment shall be personally known to at least one judge of the court, or to the officer taking the same, to be the person whose name is subscribed to such instrument as a party thereto, or shall be proved to be such by at least one credible witness.

Requisites of certificate. SEC. 11. The certificate of such acknowledgment shall state the fact of acknowledgment, and that the person making the same was personally known to at least one judge of the court, or to the officer granting the certificate, to be the person whose name is subscribed to the instrument as a party thereto, or was proved to be such by at least one witness, whose name shall be inserted in the certificate.

Execution how proved. SEC. 12. The proof of the execution of any instrument in writing that conveys any real estate, or whereby any real estate may be affected in law or equity, shall be,

First. By the testimony of a subscribing witness; or,

Second. When all the subscribing witnesses are dead or cannot be had, by evidence of the hand

writing of the party, and of at least one subscribing witness, given by at least two credible witnesses to each signature.

SEC. 13. No proof by a subscribing witness shall be taken, unless such witness shall be personally known, or known, or to at least one judge of the court, or to the officer taking the proof, to be the person whose name is subscribed to the instrument as a witness thereto, or shall be proved to be such by at least two credible witnesses.

SEC. 14. No certificate of such proof shall be granted unless such subscribing witness shall prove that the person whose name is subscribed thereto as a party, is the person who executed the same, that such person executed the instrument, and that such witness subscribed his name thereto as a witness thereof.

SEC. 15. The certificate of such proof shall set forth the following matters:

First. The fact that such subscribing witness was personally known to at least one judge of the court, or to the officer granting the certificate, to be the person whose name is subscribed to such instrument as a witness thereto, or was proved to be such by at least one witness, whose name shall be inserted in the certificate;

Second. The proof given by such witness of the execution of such instrument and of the facts that the person whose name is subscribed to such instrument as a party thereto, is the person who executed the same, and that such witness subscribed his name to such instrument as a witness thereof.

SEC. 16. No proof, by evidence of the hand writing of the party and of a subscribing witness shall be taken, unless the court or officer taking the same shall be satisfied that all the subscribing witnesses to such instrument are dead, or cannot be had to prove the execution thereof.

SEC. 17. No certificate of any such proof shall be granted, unless at least two credible witnesses shall state, on oath, that they personally knew the person whose name is subscribed thereto as a party, well know his signature, stating their means of knowledge, and believe the name of the person subscribed thereto as a party was subscribed by such person, nor unless at least two credible witnesses shall, in like manner, state that they personally knew the

person whose name is subscribed to such instrument as a witness, well know his signature, stating their means of knowledge, and believe the name subscribed thereto as a witness was thereto subscribed by such person.

What to set forth.

SEC. 18. The certificate of such proof shall set forth the names of the witnesses examined, the fact that such witnesses were sworn and the evidence required by the last preceding section to be by them given.

Subpoena.

SEC. 19. Upon the application of any grantee in any instrument in writing required by this act to be recorded, or of any person claiming under such grantee, verified by the oath of the applicant, that any witness to such instrument residing in the county where such application is made, refuses to appear and testify, touching the execution thereof, and that such instrument cannot be proved without his evidence, any court or officer authorized to take the proof of the instrument may issue a subpoena requiring such witness to appear before such court or officer and testify, touching the execution thereof.

Dower how relinquished.

SEC. 20. A married woman may relinquish her dower in any of the real estate of her husband, by any conveyance thereof executed by herself and husband, and acknowledged and certified in the manner hereinafter prescribed.

Same.

SEC. 21. Such relinquishment shall be taken before some court or officer authorized by this act, to take the proof or acknowledgment of instruments in writing, conveying real estate or affecting the same.

Person to be personally known, or

SEC. 22. No such relinquishment shall be taken, unless such married woman shall be personally known to at least one judge of the court, or to the officer taking the same, to be the person whose name is subscribed to such conveyance as a party thereto, or shall be proved to be such by at least one credible witness, nor unless she shall be made acquainted with the contents of such conveyance, and shall acknowledge, on an examination apart from her husband, that she executed the same and relinquished her dower in the real estate therein mentioned freely and without compulsion or undue influence of her husband.

Certificate.

SEC. 23. The certificate of such relinquishment shall set forth that such married woman was per-

sonally known to at least one judge of the court or to the officer taking the same to be the person whose name is subscribed to such conveyance, or was proved to be such by at least one witness, whose name shall be inserted in the certificate, that she was made acquainted with the contents of such conveyance, and acknowledged, on an examination apart from her husband, that she executed the same and relinquished her dower in the real estate there-mentioned, freely and without compulsion or undue influence of her husband.

SEC. 24. A married woman may convey any of her real estate by any conveyance thereof executed by herself and husband, and acknowledged by such married woman, and certified in the manner hereinafter prescribed by some court authorized by this act to take and certify such acknowledgment. Feme covert.

SEC. 25. No covenant expressed or implied in any such conveyance, shall bind such married woman or her heirs, except so far as may be necessary effectually to convey from such married woman and her heirs all her right and interest expressed to be conveyed in such conveyance. Effect of covenants.

SEC. 26. Any court or person authorized by this act to take the proof or acknowledgment of any instrument in writing that conveys any real estate, or whereby any real estate may be affected in law or equity, may take and certify the acknowledgment of a married woman to any such conveyance of her real estate. Acknowledgment.

SEC. 27. No such acknowledgment shall be taken unless such married woman shall be personally known to at least one judge of the court taking the same to be the person whose name is subscribed to such conveyance as a party thereto, or shall be proved to be such by at least one credible witness, nor unless such married woman shall be made acquainted with the contents of such conveyance, and shall acknowledge, on an examination apart from her husband, that she executed the same freely and without compulsion or undue influence of her husband. To be personally known, or

SEC. 28. The certificate of such acknowledgment shall set forth that such married woman was personally known to at least one judge of the court granting the same to be the person whose name is subscribed to such conveyance as a party thereto, or was proved to be such by at least one witness, (whose name shall be inserted in the certificate,) and that Certificate.

she was made acquainted with the contents of such conveyance and acknowledged, on an examination apart from her husband, that she executed the same freely and without compulsion or undue influence of her husband.

Deeds to be recorded.

SEC. 29. Every instrument in writing that conveys any real estate, or whereby any real estate may be affected in law or equity, proved or acknowledged, and certified in the manner above prescribed, shall be recorded in the office of the recorder of the county in which such real estate is situated.

Filing to be notice.

SEC. 30. Every such instrument in writing, certified and acknowledged in the manner herein above prescribed, shall, from the time of filing the same with the recorder for record, impart notice to all persons of the contents thereof, and all subsequent purchasers and mortgagees shall be deemed in law and equity to purchase with notice.

Not valid until.

SEC. 31. No such instrument in writing shall be valid, except between the parties thereto and such as have actual notice thereof, until the same shall be deposited with the recorder for record.

Letters of attorney.

SEC. 32. Every letter of attorney, or other instrument in writing containing a power to convey any real estate as agent or attorney for the owner thereof, or to execute as agent or attorney for another any instrument in writing that conveys any real estate or whereby any real estate may be affected in law or equity, shall be acknowledged or proved, and certified and recorded as other instruments in writing conveying or affecting real estate are required to be acknowledged, or proved, and certified and recorded.

Revocation.

SEC. 33. No such letter of attorney or other instrument certified and recorded in the manner prescribed in the preceding section shall be deemed to be revoked by any act of the party by whom it was executed, until the instrument containing such revocation shall be deposited for record in the same office in which the instrument containing the power is recorded.

Deeds may be evidence.

SEC. 34. Every instrument in writing conveying or affecting real estate which shall be acknowledged or proved, and certified as hereinbefore prescribed, may, together with the certificate of acknowledgment, proof or relinquishment, be read in evidence without further proof.

SEC. 35. Where any such instrument is acknowledged, or proved and certified and recorded in the manner hereinbefore prescribed, and it shall be shown to the court that such instrument is lost, or not within the power of the party wishing to use the same, the record thereof or a transcript of such record, certified by the recorder, under the seal of his office, may be read in evidence without further proof. Deed lost record may be proof.

SEC. 36. Neither the certificate of the acknowledgment or of the proof of any such instrument in writing, nor the record, or transcript of the record of such instrument shall be conclusive, but the same may be rebutted. Not conclusive.

SEC. 37. If the party contesting the proof of any such instrument shall make it appear that such proof was taken upon the oath of an incompetent witness, neither such instrument nor the record thereof shall be received in evidence until established by other competent proof. Incompetent witness.

SEC. 38. The term "real estate," as used in this act, shall be construed as co-extensive in meaning with lands, tenements, and hereditaments, and as embracing all chattles real. Real estate what to include.

SEC. 39. This act shall not be so construed as to embrace within its provisions last wills and testaments. This act to take effect from and after the first day of June next. Not to extend to wills.

Approved January 4, 1840.

[This act was accidentally omitted in the order of its date.]

[Chap. 29.]

AN ACT to incorporate the Philadelphia mill and manufacturing company.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa, That* Hugh W. Sample, and such other persons as may associate with him, are hereby incorporated and to be known by the name of "The Philadelphia mill and manufacturing company." Persons incorporated.

SEC. 2. That said Hugh W. Sample and his associates, their heirs and assigns, be and they are hereby authorized to construct a dam across the Des Moines river, opposite or within twenty chains of the town of Philadelphia, in Van Buren county, which dam shall not exceed three feet in height above To construct dam.