

in contained, shall be so construed as to prohibit the county treasurer from taking auditor's warrants in payment of territorial tax.

SEC. 4. Delinquent list, when and by whom made out. That it shall be the duty of the county treasurer, on the first Monday of March, to make out a list of all persons who shall be delinquent, and return the same, verified by affidavit, to the clerk of the board of county commissioners.

SEC. 5. County treasurer, when and how to settle with the auditor and treasurer of the territory. The county treasurer shall, within thirty days thereafter, settle with the auditor and treasurer of the territory; and he shall deposit with the auditor of the territory, a copy of his delinquent list, certified by the clerk of the commissioners; and the auditor shall thereupon deliver to said treasurer a certificate of the amount to be [53] paid into the territorial treasury by him, which he shall pay in and take receipts therefor as hereinbefore directed.

SEC. 6. Auditor and treasurer not to shave territorial script, penalty for. The territorial auditor and treasurer, shall be, and they are, hereby prohibited from purchasing auditor's warrants, or any other evidence of debt against the territory, for any less sum than the face of such warrants or other evidence of debt, on pain of forfeiture of their respective offices.

SEC. 7. County treasurer not to purchase territorial obligations; penalty for; amount of and how recovered. That no county treasurer shall take or receive any evidence of debt against the territory, in any other way than in payment of territorial tax, and he is hereby prohibited from paying territorial money for any evidence of debt against said territory; and for any violation of the provisions of this section he shall forfeit and pay to the use of the territory any sum not exceeding five hundred dollars, to be recovered before any court having jurisdiction thereof.

SEC. 8. Mileage of county treasurer in making deposits, may transmit money and accounts at his own risk. The county treasurers shall receive five cents per mile for going to and returning from the seat of government, to make their annual settlement with the territorial treasury: provided, that if the territorial tax of any county does not amount to one hundred dollars, the treasurer shall not be allowed any mileage; and he shall have the privilege of transmitting his money and accounts by any safe conveyance he may select at his own risk.

SEC. 9. Repealing clause. That all acts or parts of acts that come within the purview of this act be and the same are hereby repealed.

SEC. 10. Time of taking effect. This act to take effect and be in force from and after the first day of June next.

Approved, 15th February, 1844.

CHAPTER 30.

CONVEYANCES.

AN ACT amendatory of an act entitled, "An act to regulate conveyances," approved February 16, 1843.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. How deed to be made and acknowledged by person out of the territory, to convey property within. That whenever the party executing a

deed or conveyance to property lying within this territory is himself without the territory, such deed may be acknowledged before any court of the United States or before the court of any state or territory having a seal, or the clerk of any such court, or before a notary public.

[54] **SEC. 2. Evidence, what to be competent, in relation to instruments conveying or affecting real estate.** 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. 3. Identity of subscribing witness, proof of. No proof by a subscribing witness shall be taken unless such witness shall be personally known 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. 4. Certificate of proof, when and under what restrictions granted. 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. 5. Repealing clause. The twelfth, thirteenth, fourteenth, and fortieth sections of the act of which this is amendatory, be and the same are hereby repealed.

Approved, 15th February, 1844.

CHAPTER 31.

MILITIA.

AN ACT amendatory of an act entitled, "An act to organize, discipline, and govern the militia of this territory," approved July 31, 1840.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. Repealing clause. That section three of title three; section fifteen of article second, title six; section seven of title eight; article first of an act entitled "An act to organize, discipline and govern the militia of this territory," approved July 31st, 1840, and so much of all acts or parts of acts which now require militia drills, musters, trainings, inspections or reviews, in time of peace, be and the same are hereby repealed.

SEC. 2. Assessor to return the names of those subject to duty; clerk to make abstract and return it to adjutant general. That it shall be the duty of assessors in the several counties in this territory, at the time they return their assessment rolls, to return to the clerk of the board of county commissioners the names of all able bodied males, between the ages of eighteen and forty-five [55] years, resident in each township or precinct in their respective counties; and it shall be the duty of said clerks to make out and return forthwith to the adjutant general of this territory complete abstracts of the number of such able bodied males, which abstracts the said adjutant general shall file and carefully preserve in his office.