

partiality or favor, or otherwise contrary to law, the person so giving, and the officer so receiving any money, bribe, goods, chattels, lands and real estate, present, reward, promise, contract, obligation or security, with interest, or for the purpose or consideration aforesaid, shall be deemed guilty of bribery, and on conviction shall be punished as is heretofore provided for in the first section of this act.

SECTION 3. This act to be in force from and after its passage, and all acts and parts of acts that contravene the provisions of this act are hereby repealed.

Approved January 18, 1838.

### No. 78.

AN ACT to amend an act entitled "an act concerning the supreme and district courts and defining their jurisdiction and powers."

Cause to be continued unless commenced 90 days before the term.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That in all actions hereafter to be brought, in any of the district courts of this territory, a trial shall not be had at the first term (except by the consent of the parties) unless the writ shall have been issued and served, at least ninety days before the first day of the term to which the same is returnable; and the declarations filed at the time of the issuing of the writ: *provided,* that nothing herein contained shall be so construed as to prevent a continuance for good cause.

Approved Jan. 19, 1838.

### 79.

AN ACT relating to strays.

When stray must not be taken up.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That no person shall take up any unbroke animal as a stray between the first day of April and the first day of No-

member, unless the same be found within his lawful enclosure; nor shall any person at any time take up any stray unless it be found on his plantation.

SECTION 2. If any horse, gelding, mare, mule or ass, liable to be taken up, come to any person's plantation, any other person may notify him of the fact, and if he fail to take up such stray for more than ten days after such notice, any other person of the same county may take up such stray, and proceed with it as if taken up upon his own plantation, except that he shall produce to the justice of the peace proof of the service of the notice. Qualification.

SECTION 3. If any person take up any stray of any kind, and it be not claimed and proved, he shall within ten days take it before a justice of the peace of the county, and make oath that it was taken up on his plantation, and that the marks and brands have not been since altered, to his knowledge. Proceedings on taking up a stray.

SECTION 4. If required the justice shall issue a summons to three disinterested householders to appear and appraise the stray.

SECTION 5. The householders, or two of them, shall take an oath that they will fully, fairly and impartially appraise the same, and their appraisement embracing a description of the size, color, age, mark and brands of the stray, shall be entered by the justice in a book kept by him for that purpose.

SECTION 6. The justice shall within ten days furnish the taker up with a certified copy of the entry on his stray book, whose duty it shall be to transmit the same to the clerk of the board of county commissioners.

SECTION 7. The justice of the peace shall give to the taker up, a written statement of the duties required by law to be performed by such taker up.

SECTION 8. And it shall be the duty of the taker up, to advertise at three of the most public places in the township in which the stray is posted.

SECTION 9. The clerk of the board of county commissioners, immediately after receiving the certificate of any stray from the justice, shall record the same in a book to be kept for that purpose. Duty of clerk.

SECTION 10. Such clerk shall keep in some conspicuous place in his office a list containing a brief description of each stray, the name and residence of

the taker up, and the time at which it was taken up, and shall enter such description of each stray on the list as soon as the certificate is filed in his office. Any part of said list may be removed when it has remained one year.

Of secretary of  
the territory.

SECTION 11. The secretary of the territory shall select and contract with one printer on the east side of the Mississippi river to print all advertisements of strays required by law to be published on that side of the river and another printer on the west side of that river to print all such advertisements of the west side of that river.

SECTION 12. The secretary of the territory, immediately after contracting with any printer, shall notify the clerk of each board of county commissioners on that side of the river of the name and residence of the printer, and the price of advertisements.

Duty of printer.

SECTION 13. Such printer shall once in each month, issue a newspaper or printed sheet in which he shall give one insertion to all advertisements of strays sent to him, and shall send one copy of such monthly sheets to the clerk of each board of county commissioners on his side of the river.

SECTION 14. Such clerk shall receive, file, and preserve, in his office all such papers sent to him for the inspection of all persons who desire to examine them.

SECTION 15. Such printer shall receive, for each advertisement, a sum agreed upon by the secretary of the territory, in the contract, not to exceed seventy-five cents.

Contracts for  
printing to be  
renewed an-  
nually.

SECTION 16. The secretary shall contract for the printing as soon as this law goes into effect, and such contract shall terminate and be renewed on the first day of January annually; and vacancies in the office of printer shall be filled by the secretary of the territory by new contracts, as soon as he shall have given reasonable notice to all the printers in the district.

SECTION 17. If the owner of any stray horse, mule, or ass, do not prove them according to law, within twenty days from the time the same was taken up, the person taking it up shall pay the clerk all fees, the necessary postage, and the price of advertisement, and the clerk shall immediately transmit by mail or otherwise to the proper printer a copy of the appraisement

of the stray, and shall account to the printer for all money received for him.

SECTION 18. Any person may use or work a stray, legally taken up by him, if he do so with care and moderation and not abuse or injure it. Stray may be worked.

SECTION 19. The owner of any stray may, within one year from the time of taking up, prove the same by evidence before a justice of the peace, and upon the payment of all costs, the reward and a reasonable allowance for keeping the same, he shall be entitled to receive the stray. If the owner and taker up cannot agree in the amount of such allowance, it shall be settled by some justice of the peace, who shall take into consideration the trouble and expense of the taker up, and whatever use or service he may have had of such stray. Owner must claim his property within one year.

SECTION 20. If the owner fail to comply with the preceding section for one year after the time of taking up, and the taker up shall have complied with this law, a complete title to such stray shall vest in the taker up. or it will vest in the taker up,

SECTION 21. If after the end of one year from the taking up, the owner shall appear and prove such stray and pay all costs and expenses as above provided, the taker up shall pay him the appraisement price of the stray, or at his option may deliver him the stray. If the owner claim after a year.

SECTION 22. If any stray legally taken get away, or die, without the fault of the taker up, he shall not be liable for the same.

SECTION 23. Any person who shall take any head of neat cattle, sheep, hog, or goat, shall, within ten days thereafter, unless it shall have been previously claimed, and proven, by the proper owner, and a tender made of the compensation allowed, go before some justice of the peace of the township or county, and make oath as is required in the taking up of a stray horse. And such taker up shall cause two householders of the township to view such stray, and go with him before said justice. They being first sworn shall describe and appraise such strays as is required in the case of a horse, &c., except that the taker up shall not be required to publish the same in a newspaper, but shall advertise the same in three of the most public places in the township in which strays are taken up, and on failure of the claimants appearing in one year Proceedings on taking up less valuable animals.

and satisfying the costs of posting, and fees allowed for taking up, a reasonable compensation for keeping such strays, to be ascertained by two disinterested householders, the taker up shall have a complete title to such property.

Liability of  
taker up.

SECTION 24. If any person sell, or barter, or take out of this territory, any stray, before the legal title shall have been vested in him, he shall forfeit to the county double the value of such stray, and forfeit and pay to the owner double its value.

SECTION 25. If any person unlawfully take up any stray, at any place except at his plantation, or take up any stray, and fail to comply with this act, or use or work such stray in any manner contrary to this act, or use or work it before having it appraised, or shall keep the same more than ten days out of the county at any one time before he acquires title to the same, such offender shall forfeit to the county twelve dollars.

SECTION 26. If any person take up any stray, and violate or fail to comply with this act, or abuse or injure such stray, the owner may receive of him double the amount of all injury sustained with costs.

SECTION 27. If any printer, clerk or justice of the peace, fail to perform the duties enjoined on him by this act, he shall forfeit to the county not less than five, nor more than fifty dollars, and pay to the party injured not less than five nor more than one hundred dollars, to be recovered before any court having competent jurisdiction.

Clerk's fees.

SECTION 28. The clerk shall receive the following fees for his services in relation to strays: for recording each certificate of an estray, thirty-seven and one-half cents; for recording each certificate of an appraisal, thirty-seven cents, whether such certificate contain a greater or less number of animals.

Justices' fees.

SECTION 29. The justice of the peace shall receive the sum of thirty-seven and one-half cents for each certificate of strays, taken up or appraised before him, and shall put in one certificate all the animals taken up by any one person.

When horse  
may be gelded.

SECTION 30. That it shall and may be lawful for any person or persons, to take up and geld at the risk of the owner, any stoned horse of the age of two years and upwards, that may be found running at large out of the enclosed ground of the owner, or keeper; and if

the said horse should die, the owner shall have no recourse against the person or persons, who shall have taken up and gelded, or caused to be gelded, the said horse, if the same has been done by a person professing his knowledge as a gelder, and the owner shall pay the price of so gelding.

SECTION 31. It shall not be lawful for any person <sup>Qualification.</sup> or persons, to geld any horse above fourteen and one-half hands high, that is known to be kept for covering mares, but if any owner or keeper of the covering horse, shall willfully and negligently suffer said horse to run at large out of the enclosed ground of the owner or keeper, any person may take up said horse, and convey him to his owner or keeper, for which he shall receive two dollars, recoverable before any justice of the peace of the county; for a second offense double the sum, and for third offense said horse may be taken up and gelded as is provided in the preceding section of this act.

SECTION 32. All acts or parts of acts heretofore passed which are in force in this territory relating to strays are hereby repealed.

Approved January 19, 1838.

## No. 80.

AN ACT to incorporate the trustees of Milwaukee academy.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That there shall be, and hereby is established, in the village of Milwaukee, in the county of Milwaukee, an academy or public school for the education of youth, in the English and other languages, and in useful arts, sciences and literature, by the name, style and title of the Milwaukee academy. That John P. Hilton, Eli Bates, Allen W. Hatch, William N. Gardner, Elisha Store, Daniel H. Richards, Wm. R. Laughstreet, Samuel Hinman and Jeremiah Lander, be and they are hereby constituted a body corporate and politic, to be known by the name of "the trustees of the Milwaukee academy," and by that name, they and their suc- <sup>Name and powers of the incorporation.</sup>