

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 ^{Qualification.} 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 All acts or parts of acts heretofore passed which are in force in this territory relating to strays are hereby repealed.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- ^{Name and powers of the incorporation.}

cessors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in courts of law and equity, and in all actions and matters whatsoever, may grant, purchase, receive and hold, property real and personal, and may lease, sell and dispose of the same for the benefit of the said academy, and may do all other acts as natural persons, may have a common seal, and may break and alter the same at pleasure. That the corporate powers and duties of said academy shall be vested in nine trustees after the term of office of the herein named trustees shall have expired, to wit: on the first Monday in January, A. D. eighteen hundred and thirty-nine, and to be chosen and appointed as hereinafter directed, who shall form a board for the transaction of business.

Trustees.

Trustees, how elected.

SECTION 2. The members composing the board of trustees, shall be elected annually on the first Monday in January as hereinafter provided. No person shall be allowed to be a trustee, or to vote unless he be a citizen of said county, and shall have subscribed and paid to the funds of said academy, the sum of ten dollars. The vote shall be given by ballot, and at the first election each ticket shall be labeled on the outside, "*trustees of Milwaukee academy,*" and at the first election, shall contain the names of nine persons. And the nine having the greatest number of votes and being qualified according to the provisions of this act, shall be the trustees for the ensuing year. The said trustees shall by lot divide themselves into three classes of three each. The term of office of the first class shall expire in one year after their election, that of the second in two years, and that of the third in three years; and after the first election but three trustees shall be elected annually. The board of trustees shall have power to fill vacancies, to appoint their president, who shall be one of the elected trustees, and they shall have power to enact such by-laws as may be necessary, not inconsistent with the constitution and laws of the United States or of this territory, and five of said trustees shall constitute a quorum, and a quorum may, in the absence of the president, appoint a president *pro tempore*. The president shall be appointed yearly. The said board of trustees shall appoint a secretary and treasurer yearly, but they

Their powers.

President.
Secretary and
treasurer.

shall have power to remove either whenever a majority of the board shall think it proper. The treasurer shall, before he commences the duties of his office, give a bond to said corporation, with one or more good sureties, to be approved by a majority of the managers, for a penal sum, double the estimated amount, for the time being, of the funds of the corporation, conditioned for the performance of the duties enjoined, and the repayment of moneys received by him. Bend.

SECTION 3. The treasurer shall receive and hold all moneys belonging to the institution and pay the same only to the order of the board, signed by the president and secretary or by a majority of the trustees; and he shall keep fair accounts thereof to be open at all reasonable hours for the inspection of all persons who may have contributed to the funds of said institution. And the said trustees and treasurer shall annually in the month of January exhibit their books, vouchers and accounts of every kind, before the auditors of the county of Milwaukee, to be settled and adjusted in the same manner as the accounts of county commissioners are or shall be by law directed to be settled, and any balance found due the institution shall be entered of record, and shall become a lien, and be collected in the same manner and under the same restrictions as balances found due from county treasurers, saving to the accountant and the corporation, the same right to appeal; every trustee or treasurer who shall neglect or refuse to exhibit his books, accounts and vouchers, as aforesaid, shall forfeit the sum of fifty dollars, to be recovered as debts of a similar amount are now by law recoverable in any action (brought by a person qualified to vote for trustees) in the name of said corporation, one-half to be recovered for the use of the academy, and the other half for the use of the prosecutor. Regulation of the fiscal concerns.

SECTION 4. Any and all property or money which may be granted or in any wise directed by the owner thereof, to be appropriated to the use of the institution hereby established, is hereby vested in said corporation. Liability of the treasurer.

SECTION 5. That the board of trustees shall appoint all officers that they may think necessary to carry into effect the provisions of this act, and shall be Further powers of the trustees.

judges of the qualifications, elections and returns of their own members, and shall hold and conduct the elections at such time and place, and in such manner and form as they may think advisable, agreeable to the foregoing provisions of this act.

SECTION 6. All by-laws, ordinances and proceedings of the corporation, shall be fairly and regularly entered into a book, to be kept for that purpose, and no misnomer of the said corporation shall defeat or annul any gift, grant, devise or bequest to the same, nor shall any nonuse of the rights, liberties, privileges, jurisdiction and authority, hereby granted to the said corporation, create, or in any wise cause a forfeiture thereof, and all property belonging to said corporation shall be exempt from taxation.

Approved Jan. 19, 1838.

No. 81.

AN ACT concerning costs and fees.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That in all civil cases at law, unless otherwise provided, the party in whose favor judgment is given shall recover costs; and the supreme court, district and justices courts respectively, may give or refuse costs at their discretion upon all motions.

SECTION 2. In all prosecutions in the name of the United States or of any individual, for the breach of any law of this territory, where judgment is rendered against the defendant such defendant shall be liable for the costs.

SECTION 3. From and after the passage of this act the fees and compensation to the several officers, and other persons hereinafter mentioned shall be as follows, and no more, viz.:

Clerk's fees. In the supreme court and in the district courts of the territory, the clerk's fees in cases to which the same apply respectively. For issuing and sealing every writ not comprising more than three hundred words, sixty-two and a half cents.

Losing party to pay costs.

When discretionary with the court.

In criminal prosecutions.

Compensation as herein prescribed.