

## No. 10.

**AN ACT** to authorize and require the board of county commissioners of the county of Crawford to levy a series of taxes, and to defray the expense of building a bridge across the Marrais of St. Frio, in said county.

WHEREAS, in accordance with a law of this territory, approved December 3, 1836, entitled "an act to authorize the board of supervisors of the county of Crawford to build a bridge and levy a tax to pay for the same," the said board of supervisors have contracted for the building of the bridge contemplated in said act; and whereas a single tax as authorized only by said act, is found to be insufficient to defray the expense of building said bridge; therefore,

**SECTION 1.** *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That the board of supervisors of the county of Crawford, be and the same is hereby authorized and required to levy and cause to be collected, a series of taxes, from year to year, each tax not to exceed one half of one per cent. on all the real and personal property subject to taxation in said county, until the expense of building said bridge be wholly defrayed.

**SECTION 2.** This act to be in force and effect from and after the passage thereof.

Approved December 26, 1837.

## No. 11.

**AN ACT** to prevent forcible entry and detainer.

**SECTION 1.** *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That no person or persons shall hereafter make an entry into lands, tenements, or other possessions but in cases where entry is given by law; and in such cases, not with strong hand, nor with multitude of people, but only in a peaceable and easy manner; and if any person from henceforth do to the contrary, and thereof be duly convicted, he shall be punished by fine. <sup>Forcible entry punished by fine.</sup>

Definition of forcible entry and detainer.

SECTION 2. If any person shall enter upon or into any lands, tenements, or other possessions, and detain and hold the same with force, or strong hand, or with weapons, or breaking open the doors, or windows, or other part of a house, whether any person be in or not; or by threatening to kill, maim, or beat, the party in possession, or by such words, or actions as have a natural tendency to excite fear, or apprehensions of danger, or by putting out of door, or conveying away, the goods of the party in possession, or by entering peaceably, and there turning out, by force, or frightening by threats, or other circumstances of terror, or in any other way, that would be a forcible entry, or detainer, at common law, the party out of possession, in such case every person so offending, shall be deemed guilty of a forcible entry and detainer within the meaning of this act.

SECTION 3. That a justice of the peace shall have authority to inquire, by jury, as hereafter directed, as well against those who make unlawful and forcible entry, into lands, tenements, or other possessions, and with strong hand detain the same, as against those who having lawful and peaceable entry into lands, tenements, and other possessions, unlawfully and by force detain the same. And if it be found upon such enquiry, that an unlawful and forcible entry hath been made, and that the same lands, tenements, and other possessions, are held, and detained, by force and strong hand, or that the same, after a lawful entry, are held unlawfully, and with force and with strong hand, then such justice shall cause the party complaining to have restitution thereof.

Restitution when made.

Mode of proceeding to obtain it.

SECTION 4. That when any complaint shall be formally made in writing, to any justice of the peace of the proper county, signed by the party aggrieved, his agent, or attorney, specifying the lands, tenements, or other possessions, so forcibly entered and detained, by whom, and when done, it shall be the duty of the said justice to issue his summons, directed to the sheriff, or any constable of his county, commanding him to summon the person or persons against whom the complaint is made to appear, before such justice, at a time and place to be stated in such summons, not more than twelve, nor less than six days, from the time of issuing such summons, and which shall be served at least

five days before the return day thereof, by reading the same to the defendant, or leaving a copy at his place of abode; and the said justice shall also issue a precept, to the sheriff, or any constable, commanding him to cause to come before him the said justice, twelve discreet men, of lawful age, and who shall be qualified to serve as jurors, on trials, in district courts of the vicinity, at the same time and place, appointed for the trial or hearing of the said complaint; and if a sufficient number of persons summoned do not appear, the said justice may order the sheriff or constable to complete the number, by returning others forthwith. And the jury empaneled, shall be sworn well and truly to try the forcible entry or detainer, complained of, and to return a true verdict thereof. And if the jury, after a full hearing, find the person against whom the complaint is made, guilty of the forcible entry or detainer, complained of, they shall all sign their verdict, and deliver the same to the said justice, who shall thereupon enter judgment for the complainant, to have restitution of the premises, and shall impose such fine not exceeding           dollars, considering all the circumstances, as he may deem just, and shall tax the costs for the complainant, and may commit the person against whom judgment is so entered, until the fine and costs be paid, and the said justice shall award a writ of restitution. But if the jury find, that the person complained of is not guilty, the complaint in their opinion not being supported, the said justice shall tax the costs against the complainant, and issue execution accordingly.

SECTION 5. And if the jury summoned, and empaneled, as aforesaid, cannot agree upon a verdict, the justice, before whom the trial is pending, may discharge the same, if in his opinion they are not likely to agree upon a verdict, and issue a summons returnable forthwith, for the purpose of empaneling a new jury.

When jury to  
be discharged.

SECTION 6. The sheriff, or constable, shall return to the said justice, the summons and precept as aforesaid, on the day assigned for trial, and shall state, on the back of said summons, how the same was served, and on the back of said precept a list of the names of the jurors. And if the defendant does not appear, the justice shall proceed to try the said cause *ex parte*,

Trial *ex parte*  
when defendant  
does not appear.

or may in his discretion postpone the trial, for a time, not exceeding ten days. And the said justice shall also issue subpoenas, for witnesses, and proceed in the trial of said cause, as in other cases of trial by jury.

Treble-damages recoverable.

SECTION 7. That the complainant of any forcible entry, or detainer, as aforesaid, who shall recover against the person complained of, as aforesaid, shall also be entitled to recover treble damages, with costs of suit, by an action of trespass against the offender or offenders, to be brought before the court having jurisdiction thereof: *provided always*, that nothing in the foregoing part of this act, shall be construed to extend to any person or persons, who have had the quiet, peaceable and uninterrupted occupation of any lands, tenements or other possessions, otherwise than by demise or lease, for the period of three whole years, next before the entering of such complaint; any thing in this act to the contrary notwithstanding.

Persons, holding over, how proceeded against.

SECTION 8. That when any person shall wilfully, and with force, hold over any lands, tenements or other possessions, after the determination of the time for which they are demised or let, to him, or her, or to the person under whom he or she claims, or contrary to the conditions or covenant of the lease or agreement, under which he, she or they hold, or holds; or when any person wrongfully, or without force, by disseizing, shall obtain, and continue, in possession of any lands, tenements, or other possessions, and after demand made in writing for the delivery of the possession thereof, by the person having the legal right of such possession, his agent or attorney, shall refuse or neglect to quit such possession, upon complaint thereof to a justice of the peace, said justice shall proceed to hear, try, and determine the same, in like manner, as in cases of forcible entry and detainer, and issue a writ of restitution accordingly: *provided always*, that the justice shall have no power to assess a fine on the party complained of.

Within three years.

SECTION 9. That the preceding section, shall not extend to any person, who has or shall have continued in possession three years, after the termination of the time for which the premises were demised, or let, to him, or her, or those under whom he or she claims; or to any person who continues in possession three

years quietly, and peaceably, by disseizure, any thing therein contained to the contrary notwithstanding.

SECTION 10. That the complainant shall be entitled to any action of trespass against the person complained of, and who shall be found guilty on the trial, and may recover treble damages from the time of notice given to quit the premises, and until that time damages only.

SECTION 11. If either party shall feel aggrieved by <sup>Appeals.</sup> the verdict of the jury, or the decision of the question, on any trial had under this act, such party, within sixty days thereof, may have an appeal to the district court, to be obtained in the same manner, and tried in the same way as appeals from justices of the peace in other cases: *provided, however,* that in no cases, shall an appeal operate as a supersedeas, to any writ of restitution that may be issued by said justice; and the district court, on giving judgment to the appellent, shall award a writ of restitution, and execution for costs, including the costs before the justice; and if judgment be for the defendant, he shall recover costs in like manner and have execution for the same.

Approved, Dec. 26, 1837.

## No. 12.

AN ACT to locate the seat of justice of Rock county, in this territory.

SECTION 1. *Be it enacted by the council and house of representatives of Wisconsin territory,* That from and after the first day of July next, the seat of justice of Rock county, shall be, and the same is hereby established on the fraction of land, on the east side of Rock river; it being a part of the northwest quarter of section thirty-six, in town three north, of range twelve east, of the fourth principal meridian.

Approved, Dec. 27, 1837.