

by the master, owner, agent, or consignee of any boat or vessel sued under this act, the court or justice of the peace may grant continuance of the cause; but no such continuance shall operate as a discharge of such boat or vessel from the custody of the sheriff or constable.

Continuance not to discharge the boat.

SECTION 18. No continuance of a cause under this act shall be granted to the plaintiff.

SECTION 19. Sheriffs, constables, and other officers shall receive the same fees and compensation for their services under this act as are allowed them in cases of suits of attachment.

Fees.

SECTION 20. In all cases arising under this act if judgment shall have been rendered in favor of a plaintiff, the master, owner, agent or consignee of the boat or vessel, or other person interested, may appeal from the judgment, or sue out a writ of error, as if they or either of them had been sued.

Appeals.

SECTION 21. All actions against a boat or vessel under the provisions of this act, shall be commenced and sued within six months after the cause of such action shall have accrued: *provided*, that one year shall be allowed for the commencement of suits under this act in any of the counties bordering upon Lake Michigan.

Limitation of actions.

Approved Jan. 15, 1838.

## No. 51.

AN ACT concerning debtors and their securities.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin*, That when any person bound as security by bond, bill, note or otherwise, for the payment of money or performance of a contract, shall apprehend that the principal debtor, for whom he is bound, is likely to become insolvent or migrate from this territory, without previously satisfying or discharging such debts due, demand, or obligation, so that it will become impossible, or difficult, for such security after paying, satisfying or discharging such debts due, or demand, to recover the

The security on a note, &c. may require the holder to prosecute when due.

value thereof from such principal debtor, it shall be lawful for such security, if action shall have accrued on any such contracts, as aforesaid, to require by notice in writing his creditor forthwith to put the bond, bill, note, or other contracts by which he is bound as aforesaid in suit; who shall, within reasonable time, commence an action and proceed with due diligence to judgment and execution thereon; and if such creditor shall fail or neglect to proceed as aforesaid, the said surety shall be discharged from the performance of said contract.

Legal representatives to have the same power.

SECTION 2. That the provisions of this act shall be extended to the heir, executor, or administrator of any deceased security, against the creditor or his assignee, executor or administrator, upon his compliance with the first section of this act; but nothing herein contained, shall be construed to extend to the official bonds of public officers, guardians, executors, administrators, or bonds with collateral conditions.

When security to have judgment on motion.

SECTION 3. That when any security, his heirs, executors, or administrators, pays or discharges the debt or contract of his principal, or part thereof, upon judgments rendered against him, he shall have judgment to recover the value or amount so paid or discharged, together with the interest and cost, upon motion in the court, where such judgment may have been rendered against such security, his heirs, executors, or administrators of such principal debtor, his heirs, executors, or administrators.

When co-sureties shall contribute.

SECTION 4. That in case where there are two or more sureties to any bond, bill, note or contract, and one or more of such sureties are subjected by judgment of any court to the payment of the debt or damage by default of the principal obligor, and such obligor be insolvent, so that the amount or value thereof, cannot be recovered of him, the court before whom such judgment may be rendered, shall upon motion of such surety, or sureties, grant judgment that they recover against all and every other co-sureties, their heirs, executors and administrators, for their, and each of their respective shares, and proportions, of the amount or value of such judgment, with damages and costs.

SECTION 5. That no surety, his heir, executor, or administrator shall be suffered to confess, or suffer

judgment by default, so as to distress his principal, if such principal will enter himself defendant to such suit, and tender to such surety or his legal representatives, aforesaid, good collateral security, to be approved by the court before whom such suit is depending.

When surety not allowed to confess judgment.

SECTION 6. That when the special bail of any judgment debtor, shall be indemnified by the payment of such judgment, or part thereof, it shall be lawful for such bail, his executor, administrator or heir, to recover the amount of such payment with interest and costs, upon motion in the same court where judgment was rendered against such bail, or his legal representatives, of the said debtor, his heirs, executors or administrators.

When bail to have judgment upon motion.

SECTION 7. That in all proceedings by motion under this act, ten days notice of such motion shall be given to the person against whom such judgment is to operate.

Ten days' notice to be given.

Approved January 12, 1838.

---

## No. 52.

AN ACT to locate and establish a territorial road, from Fort Howard to Fort Winnebago, on the west side of Fox river, and for other purposes.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That David Johnson, William Dickinson, R. M. Eberts, William White, William Powell, Corwell Pyre and Nathaniel Perry, be and they are hereby constituted, a board of commissioners to lay out and establish Territorial roads, as follows, to wit:

Commissioners appointed.

First—beginning at the mouth of Twin river on lake Michigan, thence up the west branch of said river to Neshoto, thence on the nearest and best route to the village of Green Bay, on the east side of Fox river. Second—beginning at the mouth of Kewaunee river of lake Michigan, thence the most eligible route to Rouse's farm on Green Bay. Third—beginning at Depere on the east side of Fox river, thence on the most eligible route to the mouth of the Manitowoc river,

Location of the several roads.