

thereafter be disposed of as other ferries are under the laws regulating ferries: *Provided*, That nothing in this act shall be so construed as to interfere with the right that any individual may have on either side of said river. Rights saved.

APPROVED, January 25, 1839.

## FORCIBLE ENTRY AND DETAINER.

AN ACT to prevent forcible entry and detainer.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That no person or persons shall hereafter make any 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. Fine for forcible entry.

SEC. 2. If any person shall enter upon or into any land, 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 apprehension of danger, or by putting out of door, or conveying away the goods of the party in possession, or by entering peaceably and then 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. Forcible entry and detainer within the meaning of this act.

SEC. 3. That a justice of the peace shall have authority to enquire 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 Authority to enquire by jury.

Restitution.

Mode of proceeding in cases of forcible entry and detainer.

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.

SEC. 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 the 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 fifty 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.

SEC. 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.

SEC. 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 do not appear, the justice shall proceed to try the said cause *ex parte*, 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.

SEC. 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, anything in this act to the contrary notwithstanding.

SEC. 8. That when any person shall wilfully and with force hold over any lands, tenements, or other possessions, after the termination 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

When jury may be discharged.

Return of process.

If defendant do not appear, trial *ex parte*.

Treble damages by action of trespass.

To what case foregoing provisions shall not extend.

Proceedings against persons holding over.

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.

Proviso.

Cases to which the preceding section is not to extend.

SEC. 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, anything therein contained to the contrary notwithstanding.

Action of trespass.

SEC. 10. That the complainant shall be entitled to an 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.

Party aggrieved may appeal to district court.

SEC. 11. If either party shall feel aggrieved by the verdict of the jury, or the decision of the question, on any trial had under this act, such party, within twenty 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 case 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 for the appellant, 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.

Proviso.

APPROVED, January 25, 1839.

## GAMING.

AN ACT to prevent and punish gambling.

Gambling debts collectable.

SEC. 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That all promises, notes, bills, bonds, covenants, contracts, agreements, judgments, mortgages, or other securities or conveyances made, given, granted, or entered into,