DAILY EMPIRE.

The Under Dog in the Fight.

BY DAVID BARKER.

I know that the world, that the great big world,
From the peasant up to the king,
Has a different tale from the tale I tell,
And a different song to sing.

But for me—and I care not a single fig,
If they say I am wrong or am right—
I shall always go for the WEAKER dog;
For the under dog in the fight.

I know that the world, that the great big world,
Will never a moment stop
To see which dog may be in the fault,
But will shout for the dog on top.

But for ME, I never shall pause to ask
Which dog may be in the right;
For my heart WILL beat, while it beats at all,
For the UNDER dog in the fight.

Perchance what I've said I had better not said,
Or 'twere better I had said it incog.;
But with heart and with glass filled chuck to the brim,
Here's a health to the BOTTOM dog.

THE SETTLER AND HIS SERVANT.

A TALE OF WESTERN VIRGINIA.

BY EMERSON BENNETT.

(CONTINUED.)

Hastily staggering to the nearest tree, Mr. Parker now set his back against it, and drew his rifle, for the foremost and stood as it were at bay. Perceiving this, and knowing too well the certainty of the white man's aim—and also feeling themselves secure of the prize, and therefore not caring to throw away a single life—the Indians immediately took shelter behind different trees and began to reload their pieces.

To remain where he was Mr. Parker saw now would be certain death in a few moments, wounded as he was, and continually growing weaker from loss of blood. It was vain to think of flight; and yet, with death staring him in the face, and an almost maddening desire, for self preservation, equally for his family's sake as his own, he felt that something ought to be tried for his salvation, though ever so helpless the attempt.

Looking quickly and searchingly about he perceived about ten paces distant an immense thicket, and believing if he could reach that his chances of life would be increased—as the savages could not make their aim sure without actually entering—he gathered all his strength and nerve for the effort, and ran forward to the spot, falling in the midst of the bushes just in time to escape two balls of the enemy, which at the same moment whizzed over his head. Seeing him fall and supposing their last shots had proved fatal, the two savages who had just fired, uttering yells of triumph, darted out from behind the trees, and flourishing their scalping knives, bounded forwarded to the thicket; but ere they reached it, Mr Parker, who had succeeded in getting upon his knees, and his rifle to bear upon the fore most, pulled the trigger.

There was a flash, a crack and a yell at the same moment, springing some three feet clear of the earth, the Indian fell back dead, at the very feet of his companion, who suddenly stopped, uttered a howl of dismay, and seeming undetermined whether to advance or retreat.

That momentary hesitation proved fatal to him also; for the negro who had been all this time feigning death, but was really unharmed, now thinking there might be a possibility of escape clutched one of his own axes nervously, made two sudden bounds forward, the distance being about ten feet, and before the astonished warrior had time to put himself on his guard, brought the glittering blade down like lightning, cleaving the savage through skull and brain, and laying him a ghastly and bleeding corpse beside the other.

'Dar take dat, you tievin red nigger,' shouted Tom with an expression of demoniac fierceness, 'take dat are! an don't say nuffin more 'bout shootin down white gemmen.'

The words were hardly uttered, when crack went the rifle of the other two savages one grazing the left cheek of the negro and the other causing the right ear to tingle.

'Great golly!' cried Tom, 'dar dat was most near being the finishing ob dis child, but as you isn't got no more loads in you, you old varminters,' he added shaking his fist in the direction of the savages, 'spos'n you doesn't shoot any more afore us gemmen does.'

Then seizing the guns of the two slain warriors, rushed into the thicket, where Mr. Parker lay concealed, exclaiming—

'Mars Jonas, hope you isn't dead yet, but two ob de Injuns are, and here I is wid dar two guns, dat only wants suffin in em to blow de oder two to de debil.'

'Ah Tom,' groaned Mr. Parker, as he lay on the ground making every effort to raise his rifle which his failing powers would permit. 'Thank God you have escaped. I feared that you had been killed at the first fire.'

'Not 'zactly dat time, Mars Jonas, but dis nigger was dreadfully skeered, dats de trufe, and seein you drap tought I'd just make 'em believe I's dead too, and would never know nuffin more during dis life. But when I seed you get away and shoot dat rascal dar, and de oder stop so 'stonished to look at him I concluded I'd quit playing de possum, and git up an do suffin, an I did it—dats trufe. 'An Mars Jonas,' he pursued bending down by his side and speaking in a very sympathetic tone, 'You is hurt bad—very bad—I know you is—and I's berry sorry; but you know I said dar was Injun eyes in the bushes.'

'You did, Tom, and had I then hurried immediately homeward it is possible I might have escaped though it is equally probable that the Indians were on the watch to take us at advantage, in which case the result might have been no better than it is. Oh! that I was at home with my family! for they must have heard the firing here and be terribly alarmed, or if not they may have been off their guard successfully attacked by another party, for it is more than likely that these few have not ventured here by themselves. 'Ah! God forbid!' he ejaculated the next moment fairly starting to his knees, 'that they should have been attacked and murdered first! But no, for then I think we should have heard their cries, and then the savages would have wrapped the house in flames. I must go home, Tom—oh! must get home! but how? how?'

'Why, Mars Jonas of you'll jest let dis nigger tote you on his back he'll fetch you there.'

'But what of the other Indians, Tom? have they died or no?'

'Doesn't know—but guess dey am—I axed one of dem to stop—as he did—but guess the oders didn't want to.'

[CONCLUDED IN OUR NEXT.]

Adultery, Patricide and Suicide.

The Vicksburg True Southron, of the 5th inst., has the following account of a dreadful tragedy in Mississippi:

"A gentleman from Washington county has informed us of one of the most shocking affairs, including patricide and suicide, that ever come to our knowledge. It appears that two brothers named William and Thomas Buford, have been residing near Bogue Phalia, in Washington county, for some time past. The elder, William Buford, had a pretty wife, with whom the younger brother, Robert, became madly infatuated. A criminal intercourse had been carried on between the two for some time, but growing weary of the restraint imposed by the presence of the injured husband, the younger determined to add to his crime the damning one of fratricide. On Wednesday evening of last week the outraged husband and brother was murdered, and on the Sunday following the murderer committed suicide by taking strychnine. The misguided wife of the murdered man, with two children are left the sole memorials of this chapter of horrors.

Honesty, says Jerrold, without harpness in this world is like a sword without edge or point—very well for show, but of no real use to the owner.

LAWS OF OHIO.

Published by Authority.

[No. 69.] AN ACT

Supplementary to an act entitled "An Act for the Jurisdiction and Procedure before Justices of the Peace, and of the duties of Constables in Civil Courts," passed March 14, 1853.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That if the defendant in any action before the justice shall appeal from any judgment rendered in favor of the plaintiff in such action, and after having filed his transcript and caused such appeal to be docketed; according to the provisions of the act to which this is supplementary, the plaintiff in such action shall fail to file a petition, or otherwise fail to prosecute the same to final judgment, it shall be lawful for the defendant in such action to file his answer setting up whatever claim or demand he may have against such plaintiff, and may prosecute the same to final judgment, in which case if the defendant shall recover judgment against the plaintiff, all costs which have accrued before the justice, and in the appellate court, shall be adjudged against such plaintiff, or he may, on motion to the court, suffer judgment to be entered against him for the amount of judgment below, in which case all costs which have accrued before the justice and in the appellate court, shall be adjudged against such defendant.

Sec. 2. This act shall take effect and be in force from and after its passage, and its provisions shall apply to all appeals now pending.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

[No. 70.] AN ACT

To amend Section 22 of an act passed March 7 1831, entitled "An Act Directing the mode of trial in Criminal Cases."

Section 1. Be it enacted by the General Assembly of the State of Ohio, That section twenty-two of an act entitled "an act directing the mode of trial in criminal cases," be and the same is hereby amended so as to read as follows: Sec. 22. In all prosecutions for crimes and offences, it shall be the duty of the clerk, upon a praecipe being filed therefor, to issue writs of subpœna for any person in this State whose testimony may be deemed material on the trial, and may direct the same to the sheriff or coroner of the county of which he is clerk, or of any county of this State, where said witness may reside or be found, who shall serve and return said writ as in other cases, or such officer, by writing endorsed on said writ, may depute any disinterested person to serve and return the same.

Sec. 2. That section 22 of the above recited act be and the same is hereby repealed.

Sec. 3. That this act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

[No. 71.] AN ACT

Supplementary to an act entitled "an act to provide for the creation and regulation of Incorporated Companies in the State of Ohio," passed May 1st, 1852.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That whenever any number of persons, as named in the first section of the act to which this act is supplementary, associate themselves together for the purpose of engaging in the improvement of horses, asses, mules, cattle, sheep or swine, they shall, under their hands and seals, make a certificate specifying the amount of capital stock necessary, the amount of each share, the name of the place where such association shall be located, the name and style by which such association shall be known; which said certificate shall be acknowledged, certified and forwarded to the secretary of state, recorded and copied, as is provided in the second section of the said act to which this act is supplementary; and the said certificate shall also be recorded by the recorder of every county in which said company may be formed to carry into effect the provisions of this act, in a book to be kept for said purpose, and when so incorporated, they are hereby authorized to carry out the objects named in said certificate of incorporation, and by the name and style provided in said certificate, shall be deemed a body corporate, with succession; and they and their associates, successors and assigns, shall have the same general corporate powers as are provided in the third section of the act to which this act is supplementary, and subject to all restrictions in said act not inconsistent with the provisions of this act.

Sec. This act shall take effect from and after its passage.

WILLIAM B WOODS,
Speaker of the House of Representatives,
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

[No. 72.] AN ACT

Supplementary to an act entitled "an act to incorporate the State Bank of Ohio and other Banking Companies," passed February 24, 1845.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That whenever a receiver shall have been or shall hereafter be appointed pursuant to the 41st section of the act to which this is amendatory, a certificate by the clerk of the proper court of the appointment of such receiver shall be sufficient authority to him to take possession of the books, property, rights, credits, and effects of every description of the independent banking company, in respect of which he is such receiver, and shall be full authority to the sheriff of the county where such banking company is located, to give such receiver full possession of such books, property, rights, credits, and effects with the aid of the county if required so to do, by such receiver.

Sec. 2. Whenever the said receiver shall have reason to believe that any such banking company has issued notes of circulation in violation of the act to which this act is an amendment, or that such banking company is entitled to any rights, credits, or effects, which have been improperly taken by any officer, employee, or stockholder thereof, or any other person, and which are in the hands of the taker or any other person or persons, to whom the sums may have been transferred, or into whose hands the same may have otherwise come, it shall be the duty of such receiver to investigate fully all the facts and circumstances touching such transaction, and for that purpose he is hereby authorized, if he deem it necessary and proper to do so, to issue subpœnas for any persons found within the country, where such subpœnas shall be issued, commanding them to attend before him at a time and place, in such county, to be designated in the subpœna, to testify, touching such matters as may be enquired of them by the receiver, and such subpœna shall be served by the sheriff of such county, and the receiver may also insert in such subpœnas, a clause requiring the production before him of such books and papers as may be designated therein, and he shall have the same power to enforce obedience to such subpœnas, and to punish for disobedience thereto and for refusing to testify in such case, that justices of the peace are clothed with in all cases of subpœnas issued by them.

Sec. 3. Such receiver may institute suit in his own name as such receiver, for all rights, credits and effects, belonging to such banking company, in either the court of common pleas or superior court of Franklin county; and upon such suit being instituted, he shall file in such court a report of his doings, together with the testimony taken up to that time as such receiver, and all the testimony shall stand in all respects as the testimony taken by a master duly appointed in such case, and any party to the suit may except to any part of such report, and ask a new reference, or take further testimony, and the court shall have full power to proceed on the case, as it may deem proper as in other cases after reference and report made by a master. Provided, that nothing herein contained shall be held to deprive any party to such suit of trial by jury where such party would have been entitled to a jury trial, if the receiver had filed no such report.

Sec. 4. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

[No 73] AN ACT

To authorise the sale of surplus copies of the laws, journals, and executive documents.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That whenever, in any county in this State, the laws, journals and executive documents ordered by law to be distributed have accumulated, or shall accumulate beyond the number required for immediate distribution, and for the probable future wants of such county, the county commissioners shall authorise the clerk of the court of common pleas of said county to dispose of gratuitously to all public libraries within the county as may be desired by them for library purposes, and to sell such surplus copies at public sale, at such time and place and upon such previous notice as they may require. The clerk shall pay all moneys arising from such sales into the county treasury, and all such moneys shall be considered a part of the general revenue of the county. This act shall take effect upon its passage.

WILLIAM B WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

[No 74.] AN ACT

To amend section one of the act entitled "An act to amend section 66 of an act entitled an act to provide for the creation and regulation of Incorporated Companies in the State of Ohio," passed March 4, 1853.

Section 1: Be it enacted by the General Assembly of the State of Ohio, That section one of the act entitled "An act to amend section sixty-six of an act entitled 'an act to provide for the creation and regulation of incorporated companies in the State of Ohio' passed March 4, 1853, be and the same is hereby so amended as to read as follows: Sec. 1: That from and after the passage of this act it shall be lawful for any religious sect, denomination or association, fire company, or any literary, scientific or benevolent association, other than colleges, universities, academies or seminaries, within this State to elect at a meeting of a majority of any organized synod, presbytery church parish or other religious or ministerial association, fire company, literary scientific or benevolent association aforesaid any number of their members not less than three to serve as trustees or directors, and one member as clerk, who shall hold their office during the pleasure of the society or association, provided that where by the laws or regulations of any such synod, presbytery, church, parish or other associations aforesaid, now or hereafter organized, any members thereof less than three have charge of the property or concerns thereof, such members and their successors shall be invested with the powers, privileges and immunities granted to trustees and directors, of religious and other societies, by the provisions of the act entitled an act to provide for the creation and regulation of incorporated companies in the State of Ohio, passed May 1, 1852, and the acts amendatory thereof, upon their being recorded by the recorder of the county in which such synod, presbytery, church, parish or other association shall be located, a proper certificate of the election of such members and the corporate name adopted by such synod, presbytery, church, parish, or other association, to be made by their clerk, secretary or other like officer, which certificate shall be recorded by such recorder in the manner provided in section sixty-seven of the act entitled "an act to provide for the creation and regulation of incorporated companies in the State of Ohio," passed May 1, 1852.

Sec. 2. That the act entitled "an act to amend section sixty-six of 'an act to provide for the creation and regulation of incorporated companies in the State of Ohio,'" passed March 4, 1853, be and the same is hereby repealed, provided that all rights, powers and immunities acquired thereunder shall not be affected thereby, and that this act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

[No. 76.] AN ACT

To amend the second section of "an act to provide for the uniform government and better regulation of the Lunatic Asylums of the State, and the care of Idiots and the Insane."

Section 1. Be it enacted by the General Assembly of the State of Ohio, That the second (2d) section of "an act to provide for the uniform government and better regulation of the lunatic asylums of the State, and the care of idiots and the insane," passed April 7, 1856, be so amended as to read as follows: Sec. 2. The following counties shall compose the northern district, which shall be attached to the northern lunatic asylum, located at Newburgh, to wit: Williams, Fulton, Seneca, Wood, Ottowa, Sandusky, Lucas, Erie, Huron, Lorain, Medina, Cuyahoga, Summit, Lake, Geauga, Portage, Ashtabula, Trumbull, Mahoning and Columbiana.

The following counties shall compose the central district, and be attached to the central lunatic asylum, located at Columbus, to wit: Stark, Wayne, Fayette, Madison, Union, Marion, Hardin, Wyandot, Crawford, Morrow, Delaware, Franklin, Pickaway, Ross, Pike, Jackson, Vinton, Hocking, Fairfield, Lawrence, Licking, Knox, Richland, Ashland, Holmes, Coshocton, Muskingum, Perry, Morgan, Athens, Meigs, Gallia, Washington, Noble, Guernsey, Tuscarawas, Carroll, Harrison, Jefferson, Belmont, Hancock and Monroe.

The following counties shall compose the southern district, and be attached to the southern lunatic asylum, located at Dayton, to wit: Scioto, Adams, Brown, Clermont, Clinton, Green, Clark, Warren, Montgomery, Miami, Butler, Preble, Darke, Mercer, Shelby, Auglaize, Allen, Van Wert, Highland, Champaign, Logan, Paulding, Putnam, Defiance and Henry.

If, at any time, either of said asylums cannot accommodate the patients of the district to which it is attached, said patients may be transferred to the asylum of either of the other districts which may at the time have room for said patients, said transfer to be made with the consent of the resident trustees of the two asylums.

Sec. 2. Said original section two is hereby repealed. This act shall take effect and be in force from and after the certificate required by the first section of the act entitled "an act to constitute the county of Hamilton a separate district for lunatic asylum purposes, and provided for the erection and government of an asylum therein," passed March 10, 1857, shall have been filed by the commissioners of Hamilton county with the secretary of State.

WILLIAM B WOODS,
Speaker of the House of Representatives,
E. BASSETT LANGDON,
President, pro tem. of the Senate.

March 14, 1859.

[No. 82.] AN ACT

To enable Associations of Persons, for the Improvement of any Mineral or Medicinal Springs in Ohio, to become Bodies Corporate.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That any number of natural persons, not less than five, may become a body corporate, with all the rights, privileges and powers conferred, and subject to all the restrictions of this act.

Sec. 2. That any number of persons as aforesaid associating themselves together for the purpose of improving any of the mineral springs in the State of Ohio, and making the same a proper and suitable place for the reception and accommodation of invalids and other visitors, shall under their hands and seals make a certificate, which shall specify as follows: First—The name assumed by such company or association, and by which it shall be known. Second—The number of mineral or medicinal springs to be improved as aforesaid, and place where situated. Third—The amount of capital stock necessary, and the amount of each share thereof. Such certificate shall be acknowledged before a justice of the peace, or other proper officer and shall be forwarded to the Secretary of State, who shall record and carefully preserve the same in his office; and a copy thereof duly certified by the Secretary of State, under the great seal of the State of Ohio, shall be evidence of such corporation or company.

Sec. 3. That when the foregoing provisions have been complied with, the persons named as corporators in said certificate, are hereby authorized to carry into effect the objects named in said certificate, in accordance with the provisions of this act, and they and their associates, successors and assigns, by the name and style provided in said certificate, shall thereafter be deemed a body corporate, with succession, with power to sue and be sued, plead and be impleaded, defend and be defended, contract or be contracted with, acquire and convey, at pleasure, all such real and personal estate as may be necessary and convenient to carry into effect the objects of the incorporation; to make and use a common seal, and the same to alter at pleasure, and do all needful acts to carry into effect the objects for which it was created; and such company shall possess all the powers, and shall be subject to all the rules and restrictions of this act.

Sec. 4. Any company or association, organized for the purposes aforesaid, shall have power to take by purchase or otherwise, and hold such real and personal property and estate, as may be deemed necessary for successfully commencing and conducting the business of the association, and shall have power to lease, sell or convey, or mortgage the same, or a part thereof, in such manner and for such purpose as may be prescribed by the rules and regulations of the company, and not inconsistent with the laws of this State. And said company shall also have power to deal in the transportation and sale of the mineral waters yielded by their springs, and to manufacture glass and other vessels for holding the same; to engage in quarrying stone, marble or slate; mining coal, ores and other minerals situated on their lands, and manufacturing the same, in whole or in part, and to erect and provide buildings for the accommodation of visitors and others frequenting said spring or springs, and to demand and receive compensation from said person or persons.

Sec. 5. The annual meeting of the stockholders of such companies shall be held on the first Tuesday of May in each year, at which meeting the directors of the company shall be elected, and such other lawful business done as the stockholders shall deem necessary and proper; and should they fail to elect directors at their annual meeting, they shall hold a special meeting at some subsequent time thereafter for the purpose, by giving thirty days notice thereof in some newspaper in general circulation in such county. The directors shall hold their offices until their successors are chosen and qualified; but no person shall be a director after ceasing to be a stockholder. Immediately after the elections of directors, they shall elect one of their number president of the corporation, and may appoint such other officers and agents as they may deem proper to transact their business and prescribe the amount of compensation to be allowed them for their services; and such officers and agents, or either of them, when required by the by laws, shall give bonds to the satisfaction of the directors or president, as the by laws may direct, for the faithful discharge of the trusts committed to them; shall have power and are hereby authorized to make such rules, regulations and by-laws, as may be necessary for their regulation, not inconsistent with the constitution of this state. The directors shall have the general management of the affairs of the company, and may dispose of the residue of the capital stock at any time remaining unsubscribed, in such manner as the stockholders for the time being may prescribe, and shall employ the capital and means of the company as they shall deem best for the company, in carrying on the business fo. which it was organized, and the erecting of proper buildings, and the improvement of their grounds and other proper purposes connected with and pertaining to the said business of the company, subject always to the control of the stockholders; they shall cause a record to be kept of all stock subscribed and transferred, and of all business transactions, and their books and records shall at all reasonable times be open to the inspection of any and every stockholder, they shall also, when required, present to the stockholders, reports in writing, of the situation and amount of business of the company, and declare and make such dividends of the profits from the business or the company, not reducing the capital stock while they have outstanding liabilities, as they shall deem expedient.

Sec. 6. The persons named in said certificate of incorporation, or a majority of them shall be commissioners to open books for the subscription to the capital stock of said company, at such times and places as they shall deem proper, and the said company are authorized to commence operations upon the subscription of ten per cent of said stock.

Sec. 7. An installment of twenty dollars on each share of stock shall be payable at the time of making the subscription, and the residue thereof shall be paid in such installments and at such times and places, and to such persons, as may be required by the directors of such company.

Sec. 8. All stockholders of any such association or joint stock company shall be deemed and held liable to an amount equal to their stock subscribed in addition to said stock for the purpose of securing the creditors of said company.

Sec. 9. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 16, 1859.

[No. 83] AN ACT

Amendatory of the twelfth section of the act to provide for laying out and establishing Free Turnpike Roads, passed March 12, 1845.

Section 1. *Be it enacted by the General Assembly of the State of Ohio*, That the twelfth section of the act entitled "an act to provide for laying out and establishing free turnpike roads," passed March 12, 1845, be and the same is hereby so amended as to read as follows: Section 12. The commissioners of all free turnpikes shall be allowed and paid for their services one dollar and fifty cents per day, each, while actually employed in the necessary business of such roads; and when any vacancy shall happen in such board, by death, resignation, or otherwise, the commissioners of the county in which such vacancy may occur, on being notified thereof, shall fill the same as often as any such vacancy shall occur.

Sec. 2. The twelfth section of said act is hereby repealed. This act shall take effect and be in force from and after its passage.

WILLIAM B WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

[No. 84.] AN ACT

To provide for the working of unfinished Turnpike Roads by Supervisors of the Highways.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for the supervisors of the several road districts within this state, to apply such portion of labor, or money, as they may deem reasonable and just, upon any unfinished turnpike road within their respective road districts, when the same is used by the public free of toll; Provided that the directors of any unfinished turnpike road shall first give their consent to the trustees of the township in which such unfinished turnpike road or roads is located.

Sec. 2. That upon any turnpike road company giving their consent to the trustees of the township, in writing, it shall be the duty of the trustees to issue their order to the several supervisors through whose districts such unfinished turnpike road is located, for them to apply the work and money as provided in the first section of this act.

Sec. 3. This act to be in force from its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

[No. 85.] AN ACT

To prohibit the carrying or wearing of concealed weapons.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That whoever shall carry a weapon or weapons concealed on or about his person, such as a pistol, bowie knife, dirk, or any other dangerous weapon, shall be deemed guilty of a misdemeanor, and on conviction for the first offence shall be fined not exceeding two hundred dollars, or imprisoned in the county jail not more than thirty days; and for the second offence, not exceeding five hundred dollars, or imprisoned in the county jail not more than three months, or both, at the discretion of the court.

Sec. 2. If it shall be proved to the jury, from the testimony on the trial of any case presented under the first section of this act, that the accused was, at the time of carrying any of the weapon or weapons aforesaid, engaged in the pursuit of any lawful business, calling, or employment, and that the circumstances in which he was placed at the time aforesaid, were such as to justify a prudent man in carrying the weapon or weapons aforesaid for the defense of his person, property or family, the jury shall acquit the accused.

Sec. 3. This act to take effect and be in force from and after the first day of April next.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

[No 87.] AN ACT

Amendatory to an act, entitled "an act to provide for the organization of cities and incorporated villages, passed May 3, 1852.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That original section sixty three of an act entitled an act to provide for the organization of cities and incorporated villages, passed May 3, A. D. 1852, be so amended as to read as follows:—Sec. 63. The city council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons within the city, and shall cause the same to be kept open, and in repair, and free from nuisances. No street or alley, which shall hereafter be dedicated to public use by the proprietor of ground in any city, shall be deemed a public street or alley, or to be under the care or control of the city council, unless the dedication shall be accepted, and confirmed by an ordinance specially passed for such purposes; they shall have the power to prescribe by ordinance the width of the tires of all wagons, carts, drays, and other vehicles, used in the transportation of persons or articles from one part of the city to another, or in the transportation of coal, wood, stone, lumber, or iron, into the city; to establish stands for hackney coaches, cabs, and omnibusses, and to enforce the observance and use thereof, and to fix the rates and prices for the tranportation of persons and property in such coaches, cabs and omnibusses, from one part of the city to another.

Sec. 2. That original section sixty three of the act to which this is amendatory be and the same is hereby repealed, and this act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

[No. 88.] AN ACT

To provide for locating, establishing and constructing ditches, drains and water courses.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That the county commissioners of any county shall have power, at any regular session, whenever, in their opinion, the same is demanded by or will be conducive to the public health, convenience or welfare, to cause to be established, located and constructed, as hereinafter provided, any ditch, drain or water course within such county.

Sec. 2. That before the county commissioners of any county shall take any steps towards locating or establishing any ditch, drain or water course, there shall be filed with the county auditor a petition from one or more persons owning lands adjacent to the line of such proposed ditch, drain or water course, setting forth the necessity of the same, with a description of its proposed starting point, route and terminus, and shall, at the same time, file a bond with good and sufficient sureties to the acceptance of the county auditor conditioned to pay all expenses incurred, in case the commissioners shall refuse to grant the prayer of the petition, and it shall be the duty of the county auditor immediately thereafter to place a correct copy of the said petition in the hands of the county surveyor or a competent engineer, who shall thereupon, taking with him the necessary assistance, proceed to make an accurate survey of the route of such proposed ditch, drain, or water course, and on the completion thereof, shall return a plat or plat and profile of the same to said county auditor, and shall also set forth in his return a description of the proposed route, its availability and necessity, with a description of each separate tract of land through which the same is proposed to be located, how it will be effected thereby, and its situation and level as compared with that of adjoining lands, together with such other facts as he may deem material. It shall be the duty of the county auditor, immediately on said report being filed, to cause notice in writing to be given to the owner, or one of the owners of each tract of land along the route of such proposed ditch, drain or water course, of the pendency and prayer of said petition, and of the time of the session of the county commissioners at which the same will be heard, which notice shall be served at least ten days prior to said session, and an affidavit of said service filed with the county auditor; and in case any such owner is not a resident of the county, or should any party or parties in interest die during the pendency of said proceeding, such death shall not work an abatement of such proceeding, but the county commissioners on being notified thereof, shall make such order as they may deem proper for giving notice to the person or persons succeeding to the right of such deceased party or parties, and notice of the pendency and prayer of said petition and the time of hearing the same shall be given to such owner or persons, by publication for two consecutive weeks in some newspaper published or of general circulation in said county.

Sec. 3. That any person or persons claiming compensation for lands appropriated for the purpose of constructing any ditch, drain or water course under the provisions of this act, shall make his, her or their application in writing therefor to the county commissioners, on or before the third day of the session at which the petition has been set for hearing, and on failure to make such application, shall be deemed and held to have waived his, her or their right to such compensation.

Sec. 4. That said county commissioners, at the session set for the hearing of said petition, shall, if they find the requirements of the second section of this act to have been complied with, proceed to hear and determine said petition; and if they deem it necessary shall view the premises, and if they find such ditch, drain or water course to be necessary, and that the same is demanded by or will be conducive to the public health, convenience or welfare, and no application shall have been made for compensation as provided in the third section of this act, they shall proceed to locate and establish such ditch, drain or water course on the route specified in the plat and return of said county surveyor or engineer. But if any application or applications for compensation as aforesaid, shall have been made, further proceedings by the county commissioners shall be adjourned till their next regular session; and the county auditor shall forthwith certify to the probate judge of said county a copy or copies of said application or applications, together with a description or descriptions of the property sought to be taken and appropriated, as contained in the plat or report of the county surveyor or engineers; which shall be forthwith docketed by said probate judge, styling the applicant or applicants plaintiff or plaintiffs, and the county commissioners defendant; and such proceedings shall thereupon be had to assess and determine the compensation of such claimant or claimants, as are authorised and required by the act entitled "an act to provide for compensation to the owners of private property appropriated to the use of corporations," passed April 30, 1852, and the acts amendatory thereof and supplementary thereto, so far as the same may be applicable, and the compensation so found and assessed in favor of said claimant or claimants shall be certified by the probate judge to the county auditor and paid out of the county treasury from the general fund, or remain deposited therein for the use of such claimant or claimants; and said county commissioners shall, at the next regular session after such compensation shall have been assessed and paid or deposited as aforesaid, proceed to locate and establish such ditch, drain or water course as herein before provided.

Sec. 5. That said county commissioners, whenever they shall have established any such ditch, drain or water course, shall divide the same into suitable sections, not less in number than the number of owners of land through which the same may be located, and shall also prescribe the time within which the work upon such sections shall be completed.

Sec. 6. That the county auditor shall cause notice to be given of the time and place of letting, and of the kind and amount of work to be done upon said sections, and the time fixed by the commissioners for its completion, by publication for thirty days, in some newspaper printed, or of general circulation in said county, and shall let the work upon said sections respectively to the lowest bidder therefor; and the person or persons taking such work at such letting, shall, on the completion thereof to the satisfaction of the county commissioners, be paid for such work out of the county treasury upon the order of the county auditor; provided, that if any person or persons to whom any portion of said work shall be let as aforesaid, shall fail to perform said work, the same shall be re-let by the county auditor, in the manner hereinbefore provided.

Sec. 7. That the county auditor shall keep a full and complete record of all proceedings had in each case under this act.

Sec. 8. That the auditor and surveyor and engineers shall be allowed such fees for services under this act, as the county commissioners shall, in each case deem reasonable and allow; and all other fees and costs accruing under this act shall be the same as provided by law for like services in other cases, and all costs, expenses, costs of construction, fees and compensation for property appropriated, which shall accrue and be assessed and be determined under this act shall be paid out of the county treasury, out of the general fund on the order of the county auditor, provided that no part of the same, except the compensation for property appropriated, shall be paid out of the county treasury till the sum shall have been levied and collected as provided in the next session of this act.

Sec. 9. That the county commissioners shall make an equitable apportionment of the costs, expenses, cost of construction, fees and compensation for property appropriated, which shall accrue, and be assessed and be determined under this act, among the owners of the land benefitted by the location and construction of of such ditch, drain or water course, in proportion to the benefit to each of them through, along the line or in the vicinity of whose lands the same may be located and constructed respectively; and the same shall be levied upon the lands of the owners so benefitted, in said proportions, and collected in the same manner that other taxes are levied and collected for county purposes.

Sec. 10. The act entitled "an act authorising the trustees of townships to establish water courses and locate ditches in certain cases," passed May 1, 1854, and the act amendatory thereto, passed April 14, 1857, and the original act passed February 24, 1853, on the same subject, are hereby repealed; provided, that no proceedings had or commenced under any law repealed by this act shall be affected by such repeal.

Sec. 11. This act to take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 24, 1859.

[No. 91.] AN ACT

To amend an act "To authorize the incorporation of Mutual Insurance Companies," passed April 14, 1857.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That the 4th section of an act "to authorize the incorporation of mutual insurance companies," passed April 14, 1857, be so amended as to read as follows: That every person who may desire to become a member of such company by effecting an insurance therein, shall make application in writing, naming the property sought to be insured; and before receiving a policy of insurance for the same, shall make and deliver a promissory note, payable to such company in such sum as the board of directors shall determine, subject to such assessment as the same, to pay losses, as is provided by said act; and shall also pay such an amount in money not exceeding fifteen per cent., as shall be determined by said board, to pay the incidental expenses of such company, and to put such company in funds as required by the 14th section of said act; and to keep up the same as it may be drawn out to pay losses and expenses; and at the expiration of the time of insurance, the said note, or such part of the same as shall remain unpaid after deducting all losses and expenses accruing during said term, shall be released and given up to the maker thereof.

Sec. 2. That the 4th section of said recited act be and the same is hereby repealed.

Sec. 3. This act to take effect and be in force from and after its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 25, 1859.

[No. 92.] AN ACT

Providing for enclosing railroads by fences and cattle guards.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That every railroad company or other party having the control or management of a railroad, the whole or or a part of which shall be located within this state, shall, and is hereby required, within two years after the passage of this act, or within two years after commencing to run cars thereon for the transportation of passengers or freight, to construct and maintain good and sufficient fences on both sides of such road, or such part thereof as shall be in running order and located within this state, and also to make and maintain a sufficient number of suitable crossings for the accommodation of the public, and of persons living near the line of such railroad; together with the necessary cattle guards to prevent cattle and other animals from endangering themselves and the lives of passengers by getting upon such railroad, and such company shall be liable for all damages which may result to horses, cattle or other domestic animals by reason of the want or insufficiency of such fences, road crossings or cattle guards, or by any carelessness or negligence of such company, party, or agent or agents thereof; and no person shall ride, lead or drive any horse, cow or other domestic animal into such inclosure and upon such railroad track, without the consent of such company or party, under penalty of a fine not exceeding ten dollars for every such offence, to be recovered by such corporation or party in an action before a justice of the peace of the proper township, and the liability of all such damages which may be thereby occasioned: Provided that whenever such railroad shall pass through or along the boundary of any inclosed field or fields, the proprietor or proprietors of such inclosed field or fields is hereby required to construct one-half the fence necessary to partition such inclosed lands from the railroad, and the construction of the same may be inforced in the same manner as are the partition fences between two or more individual boundaries: Provided further, that any person or persons desiring a private crossing or crossings and cattle guards as contemplated by this act, shall be responsible for one-half the expense of constructing and maintaining the same.

Sec. 2. That whenever any railroad company or other party having the control and management of a railroad shall have erected such fence or fences as are required by the first section of this act, and any lands adjacent thereto, the owners of which have received a compensation for the right of way through the same, are or shall be inclosed so that such railroad fences shall form, in whole or in part, the inclosure to such lands, the person or persons owning the same shall pay to such railroad company one-half of the cost and expenses incurred by the construction of so much thereof as serves as a partition fence, or one-half the value of such fence at the time such inclosure may be made, as the case may be, and whenever any such lands shall have been inclosed by the owner or occupier thereof in such manner that the inclosing fence, in whole or in part, may be made to answer the purpose of inclosing such railroad, the railroad company or other party having the control and management of the road, may join its fences thereto upon paying to such owner or occupier one-half the cost or one half the cash value of so much of such fence as serves to inclose the railroad, and in all cases where either the railroad company or other party having the control and management of a railroad, or the owner or occupyer of lands adjoining, shall refuse to pay, as required by the provisions of this section, one-half the cost or one-half the cash value of so much fence as shall have been built by the other, and serves the double purpose of inclosing the railroad and the adjoining lands, the same may be recovered before any court of competent jurisdiction in a civil action.

Sec. 3. That when such fences are duly made, they shall be kept in repair in all respects as partition fences are now by law required to be kept in repair.

Sec. 4. Nothing contained in this act shall be held to affect in any manner any contract or agreement between any railroad company or other party having the control and management of a railroad, and the proprietors or occupyers of lands adjoining for the construction and maintenance of fences, cattle guards and railroad crossings.

Sec. 5. That if any railroad company, or other party having the control and management of a railroad, shall neglect or refuse to construct such fences, cattle guards or crossings, or to keep the same in repair, as prescribed in the foregoing part of this act, (after thirty days' previous notice or request to do the same, made in writing by any person,) such railroad company shall forfeit and pay for each and every day that said company or other party shall refuse or neglect to comply with the foregoing provisions of this act, any sum not exceeding fifty dollars per day, to be recovered in a civil action in the name of the State of Ohio for the use of the county in which suit is brought.

Sec. 6. This act shall take effect from and after its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 25, 1859.

[No. 94] AN ACT

To repeal an act entitled "an act further defining the duties of County Treasurers," passed April 8, 1856, and the act amendatory thereto, passed April 10, 1857.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That the act entitled an "act further defining the duties of County Treasurers," passed April 8, 1856, and the act entitled "an act to amend the act further defining the duties of county treasurers, passed April 8, 1856," passed April 10, 1857, be and the same are hereby repealed. Provided that the county treasurers who shall have retained funds in their hands for disbursement under the provisions of the acts hereby repealed, shall settle and account with the several boards of township trustees, and education and council of municipal corporations to which said funds may belong, and upon such settlement, shall pay over to the proper local treasurers any balances remaining in the hands of such county treasurers.

Sec. 2. This act shall take effect, and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

[No. 95.] An ACT

Supplementary to an act entitled "an act defining the duties of Justices of the Peace and Constables in criminal cases," passed March 27, 1857.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That in the prosecution of all offences whereof Justices of the Peace have jurisdiction to try and punish by fine or otherwise, after the appearance of the defendant, and before the Court shall proceed to inquire into the merits of the cause, the defendant may demand to be tried by a jury, in which case the Justice shall proceed to inquire into the complaint, and commit, discharge or recognize the accused and the same proceedings shall in all other respects be had by and before the Justice, and in the Courts of Common Pleas or Probate Courts respectively, as is or may be provided by law in other cases for the prosecution of crimes and offenses, the punishment whereof is less than imprisonment in the penitentiary.

Sec. 2. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

[No. 97.] AN ACT,

For the further organization and discipline of the militia and volunteer militia.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That sections four and five of the act entitled "an act to organize and discipline the militia and volunteer militia," passed March 28, 1857, providing for the enrollment by township assessors of those subject to do military duty, and payment therefor, be and the same is hereby repealed.

Sec. 2. That beside the blank forms now required of the adjutant general, there shall be issued from time to time, under the authority of the commander-in-chief, such general regulations concerning the organization and government of the militia, as will better promote the discipline and order thereof, and supply such practical details as are needed to make that organization systematic and complete.

Sec. 3. That the commander-in-chief may, if he shall deem the same advisable, order a camp of instruction to be held once a year, for four days, during the period of legal encampments, at which time the officers of the volunteer militia shall be drilled in the school of the soldier and the details of their command.

Sec. 4. That the proceeds of sales of useless arms and equipments hereafter received, shall be applied to the alteration and repair of such collected arms as are of [illegible] pattern, but worth alteration and repair; and if there be any balance, the same shall be applied to the purchase of camp equipage, proportioned to the number of arms in use by the state.

Sec. 5. That all arms in possession of volunteer companies shall be kept in armories, and shall not be taken therefrom except for military purposes.

Sec. 6. That in all cases where no elections have been held for generals of division or brigade, or vacancies shall hereafter arise, through failure to elect, the counties forming such division or brigade territory shall be attached to other divisions or brigades, by order of the commander-in-chief, until the divisions shall be so reduced and defined as to correspond with the nine constitutional judicial districts, and the number of brigades to that of the judicial subdistricts; Provided, that no such absorption shall lessen the present number of Brigades in Hamilton county, nor affect the command of officers who have been already commissioned.

Sec. 7. That the adjutant general shall keep the records, volumes and papers of that department in an office at the state house, which he shall hold in common with the quarter-master general, and he shall be allowed for the clerical labor of that office, the sum of four hundred dollars annually, to be paid semi-annually, as the salary of the adjutant general is now paid. He shall make annual report of all matters coming within his department, which report shall be submitted to the governor before each meeting of the general assembly; he shall also, so far as practicable, inspect, and in the absence of the commander in-chief, review at brigade encampments, make report thereof, and keep accurate accounts of the actual expenses therein incurred, which shall be paid from the contingent fund appropriated to his office, but without further compensation for such service.

Sec. 8. The commander-in-chief shall cause two thousand copies of the acts concerning public arms and the organization of the militia, with an index thereto, and all needed forms and blanks, to be printed in pamphlet form and distributed, under the direction of the adjutant general, of which number one-fourth shall be bound with substantial cover, for exchange with other states, and for the use of general officers and commandants of regiments, battallions and companies, and the remaining three-fourths shall be bound with paper only.

Sec. 9. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 26, 1859.

Secretary of State's Office,
Columbus, O.

I hereby certify that the foregoing acts are true copies of the original rolls on file in this office.
A. P. RUSSELL, Secretary of State.

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