

Indiana Palladium.

EQUALITY OF RIGHTS IS NATURE'S PLAN—AND FOLLOWING NATURE IS THE MARCH OF MAN.—BARLOW.

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LAWS OF INDIANA.

AN ACT

To amend the several acts now in force relative to assessing and collecting the Revenue.

Approved, January 22, 1827.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That the board of justices or proper persons authorized to do county business, in their respective counties, are hereby authorized & required to make their settlements, and publish or cause to be published, a statement of the receipts & expenditures of their several counties, respectively at their meeting in January, instead of November, as is now provided by law; and at the same time appoint one suitable person in each township, an assessor for such township; or if they deem it advisable, appoint one or more assessors in such county, for the ensuing year, and shall at their January or May meeting, as they may deem most suitable, fix on the rate of taxation for that year for county purposes.

SEC. 2. It shall be the duty of the several boards of justices of the peace, or other persons authorized to do county business, before the delinquent list of taxes of any former year is put into the hands of the collector, to strike off all lands which they may know have been forfeited or relinquished to the General Government; and that it shall be the duty of collectors at the same time that they make, sign and swear to their delinquent lists, to make out, sign and swear to in the manner prescribed by this act, and the acts to which it is an amendment, a list of the amount of property and taxes assessed and collected from unassessed property and persons, and that no allowance shall be made to any collector or his delinquent list, until he shall have complied with the provisions of this act, and the acts to which this is an amendment.

SEC. 3. It is hereby made the duty of the clerk of the board of justices, or proper persons authorized to do county business in each county in this state, to publish a list of the unassessed property that has been assessed for collection by the sheriff or collector, in the same manner, and at the same time that he publishes the delinquent list; and for failing to comply with the foregoing provision, he shall be subject to the same penalty as for failing to publish the delinquent list. It shall be the duty of the several collectors within this state, on the receipt of the full amount of the state and county revenue due from the person who may pay the same, to execute to such person a receipt therefor, in which the amount so paid shall be particularly designated, and set down in writing, in words at full length.

SEC. 4. That hereafter it shall be the duty of the boards of justices of the several counties, or other persons authorized to do county business, at the time that the collector makes return of the amount of taxes collected by him of unassessed property and persons, to make an order, ship, or in the circuit court at his discretion, and say how much the assessor of that year shall be deducted from the pay allowed to such assessor, for failing to assess such persons and property not assessed as aforesaid: And if such assessor shall have received his pay for assessing, such assessor and his securities shall be liable on their bonds for the amount which the board of justices, or other persons doing county business, shall say as aforesaid such assessors ought to pay for such failing to assess.

SEC. 5. It shall be the duty of each & every collector, on being informed that any non-resident is standing a covering horse in his collection district, to assess and collect the same amount of tax from the owner or keeper of such horse that resident owners of such horses are required to pay as a tax in similar cases.

SEC. 6. That hereafter it shall be the duty of any person or persons who may intend to exhibit to public view, or show any animal or animals, wax-work or other figures, rope & wire dancers, for gain, to apply to the treasurer of each county where such animal or animals, wax-work or other figures are to be shown, & pay to said treasurer the sum of five dollars, who shall receipt for the same; which receipt shall be presented to the clerk of the proper county, who is hereby required to make out his certificate under the seal

of said county, for which such clerk shall be entitled to receive as a fee therefor, the sum of fifty cents, which shall be a sufficient voucher for such applicant or his agent, to show or exhibit such animal or animals, wax-work or otherwise, during his stay in such county; and should any person refuse or neglect to avail himself or themselves of the provision herein contained, such person or persons, shall be liable to pay a fine not exceeding twenty dollars, with costs, and all sheriffs, coroners, constables and justices of the peace in the several counties, are hereby enjoined to carry into effect, the provisions of this section: *Provided*, said license shall not be transferable.

SEC. 7. The certificates of the clerks of the circuit courts issued to grand and petit jurors for their services as such jurors agreeably to the provisions of the eighth section of an act entitled "An act to amend the act, entitled an act to regulate the judicial circuits, and fixing the times of holding courts"—Approved, February 12, 1825, shall be paid in the same way and manner that any other orders or drafts are paid which are issued by any legal authority, payable at the treasury of the county; and the collectors of county taxes are hereby required to receive any such certificates as cash to the full amount of their face, in the payment of any taxes due to his country.

SEC. 8. That there shall hereafter be assessed and collected for state purposes tax at the rate of eighty cents on each hundred acres of first rate land; of sixty cents on each hundred acres of second rate land; and of forty cents on each hundred acres of third rate land; and thirty-seven and a half cents on each poll, and no more, to be assessed, collected and paid over, according to the laws of this state upon the subject of the revenue: *Provided however*, That nothing herein contained shall be so construed as to make any change in the existing law in respect to county taxes: *Provided however*, That nothing in this act, or the act to which this is an amendment, shall be so construed as to prevent the lister of the county tax from omitting listing any horse, mule or ass, that shall not exceed ten dollars in value to be decided by the lister: *Provided also*, That hereafter no poll tax shall ever be levied and collected from any person over sixty years of age, any law or usage to the contrary notwithstanding: *Provided*, That no tax shall be assessed on any land purchased from the United States, unless the same shall have been purchased five years previous to the time of the assessor making his return of assessment.

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

AN ACT
To amend the act, entitled an act regulating the jurisdiction and duties of Justices of the Peace.

APPROVED—January 24, 1827.

SEC. 1. Be it enacted by the General Assembly of the State of Indiana, That in all actions of debt, or assumpsit, wherein the sum due or demanded, shall be over fifty dollars and not exceeding one hundred dollars, exclusive of interest and cost, it shall be lawful for the plaintiff to commence his suit either before the supreme court shall have appellate jurisdiction in the same manner as if the same had been originally commenced in the circuit court: *Provided* that this act shall not be so construed as to alter or effect the jurisdiction of justices of the peace, in sums not exceeding fifty dollars, as now prescribed by law. In all cases of appeal from the judgment of justices of the peace to the circuit court, said court shall tax the costs of such appeal in such manner as to them shall appear just and reasonable.

SEC. 2. When any judgment may be entered against any defendant in his absence, if he appear within ten days, pay or give security for the costs: and also enter into bond to pay and satisfy the judgment of the court in that particular case, and request the judgment to be opened, the justice may grant a new trial, and appoint a day therefor, of which the defendant shall notify the plaintiff or his agent, at least six days prior to the day appointed; but stay of the execution shall only be prolonged from the day of the former judgment: *Provided*, however, if the plaintiff or his agent does not reside within the county, the party applying for such new trial,

shall leave a written notice in the office of the justice granting the same at least ten days previous to the day set for such new trial.

SEC. 3. That hereafter, when any persons may appeal from the judgment of a justice of the peace to the circuit court, agreeably to the 17th section of an act regulating the jurisdiction and duties of justices of the peace, approved January 30, 1824, it shall be the duty of the justice granting such appeal, to cause the transcript, bond, and other papers connected with said suit, to be delivered to the clerk of the circuit court of the proper county, within twenty days from the time of granting such appeal: and it shall be the duty of the said clerk to file and docket the same immediately on receipt thereof, agreeably to the provisions of said act, and on failure to prosecute such appeal, appellant shall forfeit and pay ten per centum on the amount of the judgment so appealed, to be recovered by the appellee and taxed by the justice before whom the cause was tried. The 13th section, and so much of the 17th section of said act, as comes within the purview of this act, be and the same are hereby repealed.

SEC. 4. In all cases where an appeal hereafter may be taken from the judgment of any justice of the peace in this State, and either party should consider himself, herself, or themselves aggrieved by the judgment of the circuit court, where the same may amount to the sum of fifty dollars and upwards, such party shall have the right to appeal to the supreme court of this State in the same manner as if the suits had been originally instituted in the circuit courts; any law, usage, or custom, to the contrary notwithstanding.

SEC. 5. That whenever any justice of the peace shall remove out of the township, county seat, or incorporated town, wherein he was elected, his office shall be vacated, and his authority by virtue thereof shall cease.

SEC. 6. On judgments rendered by justices of the peace, in obedience to the provisions of this act, on the defendants entering good and sufficient security on the justice's docket, before whom such judgment was rendered for the amount of the debt, interest and cost, there shall be a stay of execution, if the same shall exceed fifty dollars, one hundred and fifty days.

SEC. 7. In all cases hereafter determined in the circuit or supreme courts, which originated before a justice of the peace no attorney's docket fee shall hereafter be taxed or paid in the costs, against either party.

SEC. 8. In all suits that may hereafter be instituted before any justice of the peace, it shall be the duty of the justice of the peace to file, or cause the plaintiff to file before the issuing of the process, or three days previous to the trial, a concise statement in writing of his cause of action, or nature of the injury which he has sustained, if the same be founded in tort and in actions founded on contract express, or implied to file his account, bill of particulars, statement of the nature of his demand, note, bond, bill, or other writing, on which he intends to rely. And if the defendant has any special matter of payment, or set off to alledge in defence he shall do it in writing, before the commencement of the trial, file with the justice, a statement thereof, and on the trial, the plaintiff shall not be permitted to give evidence of any matter, trespass, injury, demand, contract, item or account, that is not mentioned in this statement, nor shall the defendant be permitted to give evidence of any matters of payment than those specified in his defence: provided, however, the plaintiff, or defendant, by the permission of the justice, may amend his cause of action, before entering into trial, and in all cases of appeal, from the judgment of any justice of the peace, it shall be the duty of such justice to send up to the circuit court, such written statements of the cause of action and defence of the parties, with the transcript and other papers in the cause, which written statement of the cause of action or defence, shall not be set aside by said court for want of form, but shall be acted upon by such court, without any substantial amendment or alteration.

SEC. 9. Whenever a judgment shall be rendered by a circuit court in any suit or action brought before said court, by appeal from the judgment of a justice of the peace, and the amount in controversy, exclusive of interest and costs, shall exceed twenty dollars, it shall be lawful for either plaintiff, or defendant, to procure from the clerk of the circuit court, where such appeal was tried, and

judgment rendered, a transcript of the record of the case, and assign errors of law on the same, and if on exhibiting said transcript with the assignment of errors to any judge of the supreme court, if said judge shall be of opinion that errors exist in the record, and proceedings exhibited which entitle the party exhibiting the same to a supersedeas, said judge shall be authorised to grant a supersedeas, subject to the same rules and conditions on which supersedeas's are now granted by the supreme court or any judges of the same; and the supreme court shall have jurisdiction over the case in which said supersedeas shall be granted, as fully to all intents and purposes, as though the action were originally commenced in the circuit courts: *Provided*, that in all cases where the amount in controversy is under fifty dollars and exclusive of interest and cost, it a supersedeas shall be refused, the supreme court shall have no jurisdiction.

SEC. 10. That it shall hereafter be the duty of each and every justice of the peace, to make out a list of all fines and penalties by him assessed, on, and collected of each and every individual, and record the said list in a book to be kept for that purpose; and on the first day of each and every session of the board of justices, of each county, to return said list of all fines imposed and collected by him, since his last return, at the preceding session as herein required, and said list shall be certified under the hand seal of such justice.

SEC. 11. It shall be the duty of the clerk of the board of justices to record the said list of fines at full length, on the records of such board; and on the first day of each circuit court in every county, to make out two certified copies of such returns, one of which he shall deliver to the prosecuting Attorney of his county; or circuit and the other he shall deliver to the trustees of the public Seminary of the county; and should any clerk or justice of the peace refuse or neglect to comply with this requisition, he shall be liable upon conviction thereof, by presentment, or indictment to a penalty, not less than twenty dollars, and if any justice of the peace shall certify to a false list of statement of fines, as aforesaid, such justice on conviction, shall be held guilty of perjury, and be liable to the pains and penalties thereof.

SEC. 12. Hereafter no attorney at law, who shall hold the commission of a justice of the peace, shall be permitted to appear or act as an attorney before any other justice of the peace; or to appear or act as an attorney in any circuit court on appeals taken from his judgments, or the judgments of any other justice of the peace, in the county where said attorney may be commissioned as such Justice.

From the Indiana Journal.

Mr. Douglass—As a small tribute of respect to the memory of a worthy lawyer, and virtuous citizen, I request the insertion of the following.

A SUBSCRIBER.

OBITUARY NOTICE.

DIED—In September last, near Springfield Posey county, Indiana, REUBEN KIDDER, Esq. counsellor at law, aged about 55 years. The many excellent qualities both of head and heart, the profound and various learning, the social endowments, the misfortunes and even the eccentricities of this worthy man and well read lawyer, demand the tribute of a respectful memorial.

Mr. Kidder was a native of the town of New Ipswich, in the state of New Hampshire, and was graduated at Dartmouth college, in the town of Hanover, in said state. He pursued the study of law in the town of Amherst, in his native state, and in Northampton, Massachusetts, for the usual period, (three years) under the direction of distinguished lawyers, and shortly after the expiration of his term of study, opened an office as attorney at law, in the town of Waterville, in the district now the state of Maine. His attention to business, unrewarded industry and research, above all his exemplary and unimpeachable integrity, soon furnished him with an ample field of professional labor, and competency and comparative wealth became, in a short time, the natural results of his exertions. In the mind of Mr. Kidder, property had no other charm than that of furnishing the means of comfortable enjoyment and active beneficence. His heart was open as day to melting charity, and instead of hoarding his professional and personal gains, they were distributed with an unsparring hand, among the children of penury and misfortune. His dwelling was ever the abode of a plain but cordial hospitality. It was his desire however to be assailed by numer-

ous and severe misfortunes, and to experience in the decline of life, no little portion of neglect and indifference from a cold and unfeeling world. By repeated conflagrations two or more valuable dwelling houses belonging to Mr. Kidder were destroyed, and in some commercial speculations, in which he embarked, and for the management of which he was ill qualified, the residue of his property was absorbed and lost. About the close of the last war, he emigrated from New England to the western country, and located himself as a lawyer in a flourishing town in this state, where, if common fame be true, instead of fair competition, and professional good will, he met with moroseness, jealousy and vindictive persecution from a member of his own profession, from whom the dictates of his own heart prompted him to expect nothing less than hospitality and kindness; disappointed in his expectations, he withdrew from this state to Cincinnati, where for a considerable time he devoted himself to literary pursuits and was engaged in preparing for the press, a useful geographical description of the western states and territories. In 1820 he returned to Indiana and settled in Corydon, where from a respectable and benevolent officer of the supreme court of this state, he received a share of that hospitality, kindness and assistance, he had been accustomed to dispense in his better days. From this time, he continued to practice in the courts of justice at Corydon, and in the various circuit courts of the 4th judicial circuit, and about twelve months before his death, located himself in the county of Posey.

Mr. Kidder left two sons of adult age, living in the state of Maine, and an amiable widow, to whom he had been united a little more than a year before his death. He possessed an active and inquiring mind, capable of long and intense reflection, and stored with rich, various and extensive learning. His memory was peculiarly extensive. In fertility of anecdote, in biographical and historical collections, he had few, if any, superiors. A natural eccentricity of thought, manner and action rendered him humorous and interesting, and heightened the pleasure derived from his society. His social and intellectual qualities, commanded respect. His moral rectitude and suavity of disposition, made him beloved. "In vita man simplex a child." No man was more entirely exempt from any thing like bitterness or asperity of character. In singleness of heart and integrity of life, few have excelled him, and no man to whom he was intimately known, will refuse to inscribe on his tombstone, this best of all epitaphs, "Here lies the noblest work of God," "AN HONEST MAN."

Monsters of the sea—The following is communicated to the editor of the New York Post by an acquaintance, who will vouch for its authenticity.

Extract from the Journal of the Supercargo of a vessel recently returned from the East Indies.

"On our voyage out, in latitude 40° south, longitude about 60° east, we were surrounded for several hours by a number of Sea Monsters, of a description which neither the captain (who had been to sea for 20 years and 7 or 8 voyages to India) nor any one on board was acquainted with, or had ever seen. They were a species of serpent, and carried their heads three or four feet out of water; their bodies appeared of an irregular shape resembling a sunken rock, and were covered with barnacles; their tails were forked like a fish, and very large. We had a very distinct view of two of them which approached us from a direction abeam of us, and without apparently taking scarcely any notice of us passed close under our bowsprit; and to avoid running on them we were obliged to keep the vessel off, being fearful of injuring her copper. They appeared to be thirty or forty feet in length, and at times moved through the water with great celerity. Some of them at a short distance off exactly resembled the representations, and their appearance generally was similar to the description I have seen of the Sea Serpent, which appeared on our coast some time since. There were eight or ten of them, and they continued around us from noon, when they were first seen, until dark."

In consequence of a late explosion of the boiler of a steam boat in England, by which several lives were lost, a verdict of manslaughter against the engineer, was returned by the jury of inquest, because of negligence. No doubt, many of these dreadful accidents are the result of fool-hardiness or not less excusable neglect. Habit sometimes renders persons so familiar with danger that they do not feel a rightful necessity of guarding against it, and if their own lives, only, were at stake, it would be the less matter—but on their prudence depends the lives of many, and the law should make them feel the responsibility of their condition in respect to others, if they escape the destruction which they permit the coming of.