The Daily Ohio Statesman.

VOL. VIII. NO. 235 NEW SERIES. COLUMBUS, OHIO, FRIDAY MORNING, MARCH 14, 1862.

SIX DOLLARS PER YEAR, Invariably in Advance.

The Ohio Statesman

DAILY, TRI-WEEKLY AND WEEKLY

MANYPENNY & MILLER, PUBLISHERS AND PROPRIETORS.

☞ Office Nos. 36, 38 and 40, North High St

TERMS INVARIABLY IN ADVANCE.

Daily		$6 00 per year
" By the Carrier, per week,		12½ cents.
Tri-Weekly		3 00 per year.
Weekly,		1 00 "

Terms of Advertising by the Square.

One square 1 year...	$20 00	One square 3 weeks..	$4 00
One " 9 months	18 00	One " 2 weeks..	3 00
One " 6 months	15 00	One " 1 week...	1 75
One " 3 months	10 00	One " 3 days...	1 00
One " 2 months	8 00	One " 2 days...	75
One " 1 month.	5 00	One " 1 insertion	50

Displayed advertisements half more than the above rates.

Advertisements leaded and placed in the column of "Special Notices," *double the ordinary rates.*

All notices required to be published by law, legal rates.

If ordered on the inside exclusively after the first week per cent. more than the above rates; but all such will appear in the Tri-Weekly without charge.

Business Cards, not exceeding five lines, per year, inside, $2 50 per line; outside $2.

Notices of meetings, charitable societies, fire companies, &c., half price.

All transient advertisements must be paid for in advance. The rule will not be varied from.

Weekly, same price as the Daily, where the advertiser uses the Weekly alone. Where the Daily and Weekly are both used, then the charge for the Weekly will be half the rates of the Daily.

No advertisement taken except for a definite period.

BUSINESS CARDS.

CHRISTOPHER FINE. STERNE CHITTENDEN.

FINE & CHITTENDEN,

COUNSELLORS AT LAW,

29 Wall Street,

(Offices of City Judge,)

NEW YORK.

REFER TO—
Hon. James Moncrief, N. Y. Superior Court
Hon. H. B. Payne, Cleveland, O.
Hon. H. H. Hunter, Lancaster, O.
nov2-6m

H. J. WYLIE,

Attorney and Counsellor at Law,

AND

NOTARY PUBLIC,

OFFICE No. 57 HIGH STREET, ODEON BUILDING, opposite the State House.

Collections and other matters promptly attended to. References given when required.

nov9-ly

Henry Kœhler,

(Late of Phalon's Establishment, N. Y.)

PROPRIETOR OF THE NEW YORK Fashionable Shaving, Hair Cutting, Shampooning Curling and Dressing Saloon,

South High St., over Bain's Store,

where satisfaction will be given in all the various branches.

Ladies' and Children's Hair Dressing done in the best style.

sep13dly

CALT HOUSE,

No. 178 North High Street,

COLUMBUS, OHIO.

THIS HOTEL IS BUT ONE AND A HALF SQUARES from the Depot, and persons arriving or wishing to take passage on any of the trains, will find the Galt House decidedly a convenient stopping place.

Passengers waked up at all hours of the night for any of the trains.

Terms moderate, to suit the times.

oct25

AUCTION

AND

COMMISSION ROOM.

THE SUBSCRIBER HAVING TAKEN a lease on the Stor Room

No. 11 East State St.,

has opened it as an

Auction & Commission Room.

He is now prepared to receive on Commission every description of property, such as Dry Goods, Groceries, Liquors, Furniture, Carriages, Horses, etc. He also intends to devote his attention to sales of Real Estate and Personal Property, at any point, within twenty miles of the city.

Auction Sales Every Evening.

Consignments respectfully solicited.

W. R. KENT, Auctioneer.

oct19

Columbus Wholesale Liquor Store

LACELLE ROSS & CO.

COMMISSION MERCHANTS,

IMPORTERS AND DEALERS IN

Foreign and Domestic Wines, Brandies,

&c. &c. ALSO,

OLD RYE, MONONGAHELA & BOURBON

WHISKY.

WAREHOUSE AND OFFICE, 224 SOUTH HIGH ST.,

COLUMBUS, OHIO.

sep8dlyis

COLUMBUS

OPTICAL INSTITUTE.

The Best Artificial Help to the Human Sight ever Invented.

JOSEPH S. PERLEY,

PRACTICAL & SCIENTIFIC OPTICIAN,

KEEPS THE LARGEST ASSORTment of the most improved kinds of Spectacles. All his Glasses, whether for near or far-sighted, are ground in concavo convex form with the greatest care, so as to suit the Eyes of all cases, curing Weakness Dizziness or Inflammation of the Eyes, and imparting strength for long reading or fine sewing.

Office, 13 East State street, at Seltzer & Webster's Music Store.

aug5-dly

Shooting Gallery.

THE undersigned begs leave to inform his friends that he has fitted up a

SHOOTING GALLERY

AT THE

VERANDAH, ON STATE STREET.

Good Guns, Air Guns, Pistols and Refreshments.

nov19-dt CONRAD RICHARDS.

Winter Arrangement.

Little Miami & Columbus & Xenia

RAILROADS.

For Cincinnati, Dayton & Indianapolis!

Through to Indianapolis without Change of Cars, and but One Change of Cars between Columbus and St. Louis.

On and After Monday, November 11, 1861.

Four Trains Daily from Columbus.

FIRST TRAIN.

NIGHT EXPRESS, via Dayton, at 2 a. m., stopping at London, Xenia, Dayton, Middletown and Hamilton, arriving at Cincinnati at 7:40 a. m., and at Dayton at 5:05 a. m.; connecting at Cincinnati for Louisville, Vincennes, St. Louis, and all points Southwest; arriving at St. Louis at 11:30 p. m.; connecting at Dayton for Indianapolis, Lafayette, Terre Haute, Chicago, and all points West; arriving at Indianapolis at 10:40 a. m.

SECOND TRAIN.

ACCOMMODATION at 5:20 a. m., stopping at all stations between Columbus, Cincinnati and Dayton, arriving at Cincinnati at 10:23 a. m., and at Dayton at 8:38 a. m.; connecting at Cincinnati with Mail Line Steamboats for Louisville, and at Dayton for Indianapolis and the West.

THIRD TRAIN.

EXPRESS at 1:55 p. m., stopping at Jefferson, London, Charleston, Xenia, Corwin, Morrow, So. Lebanon, Foster's, Loveland and Milford, arriving at Cincinnati at 6:45 p. m., at Dayton at 5 p. m.; connecting at Cin. with the Ohio and Mississippi Train for Louisville, Vincennes, St. Louis, etc., etc., arriving at St. Louis at 10:45 a. m.; connecting at Dayton for Indianapolis, Lafayette, Terre Haute, Chicago and all points West.

☞ For further information and Through Tickets, apply to M. L. DOHERTY, Ticket Agent, Union Depot, Columbus.

P. W. STRADER, General Ticket Agent, Cincinnati.
JNO. W. DOHERTY, Agent, Columbus.
E. W. WOODWARD, Superintendent, Cincinnati.

Columbus, Nov. 10, 1861.

REMOVAL.

WILLIAM H. RESTIEAUX,

DEALER IN

Groceries,
Produce,
Provisions,
Foreign and Domestic Liquors,
Fruits, etc. etc.,

HAS REMOVED HIS STORE FROM

NO. 34, NORTH HIGH STREET,

TO

No. 106, South High Street,

The old stand recently occupied by WM. McDONALD

He is in daily receipt of

NEW AND FRESH GOODS

Which he will sell

Cheap for Cash or Country Produce,

☞ Goods delivered to City trade free of charge. ☜

jly12

THE MUTUAL BENEFIT

LIFE INSURANCE COMPANY,

OF

Newark, N. J.

Dividend January 1, 1861, 45 Per Cent.

ASSETS...................$3,812,556 50.

Statement January 1, 1861.

Balance, per statement Jan. 1st, 1860			$3,406,582 39
Received for Premiums during the year 1860	$763,053 55		
Received for interest during the year 1860	214,014 19		
Total receipts for 1860			$977,067 74
Paid Claims by Death, 267,050 00			
Paid Policies surrendered	41,111 29		
Paid Salaries, Postage, Taxes, Exchange, etc.	31,620 54		
Paid Commissions to Agents	51,325 30		
Paid Physicians' fees	5,966 75		
Paid Annuities	1,517 00		
Paid Dividends during the year	166,580 75	565,091 63	411,976 14
Net Balance January 1st, 1861			$3,812,558 50

ASSETS.

Cash on hand	$6,6884 19
Bonds and Mortgages on Real Estate, worth double the amount loaned	2,327,841 68
Premium Notes, on Policies in force, only drawing 6 per cent. interest	1 279,864 17
Real Estate	90,893 27
Loans on Scrip	5,931 44
Premiums, Notes and Cash, in course of transmission	45,343 75
Total Assets	$3,812,556 50

7,575 Policies in force, insuring......$23,426,538

1,435 new Policies have been issued during the year.

After a careful calculation of the present value of the outstanding Policies of the Company, and having the *necessary amount* in reserve therefor, the Directors have declared a DIVIDEND of 45 per cent. on the Premiums paid at the table rates, to all policies for life in force, issued prior to January 1, 1860, payable according to the present rule of the Company.

Rates for all kinds of Life Contingencies, Prospectuses, Statements, and Applications, will be furnished WITHOUT CHARGE, at the Office or Agencies of the Company.

ROBT. L. PATTERSON, President.
L. C. GROVER, Vice President
BENJ. C. MILLER, Secretary.
M. H. BEESON, Agent,
No. 4 Johnson Block,
March 28, 1861. Columbus, O.

William A. Gill

COLUMBUS, OHIO;

AGRICULTURAL WAREHOUSE

And Seed Store,

DEALER IN

GENERAL HARDWARE,

NAILS, GLASS, SASH, PUTTY, CORDAGE,

Guns, Pistols, Wood & Willow Ware, other and Rubber Belting, Lace Leather, Hose and king. sbl-dly

Ladies' Linen Pocket-Handk'fs.

HEMMEDSTITCHED LINEN HANDkerchiefs, very wide hems.
Embroidered Linen Handk'fs, all prices.
Hemmed Stitched and plain do. do.
do do colored borders.
Mourning do black borders.
do do new style cross stitched.
Pine Apple do new patterns.
Misses' Plain and Hemmed Stitched do all prices.
Comprising the most select assortment in the city at lowest prices.
BAIN & SON,
feb20 No. 29 South High Street.

1861. 1862.

Winter Arrangement—Time Changed.

GREAT NORTHERN AND EASTERN ROUTE.

CLEVELAND, COLUMBUS

AND

CINCINNATI

RAILROAD.

Connecting at Crestline with the PITTSBURGH, FT. WAYNE & CHICAGO RAILROAD

For Pittsburgh, Philadelphia and Baltimore. Also for Fort Wayne and Chicago.

Connecting at Cleveland with the LAKE SHORE RAILROAD

For Dunkirk, Buffalo, Albany, Boston, and New York.

TWO TRAINS DAILY,

EXCEPT SUNDAY,

From Columbus, in connection with Trains on the

LITTLE MIAMI AND COLUMBUS AND XENIA RAILROADS.

FIRST TRAIN.

NIGHT EXPRESS—Leaves Columbus at 3:50 A. M.; will leave passengers at all stations, stop at Delaware Cardington, Gilead, Galion, and at all stations North of Galion, and at all other stations upon signal, arriving at Cleveland at 9:20 A. M., Dunkirk 4:20 P. M., Buffalo 6:05 P. M., Albany 6:15 A. M., New York 12 M., Boston 8:30 P. M.

SECOND TRAIN.

NEW YORK EXPRESS—Leaves Columbus at 3:15 P. M.; will leave passengers at all stations. Greenwich, Rochester, Columbia and Olmsted being *Flag* stations, this train will not stop for passengers except upon signal. Arrive at Cleveland 8:30 P. M., Dunkirk 3 A. M., Buffalo 4:35 A. M., Albany 4:15 P. M., New York 9:50 P. M., Boston 12:30 A. M.

CONNECTIONS.

At Crestline with Pittsburgh, Ft. Wayne and Chicago Railroad for Pittsburgh, Philadelphia and Baltimore. Also for Chicago.

At Shelby, with Sandusky, Mansfield and Newark Railroad, for all points on that road. Also for Toledo.

At Grafton, with Cleveland and Toledo Railroad for Toledo and Chicago.

At Cleveland, with Lake Shore Railroad for Erie, Dunkirk, Buffalo, New York and Boston.

Patent Sleeping Cars are run on all Night Trains to Chicago, New York and Boston.

Baggage Checked Through to New York and Boston via Cleveland; also, to Philadelphia and New York via Crestline.

RETURNING.

Night Express arrives at Columbus at...1:30 A. M.
Cincinnati Express arrives at Columbus at 1:30 P. M.

Fare as Low as by any other Route.

Ask for Tickets via Crestline or Cleveland.

E. S. FLINT, Superintendent, Cleveland, Ohio.
JAMES PATTERSON, Agent, Columbus, Ohio.

Columbus, Nov 16, 1861.

1862. 1862.

EAST.

WINTER ARRANGEMENTS

TIME CHANGED.

CENTRAL OHIO

AND

STEUBENVILLE SHORT LINE

RAILROAD,

UNITED.

CONNECTING AT PITTSBURGH WITH THE

Pennsylvania Central Railroad

OFFER THE

Shortest, Quickest and Most Desirable Route to all Eastern Cities.

Trains Leave Columbus as follows:

VIA BELLAIRE.		VIA STEUBENVILLE.	
Morning Express.			FAST LINE.
4:00 A. M.	3:10 P. M.	4:00 A. M.	12:35 P. M
ARRIVE AT BELLAIRE			
10:40 A. M.	9:40 P. M.		
ARRIVE AT PITTSBURGH			
4:10 P. M.	2:45 A. M.	4:10 P. M.	2:05 A. M.
ARRIVE AT HARRISBURG			
3:10 A. M.	1:00 P. M.	3:10 A. M.	1:00 P. M.
ARRIVE AT BALTIMORE			
8:20 A. M.	5:30 P. M.	8:20 A. M.	5:30 P. M.
ARRIVE AT PHILADELPHIA.			
7:40 A. M.	5:20 P. M.	7:40 A. M.	5:20 P. M.
NEW YORK VIA ALLENTOWN, N. Y.			
11:00 A. M.	9:50 P. M.	11:00 A. M.	9:50 P. M
VIA PHILADELPHIA			
1:45 P. M.	10:15 P. M.	1:45 P. M.	10:15 P. M·

☞ Sleeping cars on all night trains.

The Only Route from Columbus to Baltimore, Philadelphia or New York

WITH ONLY ONE CHANGE OF CARS.

This train also connects at Bellaire with the Baltimore and Ohio Railroad.

☞ This route is 30 MILES SHORTER to Pittsburgh and more than 100 MILES SHORTER to New York, than Northern lines.

☞ Baggage Checked Through to all important points East.

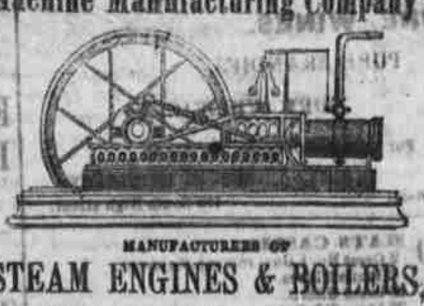
☞ Ask for Tickets via Bellaire or Steubenville.

☞ Tickets Good over either Route.

JOHN W. BROWN, General Ticket Agent Central Ohio R. R.
IRA A. HUTCHINSON, General Ticket Agent Steubenville Short Line.
Columbus, Jan. 25, 1862.

COLUMBUS

Machine Manufacturing Company



MANUFACTURERS OF

STEAM ENGINES & BOILERS,

Castings, Mill-Gearing, Machinery.

ALSO,

Railroad Work

OF EVERY DESCRIPTION.

COLUMBUS, OHIO.

CHAS. AMBOS, Sup't. P. AMBOS, Treas.
dec11, 1858-tf

TO THE PUBLIC.

ON AND AFTER THE 1st DAY OF JANUARY NEXT, we will sell all our goods, without respect to persons or parties,

For Cash Only.

The cash terms now enforced by Eastern Jobbers, porters, etc., compel this announcement.

dec28-tf BAIN & SON.

STOVES, STOVES, STOVES

CALL AT

J. L. GILL & SON'S

NEW BLOCK,

NORTH HIGH STREET,

AND SEE THE LARGEST STOCK,

THE GREATEST VARIETY,

—AND—

THE MOST BEAUTIFUL PATTERNS

—OF—

STOVES

Ever offered to the citizens of Columbus

THEY HAVE

COOKING STOVES FOR COAL,

COOKING STOVES FOR WOOD,

—AND—

COOKING STOVES

For either Wood or Coal

COOKING STOVES

For Large Families or Small Families, and varying Price from

Three Dollars to One Hundred and Twenty-Five.

PARLOR STOVES,

Of every Price, Size and Variety, for Coal or Wood.

DINING-ROOM STOVES,

HALL STOVES,

Of many Patterns.

SITTING-ROOM STOVES.

STORE-ROOM STOVES.

OFFICE STOVES.

Army Stoves,

Both Cooking and Heating.

The Lightest and most Portable Tent Stove ever offered to the

Officers of our Great Army.

FURNACES,

For Heating Dwellings, Churches, Store rooms, or other large Buildings.

LAUNDRY STOVES,

For Family Use or Hotels.

MOTT BOILERS,
AGRICULTURAL BOILERS,
SUGAR EVAPORATORS,
SUGAR KETTLES
HOLLOW WARE,
DOGG IRONS,
SAD IRONS,
TAILORS' GEESE,

And many other articles—"or any other man.

☞ CALL AND SEE. ☜

No. 92 North High Street,

COLUMBUS, OHIO.

J. L. Gill & Son.

nov22-tf

GREAT CURE.

DR. LELAND'S

ANTI-RHEUMATIC BAND!

IS THE ONLY KNOWN REMEDY FOR

Rheumatism, Gout and Neuralgia,

AND A SURE CURE FOR

All Mercurial Diseases.

It is a conveniently arranged Band, containing a medicated compound, to be worn a round the Waist, without injury to the most delicate persons; no change in habits of living is required, and it entirely removes the disease from the system, without producing the injurious effects arising from the use of powerful internal medicines, which weaken and destroy the constitution, and give temporary relief only. By this treatment, the medicinal properties contained in the Band come in contact with the blood and reach the disease, through the pores of the skin, effecting in *every* instance a perfect cure, and restoring the parts afflicted to a healthy condition. This Band is also a most powerful ANTI-MERCURIAL agent, and will entirely relieve the system from the pernicious effects of Mercury. Moderate cases are cured in a few days, and we are constantly receiving testimonials of its efficacy in aggravated cases of long standing.

PRICE $2,00, to be had of Druggists generally, or can be sent by mail or express, with full directions for use, to any part of the country direct from the Principal Office,

No. 409 BROADWAY, New York.

G. SMITH & CO., Sole Proprietors.

N. B.—Descriptive Circulars Sent Free.

A. J. SCHUELLER & SON, Druggists, Agents, No 277 S. High St., bet. Friend and Mound, Columbus, O.

☞ Agents Wanted Everywhere.

mh26-lyiscrisp.daw

Sheriff's Sale

Stadler & Brothers } Common Pleas.
vs.
J. B. Connelly.

BY VIRTUE OF A WRIT OF VENDI TO ME directed from the Court of Common Pleas of Franklin county, Ohio, I will offer for sale at the door of the Court House, in the City of Columbus, on

Saturday, the 5th day of April, A. D., 1862,

between the hours of 10 o'clock A. M. and 4 o'clock P. M., about one acre and a half, more or less, off the north side of the following described real estate, situate in Blendon township, Franklin county, Ohio, commencing at a stone at the S. W. corner of Thomas Ingals' land and on the east side of Wm. Sharp's land on the edge of the plank road north of Westerville, and thirty rods south of a willow tree on the county line; thence east 37 rods and 2 links to a stone; thence N. 17 rods and 6 links to a stone; thence W. 37 rods and 2 links to a stone on said Sharp's line; thence S. along said line 17 rods and 6 links to the place of beginning, containing four acres, deeded to J. B. Connelly by Thomas Ingals, July 27, 1861.

Appraised at $60 00 per acre.

G. W. HUFFMAN, Sheriff.
By Ed. Davis, Deputy.
Printer's fees $3 95.
feb21-dltmat

GENTS' DOUBLE-BREASTED MERINO Under-shirts.
BAIN & SON.

The Ohio Statesman

TERMS.

Daily, per year	$6 00
Tri-Weekly, per year	3 00
Weekly, per year	1 00

Supreme Court of Ohio.

Hon. Milton Sutliff, Chief Justice; Hon. William V. Peck, Hon. William Y. Gholson, Hon. Jacob Brinkerhoff, and Hon. Josiah Scott, Judges. L. J. Critchfield, Reporter.

TUESDAY, March 11, 1862.

GENERAL DOCKET.

No. 282. James S. Banning et. al v. Anthony Banning et. al. Error to the District Court of Knox County.

BRINKERHOFF, J., held:

1. Where the contents of a spoliated will have been found, admitted to probate and recorded, in a proceeding duly had for that purpose in the Probate Court, such record is *prima facie* evidence, in a future proceeding to contest the validity of said will, not only of the due attestation and execution of said will, but also of its contents; and on the trial of the issue whether the will admitted to probate is the last will of the testators or not, the same must stand, unless the jury are satisfied by a preponderance of proof, that it is not, in substance, the will of the testator.

2. Where a spoliated will, as admitted to probate, devises a tract of land by a name—such as "the Click farm;" the limits of which farm, as existing at the time the will was made, being notorious and capable of easy ascertainment; and this description by name is followed by an erroneous designation of the specific boundaries of the land—which erroneous boundaries are ambiguous, and may or may not include after-acquired lands not intended to be included in the devise of the farm—such erroneous designation of boundaries will not vitiate the devise, and ought to be so construed as to sustain the will.

3. Where, in a proceeding in error, the bill of exceptions, to show that there was error in the admission of evidence or in the charge of the court, sets forth all the evidence in the case, and it clearly appears that, in view of all the evidence, the error would not have been prejudicial to the party excepting, it will not authorize the reversal of the judgment.

4. The spirit of the statute in respect to the establishment of spoliated wills, is, to some extent, *in odium spoliatoris;* and to render the same practically effective, must be so administered. Not every variance between a spoliated will as made, and the will as admitted to probate, will avoid the latter. And where the only variance between them is the difference between a right of way over a strip of land affording access to a farm devised, and a fee simple estate in the same strip of land which is nearly worthless except for the purpose of such way, the variance is not sufficient to avoid the will as admitted to probate.

5. Brown vs. Griffith, 11 O. S. R. 329, followed and approved.

Judgment affirmed.

No. 283. Charles Carpenter et al. v. The State of Ohio. In Error. Reserved in District Court of Lucas county.

GHOLSON, J., held:

1. The Board of Public Works had power to appropriate the bank of Swan Creek, a navigable stream within the limits of this State, for the construction of a towpath, to be used in connection with the Wabash and Erie Canal, for the navigation of boats.

2. An act of appropriation by the Board of Public Works, under the 8th section of the act of 1825 (2 Chase, 1475), is not required to be evidenced by any writing of record, and may be shown by parol evidence.

Judgment affirmed.

No. 89. Ebenezer Smith v. The State of Ohio. In error to Sandusky Common Pleas.

PECK, J. held:

That an attempt by a male person of the age of seventeen years and upwards, to carnally know and abuse a female child under the age of ten years *with her consent*, is not indictable under the 17th section of the "act providing for the punishment of crimes," as an *assault* with intent to commit a rape.

Judgment reversed and plaintiff in error discharged.

BRINKERHOFF, J., dissented, on the ground of the reasoning of the court in Hayes v. The People, 1 Hill, 351.

No. 105. The Trustees of Goshen Township v. The Springfield, Mt. Vernon & Pittsburg Railroad Co. and R. M. Shoemaker. Reserved in the District Court of Champaign county.

BY THE COURT—

The plaintiff filed a petition, showing that under certain acts of the General Assembly and upon certain conditions prescribed in those acts the Trustees of Goshen Township were authorized to subscribe stock in the Springfield and Mansfield Railroad company. The petition stated the mode in which a subscription was in form made and paid for in bonds of the Township, but alleged that these acts were not in pursuance of the law, but illegal and created no obligation on the Township. It appeared that the bonds had been delivered, and had been assigned by the railroad company with a guaranty of their payment, and that the interest, accruing upon them for several years, had been paid, without objection. There was no charge of fraud against the defendants.

Held: That, under these circumstances, the plaintiffs were not in a position to ask the affirmative relief of a rescission of the contract and the cancellation of the instruments they had issued.

Demurrer to petition sustained.

No. 107. The Trustees of Goshen Township v. the Springfield, Mt. Vernon and Pittsburgh Railroad Company and Charles Anthony. Reserved in the District Court of Champaign county.

This case depending on the same principle as the preceding, the demurrer to the petition is sustained.

No. 133. William H. Black v. Israel Chesser. Error to the District Court of Vinton county.

BY THE COURT, held:

1. To constitute "an account" within the meaning of section 122 of the code, it is not necessary that the items be entered in an account book, provided they are such as usually form the subject of book account.

2. In an action upon an account, it is a sufficient giving a "copy of the account," under the section of the code, for the plaintiff, without having previously made any entries in an account book, to set down in writing in the form of an account, the items thereof, and file it with his petition.

3. Where a party voluntarily appears before a justice of the peace, and confesses judgment in favor of the plaintiff, and omits to set up, as a set off or counterclaim, a claim he has against the plaintiff, such defendant is not, by such omission, precluded, in a subsequent suit on such claim, from recovering costs against such plaintiff. The 95th section of the code is not applicable in such a case of confession of judgment before a justice of the peace.

4. Whether the 95th section of the code is applicable in any suit before a justice of the peace—*quære.*

Judgment affirmed.

No. 128. William Barrs, Supervisor, etc., v. the Pittsburg, Fort Wayne and Chicago Railroad Company. In Error. Reserved in District Court of Wyandot county.

BY THE COURT:

The only question reserved in this case is, whether a party who on the trial of the action takes exceptions to the decision of the Court upon the admission of testimony, and to the charges of the Court to the jury, and has those exceptions reduced to writing during the term and signed by the judge, may allege error in a petition filed in the District Court, without also having made a motion in the Court of Common Pleas for a new trial, on the ground "of error of law occurring at the trial and accepted to by the party making the application." We think that he may. The right of exception secured by article 8 of the code, section 290 et seq. does not depend on the exercise of the right to move for a new trial, secured by article 6 of the code, section 297 et seq.

The question reserved will be so decided, and the case remanded to the District Court for judgment according to this decision.

No. 144. Adams & Co.'s Express v. Martha Pollock Error to District Court of Hamilton county.

BY THE COURT:

It is a matter of discretion with a court, in what cases to direct a jury to find a special verdict, and a refusal to do so could not be assigned as error (C. C. & C. Railroad Co. v. Terry, 8 Ohio St. 570, 580). But the code provides, that "in every action for the recovery of money only, or specific real property, the jury, in their discretion, may render a general or special verdict." Sec. 276. In any such action, in which the discretion might be exercised by stating conclusions of fact so as to present questions of law upon the decision of which the case would depend, a party has the right to have the jury instructed, that they may in their discretion render a special verdict, and a refusal to do so, will be error.

Judgment reversed.

No. 127. Isaac Martin v. Thomas Armstrong. Error to Darke Common Pleas. Reserved in the District Court of Darke county.

PECK J., held:

1. That an appeal may be taken to the Court of Common Pleas of the proper county, to any judgment in replevin of property, rendered by a Justice of the Peace upon a verdict of the jury, under section 111 of the act regulating the jurisdiction and "procedure before Justices of the Peace," etc.

2. That such right of appeal is not restricted nor qualified by the 2d subdivision of section 123 of said act, providing that "appeals shall not be allowed in jury trials, where neither party claim in their bill of particulars a bill exceeding twenty dollars."

Order of the Darke Common Pleas dismissing the appeal reversed and cause remanded to said Court for further proceedings.

No. 123. Samuel W. Bariger v. Owen O'Neil and wife. Error to the District Court of Summit county.

SUTLIFF, C. J. The plaintiffs below, husband and wife, filed their petition averring that the defendant had, by misrepresentation and deceit, induced the husband to purchase, and pay to the defendant $1,300 for a tract of land worth only $100, and that the land was conveyed by the defendant to the wife. The plaintiffs claim to have sustained $1,200 damages, and asked judgment against the defendant therefor. The defendant demurred to the petition, on the ground that it did not state facts sufficient to constitute a cause of action. The demurrer was overruled. Held:

1. The petition filed by husband and wife showing no cause of action belonging to them jointly, the defect might be taken advantage of by demurrer, and the overruling the demurrer was error.

2. Judgment having been rendered against the defendant in favor of both the plaintiffs, and it not appearing from the record that the defendant might not have been prejudiced by the overruling of the demurrer, he is entitled to have the judgment reversed.

Judgment accordingly.

Scott, J., dissented.

No. 124. John B. Murphy et al. v. The City of Toledo. Error to the District Court of Lucas county.

Judgment reversed. No further report will be made in the case.

No. 141. Robert B. Wallace v. Charles McMiken's Executors et al.

Judgment reversed. No further report will be made in the case.

MOTION DOCKET.

No. 124. George Dixon, Jr., v. Judson W. Caldwell Leave to file petition in error granted.

No. 125. C. C. & C. Railroad Company v. Samuel H. Bartram. Motion to amend journal entry allowed.

No. 126. John H. Dennison v. The State of Ohio.—Writ of error refused.

No. 127. John M. Woolsey v. Thomas Burnham et al. Leave to file petition in error refused.

No. 129. Judah Hart v. The State of Ohio. Writ of error allowed, and execution of sentence suspended on recognizance in $300 before Clerk of Common Pleas.

No. 130. James E. Nevell et al. v. James K. Jones. Leave to file petition in error refused.

No. 131. Blaser, Corwine, Gregg & Co. v. H. S. Bundy et al.

Motion to take case out of its order on general docket for hearing granted, and set for fourth Thursday of March.

No. 132. David Quinn v. David Mulford. Leave to file petition in error in nature of bill of review, refused.

Adjourned till Thursday morning at 10 o'clock.

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PROF. WOOD: Thee wilt please accept a line to inform thee that the hair on my head all fell off over twenty years ago, caused by a complicated chronic disease, attended with an eruption on the head. A continual course of suffering through life having reduced me to a state of dependence, I have not been able to obtain stuff for caps, neither have I been able to do them up, in consequence of which my head has suffered extremely from cold. This induced me to pay Briggs & Hodges almost the last cent I had on earth for a two dollar bottle of thy Hair Restorative, about the first of August last. I have faithfully followed the directions and the bald spot is now covered with hair thick and black, though short, it is also coming in all over my head. Feeling confident that another large bottle would restore it entirely and permanently, I feel anxious to persevere in its use, and being destitute of means to purchase any more, I would ask thee if thee wouldst not be willing to send me an order on thine agents for a bottle, and receive to thyself the scripture declaration—"the reward is to those that are kind to the widow and the fatherless."

Thy friend, SUSANNAH KIRBY.

Ligonier, Noble County, Indiana, Feb. 5th, 1859.

PROF. O. J. WOOD: *Dear Sir:*—In the latter part of the year 1852, while attending the State and National Law School of the State of New York, my hair, from a cause unknown to me, commenced falling off very rapidly, so that in the short space of six months, the whole upper part of my scalp was almost entirely bereft of its covering, and much of the remaining portion upon the side and back part of my head shortly after became gray, so that you will not be surprised when I tell you that upon my return to the State of Indiana, my more casual acquaintances were not so much at a loss to discover the cause of the change in my appearance, as my more intimate acquaintances were to recognize me at all.

I at once made application to the most skillful physicians in the country, but, receiving no assurance from them that my hair would again be restored, I was forced to become reconciled to my fate, until, fortunately, in the latter part of the year 1857, your Restorative was recommended to me by a druggist, as being the most reliable Hair Restorative in use. I tried one bottle, and found to my great satisfaction that it was producing the desired effect. Since that time, I have used seven dollars worth of your Restorative, and as a result, have a rich coat of very soft black hair, which no money can buy.

As a mark of my gratitude for your labor and skill in the production of so wonderful an article, I have recommended its use to many of my friends and acquaintances, who, I am happy to inform you, are using it with like effect. Very respectfully, yours,

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