



D I G E S T

OF THE

STATUTE LAWS OF KENTUCKY,

OF

A PUBLIC AND PERMANENT NATURE,

FROM THE COMMENCEMENT OF THE GOVERNMENT TO THE SESSION OF THE LEGISLATURE, ENDING ON THE 24TH FEBRUARY, 1834.

WITH REFERENCES TO JUDICIAL DECISIONS.

IN TWO VOLUMES.

BY C. S. MOREHEAD AND MASON BROWN.

VOL. II.

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1834.

undergo confinement in the jail and penitentiary house hereinafter mentioned, according to the directions of this act.

SEC. 44. Slaves are excluded from the provisions of this act.

1800.

IN FORCE FROM ITS PASSAGE.

AN ACT to amend the act entitled "an act to amend the Penal Laws of this Commonwealth;" Approved December 20, 1800.—2 *Litt.* 410.

Be it enacted by the General Assembly, That every person who shall hereafter be convicted of having forged, counterfeited or altered any auditor's warrant, certificate, or other public security, whereby money may be drawn from the treasury of this state, or of having been concerned in printing, writing, signing, or passing any such forged, counterfeited or altered warrant, certificate, or public security, knowing it to be such, shall be sentenced to undergo a confinement in the jail and penitentiary house of this state, not less than two years, nor more than five years; and shall be kept, treated and dealt with in every respect as is directed in case of other persons who are, or shall be confined in the said jail and penitentiary house, agreeably to the act entitled "an act to amend the penal laws of this commonwealth."

Punishment for counterfeiting auditor's warrant, certificate or other public security.

[See sec. 9 of the act of 1798, ante; secs. 19, 22 & 23, of the act of 1801, & sec. 6 of the act 1802.]

1801.

IN FORCE FROM ITS PASSAGE.

AN ACT to amend an act entitled "an act to amend the Penal Laws of this Commonwealth;" Approved December 19, 1801.—2 *Litt.* 467.

SEC. 1. *Be it enacted by the General Assembly,* That any person, his or her aiders, abettors or counsellors, who shall be guilty of murder, and shall perpetrate the same by means of poison, or by laying in wait or by any other kind of wilful, deliberate and premeditated killing, or who shall commit the same in the perpetration, or attempt to perpetrate any arson, rape, robbery or burglary, shall be deemed a felon; and every other kind or species of killing, which shall be committed with malice aforethought, either express or implied, shall be deemed felony, and shall be punished with death. Every person or persons who shall strike, stab, thrust, or shoot any person or persons, the party which shall so strike, stab, thrust, or shoot, so that the person stricken, stabbed, thrust or shot, shall die thereby within six months next following, although the same be done without malice aforethought, yet shall the party so offending, and being legally thereof convicted, undergo a confinement in the jail and penitentiary house, for a period not less than [six months,] nor more than six years: *Provided, always,* That this act, or any thing therein contained, shall not extend to any person or persons who shall kill another in self-defence, or by misfortune or accident; nor shall extend to any other person or persons, who in keeping or preserving the peace, shall chance to commit manslaughter, so as the

Murder, what.

[See sec. 3 of act of January 1825, and sec. 1 of 1827, post.]

How punished.

Striking, stabbing, &c.

How punished.

[Since one year —see sec. 23 of act of 1802.]

Proviso.

said manslaughter be not committed wittingly, wilfully, and of purpose, under pretext and color of keeping the peace.

Punishment for concealing the death of bastard children.

SEC. 2. If any woman, not being a slave, be delivered of any issue of her body, which being born alive, would by law be a bastard, and shall endeavor privately, either by drowning or secret burying thereof, or any other way, either by herself or procuring of others, to conceal the death thereof, so that it may not come to light, whether it were born alive or not, but be concealed; in every such case the mother so offending, being thereof lawfully convicted, shall be deemed a felon, and sentenced to undergo a confinement in the jail and penitentiary house, for a period not less than two years nor more than seven years.

For maiming. [See sec. 10 of act of 1798, ante.]

[Now 1 year; see sec. 23 of 1802.]

For stealing or selling a free person as a slave.

SEC. 3. Whosoever shall unlawfully pull or put out an eye, cut or bite off or slit a nose, ear or lip, or any part thereof, or cut or bite off any other limb or member, by fighting or otherwise, except in self-defence; every such offender, his or her aiders, abettors and counsellors, upon conviction thereof, shall be sentenced to undergo a confinement in the jail and penitentiary house, for any term not less than [six months], nor more than five years.

SEC. 4. Any person or persons who shall be hereafter guilty of stealing or selling any free person for a slave, knowing the said person so sold to be free, or his or their aiders, abettors or counsellors, and who thereof shall be lawfully convicted, the person so convicted shall be sentenced to undergo a confinement in the jail and penitentiary house, for any time not less than five years, nor more than ten years.

For polygamy. Exceptions. SEC. 5. Whosoever being married, shall, the first husband or wife (as the case may be) being alive, marry any person or persons, shall, being thereof lawfully convicted, undergo a confinement in the jail and penitentiary house, for a period not less than three years, nor more than nine years: *Provided*, that nothing herein contained shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas by the space of seven years together, or whose husband or wife shall absent him or herself, the one from the other, by the space of seven years together, in any part within the United States of America, or elsewhere, the one of them not knowing the other to be living within that time: *Provided, also*, that nothing herein contained shall extend to any person or persons that shall be at the time of such marriage divorced by lawful authority, or to any person or persons where the former marriage hath been, or hereafter shall be by lawful authority declared to be void and of no effect, nor to any person or persons for or by reason of any marriage had or made, or hereafter to be had or made within age of consent.

Provisions for the wife in polygamy.

SEC. 6. If such offender be a man, his first wife shall, on his conviction, be forthwith endowed of one-third part of his real estate, which she shall hold as tenant in dower, the assignment of which

shall be made as prescribed by law in other cases of dower, and she shall have the like remedy for the recovery thereof; and she shall also, on his conviction, be forthwith entitled to one-third part of his personal estate, in the same manner as if such offender had died intestate, and she had survived him; which third part of his personal estate shall be divided and allotted to her by order of the county court in which such offender last resided, in the same manner as distribution is made of the personal estate of intestates: and the said county court shall have power and authority to direct such division and allotment to be made. And if the said offender be a woman, she shall, on conviction, forfeit her claim to dower of the estate of her first husband, and also her distributory share of his personal estate, which she would be entitled to if he had died intestate, and she survived him.

In case of a woman, she forfeits dower, &c.

SEC. 7. Any man from henceforth who shall carnally and unlawfully know any woman against her will or consent, and all persons who are accessory thereto before the fact, shall be deemed guilty of felony; and upon due conviction thereof, shall undergo a confinement in the jail and penitentiary house, for a period of not less than ten years, nor more than twenty-one years.

Punishment of rape.

[See sec. 3 of the act of 1798, ante.]

SEC. 8. If any person shall carnally know and abuse any woman child, under the age of ten years, every such carnal knowledge shall be felony; and the offender being convicted thereof, shall undergo a confinement in the jail and penitentiary house, for a period not less than ten years, nor more than twenty-one years.

For abusing a woman child under ten years of age.

SEC. 9. Whereas women, as well maidens as widows and wives, having substance, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors; for the lucre of such substance, have been often times taken by misdoers, contrary to their will; and afterwards married to such misdoers, or to others by their consent, or defiled: *Be it therefore enacted*, that whatsoever person or persons shall take any woman so against her will unlawfully, such taking, and the procuring and abetting the same, and also the receiving wittingly the same woman so taken against her will, shall be felony; and such misdoers, takers and procurers to the same, and receivers, knowing the offence in fact aforesaid, being duly convicted thereof, shall undergo a confinement in the jail and penitentiary house, for a period not less than two years, nor more than seven years: *Provided, always*, that this act shall not extend to any person taking away any woman, showing reasonable claim to her as his ward or bond woman.

Recital.

Punishment for abduction of women.

SEC. 10. If any person above the age of fourteen years, shall unlawfully take or convey away, or shall cause to be taken or conveyed away, any woman child, unmarried, being within the age of fourteen years, out or from the possession, and against the will of the father or mother of such woman child, or out of, or from the possession, and against the will of such person or persons as then

For the abduction of children.