



A
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. I.

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1834.

TITLE 64.

DUELLING.

1799.

IN FORCE SO FAR AS RESPECTS DUELLING, FROM FIRST OF JUNE 1800.

AN ACT more effectually to suppress the practice of Gambling and Duelling:
Approved December 13, 1799.—2 Litt. 285.

[SEC. 5.] "And the presiding judge or justice of said courts shall constantly give this act in charge to the grand juries of their courts, at the time such grand juries shall be sworn."

SEC. 6. And be it further enacted, That if any person within this Commonwealth, shall challenge, by word or writing, the person of another to fight at sword, pistol, or other deadly weapon, such person, (a) so challenging, shall forfeit and pay, for every such offence, being thereof lawfully convicted, in any court of record within this Commonwealth, by the testimony of one or more witnesses, or by the confession of the party offending, the sum of five hundred dollars, or shall suffer twelve months' imprisonment, without bail or mainprize. (b) And the person who shall accept of any such challenge, shall, in like manner, upon conviction, forfeit and pay the sum of two hundred and fifty dollars, or suffer such imprisonment, for and during six months; and if any person shall willingly and knowingly, carry and deliver any written challenge,

The judge shall give this act in charge to the grand jury.

Penalty on one person for challenging another to fight a duel.

Penalty on the person who accepts a challenge.

On any person conveying a challenge from one person to

(a) The challenge in the action of debt for the penalty given by the above statute, must be stated to have been within this state. A statement, however, that it was in the county of Scott, where the suit was brought, will be sufficient, as the court must judicially know that to be within the state.—*Heard v. Faris*, 1 Litt. 246.2. No set phrase is necessary to constitute a challenge to fight with deadly weapons. If a note or letter be sent by one party to the other, parol testimony is admissible to explain the object or intention of the party, and from all the circumstances, the jury must decide whether or not there has been a challenge within the statute. *Commonwealth v. Hart*, 6 J. J. Mar. 120-1.

3. If the jury believe a letter, inviting to a meeting, though on its face it purport to be a challenge, is nothing more than an empty boast, and in ridicule of the party to whom it is address-

ed, they may acquit; otherwise, if they deem it in earnest.—*Ibid*.4. A challenge, within the meaning of the statute against duelling, is a requisition, demand or request to fight with deadly weapons; an expression of readiness or willingness to accede to such a requisition, if it should be made, does not amount to a challenge.—*Commonwealth v. Tibbs*, 1 Dana, 524.(b) A judgment under this act, "that the plaintiff recover of the defendant the sum of five hundred dollars, the debt in the declaration mentioned, one half to the use of the commonwealth and the other half to the use of the plaintiff; also his costs in this behalf expended, and have execution therefor, or that the defendant shall suffer twelve months' imprisonment without bail or mainprize," is correct; except that costs should not be given.—*Heard v. Faris*, 1 Litt. 246.

or shall verbally deliver any message, purporting to be a challenge, or shall consent to be a second in any such intended duel, and shall be thereof legally convicted, as aforesaid, he or they so offending, shall, for every such offence, forfeit and pay the sum of one hundred and fifty dollars, or suffer three months imprisonment, as aforesaid: and moreover, the person challenging, and the person accepting the challenge, the person delivering the same, and the person consenting to become a second to either of the parties, shall, for every such offence, be excluded from office and from suffrage, within this Commonwealth, for the space of seven years after conviction.

SEC. 7. Any fine which may be incurred under this law, so far as it respects duelling, shall be recoverable in any court in this Commonwealth, having competent jurisdiction thereof, and shall be applied, one half to the use of the Commonwealth, and the other to the use of the person suing for the same; (c) and shall be collected by the sheriff of the county in which the judgment shall be obtained; and the clerk of such county shall certify the amount of any such judgment to the auditor of public accounts.

1812.

IN FORCE FROM ITS PASSAGE.

AN ACT more effectually to suppress the practice of Duelling: Approved February 4, 1812.—4 Litt. 381.

WHEREAS the Commonwealth have repeatedly sustained great and irreparable injury, in the loss of some of her best and most valuable citizens; inroads have been made in private families; their peace, happiness, and domestic felicity destroyed, by the present inhuman practice of duelling; a practice contrary to the precepts of morality, religion, and civil obligation, which originated in a barbarous age, fostered by savage policy, and only perpetuated in this enlightened era, by mistaken ideas of honor: for remedy whereof,

SEC. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That to all officers in and belonging to the legislative department of Government, who shall hereafter be elected, before they enter upon the discharge of the duties of their aforesaid office, the following oath, in addition to what is now by law directed, shall be administered to them: "That he or they (as the case may be) have neither directly nor indirectly, given, accepted or knowingly carried a challenge, to any person or persons, to fight in single combat or otherwise, with any deadly weapons, either in or out of this State, since the first of April 1812; (d) and

(c) A *qui tam* action for the penalty incurred by sending a challenge to fight in single combat with deadly weapons, cannot be maintained in the name of an individual and the trustees ofa county treasury. The commonwealth must be a party.—*Tarver v. Daniel*, 1 J. J. Mar. 18. (d) The time now fixed is the first of January, 1834. See the act passed.