



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 26TH FEBRUARY, 1834.

WITH REFERENCES TO JUDICIAL DECISIONS.

IN TWO VOLUMES.

BY C. S. MOREHEAD AND MASON BROWN.

VOL. I.

FRANKFORT, KY.

PRINTED BY ALBERT G. HODGES.

1834.

4888X

or their bodies, by the space of three months, and shall yield and pay unto the party grieved his treble damages; and after the said three months expired, shall find sufficient securities for his or their good abearing for the space of seven years, or else remain and continue still in prison, without bail or mainprize, until such time as he or they so offending, can and shall find sufficient securities, during the time of seven years as aforesaid: *Provided always*, That upon the true satisfaction of the said treble damages to the party grieved, or upon the confession and knowledge thereof by the same party, before the said justices, in open sessions, within the county where the offence was committed, it shall be at the liberty of the same party grieved, to whom the said offence was committed, to release, at his pleasure, the said suretyship for good abearing, at any time within the said seven years, or before.

SEC. 3. If any person or persons shall at any time hereafter be bound, according to the tenor of this act, and shall afterwards, within the said seven years, come before the justices of the said county where the offence was committed, or some of them, in open sessions, and there confess and acknowledge in the said open sessions, his or their said offence or offences, and be sorry therefor, and satisfy the party or parties grieved, according to the tenor of this act, then the said justices, at that session, or at any session afterwards, to be holden within seven years, may, if it shall seem good to their discretions, discharge the said recognizance.

Offenders' recognizance may be discharged on certain conditions.

ACTS OF VIRGINIA.

1738.

AN ACT for the better preservation of the breed of Deer, and preventing unlawful Hunting.—*Hening's Statutes at Large*, vol. V. p. 60; 2 *Litt.* 554.

Preamble.

SEC. 1. Whereas the laws heretofore made, for preserving the breed of deer, have not had the desired effect, many disorderly persons making a practice of killing them merely for the sake of the skins, whilst they are feeding on the moss growing on the rocks in the rivers, leaving the flesh to rot; whereby wolves, and other noxious beasts, are brought down among the stocks of cattle, hogs, and sheep, of the upper inhabitants, to their great annoyance and damage. And whereas the keeping of hounds going at large, is found destructive to the breed of deer, by killing not only the does, while they are big with young, but also the fawns after they are fallen. And it is also found by experience, that the making large circles, and setting the same on fire, round the coverts where the deer usually lodge, commonly called fire-hunting, is not only destructive to the breed of deer, but also to the young timber, and food of the cattle. For remedy of which mischiefs:

SEC. 2. Be it enacted by the Lieutenant Governor, Council and Burgesses of this present General Assembly, and it is hereby enacted by the authority of the same, That from and after the passing of this act, it shall not be lawful for any person whatsoever to hunt, shoot or kill any buck, between the first day of December, and the last day of July, which shall be in any year; nor to hunt, shoot or kill, any doe or fawn, between the first day of January and the last day of September, in any year. And if any person whatsoever shall presume to hunt, shoot or kill, or destroy, any such bucks, doe or fawn, running wild in the woods, within the times herein before respectively limited; or shall buy or receive the same of any Indian or other person; every such person so offending shall forfeit and pay the sum of twenty shillings current money, for every buck, doe or fawn, so killed, bought or received, recoverable before any justice of the peace in the county where such offence shall be committed, upon conviction by the oath of one sufficient witness, or on confession of the party. And if any servant or slave, by command of his or her master, mistress or overseer, shall so hunt, shoot or kill, or buy or receive any deer so killed, the party giving such command, shall be liable to the like penalties respectively: And if such servant or slave cannot prove such command, he or they shall receive, by order of such justice of the peace, for every such offence, twenty lashes on his bare back, well laid on, unless security be given for payment of the fine within six months after such conviction.

Time limited for killing deer.

SEC. 3. *Provided always*, That it shall and may be lawful to and for any freeholder or housekeeper to kill any kind of deer in his corn fields, or other inclosed grounds, where wheat, peas, or other grain is growing, without being liable to any penalty for so doing.

Proviso.

SEC. 4. *Provided also*, That nothing in this act contained, shall extend, or be construed to extend to any person living, or being upon the frontiers of this colony, who shall kill any deer for food for the necessary subsistence of himself or family, so as such person do not sell or dispose of the skin of any deer so killed: And in case any person shall be prosecuted for killing deer within the time prohibited by this act, and such person shall allege that he killed such deer for food for the necessary subsistence of himself or family, the *onus probandi* shall lie on the person so prosecuted.

May be killed for necessary food.

SEC. 5. And be it further enacted by the authority aforesaid, That if any person whatsoever shall buy or receive into his or her house any deer skin or skins, which shall have been killed within the time herein before limited, and are commonly called or known by the name of red skins, he or she so offending, and being thereof lawfully convicted before a justice of the peace, in manner aforesaid, shall forfeit and pay ten shillings current money for every skin

Penalties for buying red skins.

so bought or received. And for the further preventing the buying and receiving such red skins,

Constables may search for them.

SEC. 6. *Be it enacted by the authority aforesaid,* That every constable within this dominion shall have full power and authority, by virtue of this act, to search in all suspected places for all red skins of any deer killed contrary to the directions hereof, and to bring the same before some justice of the peace of the county where the offender resides; and if such offender shall not make proof that such skin was taken from a deer killed within his or her enclosed grounds tended as aforesaid, such justice shall immediately give judgment against the offender for the penalty aforesaid.

Hounds not to run at large.

SEC. 7. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for any person to keep any beagles or hounds running at large, but such beagles or hounds shall be constantly kept in kennels or couples, or with clogs, except at such times as they are used in hunting by the owner or his servants, under the penalty of five shillings for every beagle or hound so going at large.

Penalty for fire-hunting.

SEC. 8. *And be it further enacted by the authority aforesaid,* That whosoever shall hereafter use any fire-hunting or the killing of any deer by such means on any patented land, every person present at such fire-hunting shall forfeit and pay twenty shillings for every such offence; and if any Indian be found fire-hunting as aforesaid, it shall and may be lawful for the owner of such land, or his or her overseer, to take away the gun of such Indian, and the same to keep to his own use.

No person to hunt on another's land.

SEC. 9. *And be it further enacted by the authority aforesaid,* That if any person shall presume to hunt or range on the patented lands of any other freeholder without the leave of the owner of such lands, every such offender shall forfeit and pay the sum of twenty shillings for every such offence; all which penalties herein before mentioned shall and may be recovered before any justice of the peace in the county where any of the offences aforesaid shall be committed, and shall be divided, one half to and for the use of the parish where the offender shall reside, and the other half to the person or persons who will inform for the same; and every justice of the peace before whom information shall be made of any of the offences aforesaid, shall take for evidence the confession of the party accused or the oath of one credible witness: And where the owner of any land shall prosecute for any unlawful hunting and ranging on his lands, the oath of such owner shall be sufficient evidence to convict the offender; but in that case, the whole penalty shall go to the parish.

Constables to be sworn to present.

SEC. 10. *And be it further enacted by the authority aforesaid,* That every county court within this dominion, shall yearly, in the month of January, or the next succeeding court, administer to eve-

ry constable within their respective counties, an oath, well and truly to present to the next justice of the peace, all offences against this act: And every justice, to whom such presentment or information shall be made, shall immediately issue his warrant for the bringing before him such offender, and to give judgment and award execution against the goods and chattels of such offender, for the penalties herein before inflicted respectively.

Repealing clause.

SEC. 11. *And be it further enacted,* That one act made at a session of assembly, held at the capitol the twenty-second day of August, one thousand seven hundred and thirty-four, entitled "An act for lessening the penalties for killing deer at unseasonable times, and for the better recovery thereof," and all and every other act and acts heretofore made, so far as the same relate to any matter or thing within the purview of this act, be, and are hereby repealed and made void.

1748.

AN ACT for settling the titles and bounds of Lands, and for preventing Unlawful Hunting and Ranging.—*Hening's Statutes at Large*, vol. 5 p. 430; 2 *Litt.* 557.

SEC. 63. *And be it further enacted by the authority aforesaid,* That if any person or persons shall at any time shoot, hunt or range upon the lands or tenements, or fish or fowl in any creeks or waters included within the bounds of any other person or persons, without license first obtained of the owner of such lands, every such offender shall forfeit and pay twenty shillings for every such offence; to be recovered with costs, before any justice of peace of the county where the offence shall be committed, by the informer to his own use, in which information the confession of the party accused, or the oath of one credible witness, shall be sufficient evidence. And where the owner of the land shall prosecute for any unlawful shooting, hunting, ranging, fishing or fowling, within his bounds, the oath of such owner shall be sufficient evidence to convict the offender; but in that case the penalty shall be paid to the churchwardens of the parish wherein the offender resides, to the use of their parish; and moreover, every such offender shall be liable to the action of the party grieved, at the common law, for his or her damages.

Penalties for unlawful hunting, fishing, or fowling.

Twenty shillings for every offence to the informer.

What shall be good evidence.

Where the owner of land prosecutes, his oath shall convict the offender, but the penalty shall be to the parish.

The offender also liable to action at common law.

Upon a third conviction, the offender, besides paying the penalty, shall be bound to the behaviour.

Or committed.

SEC. 64. *And that if any person shall be the third time convicted of any such offence as aforesaid, the justice of peace before whom such conviction shall be, over and above giving judgment for the aforesaid forfeiture, shall require such offender to enter into recognizance, with one or more sufficient sureties, to our sovereign lord the king, his heirs and successors, in the penalty of ten pounds current money, for his good behaviour, during one whole year from thence next following; or in case of refusal so to do, shall commit*