

lant or plaintiff in error shall enter into a recognizance as required by law. And where the judgment shall be that the widow be seized of her dower, the appellant shall become bound in such recognizance to pay not only all damages which have been adjudged, but all which may be adjudged to such widow in the action thereafter. And when any such judgment shall be affirmed, there shall be a writ to inquire of the mesne profits and damages by waste done after the first judgment.

[Approved, February 5, 1825.]

DUELLING.

CHAP. I.

13 Dec. 1822.

AN ACT more effectually to prevent Duelling.

Preamble.

WHEREAS, experience has evinced that the existing remedy for the suppression of the barbarous custom of duelling is inadequate to the purpose, and the progress and consequence of the evil have become so destructive as to require an effort on the part of the general assembly to arrest a vice, the result of ignorance and barbarity, justified neither by the precepts of morality nor by the dictates of reason: for remedy whereof,

Persons fighting duel, and resulting in death, deemed murder.

Be it enacted by the General Assembly of the state of Missouri, That any person who shall wilfully and maliciously, or by previous engagement, fight a duel or single combat, with any engine, instrument or weapon, the probable consequence of which might be the death of either party, and in so doing shall kill his antagonist or any other person or persons, or inflict such wound as that the person injured shall die thereof within three months thereafter, such offender, his aiders, abettors or counsellors, being thereof duly convicted, shall be guilty of murder.

[Sections 2 and 3 repealed after 4th July, 1825.]

Judges to give this act in charge to grand jury

SEC. 4. *Be it further enacted,* That it shall be the duty of the judges of the circuit courts, at their stated sessions, to give in charge expressly to the grand juries all the laws in force to suppress duelling, also to charge the grand juries to present all persons concerned in carrying, sending or accepting a challenge; and if any person shall be presented in such court, the said court shall proceed to the trial of the same in the same manner as in other penal offences.

Judge or justices to issue warrant agt. persons suspected.

SEC. 5. *Be it further enacted,* That it shall be the duty of the judges of the supreme court, the judges of the circuit courts, the judges of the county courts, and justices of the peace of this state, who have good cause to suspect

any person or persons are about to be engaged or aid in a duel, to issue his warrant to bring the party or parties before him; and if he find sufficient evidence of the fact, shall take of them a recognizance to keep the peace, not less than six months or longer at discretion, in such sum as in his discretion will be necessary to enforce the object, conditioned that the party or parties concerned shall not, during the time for which they may be bound, directly or indirectly be concerned in a duel, either with the person suspected or any other person, within the time limited by the recognizance. And any judge or justice of the peace failing to discharge his duty as required by this act, shall, on conviction thereof, be fined in a sum not exceeding five hundred dollars, to be recovered before any tribunal having cognizance thereof.

On sufficient evidence, to bind them to keep the peace.

Penalty for neglect.

SEC. 6. *Be it further enacted*, That if any person or persons shall fight a duel in this state, or aid or abet therein, whereby any person shall be killed, or in any wise violate the provisions of this act, and then flee into another state to avoid his trial, it shall be the duty of the executive, and he is hereby directed to adopt and pursue all legal steps to cause any such offender to be apprehended and brought to trial in the county where the offence was committed.

Offenders escaping from justice,

Duty of executive.

SEC. 7. *Be it further enacted*, That whenever any judge of the supreme court, or of any circuit or county court, or any justice of the peace, shall have good cause to believe, from his own knowledge or the oath or affirmation of any other person, that any person or persons may have violated any of the provisions of this act, it shall be his duty to issue his warrant against all such persons, requiring him or them to appear before him; and for want of other sufficient evidence, to examine on oath any or all of the seconds, aiders, abettors, counsellors, physicians and friends of the person or persons whom he may believe to have violated any of the provisions of this act, touching the offence so believed to have been committed; and such second, aider, abettor, counsellor, physician and friend shall thereupon testify the whole truth of their knowledge, touching the said offence. And it shall be the duty of such judge or justice of the peace, if he find sufficient evidence, to cause the parties violating the provisions of this act, and all witnesses, to enter into a recognizance, with three or more good and sufficient securities, in such sum as he may deem proper, conditioned that he or they will appear at the next term of the circuit court of the proper county, there to answer for the said offence, or to testify, as the case may be, and not to depart the court without leave first obtained; and such seconds, aiders, abettors, counsellors, physicians

Judges or justices to issue warrant agt. persons violating the provisions of this act.

Seconds, aiders, &c. to give evidence.

On sufficient evidence, parties and witnesses to enter into recognizance with security

Person testi-
fying, not lia-
ble to indict-
ment.

If indicted,
prosecuting
attorney to
enter a *nolli*
prosequi.

Circuit or
prosecuting
attorney to
give inform-
ation to ex-
ecutive.

And to take
an oath.

Form of oath

and friends shall be and they are hereby required to testify before grand juries, and also on the final trial of all persons charged with having offended against the provisions of this act. And no person thus testifying shall be liable to a prosecution or indictment for aiding, abetting or counselling in any case of which he or they shall thus testify; and in case any person, who shall have been compelled to testify as herein provided, be indicted for the offence touching which he has given evidence, it shall be the duty of the prosecuting attorney to enter up a *nolli prosequi*,—and such person so indicted or presented shall thereupon be finally discharged. And no prosecutor shall be required to be endorsed on any presentment made under this act.

SEC. 8. *Be it further enacted*, That it shall be the duty of the circuit or prosecuting attorneys for the state, to give information to the executive, whenever a case shall arise in their respective circuits which shall render the interposition of executive authority necessary. And said attorneys, either at the first term of any circuit court within the circuit after the passage of this act, or at the time of their acceptance of their offices, where they shall hereafter be appointed, shall take the following oath: "I do solemnly swear, or affirm (as the case may be) that I will, to the best of my judgment, execute the duties imposed on me by the act more effectually to prevent duelling, so help me God."

This act shall commence and be in force from and after the first day of January next.

[Approved, December 13, 1822.]

CHAP. II.

AN ACT to prevent Vice and Immorality.

[Sections 1, 2, 3, 4 and 5 repealed after 4th July, 1825.]

Penalty for
sending,
bearing, or
accepting a
challenge, &c

SEC. 6. *And be it further enacted*, That if any person shall challenge another to fight a duel, or shall accept of a challenge to fight a duel, or shall knowingly be the bearer of a challenge for the purpose aforesaid, or shall be a second to any person that fights a duel, or shall aid, assist or procure any duel,—every such person offending, upon conviction thereof, shall forfeit and pay a sum not exceeding two hundred dollars.

[The residue of this act repealed after 4th July, 1825.]

[Approved, January 8, 1814.]

1st March,
1814.

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LAWS

OF THE

State of Missouri;

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2098

REVISED AND DIGESTED

BY AUTHORITY

OF THE

GENERAL ASSEMBLY.

IN TWO VOLUMES.

WITH AN APPENDIX.

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VOL. I.
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Published according to an act of the General Assembly, passed
21st February, 1825.

ST. LOUIS:

Printed by E. Charless, for the State.

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1825.