

THE
STATUTES OF CALIFORNIA,

PASSED AT

The Sixth Session of the Legislature,

BEGUN ON

THE FIRST DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED
AND FIFTY-FIVE, AND ENDED ON THE SEVENTH DAY OF
MAY, ONE THOUSAND EIGHT HUNDRED AND FIF-
TY-FIVE, AT THE CITY OF SACRAMENTO.

SACRAMENTO:

B. B. REDDING, STATE PRINTER.

1855.

CHAPTER CXXVII.

AN ACT

Amendatory of and supplemental to an Act entitled "An Act concerning Crimes and Punishments," passed April 16th, 1850.

[Approved April 27, 1855.]

The People of the State of California, represented in Senate and Assembly, do enact as follows :

Section 40
amended.

Duelling
Killing
antagonist.

SECTION. 1. Section forty of an Act entitled "An Act concerning Crimes and Punishments," passed April sixteenth, eighteen hundred and fifty, is hereby amended so as to read as follows : Section forty. If any person shall, by previous appointment or agreement, fight a duel with a rifle, shot-gun, pistol, bowie-knife, dirk, small-sword, back-sword or other dangerous weapon, and in so doing shall kill his antagonist, or any person or persons, or shall inflict such wound as that the party or parties injured shall die thereof within one year thereafter, every such offender shall be punished, upon conviction thereof, by imprisonment in the State Prison for any term not exceeding seven years nor less than one year.

Liable for debt.

Estate of
deceased.

Prosecution.

SEC. 2. If any duel shall be fought, contrary to the provisions of this Act, or if any person shall be guilty of fighting, in any incorporate town or city, or any other town or public place in this State, and the parties or either of them, shall use any dangerous weapon, contrary to the provisions of this Act, and either of the parties combatant shall be killed, or shall die within one year of any wound received in any such duel or fight, the party surviving shall be, and is hereby held chargeable with the payment of the debts of his antagonist, so killed by him, and the estate of the party so killed shall be exonerated from the payment of such debts, until the surviving party shall be duly prosecuted to insolvency, and the person or persons to whom the combatant so killed in such duel or fight shall be indebted, may prosecute to judgment and execution any action of debt or assumpsit, against such surviving party, which such person could have maintained against such party so killed, and in his declaration it shall be sufficient to set forth in substance the description of the judgment, bill, bond, note, assumpsit or account, by which the deceased in his lifetime was indebted to the plaintiff, and to aver that the defendant and deceased had fought a duel contrary to the provisions of this Act, or had fought in an incorporated city or town, or other town or public place in this State, and had in such fight used a rifle, shot-gun, pistol, bowie-knife, dirk, small-sword, back-sword or other dangerous weapon, contrary to the meaning and intent of this Act, and that in such duel or fight the defendant had unlawfully killed the deceased, or had given the deceased in said duel or fight a mortal wound, of which within one year the deceased had died, and that in consideration of which the defendant had become bound to pay to the plaintiff the amount of money mentioned in such judgment, bill, bond, note, assumpsit or account, and upon proving the same, the said plaintiff

shall have verdict, judgment and execution against the defendant ^{Verdict.} which shall appear to have been justly due and owing from the deceased to the plaintiff at the time of the commencement of such suit, any law, usage or custom to the contrary notwithstanding ; *provided*, also, that any conveyance of, or lien upon property, executed with ^{Proviso.} the intention of avoiding the provisions of this Act, shall be deemed and held null and void.

Sec. 3. If any duel shall be fought contrary to the provisions of this Act, and either of the combatants shall be maimed or wounded, ^{Charge} the charges incurred by such maimed or wounded combatant, together ^{incurred.} with those for the support and maintenance of his family during his sickness, shall be regarded as debts to be recovered, as provided in section second of this Act. And if the party shall die within one year of any wound received in any such duel or fight, the party surviving shall pay to the heir or heirs of such deceased, the sum of ten ^{In case of} thousand dollars, to be recovered as provided in section second, for ^{death.} the recovery of the debts of the deceased.

Sec. 4. Any and every person who shall be present at the time of fighting any duel with deadly weapons, either as second, aid, surgeon or spectator, or who shall advise or give assistance to such duel, ^{Witnesses.} shall be a competent witness against any person offending against any of the provisions of this Act, and may be compelled to appear and give evidence before any Justice of the Peace, Grand Jury or Court, in the same manner as other witnesses ; but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying.

Sec. 5. Sections forty-one and forty-two of an act entitled *An* ^{Repeal.} Act concerning Crimes and Punishments, passed April eighteenth, eighteen hundred and fifty, are hereby repealed.

CHAPTER CXXVIII.

AN ACT

Supplementary to and explanatory of an Act entitled an Act to prohibit Lotteries, Raffles, Gift Enterprises and other Schemes of a like Character, passed April 10th, 1855.

[Approved April 27, 1855.]

The People of the State of California, represented in Senate and Assembly, do enact as follows :

SECTION 1. The Act entitled *An Act to prohibit Lotteries, Raffles, Gift Enterprises and other Schemes of a like character*, passed April tenth, eighteen hundred and fifty-five, shall not be construed or held to prohibit or render unlawful the scheme or plan now proposed and maturing for the distribution of the property known as "Hock ^{Hock Farm} ^{scheme.}