

the result of ignorance and barbarism; and the 1st section enacts that persons fighting duels with any engine, instrument or weapon, upon being duly convicted, shall be sentenced to undergo a confinement in the penitentiary-house for a period not less than five, nor more than eighteen years.

By the 2d section, persons *challenging* are disqualified from holding any office of profit or trust. The constitutionality of this section has been doubted.

The 3d section was repealed by chapter 222 of 1817.

The 4th section makes it the duty of the judges to give in charge to juries all the laws to suppress duelling.

By the 5th section, any judge or magistrate having cause to suspect any person about to be engaged in a duel, may issue a warrant to bring the parties before him, and has full power to take of them a recognizance to keep the peace, if he shall think proper.

The 6th section renders persons leaving the State to evade the law subject to its penalties.

The foregoing act, which is the last in the statute book, has been in force since the first day of April, 1817, and it has failed to suppress the custom of duelling; but whether this failure may be attributed to any defect in the law, to a corrupt and perverted public sentiment in relation to this subject, or to neglect of enforcement on the part of those charged with its execution, your committee are not prepared to decide.

Your committee have deemed it within their province to enquire and examine into the origin of the custom of duelling, and, with that view, have made some research, and find it the product of feudal ignorance and barbarity. The duel (*bellum inter duos*) is a combat at a time and place appointed, in consequence of a challenge. It must be *premeditated*; otherwise, it is called a *rencounter*. Of this we have many striking instances, both in sacred and profane history. But these combats were very different from the duel, as it is now practised. In the ancient history of civilized nations, such a species of warfare is not to be found. It is a peculiarity of modern times.— The origin of the duel is to be sought in the superstitious customs of the Scandinavians and other northern nations. Among all such nations, courage seems to have been the ruling principle. This principle, impatient of the forms of law, impelled them to avenge their own wrongs at the point of the sword; and whoever declined to do so, was branded with the appellation of cowardice, and looked upon as infamous. This practice was intimately connected with their notions of religion. The prosperous were regarded as the objects of the divine favor; while the afflicted were looked upon as suffering the punishment of their crimes. Hence the single combat was viewed as a direct appeal to heaven; and he on whose side victory declared, was believed to have the juster cause.