



# The revised statutes of Kentucky Volume 2

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## **The revised statutes of Kentucky Volume 2** Kentucky

This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1867 Excerpt: ...an infant, where nothing appears in the record to show the age of the infant, or whether he had a guardian or not, the theriffs return upon the summons, that he executed the same by delivering the infant a copy thereof, will be taken as sufficient, and it will be presumed that the officer performed his duty as required by Civil Code, section 81. The case of Lloyds adm'r v. McCauley's adm'r, 14 B. M., 540, decides nothing inconsistent with this principle. Webber, etc. v. Webber, etc., 1 Metcalfe, 20. The circuit court has no authority to quash the return upon a summons, and thus to question collaterally the official act of the sheriff, on the ground that his office is vacant, or forfeited. All such acts are entitled to full effect until a vacancy in the office shall have been established in the regular and legal mode. Stokes v. Kirkpalrick, 1 Metcalfe, 144. A return by the sheriff of a summons upon appeal, "executed on J. H. C. by reading the within," is insufficient. It should state that a copy was delivered to, or offered to and refused by, the defendant. (Civil Code, sections 74, 75.) Case, Davidge, etc. v. Colston, 1 Metcalfe, 145. Where the officer makes a return of executed, upon a summons, without stating how it was done, the presumption is, that it was done according to law. But, where it appears from the return that the law has not been complied with, the presumption can not arise that the process has been properly executed. Ibid, 146. The right of a sheriff to execute process in cases in which he is a party, or is interested, is so manifestly inconsistent with public policy, and with the impartial administration of justice, that the exercise of any such right has always been prohibited, in Kentucky at least, by express statute. (Civil Cod...

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