

CHAP. 138. robbery or burglary, shall be deemed murder of the first degree; and all other kind of murder shall be deemed murder of the second degree; and the jury before whom any person indicted for murder shall be tried, shall, if they find such person guilty thereof, ascertain in their verdict, whether it be murder in the first or second degree; but if such person be convicted by confession, the court shall proceed, by examination of witnesses, to determine the degree of the crime, and to give sentence accordingly; and every person liable to be prosecuted for petit treason shall in future be indicted, proceeded against and punished, as is directed in other kinds of murder, according to the degree.

Of the second degree.

Petit treason.

II. Punishments of offences affecting life or person.

1. Of murder of the first degree

2. Of murder of the second degree

3. Of manslaughter

4. Of mayhem, and tarring and feathering

5. Of cutting out the tongue, putting out an eye, &c.

6. Of rape.

7. Of carnally knowing a woman child under ten years of age.

8. Of Sodomy.

9. Of an assault, with an intent to rob, murder or commit a rape.

4. **AND BE IT ENACTED,** That the offences herein after mentioned, affecting the lives or the persons of individuals, shall be punished in manner following; that is to say, 1st. Every person convicted of murder of the first degree, his or her aiders, abettors and counsellors, shall suffer death, by hanging by the neck. 2d. Every person duly convicted of the crime of murder in the second degree, or as accessory thereto, shall be sentenced to undergo a confinement in the penitentiary-house herein after mentioned for a period not less than five nor more than eighteen years, under the same conditions as are herein after directed. 3d. Every person duly convicted of the crime of manslaughter, shall be sentenced to undergo a confinement in the said penitentiary for a period not more than ten years, to be dealt with as herein after directed. 4th. Every person, his or her aiders and abettors, who shall be duly convicted of the crime of mayhem, or of tarring and feathering, shall be sentenced to undergo a confinement in the said penitentiary-house for a space of time not more than ten years, to be treated as herein directed. 5th. Every person, his or her aiders, abettors and counsellors, who shall be duly convicted of the crime of cutting out or disabling the tongue, putting out an eye, slitting the nose, cutting or biting off the nose, ear or lip, or cutting or biting off or disabling any limb or member of any person, of malice aforethought, with intention in so doing to maim or disfigure such person, shall be sentenced to undergo a confinement in the said penitentiary for a period of time not less than two nor more than ten years, to be treated as this act directs. 6th. Every person duly convicted of the crime of rape, or as being accessory thereto before the fact, shall, at the discretion of the court, suffer death by hanging by the neck, or undergo a confinement in the said penitentiary for a period of time not less than one year nor more than twenty-one years, under the same conditions as are herein after prescribed. 7th. If any person shall carnally know and abuse any woman-child under the age of ten years, every such carnal knowledge shall be deemed felony, and the offender, being convicted thereof, shall, at the discretion of the court, suffer death by hanging by the neck, or undergo a confinement in the penitentiary for a period not less than one year nor more than twenty-one years, to be dealt with according to law. 8th. Every person duly convicted of the crime of sodomy, shall be sentenced to undergo a similar confinement for a period not less than one year nor more than ten years, under the same conditions as are herein after directed. 9th. Every person duly convicted of the crime of an assault, with an intent to rob, murder, or commit a rape, shall be sentenced to undergo a confine-