

Arson and Burning.

1904, art. 27, sec. 6. 1888, art. 27, sec. 6. 1860, art. 30, sec. 2. 1809, ch. 138, sec. 5. 1904, ch. 267, sec. 6.

6. Every person convicted of the crime of arson, or as being accessory thereto, shall, at the discretion of the court, suffer death, or be sentenced to the penitentiary for not more than twenty years; and the wilful and malicious burning of any dwelling house, whether the same shall be in the possession of the offender or in the possession of any other person, with the intent thereby to injure or defraud any person, shall be deemed arson under this section.

The description of the property burned held too indefinite in one count but sufficient in another count. It is proper to charge statutory offenses in the language of the statute creating them. Where a statute contains an exception so incorporated with its enacting clause that the one cannot be read without the other, the indictment must negative the exception. The burning of a barn, parcel of a dwelling house, is covered by this section. *Gibson v. State*, 54 Md. 450 (decided prior to the act of 1904, ch. 267). *Gibson v. State* was overruled in part in *Avirett v. State*, 76 Md. 529.

If an indictment does not charge that the burning was done "maliciously," it is defective. *Kellenbeck v. State*, 10 Md. 437 (decided prior to act of 1904, ch. 267). *Cf. Gibson v. State*, 54 Md. 452.

An indictment for arson must charge that the house was burned. The act of 1809, ch. 138, only provided for the punishment of arson without defining it. *Cochrane v. State*, 6 Md. 405 (decided prior to the act of 1904, ch. 267).

Cited but not construed in *Hammond v. State*, 14 Md. 148.

As to indictments for arson, see section 503.

See notes to section 12.

Ibid. sec. 7. 1888, art. 27, sec. 7. 1860, art. 30, sec. 3. 1831, ch. 208, sec. 4. 1904, ch. 267.

7. If any person shall wilfully and maliciously set fire to and burn any untenanted or unfinished dwelling house, whether the same be his own or the property of another, with intent thereby to injure or defraud any person, he shall, upon conviction thereof, be confined in the penitentiary for a term of not less than one nor more than ten years.

Ibid. sec. 8. 1888, art. 27, sec. 8. 1860, art. 30, sec. 4. 1809, ch. 138, sec. 5.

8. Every person, his aiders or abettors, who shall be convicted of the crime of wilfully and maliciously burning any ship or other vessel of seventeen feet keel or upwards, whether laden or empty, shall be sentenced to the penitentiary for not less than two nor more than twelve years.

See notes to section 6.

Ibid. sec. 9. 1888, art. 27, sec. 9. 1860, art. 30, sec. 5. 1720, ch. 25. 1809, ch. 138, sec. 8. 1904, ch. 267.

9. Whoever shall wilfully and maliciously burn, or attempt or conspire to burn, the State house of this State, or any part thereof, or any office contained therein, or the building of the commissioner of the land office, or any part thereof, or of the penitentiary, or any court house, or any part thereof, or any office contained therein, or any jail, poor house, magazine or lazaretto, or any public warehouse, or any other public