

An. Code, sec. 11. 1904, sec. 11. 1888, sec. 11. 1751, ch. 7. 1845, ch. 381.

11. If any person shall maliciously set on fire any fence or fencing, or any straw, stack or stacks or ricks of straw, or any hay or mowed grass, or other grass, or any tobacco, he shall on conviction thereof be sentenced to the penitentiary for not less than two nor more than four years.

The act of burning a stack of hay is not a felony either at common law, under this section or under act of 1809, ch. 138; an indictment for a felony cannot be sustained as an indictment for a misdemeanor. Where indictment charged that traverser had "feloniously," etc., and the jury found him guilty of having "feloniously," etc., burned stack of hay, no judgment can be pronounced under this section. *Black v. State*, 2 Md. 379.

An. Code, sec. 12. 1904, sec. 12. 1888, sec. 12. 1744, ch. 5. 1809, ch. 138, sec. 5. 1904, ch. 267.

12. Every person, his aiders, abettors and counsellors, who shall be convicted of the crime of wilfully and maliciously burning any mill, distillery, manufactory, barn, meat house, tobacco house, stable, warehouse, storehouse, granary, barracks, distillery or other outhouse not parcel of any dwelling house, whether the same shall be the property of the offender or of any other person, with intent thereby to injure or defraud any person, shall be deemed a felon, and shall, in the discretion of the court, be sentenced to the penitentiary for not less than two nor more than twenty years.

Under this section, a party may be indicted for wilfully burning a school house not parcel of a dwelling house; the "wilful" burning being the offense provided against. *Jones v. Hungerford*, 4 G. & J. 402 (decided prior to act, 1904, ch. 267).

Act of 1809, ch. 138, punished the burning of a barn whether the articles of personal property mentioned in sec. 5 of that act, or other articles, were contained therein. Explanation of the word "empty" as used in said act. *House v. House*, 5 H. & J. 125.

Indictment which fails to describe building as "not parcel of any dwelling house" is defective. *Kellenbeck v. State*, 10 Md. 438 (decided prior to act of 1904, ch. 267). Cf. *Gibson v. State*, 54 Md. 452.

See notes to sec. 6.

An. Code, sec. 13. 1904, sec. 13. 1904, ch. 267, sec. 12A.

13. Whoever shall wilfully and maliciously set fire to or burn any school house, engine house, market house, scale house, watch house, bridge or any other building or structure not mentioned or included in the provisions of the preceding section, with intent thereby to injure or defraud any person, shall, on conviction therefor, be sentenced to the penitentiary for not exceeding seven years.

An. Code, sec. 14. 1904, sec. 14. 1888, sec. 13. 1809, ch. 138, sec. 5.

14. Any person who shall maliciously and wilfully attempt to burn any dwelling house, whether inhabited or not, or any mill, factory, barn, stable, storehouse, or other out house, or any stack of grain, hay, straw or fodder, upon conviction thereof, shall be sentenced to the penitentiary for not less than eighteen months nor more than ten years.

Assault on Wife.

An. Code, sec. 15. 1904, sec. 15. 1888, sec. 14. 1882, ch. 120.

15. Any person who shall brutally assault and beat his wife shall be deemed guilty of a misdemeanor, and upon presentment and conviction