

any act preliminary thereto, or in furtherance thereof, shall upon conviction thereof, be sentenced to the penitentiary for not less than one nor more than two years or fined not to exceed one thousand dollars.

The placing or distributing of any flammable, explosive or combustible material or substance, or any device in any building or property mentioned in the foregoing sections in an arrangement or preparation with intent to eventually wilfully and maliciously set fire to or burn same, or to procure the setting fire to or burning of same shall, for the purpose of this sub-title constitute an attempt to burn such building or property.¹

Assault on Wife.

An. Code, 1924, sec. 15. 1912, sec. 15. 1904, sec. 15. 1888, sec. 14. 1882, ch. 120.

11. Any person who shall brutally assault and beat his wife shall be deemed guilty of a misdemeanor, and upon presentment and conviction thereof by any court of competent jurisdiction shall be sentenced to be whipped, not exceeding forty lashes, or be imprisoned for a term not exceeding one year, or both, in the discretion of the court.

On an indictment under this section, the wife is a competent witness to prove the beating and also marriage; proof of performance of marriage ceremony is sufficient without proof of the authority of the officer who performed it. The marriage may be *prima facie* established by presumptive evidence. This section does not create a new offense, but simply attaches a new penalty to the common law offense when attended with circumstances of aggravation. Indictment under this section must aver the circumstances which constituted the offense or increase the punishment; it follows that the nature of the beating must be laid as characterized by the statute and victim of the offense must be described as the wife. *Hanan v. State*, 63 Md. 124.

The word "brutally" in this section is not uncertain or indefinite and is easily understood and applied. A party may be indicted under this section or for the common law offense, or indictment may include two counts, one embracing the statutory and the other the common law offense, and jury must determine whether a conviction under statutory count is warranted. This section is constitutional and valid; it sufficiently regulates mode and manner of inflicting punishment. *Foote v. State*, 59 Md. 266.

An. Code, 1924, sec. 16. 1912, sec. 16. 1904, sec. 16. 1888, sec. 15. 1882, ch. 120.

12. If any court shall order or direct the punishment as aforesaid by whipping, the same shall be administered by the sheriff of the county or city of Baltimore where the judgment shall be rendered; and said sheriff shall administer the same within the walls of the city or county jail.

Assault With Intent to Murder, Ravish or Rob.

An. Code, 1924, sec. 17. 1912, sec. 17. 1904, sec. 17. 1888, sec. 16. 1809, ch. 138, sec. 4. 1904, ch. 76. 1908, ch. 366. 1931, ch. 449.

13. Every person convicted of the crime of an assault with intent to rob, murder or have carnal knowledge of a female child under the age of fourteen years, shall be sentenced to confinement in the Maryland Penitentiary for not less than two years or more than ten years; and every person convicted of the crime of an assault with intent to commit a rape shall be punished with death, or, in the discretion of the Court, he shall be sentenced to confinement in the Penitentiary for the period of his natural life, or he shall be sentenced to confinement in the penitentiary for not less than two years nor more than twenty years; and nothing in this section shall be construed to interfere with any prosecution that has or may hereafter be commenced for any violation of this section hereby repealed happening previous to June 1, 1931.

¹Sec. 2 of ch. 255 of the acts of 1929 repealed all laws in conflict therewith.