

MARYLAND GAZETTE.

[LXVIII YEAR.]

WEDNESDAY, FEBRUARY 21, 1810.

[No. 3293.]

Penitentiary Law of Maryland.

AN ACT concerning Crimes and Punishments.

WHEREAS it frequently happens, that men resigning themselves to the dominion of inordinate passion, commit great violations upon the lives, liberties or property, of others, which it is the great business of the laws to protect and secure, and experience evinces that the surest way of preventing the perpetration of crimes, and of reforming offenders, is by a mild and justly proportioned scale of punishments; therefore,

II. *Be it enacted, by the General Assembly of Maryland,* That the offences herein after mentioned against the government and the supremacy of the laws, shall be punished in manner following; that is to say, 1st. Every person duly convicted of the crime of high treason against the state, shall suffer death by hanging by the neck, or be sentenced to undergo a confinement in the penitentiary-house herein after mentioned for a period not less than six nor more than twenty years, at the discretion of the court, and shall be kept therein at hard labour, or in solitude, and shall in all things be treated and dealt with as is herein after directed. 2d. Every free negro, mulatto or slave, who shall be duly convicted of actually raising, and every white person who shall be duly convicted of actually raising, with any free negro, mulatto or slave, insurrection or rebellion in this state, shall suffer death by hanging by the neck, and every free negro, mulatto or slave, who shall be duly convicted of consulting, conspiring, or attempting to raise, and every white person who shall be duly convicted of consulting, conspiring, or attempting, with any free negro, mulatto or slave, to raise, insurrection or rebellion in this state, shall be sentenced to undergo a confinement in the said penitentiary for a period of time not less than six nor more than twenty years, to be treated in all respects as herein after directed.

3d. Every person who shall be duly convicted of the crime of counterfeiting the great seal of this state for the time being, or the seal of any court, or any other public seal of this state, and of making use of the same, or of stealing any of the said true seals, or of unlawfully, falsely and corruptly, or with evil intent, affixing any of them to any deed, warrant or writing, or who shall be convicted of having in his or her possession or custody such counterfeit instrument, and shall wilfully conceal the same, knowing it to be false, made or counterfeited, shall be sentenced to undergo a confinement in the said penitentiary for a period of time not less than five nor more than ten years, to be treated as herein after directed. 4th. Every person who shall be convicted of having forged and counterfeited any gold or silver coin, which now is or hereafter shall be passing or in circulation within this state, or of having falsely uttered, paid, or tendered in payment, any such counterfeit and forged coin, knowing the same to be forged and counterfeited, or of having aided, abetted or commanded, the perpetration of either of the said crimes, shall be sentenced to undergo a confinement in the said penitentiary-house not less than ten nor more than ten years, to be treated as herein after directed.

III. *And,* whereas the several offences which are included under the general denomination of murder, differ so greatly from each other in the degree of their atrociousness, that it is unjust to involve them in the same punishment, therefore, *Be it enacted,* That all murder which shall be perpetrated by means of poison, or by lying in wait, or by any kind of wilful, deliberate and premeditated killing, or which shall be committed in the perpetration of, or attempt to perpetrate, any arson, or to burn any barn, tobacco-house, stable, warehouse, or other out-house, not parcel of any dwelling-house, having therein any tobacco, grain, hay, horses, cattle, or goods, wares and merchandise, rape, sodomy, bawdy-house, robbery or burglary, shall be deemed murder of the first degree; and of every 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 of 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.

IV. *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. Every 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 confinement in the said penitentiary-house for a time not less than ten nor more than ten years, under the conditions herein after prescribed. 10th. Every person, his or her counsellors, aiders or abettors, who shall be

duly convicted of the crime of kidnapping, and forcibly or fraudulently carrying, or causing to be carried out of this state, any free person, or any person entitled to freedom at or after a certain age, period or contingency, or of arresting and imprisoning any free person, or any person entitled to freedom at or after a certain age, period or contingency, knowing such person to be free, or entitled to their freedom, as aforesaid, with intent to have such person carried out of this state, shall be sentenced to undergo a confinement in the said penitentiary-house for a period of time not less than two nor more than ten years, to be treated as the law directs.

V. *And be it enacted,* That the offences herein after mentioned, affecting the habitations, houses or vessels, of individuals, shall be punished in manner following; that is to say, 1st. Every person duly convicted of the crime of arson, or as being accessory thereto, shall, at the discretion of the court, suffer death by hanging by the neck, or be sentenced to undergo a confinement in the penitentiary-house herein after mentioned for a period of time not less than five nor more than twenty years, under the conditions herein after prescribed. 2d. Every person, his or her aiders, abettors or counsellors, who shall be duly convicted of the crime of wilfully burning any mill, distillery, manufactory, barn, meat-house, tobacco-house, stable, warehouse, or other out-house, not parcel of any dwelling house, being empty or having therein any tobacco, wheat, rye, oats, Indian corn, barley, flax, hemp, hay, or other country produce, horse or horses, cattle or goods, wares and merchandise, or of burning any stack, rick, mow or barrack of hay, fodder, flax, hemp, tan-bark, wheat or other grain, shall, at the discretion of the court, suffer death by hanging by the neck, or be sentenced to undergo a confinement in the said penitentiary-house for a term of time not less than three nor more than twelve years, to be treated as herein after directed. 3d. Every person, his or her aiders or abettors, who shall be duly 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 undergo a confinement in the said penitentiary-house for a period of time not less than two nor more than twelve years, to be treated as herein after described. 4th. Every person convicted of the crime of burglary, or as accessory thereto before the fact, shall restore the thing taken to the owner or owners thereof, or shall pay him, her or them, the full value thereof, and be sentenced to undergo a similar confinement for a period not less than three nor more than ten years, under the same conditions as are herein after prescribed. 5th. Every person, his or her aiders, abettors and counsellors, who shall be duly convicted of the crime of breaking a dwelling-house in the daytime, with intent to commit murder or felony therein, or of breaking a store-house, warehouse or other out house, in the day or night, with an intent to commit murder or felony therein, shall be sentenced to confinement in the said penitentiary-house for a period of time not less than two nor more than ten years, to be dealt with according to law. 6th. Every person duly convicted of the crime of breaking into any shop, storehouse, tobacco-house or warehouse, although the same be not contiguous to or used with any mansion-house, and stealing from thence any money, goods or chattels, to the value of one dollar, or upwards, or as being accessory thereto, shall restore the thing taken to the owner or owners thereof, or shall pay him, her or them, the full value thereof, and be sentenced to undergo a similar confinement for a period not less than two nor more than twelve years, to be treated as herein after directed.

VI. *And be it enacted,* That the offences herein after mentioned, affecting private property, shall be punished in manner following; that is to say, 1st. Every person duly convicted of the crime of simple larceny to the value of five dollars, and upwards, or as accessory thereto before the fact, shall restore the money, goods or thing taken, to the owner or owners, or shall pay to him, her or them, the full value thereof, and be sentenced to undergo a confinement in the penitentiary-house herein after mentioned for a period of time not less than one year nor more than fifteen years, under the same conditions as are herein after directed. 2d. Every person convicted of the crime of robbery, or as accessory thereto before the fact, shall restore the thing robbed or taken to the owner or owners, or shall pay to him, her or them, the full value thereof, and be sentenced to undergo a confinement in the said penitentiary-house for a period of time not less than three nor more than ten years, under the same conditions as are herein after directed. 3d. Every person convicted of feloniously stealing, taking and carrying away, any horse, mare, gelding, colt, ass or mule, or as accessory thereto before or after the fact, shall restore the horse, mare or animal stolen to the owner or owners thereof, or shall pay to him, her or them, the full value thereof, and also undergo a similar confinement for a period not less than two nor more than fourteen years, under the same conditions as are herein after directed. 4th. Every person or persons duly convicted of wilfully and maliciously stabbing, killing or destroying, any horse, mare, gelding, colt, ass or mule, not the property of such person, and not in the act of trespassing on his enclosures, shall undergo a confinement in the penitentiary-house for a period not less than one year nor more than four years, to be treated as herein after directed. 5th. Every person who shall be duly convicted of the crime of stealing any ship, sloop or other vessel, of seventeen feet keel, or upwards, out of any place within the body of any county, or on the Chesapeake Bay, and within the jurisdiction of the state of Maryland, and not within the body of any county, or of the crime of feloniously taking and carrying away any negro or other slave, or of the crime of counselling, hiring, aiding or commanding, any person or persons to commit either of the said offences, or of the crime of being accessory to either of the said offences, shall restore the vessel or slave stolen to the owner or owners thereof, or pay him, her or them, the full value thereof, and also be sentenced to undergo a confinement in the said penitentiary-house for a period of time not more than twelve years, to be treated as herein after prescribed. 6th. If any person shall feloniously steal, take and carry away, the personal goods of another under the value of five dollars, or if any person shall break into any shop, storehouse, tobacco-house or warehouse, although the same be not contiguous to, or used with, any mansion-house, and steal any money, goods or chattels, under the value of one dollar, the same order and course of trial shall be had and observed as for other simple larcenies, and being thereof convicted, shall be deemed guilty of petty larceny, and shall restore the goods and chattels so stolen, or pay the full value thereof, to the owner or owners thereof, and be further sentenced to undergo a similar confinement for a period not less than three months nor more than one year, under the same conditions as herein after expressed. 7th. Robbery or larceny of any obligation or bond, bill obligatory or bill of exchange, bank note or notes, promissory note for the payment of money, lottery ticket, paper bill of credit, certificate granted by or under the authority of this state or of the United States, or any of them, or of any last will and testament, or codicil, shall be punished in the same manner as robbery or larceny of goods and chattels. 8th. Every person who shall be duly convicted of the crime of