

A
COMPILATION
OF THE
STATUTES OF TENNESSEE,
OF A
GENERAL AND PERMANENT NATURE,
FROM THE
COMMENCEMENT OF THE GOVERNMENT TO THE PRESENT TIME.
WITH REFERENCES
TO JUDICIAL DECISIONS, IN NOTES,
TO WHICH IS APPENDED
A NEW COLLECTION OF FORMS.

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SEC. 52. Whoever shall feloniously, and with malice aforethought, assault any person with intent to commit murder in the first degree, or shall administer, or attempt to give any poison or potion for that purpose, though death shall not ensue, shall undergo confinement in said jail and penitentiary house, for a period not less than three, nor more than twenty-one years.

Assaulting or poisoning, with intent to commit murder in the first degree.
Penalty.

SEC. 53. Any person who shall be guilty of committing any assault and battery upon any female, with intent forcibly and against her will, to have unlawful carnal knowledge of such female, every such person, his counsellors, aiders and abettors, shall, on conviction, be sentenced to undergo imprisonment at hard labor in the penitentiary, for a period not less than two, nor more than ten years.

Assault with intent to ravish.
Penalty.

SEC. 54. Whoever shall assault another, with intent feloniously and wilfully to commit a robbery, shall undergo confinement in said jail and penitentiary house, for a period not less than two, nor more than six years.

Assault with intent to rob.
Penalty.

SEC. 55. No person shall unlawfully and maliciously cut off the tongue, or disable the tongue of another, by clipping, biting or wounding. No person shall unlawfully and maliciously put out an eye; slit, cut off, or bite off the nose, ear, or lip of another, or any part of either of them, whereby any person shall be maimed or disfigured. No person shall unlawfully or maliciously cut off or disable the hand, arm, leg, or foot of another, or any part of either of them, whereby the person so injured shall lose the proper use of any of those members. No person shall unlawfully or maliciously shoot or stab another. No person shall unlawfully and maliciously, by cutting or otherwise, cut off or disable the organs of generation of another, or any part thereof. Whoever shall commit any of the offences mentioned in this section, shall undergo confinement in said jail and penitentiary house, for a period not less than two, nor more than ten years: *Provido*, If any of said offences shall be done in self defence, or without malice aforethought, the person charged shall be excused from the operations of this section. (*Restricted by the act of 1831, ch. 84.*) (k)

Mayhem. Injuries to the tongue, nose, ear, lip, hand, arm, leg or foot.

Shooting or stabbing.
Castration.

Penalty.

Exceptions in cases of self-defence, and where there is no malice.

SEC. 56. If any person within this state shall fight a duel, or shall deliberately and maliciously challenge, by word or writing, any other person, to fight with sword, pistol, or other deadly weapon, or shall deliberately and maliciously invite another verbally, or by writing, to meet him in this state, or elsewhere, with a view or intent to challenge or fight; or if any person so challenged, shall deliberately and maliciously accept the said challenge, in either case, such person so deliberately and maliciously giving or receiving, or sending any such challenge, and being convicted thereof, shall be sentenced to imprisonment, at hard labor in the penitentiary, for a term not less than three, nor more than ten years: *Provided always*, that no person who shall be verbally challenged, shall be a competent witness to prove the fact of such verbal challenge, against any person who may be indicted for the same.

Duelling or sending challenge.

Accepting challenge.

Punishment.

The person verbally challenged not a competent witness.

(k) When malice is a necessary ingredient in constituting the crime charged, the government must prove the malicious intent with which the act was done. 3 Yerg. 283.

2. If the jury have a reasonable doubt of the malicious intent, that doubt must weigh in favor of the prisoner; and unless removed by the state they must acquit. *Sense*.

3. When two persons are fighting, and a third, unconnected with either, without any apparent provocation, takes one of the parties whilst fighting, the law in such cases will imply malice. 4 Yerg. 137.

4. When the defendant was indicted for malicious stabbing, and the jury found the defendant "not guilty of the malicious stabbing, but guilty of an assault and battery," the circuit court has no jurisdiction to pronounce judgment. 6 Yerg. 533.—(Note. Jurisdiction afterwards confirmed by statute.)