

COMPILED STATUTES OF MONTANA,

ENACTED AT THE

REGULAR SESSION

OF THE

Fifteenth Legislative Assembly of Montana

EMBRACING

THE LAWS OF A GENERAL AND PERMANENT NATURE, IN FORCE
AT THE EXPIRATION OF THE FIFTEENTH REGULAR
SESSION OF THE LEGISLATIVE ASSEMBLY.

—ALSO—

SPECIAL LAWS ENACTED AT SAID SESSION,

TO WHICH ARE PREFIXED

THE DECLARATION OF INDEPENDENCE, THE CONSTITUTION OF THE
UNITED STATES AND AMENDMENTS THERETO, PROVISIONS OF
THE REVISED STATUTES OF THE UNITED STATES COM-
MON TO ALL TERRITORIES, AND THOSE PARTICULARLY
RELATING TO MONTANA, AND SESSION LAWS
OF THE UNITED STATES RELATING TO
MONTANA ENACTED SUBSEQUENT
TO THE REVISION.

SUPPLEMENTARY EDITION.

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1888.

SEC. 19. Express malice is that deliberate intention unlawfully to take away the life of a fellow creature, which is manifested by external circumstances capable of proof.

Express
malice.

SEC. 20. Malice shall be presumed to exist when no considerable provocation appears, or when all the circumstances of the killing show an abandoned or malignant heart.

Presumed
malice.

SEC. 21. All murder which shall be perpetrated by means of poison, or lying in wait, torture, or by any other kind of wilful, deliberate and premeditated killing, or which shall be committed in the perpetration, or attempt to perpetrate, any arson, rape, robbery or burglary, shall be deemed murder of the first degree; and all other kinds 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, designate by their verdict whether it be murder of the first or second degree, except as hereinafter provided.

Degrees of
murder.

SEC. 22. If any person, with or without deadly weapons, upon a previous agreement, fight with another, and death ensue to any person in such contest within a year and a day, the person or persons causing such death shall be deemed guilty of murder in the first degree.

Same.

SEC. 23. If any person shall, by previous appointment or agreement, fight a duel with a rifle, shot-gun, pistol, bowie-knife, dirk, small sword, back-sword, or other dangerous weapon, and in so doing shall kill his antagonist, or any person or persons, or shall inflict such wound as that the party or parties injured shall die thereof within one year thereafter, every such offender shall be deemed guilty of murder in the first degree, and, upon conviction thereof, shall be punished accordingly.

Same.

SEC. 24. In all trials for murder the jury shall designate in their verdict the degree of murder of which they find the defendant guilty, except when parties are indicted under either of the two preceding sections.

Degree to be
stated in ver-
dict.

SEC. 25. Every person who shall be convicted of murder in the first degree shall suffer the penalty of death by hanging; and every person who shall be convicted of murder in the second degree shall suffer the penalty of imprisonment in the territorial prison for a term of not less than ten years, and which may be extended for life.

Penalty for
murder.