

Alabama. Laws, statutes, etc. (Codes)
" Criminal code, 1897,

THE CODE OF ALABAMA,

ADOPTED BY ACT OF THE GENERAL ASSEMBLY OF THE STATE OF
ALABAMA, APPROVED

FEBRUARY 16, 1897,

ENTITLED "AN ACT TO ADOPT A CODE OF LAWS FOR THE STATE OF ALABAMA,"

WITH SUCH STATUTES PASSED AT THE SESSION OF 1896-97, AS ARE RE-
QUIRED TO BE INCORPORATED THEREIN BY ACT APPROVED
FEBRUARY 17, 1897; AND WITH CITATIONS TO THE
DECISIONS OF THE SUPREME COURT OF
THE STATE CONSTRUING OR MEN-
TIONING THE STATUTES.

IN TWO VOLUMES.

VOL. II.

PREPARED BY

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COMMISSIONER.

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house, erected for public use," as the case may be, without alleging the particular acts constituting the attempt.

4340 (3784) (4348) (3699) (153). **Arson in third degree.**—Any person, who willfully sets fire to, or burns any house, building, boat, or vessel, or any bridge, causeway, turnpike-gate, or toll-gate, by law erected or authorized, under such circumstances as do not constitute arson in the first or second degree, is guilty of arson in the third degree, and must, on conviction, be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than twelve months, and may also be fined not more than two thousand dollars, at the discretion of the jury. (Form 8.)

See note to section 4336. An indictment which alleges that defendant willfully set fire to and burned a gin-house without alleging value is good under this section, but not for arson in the second degree.—James's case, 104 Ala. 20. An indictment which charges that the defendant "willfully set fire to and burned a corn-crib or corn-pen, under circumstances not constituting arson in first or second degree" is good as to arson in third degree.—Leonard's case, 96 Ala. 108. * The only punishment the jury can impose for arson in the third degree is fine not to exceed \$2,000.—Leonard's case, 96 Ala. 108.

4341 (3785) (4349) (3700) (154). **Burning insured house, vessel, etc., or casting away or destroying boat or vessel.**—Any person, who, with intent to charge, injure, or defraud the insurer, willfully burns, or, with intent to burn, sets fire to any building or property which is at the time insured against fire; or who willfully burns, or sets fire to, with intent to burn, or sinks, casts away, or otherwise destroys any boat, ship, or vessel, with intent to charge, injure, or defraud the owner of such boat, ship, or vessel, or of any property on board of the same, or the insurer of such boat, vessel, or property; or any person who attempts to commit the offense defined by this section, must, on conviction, be punished by imprisonment in the county jail, or hard labor for the county, for not more than twelve months; and may also be fined not more than two thousand dollars, at the discretion of the jury.

The offense under this section is separate and distinct from arson in any degree, under the statute.—Heard's case, 81 Ala. 55. Proof of facts to constitute this offense will not support verdict under indictment charging arson in any degree.—Ib. The indictment must aver the statutory constituents—insurance against fire and the intent to charge, injure or defraud the insurer.—Ib.; Martin's case, 29 Ala. 30; s. c., 28 Ala. 71.

CHAPTER 128.

ASSAULTS. 4342-4347.

4342. Presenting firearms at another.—Any person who pre-^{Feb. 28, 1889, p. 67.}sents at another person any gun, pistol, or other firearm, whether loaded or unloaded, must, on conviction, be fined not less than ten nor more than one hundred dollars.

Not unconstitutional; not intended to interfere with the right of self-defense.—Davenport's case, 112 Ala. 49. If weapon discharged and death results, the **killing cannot be less than involuntary manslaughter.**—Johnson's case, 94 Ala. 35; Sanders's case, 105 Ala. 4.