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A
DIGEST
OF THE
LAWS OF THE STATE OF ALABAMA:

CONTAINING
ALL THE STATUTES
OF
A PUBLIC AND GENERAL NATURE,
IN FORCE AT THE CLOSE OF THE SESSION
OF
THE GENERAL ASSEMBLY, IN FEBRUARY, 1843.

45-
TO WHICH ARE PREFIXED,
THE DECLARATION OF INDEPENDENCE ;
THE CONSTITUTION OF THE UNITED STATES ;
THE ACT TO ENABLE THE PEOPLE OF ALABAMA TO FORM A CONSTITUTION AND
STATE GOVERNMENT, &c.;
AND THE CONSTITUTION OF THE STATE OF ALABAMA.
227590
WITH
AN APPENDIX, AND A COPIOUS INDEX.

COMPILED UNDER THE AUTHORITY OF THE GENERAL ASSEMBLY,

BY
C. C. CLAY.

TUSKALOOSA :
PRINTED BY MARMADUKE J. SLADE.
1843. .

Writing, printing, drawing, painting, or engraving any thing to excite discontent or rebellion of slaves or free persons of color.

§ 3. If any person shall, in this state, write, print, draw, paint, or engrave, or shall aid or abet, in writing, printing, drawing, painting or engraving, on paper, parchment, cloth, metal, wood, stone, or any other substance, with intent to circulate the same, any paper, essay, verses, pamphlet, books, painting, drawing, or engraving, calculated to excite discontent, insurrection or rebellion amongst the slaves, or free persons of color, or if any person shall have in his possession, with intent to circulate the same, any paper, essay, verses, pamphlet, book, painting, drawing or engraving, as aforesaid, such person shall, on conviction thereof, be punished by imprisonment in the penitentiary for a term not less than ten years.

Knowingly circulating such writing, &c.

§ 4. If any person shall knowingly circulate, or shall aid or abet in circulating in this state, any paper, essay, verses, pamphlet, book, painting, drawing or engraving, whether written, printed, drawn or engraved, on paper, parchment, cloth, metal, wood, stone, or any other substance, and whether the same be written, printed, painted, drawn or engraved, within or out of this state, with the intent and calculated to excite discontent, insurrection or rebellion amongst the slaves or free persons of color, such person shall, on conviction, suffer death, or be imprisoned in the penitentiary not less than ten years, at the discretion of the jury trying the same.

Unlawful assembly pulling down, or destroying dwelling-house, &c.

§ 5. If any persons, unlawfully assembled, shall demolish, pull down and destroy, or shall begin to demolish, pull down and destroy any dwelling-house, or any other building, or any ship or vessel, he shall be punished by imprisonment in the penitentiary not less than two and not exceeding five years, or fined and imprisoned in the common jail, at the discretion of the jury trying the same.

CHAPTER III.

Of Offences against the Persons of Individuals.

Murder in the first degree.

§ 1. Every homicide, which shall be perpetrated by means of poison, lying in wait or by any other kind of willful, deliberate, malicious and premeditated killing, or which shall be committed in the perpetration of, or in the attempt to perpetrate, any arson, rape, robbery or burglary, shall be deemed murder in the first degree; so also, every homicide, perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is slain, or perpetrated by any act eminently dangerous to the lives of others, and evincing a depraved mind, regardless of human life, although without any preconceived purpose to deprive of life any particular individual; and every person, guilty of murder in the first degree, shall, on conviction, suffer death, or confinement in the penitentiary for life, at the discretion of the jury trying the same.¹

How punished.

Murder in the second degree.

§ 2. Every homicide, committed under such circumstances as constitute the crime of murder at the common law, and is not embraced

¹The 2d section of the act of 1807—(6) “for the punishment of crimes and misdemeanors,” (Ark. Dig. 102.) is not expressly repealed, and may be considered still in force. It is in these words:

“Every person, liable to be prosecuted for petit treason, or as accessory thereto, shall be indicted, proceeded against, and punished, as is directed in other kinds of willful murder.”

by murder in the first degree, as defined in the preceding section, shall be deemed murder in the second degree; and it shall be the duty of the jury, before whom any person indicted for murder shall be tried, if they find the offender guilty, to ascertain by their verdict whether he be guilty of murder in the first or second degree; but if the accused, upon arraignment, shall confess his guilt, the court shall proceed by impanneling a jury, and the examination of testimony, to determine the degree of the crime, and to give sentence accordingly; and every person, guilty of murder in the second degree, shall, on conviction thereof, be punished by imprisonment in the penitentiary for a period not less than ten years.

Duty of jury on indictments for murder.

How punished.

§ 3. Every person, convicted of the crime of manslaughter, by voluntarily depriving a human being of life, shall be deemed guilty of manslaughter in the first degree, and shall, on conviction, be punished by imprisonment in the penitentiary for a period not less than two and not exceeding ten years.

Manslaughter in the 1st degree.

How punished.

§ 4. Every person, convicted of manslaughter under any other circumstances than those expressed in the last section, shall be deemed guilty of manslaughter in the second degree, and shall be fined in a sum not exceeding one thousand dollars, or imprisoned not exceeding six months, or both fined and imprisoned.

Manslaughter in the 2d degree.

How punished.

§ 5. If any person shall, with malice aforethought, cause the death of a slave, by cruel, barbarous or inhuman whipping or beating, or by any cruel or inhuman treatment, or by the use of any instrument in its nature calculated to produce death, such killing shall be deemed murder in the first degree.

Killing slave by certain treatment, murder in first degree.

§ 6. If any person, being the overseer or manager of any slave or slaves, or having the right to correct such slave or slaves, shall cause the death of the slave by such barbarous, or inhuman whipping or beating, or by any other cruel or inhuman treatment, although without intention to kill, or shall cause the death of any such slave or slaves, by the use of any instrument in its nature calculated to produce death, though without intention to kill, unless in self defence, such killing shall be deemed murder in the second degree.

Overseer or manager causing death by barbarous, or inhuman whipping, &c. murder in second degree.

§ 7. If any person, being the owner of any slave or slaves, shall cause the death of the slave, by cruel, barbarous, or inhuman whipping, or beating, or by any other cruel, or inhuman treatment, although without intention to kill, or shall cause the death of any such slave by the use of any instrument in its nature calculated to produce death, though without intention to kill, unless in self defence, or in the use of so much force as is necessary to procure obedience on the part of the slave, such killing shall be deemed murder in the second degree.

Owner of slave causing death by such means, murder in 2d degree.

§ 8. If any person shall be guilty of fighting in the streets of any city or town, or at a militia muster, or other place public in itself, or made public by any assemblage of people, for any purpose whatever, and shall employ or use during such fight any fire arms, or air gun, by discharging (or attempting to discharge) the same, unless in self defence, such person shall, on conviction thereof, be fined in a sum not less than one hundred nor more than five hundred dollars, or be imprisoned in the county jail for a term not exceeding six months, or both, at the discretion of the jury trying the offence.

Fighting in streets of city, &c. and using fire arms or air gun, except, &c.

How punished.

§ 9. When the killing in any sudden rencounter or affray shall be caused by the assailant, by the use of a deadly weapon, concealed before the commencement of the fight, his adversary having no deadly

Killing with deadly weapon, when mur-