

A DIGEST

OF THE

GENERAL STATUTE LAWS

OF THE

STATE OF TEXAS:

TO WHICH ARE SUBJOINED

REPEALED LAWS OF THE REPUBLIC AND STATE OF TEXAS,

BY, THROUGH, OR UNDER WHICH RIGHTS HAVE ACCRUED;

ALSO,

THE COLONIZATION LAWS

OF

FLA AND TEXAS, WHICH WERE IN FORCE BEFORE
DECLARATION OF INDEPENDENCE BY TEXAS.

PREPARED BY

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AUTHORITY OF THE LEGISLATURE.

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1859.

CHAPTER II.

OF AGGRAVATED ASSAULTS AND BATTERY.

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ART. 488. An assault or battery becomes aggravated when committed under Act of Feb. 12, 1858, any of the following circumstances:

1. When committed upon an officer in the lawful discharge of the duties of his office, if it was known or declared to the offender that the person assaulted was an officer discharging an official duty.

2. When committed in a court of Justice, or in any place of religious worship, or in any place where persons are assembled for the purpose of innocent amusement.

3. When the person committing the offence goes into the house of a private family, and is there guilty of an assault and battery.

4. When committed by a person of robust health, or strength, upon one who is aged or decrepid.

5. When committed by an adult male upon the person of a female, or child, or by an adult female upon the person of a child.

6. When the instrument or means used is such as inflicts disgrace upon the person assaulted, as an assault or battery with a whip or cowhide.

7. When a serious bodily injury is inflicted upon the person assaulted.

8. When committed with deadly weapons, under circumstances not amounting to an intent to murder or maim.

9. When committed with premeditated design, and by the use of means calculated to inflict great bodily injury.

ART. 489. The circumstances of aggravation mentioned in the preceding Act of Aug. 23, 1856, Article are of different degrees, and the jury are to consider these circumstances in forming their verdict and assessing the punishment.

ART. 490. Upon an indictment for an aggravated assault or battery, the jury may find the defendant guilty of simple assault, or assault and battery, and assess the punishment therefor, as prescribed in this Code.

2. Punishment.

ART. 491. The punishment for an aggravated assault or battery, shall be fine, not less than one hundred, nor more than one thousand dollars, and the jury may, in addition thereto, find a verdict for the imprisonment of the defendant, in the county jail, not exceeding two years.

CHAPTER III.

OF ASSAULTS WITH INTENT TO COMMIT MURDER, RAPE, ROBBERY OR OTHER CRIME.

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ART. 492. If any person shall assault another with intent to commit the

Act of Feb. 12, 1858. offence of maiming, he shall be punished by fine, not exceeding one thousand dollars, or by imprisonment in the Penitentiary, not less than two nor more than five years.

Act of Aug. 28, 1858. **ART. 493.** If any person shall assault another with intent to murder, he shall be punished by confinement in the Penitentiary, not less than two years, nor more than seven years. If the assault be made with a bowie-knife, or dagger, the punishment shall be doubled.

Intent to commit rape. **ART. 494.** If any person shall assault a woman, with intent to commit the offence of rape, he shall be punished, by confinement in the Penitentiary, not less than two years, nor more than seven years.

Act of Feb. 12, 1858. **ART. 495.** If any person shall assault another, with intent to commit the offence of robbery, he shall be punished by confinement in the Penitentiary, not less than two, nor more than five years.

Burglary. **ART. 496.** If any person in attempting to commit burglary shall assault another, he shall be punished by confinement in the Penitentiary, not less than two nor more than five years.

Act of Aug. 28, 1858. **ART. 497.** Whenever it appears upon a trial for assault with intent to murder,* that the offence would have been murder had death resulted therefrom, the person committing such assault is deemed to have done the same with that intent.

Discretion of jury. **ART. 498.** The jury, in every case arising under this Chapter, may acquit the defendant of the offence charged in the indictment, and may, according to the facts of the case, find the defendant guilty of an aggravated assault, or of assault and battery, or of a simple assault, and affix the proper penalty to which such offence is liable by law.

Rule as to what constitutes assault with intent to commit another offence. **ART. 499.** An assault, with intent to commit any other offence, is constituted by the existence of the facts which bring the offence within the definition of an assault, coupled with an intention to commit such other offence, as of maiming; murder, rape, or robbery.

CHAPTER IV.

OF MAIMING, DISFIGURING AND CASTRATION.

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1. Definition.

Act of Aug. 28, 1858. **ART. 500.** To maim, is to cut off or otherwise deprive a person of the hand, arm, finger, foot, leg, nose or ear; to put out an eye, or in any way to deprive the person of any other member of his body.