

dwelling houses
in night time.

part thereof, according to the provisions in the third Article of this Chapter mentioned, or any public office, or other public building, or any shop, warehouse, counting house, bank, office, or other building used or occupied for carrying on any trade or business, such public office, public building, shop, warehouse, counting house, bank, office, or other building, not being a dwelling house, for the purpose of Burglary, with intent in such any case to commit felony, every such offender shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding seven years.

ART. 6.

Definition of night.

So far as the same is essential to the offence of Burglary, the night shall be considered, and is hereby declared to commence at nine of the clock of the evening of each day, and to conclude at six o'clock in the morning of the next succeeding day.

ART. 7.

Breaking into
house, &c. in day
time.

Whosoever shall, in the day time, wrongfully and unlawfully break and enter any dwelling house, or building within the curtilage of a dwelling house, or any public office, or other public building, or any shop, warehouse, counting house, banking house, office, or other building, used or occupied for carrying on any trade or business, or any stable, barn, or store house, or into any Church, Chapel, or Meeting House, for the exercise of any mode or form of Religious Worship whatever, with intent in any such case to commit felony, every such offender shall be guilty of a Misdemeanor, and shall be liable to be punished by fine or imprisonment, or both, such imprisonment not to exceed three years.

ART. 8.

Indicted for
burglary may be
convicted of
misdemeanor.

Whosoever shall be indicted for any burglary, may, where the breaking and entering shall be proved at the trial to have been made in the day time, and not in the night time, and no breaking out shall appear to have been made in the night time, or where it shall be left doubtful whether such breaking and entering, or breaking out, took place in the day time or night time, be acquitted of the felony, and convicted of the offence specified in Article 7 of this Section.

ART. 9.

No defence for
misdemeanor that
offence was
Burglary.

It shall not be available, by way of defence, to a person charged with the offence specified in Article 7 of this Section, that the breaking and entering were such as to amount in Law to Burglary, provided that the offence shall not be afterwards prosecuted for Burglary upon the same facts; but it shall be open to the Court or Judge before whom the trial for such offence shall take place, upon the application of the Officer conducting the prosecution, to allow an acquittal for the misdemeanor, on the ground that the offence, as proved, amounts to Burglary; and if an acquittal takes place on such ground, and be so returned by the Jury, in delivering their verdict, the same shall be recorded, together with the verdict, and such acquittal shall not then avail as a bar or defence upon any indictment for such Burglary.

SECTION 2.

Arson.

ART. 1.

Arson.

Whosoever shall maliciously set fire to any dwelling house, any person being therein, shall be guilty of Felony, and shall suffer death.

ART. 2.

Destroying
dwelling house by
explosive sub-
stances.

Whosoever shall maliciously, by the explosion of gunpowder or other explosive substance, destroy, throw down, or damage the whole or any part of any dwelling house, any person being therein, shall be guilty of Felony, and shall be liable to be imprisoned for any term not exceeding fourteen years nor less than three years.

CHAPTER IX.

FRAUDULENT APPROPRIATIONS.

SUMMARY OF CONTENTS.

SECTION 1.—Robbery and Theft, and other offences connected therewith.

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