

character wherein is conducted any business tending to demoralize by example or contact said minor.

This section is a duplicate of article 23, section 376.

1910. ch. 587 (p. 66).

361. Any company or representative thereof who shall violate the provisions of sections 358 to 360 shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, or sixty days in jail or both, at the discretion of the court, for each and every offense.

This section is a duplicate of article 23, section 377.

Murder.

1904, art. 27, sec. 329. 1888, art. 27, sec. 210. 1860, art. 30, sec. 137. 1809, ch. 138, sec. 3. 1824, ch. 144.

362. All murder which shall be perpetrated by means of poison, or lying in wait, or by any kind of wilful, deliberate and premeditated killing shall be murder in the first degree.

In an indictment for murder, the circumstances determining the degree as defined by this and the following sections need not be averred. Object of the act of 1809, ch. 138, in dividing murder into degrees. An indictment for murder in the technical language of the common law, includes all circumstances of aggravation and the traverser is liable to be convicted of the inferior as well as of the higher grades of that offense and *vice versa*. When a statute creates an offense or increases the punishment thereof, the indictment must aver the circumstances constituting the offense or increasing the punishment. Clerical misprison. Arraignment and plea need not be repeated when the case is removed thereafter. Docket entries. A writ of error held not to lie as the alleged errors were subjects of demurrer—see section 496. *Davis v. State*, 39 Md. 370. And see *Weigborst v. State*, 7 Md. 451.

The act of 1809, ch. 138, in dividing the common law crime of murder into first and second degrees and attaching corresponding penalties, did not create a new offense. *Hanan v. State*, 63 Md. 126.

Since murder was one of the crimes enumerated in the act of 1793, chapter 57, section 10, a person convicted thereof might be sentenced to labor on the public roads. *State v. Negro Ben*, 1 H. & J. 99.

This section referred to in construing section 15—see notes thereto. *Foote v. State*, 59 Md. 269.

This section referred to in construing section 122—see notes thereto. *Negro Hammond v. State*, 14 Md. 148.

See section 508 and notes to section 367.

As to indictments for murder, see section 506.

Ibid. sec. 330. 1888, art. 27, sec. 211. 1860, art. 30, sec. 138.
1809, ch. 138, sec. 3.

363. All murder which shall be committed in the perpetration of, or attempt to perpetrate any arson, shall be murder in the first degree.

See notes to section 362.

Ibid. sec. 331. 1888, art. 27, sec. 212. 1860, art. 30, sec. 139.
1809, ch. 138, sec. 3.

364. All murder which shall be committed in the burning or attempting to burn any barn, tobacco house, stable, warehouse or other out-house, not parcel of any dwelling house, having therein any tobacco,