

*v. Glenn*, 54 Md. 599; *Lancaster v. State*, 90 Md. 215. *Cf. Danner v. State*, 89 Md. 225.

As a general rule, for any criminal offense for which a person is liable to infamous punishment, a trial by jury may not be denied; confinement in the penitentiary is infamous punishment. The right of parties charged with capital or infamous crimes is more extensive than in civil controversies or in prosecutions for misdemeanors of minor importance. Meaning of the term "law of the land." Jurisdiction cannot be conferred by consent. What does not amount to a "waiver" of the constitutional right to a jury trial. The act of 1896, chapter 128, providing that in certain counties justices of the peace should have concurrent jurisdiction with circuit courts for the trial of petit larceny, if neither the traverser nor the state's attorney when before the justice, prays a jury trial, held unconstitutional in so far as it conferred jurisdiction upon justices of the peace in cases of petit larceny. *Danner v. State*, 89 Md. 225.

The act of 1880, chapter 198, providing for the seizure and sale of vessels, etc., violating the "oyster" law, and for the trial of the captain, etc., before a justice of the peace, held not to violate this article or article 23. *The Ann*, 8 Fed. 925.

#### **Indictment.**

The indictment need not allege that the law under which it is had is in operation in the county where the law is alleged to have been violated, since it is the offense which is charged and not the law which is alleged to have been violated. Indictment sustained. *Slymer v. State*, 62 Md. 239.

Where a law provides a heavier punishment for a second violation of the liquor laws than for a first offense, in order to convict of such second offense, the indictment must aver that the offense charged is a second one. The act of 1908, chapter 179, providing that persons convicted a second time of the violation of the liquor laws of Baltimore county should pay a heavier fine than for a first offense and that the court may determine the fact as to the prior conviction by consulting the court docket, is unconstitutional. The information guaranteed by this article need not be conveyed by word of mouth nor by any other means than a copy of the indictment or charge, and the traverser must be informed of the *whole* charge. *Goeller v. State*, 119 Md. 63.

Both the constitution of the United States and of Maryland (as shown by the fifth amendment of the former and by this article) use the terms "indictment, presentment and charge" interchangeably. The presentment or charge should be full and definite; indictment held invalid because too vague. *State v. Keifer*, 90 Md. 173.

#### **Generally.**

When a traverser is indicted for murder in the technical language of the common law, he is charged with a crime which includes all circumstances of aggravation, and as all minor degrees are included in the major, he may be convicted of the inferior as well as of the higher grades of murder. The act of 1809, chapter 138—see article 27, section 329 *et seq.* of the code of 1904—which divided the crime of murder into degrees, held not to violate this article, although it permitted a conviction of murder in the first degree on an indictment which did not aver a willful, deliberate and premeditated killing. *Davis v. State*, 39 Md. 384.

This article referred to in deciding that where the docket shows that the verdict was regularly found "guilty of murder in the first degree," but it is proven as a matter of fact that the verdict was merely "guilty," without finding the degree, a new trial must be had. *Ford v. State*, 12 Md. 549.

The portion of this article providing that the accused shall have the right to be confronted with the witnesses against him does not exempt all evidence except oral evidence of witnesses produced in court. Documentary evidence, held proper. *Johns v. State*, 55 Md. 359.