

ARTICLE XII.

BASTARDY AND FORNICATION.

1.

While under the bastardy law the offence is not consummated and the indictment cannot be found until the birth of the child, yet the *time* of the birth is not of the essence of the offence and need not be proved as alleged. Plea of limitations. Immaterial error in indictment; see article 27, section 496. *Allen v State*, 128 Md. 266.

See notes to sections 3 and 4.

2.

See notes to sections 3 and 4.

3.

The fact that no written order was passed requiring the accused to give bond, the accused, however, being notified by the justice that he must give bond and one being given by his father, though not signed by the accused, does not oust the jurisdiction of the court. Nor does the failure of the justice to keep a copy of the bond affect the jurisdiction of the court. Object of the bond. This section construed in connection with section 7. *O'Brien v. State*, 126 Md. 272.

In view of the interpretation put on this section in *O'Brien v. State*, 126 Md. 272, this section does not violate the 14th amendment of the federal constitution. *Hamilton v. State*, 127 Md. 313.

As there should be something more than a comma before the words "in default" in this section and also before the words "in case," a period is substituted in both places. *O'Brien v. State*, 126 Md. 273.

See notes to section 4.

4.

Where the papers are taken by the justice and mailed to the clerk of the court, but are lost, the state may prove their contents. History of this article. The justice does not render judgment; the proceeding before him is simply preliminary. When action may be taken. When the documents have been lost, the proper practice is to have copies made and filed. The testimony of the complainant and the cross-examination, if taken down and lost, may be proved by parol. Submission to jury of issues on pleas to jurisdiction, held unnecessary; jurisdiction upheld. Evidence. *O'Brien v. State*, 126 Md. 272.

See notes to section 3.

5.

See notes to sections 3 and 4.

6.

See notes to sections 3 and 4.

7.

See notes to sections 3 and 4.