

him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

Jurors and jury trial.

The fact that two of the twenty-four jurors were members of a law and order league, the object of which was to enforce the local option law, did not disqualify them in a prosecution for a violation of said law; such members should not serve, however, in cases in which the league has control of, or by its counsel actively participates in, the prosecution. The fact that two of the state's witnesses were employees of the league did not disqualify the two jurors who were members of the league. The two jurors would have been disqualified, however, had they been members of an association for the purpose of delaying or obstructing the enforcement of the law. *Guy v. State*, 96 Md. 694.

The act of 1878, ch. 415, sec. 10, conferring jurisdiction upon justices of the peace to try and commit to the house of correction vagrant and disorderly persons, is constitutional. Meaning and design of this article. The crimes which this article provides for a jury trial of, are such crimes as have by the regular course of the law and the established modes of procedure as theretofore practised, been the subjects of jury trial. *State 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, ch. 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, ch. 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 art. 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, ch. 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.

A trial should not be so conducted as to have the appearance of a star chamber proceeding; limitations on this rule. Testimony should be taken in the presence of the accused; counsel cannot waive this right. *Dutton v. State*, 123 Md. 386.

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, ch. 138—see art. 27,