

Verdict not required to include reference to insanity when insanity not pleaded. *Rose v. State*, Daily Record, Jan. 31, 1940.

Petition to Federal court for *habeas corpus* on ground that judgment sentencing petitioner to life imprisonment for murder was void because verdict did not find accused sane at time of crime and trial, as required by this section, denied as presenting no Federal question in absence of allegation of facts supporting statement that he was restrained of his liberty, contrary to 13th and 14th Amendments to U. S. Constitution. *Ex parte Berman*, 14 F. Supp. 716.

Where person indicted for crime alleges insanity in his defense, held that jury must find on two separate issues of guilt and of insanity, and the verdict is fatally defective if it does not specially find him sane or insane with reference to both when the crime was committed and when the verdict is rendered. (Decided prior to acts of 1931, ch. 436, and 1933 (Special Sess.), ch. 81.) *Price v. State*, 159 Md. 498.

Where jury finds traverser "not guilty because of insanity," and he is committed to a state hospital under sec. 7, sec. 49 of this article applies just as if such person had been committed under sec. 1. *Wagner v. Baltimore*, 134 Md. 307.

If there is any evidence to sustain the theory of insanity the court may not withdraw this defense from jury. Purpose of this section. When "criminal responsibility" exists. *Deems v. State*, 127 Md. 627.

This and the following section referred to in distinguishing between mental disturbance, and moral or emotional insanity. *Spencer v. State*, 69 Md. 41.

A finding that a husband is a lunatic and a commitment under this and following section authorizes a married woman to convey as a *feme sole* under art. 45, sec. 13. *Hadaway v. Smith*, 71 Md. 321.

Purpose of this and following sections. *Devilbiss v. Bennett*, 70 Md. 558.

As to extradition of persons of unsound mind, see art. 42, sec. 22, *et seq.*

As to an inquiry whether a convict has become insane and removal of such convict if found insane to some suitable institution, see sec. 48.

An. Code, 1924, sec. 7. 1912, sec. 5. 1904, sec. 5. 1888, sec. 5. 1826, ch. 197, sec. 1. 1898, ch. 465.

7. If the jury find by their verdict that such person was at the time of committing the offense and then is insane or lunatic, the court before which trial was had shall cause such person to be sent to the almshouse of the county or city in which such person resided at the time of the commission of such act, or to a hospital, or some other place better suited in the judgment of the court to the condition of such prisoner, there to be confined until he shall have recovered his reason and be discharged by due course of law. And any judge of the circuit court for any county where such person is detained or of the supreme bench of Baltimore City, as the case may be, may, upon *habeas corpus* proceedings, make any order, absolute or conditional, for the permanent or temporary discharge of the person upon satisfactory proof of permanent or temporary recovery.

This section referred to in construing sec. 6. *Price v. State*, 159 Md. 499.

See notes to secs. 6 and 11.

An. Code, 1924, sec. 8. 1912, sec. 6. 1904, sec. 6. 1888, sec. 6. 1826, ch. 197, sec. 2. 1916, ch. 699.

8. Whenever any person charged with the commission of any crime, offense or misdemeanor shall appear to the court or be alleged to be a lunatic or insane, or if the court shall have any reason to suspect that such person may be a lunatic or insane the court may cause the Board of Mental Hygiene to inquire whether such person is at the time of such inquiry insane or lunatic, or of such mental incapacity as to prevent such person from properly conducting his or her defense or advising as to the conduct of his or her defense; and if the Board of Mental Hygiene shall find that such person is at the time of such inquiry insane or lunatic or of such mental incapacity as to prevent such person from properly conducting his or her defense or advising as to the conduct of his or her defense, the court shall in its discretion direct such person to be confined in one of the institutions referred to in the preceding section, until he or she shall have