

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, sec. 475, *et seq.*, of the An. Code—which divided the crime 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.

This article referred to in discussing whether a witness who was a member of the club under indictment for a violation of a local option law, should have been excused from testifying. *Chesapeake Club v. State*, 63 Md. 461 (dissenting opinion).

When a person accused of crime by a sufficient indictment is subjected, like all other persons, to the law in its regular course, this article is not violated. Object of this article. *Lanasa v. State*, 109 Md. 610.

This article referred to in passing upon the functions of grand jury; criticism of public officials; power exceeded. *In re Report of Grand Jury*, 152 Md. 623.

Sec. 665 of art. 27, providing that it is not necessary to set forth manner or means of death in indictment for murder or manslaughter, not in violation of this article. *Neusbaum v. State*, 156 Md. 149.

See art. 15, sec. 5 of the Md. Constitution.

Cited in *Smith v. State*, 169 Md. 476.

**Art. 22.** That no man ought to be compelled to give evidence against himself in a criminal case.

This Article referred to in holding conversations heard over the telephone in reference to bets on races, were inadmissible under the facts disclosed by the record. *Rowan v. State*, 175 Md. 559.

An indictment will not be quashed because it was found upon testimony given by the traverser before the grand jury. *Grove v. Taylor*, 143 Md. 193.

This article is waived if the traverser becomes a witness in his own behalf. *Guy v. State*, 90 Md. 33.

When a law provides that in case of its violation by any corporation, association, etc., each of its members "shall be liable and shall suffer imprisonment," etc., upon the indictment of a club for the violation of the liquor laws, a member may not be compelled to give testimony which might incriminate him; the privilege is a personal one and must be claimed by the witness upon oath. It is for the court to decide whether the privilege is well claimed or not; hence it must appear from the surrounding circumstances and the nature of the evidence sought to be elicited whether reasonable grounds exist for apprehending that the witness will incriminate himself. The privilege may be claimed after a witness has testified to other matters without objection. *Chesapeake v. State*, 63 Md. 456.

The state may not compel a traverser to produce in evidence against himself his private books and papers; this is true although such books and papers have, prior to the traverser's indictment, been turned over under an order of court to receivers. The fourth and fifth amendments to the Constitution of the United States are *in pari materia* with this article and art. 26. Cases reviewed. History of this article. *Blum v. State*, 94 Md. 380. *Cf. Lawrence v. State*, 103 Md. 35; *Archer v. State*, 145 Md. 142; *Meisinger v. State*, 155 Md. 202 (dissenting opinion).

The fact that certain bonds and certificates of stock were illegally taken from the traverser, does not render them inadmissible in evidence against him. *Lawrence v. State*, 103 Md. 33.