

MARYLAND GAZETTE.

[LXVIth YEAR.]

WEDNESDAY, FEBRUARY 28, 1810.

[No. 3294.]

Penitentiary Law of Maryland.

An ACT concerning Crimes and Punishments.

(Continued from our last.)

XIV. **AND BE IT ENACTED**, That in all criminal causes that may be brought to trial in the several courts of this state, in which a jury shall be necessary according to the constitution and the laws, except in the cases herein before mentioned wherein peremptory challenges are allowed, twenty persons from the pannel of petit jurors shall be drawn, by ballot, by the clerk, under the discretion of the respective courts, and the names of the twenty persons shall be written upon two lists, and one of said lists shall be forthwith delivered to the party indicted, or his or her counsel, and the other to the attorney prosecuting in behalf of the state, and it shall and may be lawful for the party indicted, or his or her counsel, and for the attorney prosecuting in behalf of the state, to strike out four persons from each respective list, and the remaining twelve persons shall thereupon be immediately empannelled and sworn as the petit jury in such prosecution; and if the party indicted, or his or her counsel, or the attorney prosecuting in behalf of the state, shall decline or refuse to strike out from such respective lists the number of persons hereby allowed, it shall and may be lawful for the several courts aforesaid to direct their clerks to strike out from the list of the party or the attorney, so declining or refusing, the number of persons herein before mentioned, and the remaining twelve persons shall be empannelled and sworn as aforesaid; provided nevertheless, that nothing herein contained shall be deemed or construed to take away the right of any person or persons to challenge the array or polls of any pannel returned, or any particular juror, for just cause, in the manner always allowed by the law of this state; and provided also, that by mutual consent the drawing of a pannel of twenty jurors may be dispensed with in any prosecution, and the trial thereof may be had by a petit jury drawn as heretofore; and if by reason of lawful challenges, or the absence of jurors, the number of twenty shall not remain to be drawn, the several courts aforesaid shall direct so many of the by-standers to be summoned by the respective sheriffs as shall be necessary to complete the lists herein before directed to be written and delivered as aforesaid.

XV. **And be it enacted**, That any alien, denizen or foreigner, who may be indicted for any offence committed within this state, shall be tried by a jury of the county, in the same manner as the citizens thereof, and there shall be no challenge either to the array or the polls for want of foreigners on the pannel or jury that may be returned.

XVI. **And be it enacted**, That in case any offender, on conviction, may be sentenced to suffer death, the court before whom such offender shall be tried and convicted, shall sentence him or her to suffer death, by hanging by the neck, and may decide upon, ascertain and declare, the time within their respective periods prescribed, during which any offender shall undergo confinement in the said penitentiary, according to the directions of this act.

XVII. **And be it enacted**, That if a person be feloniously stricken or poisoned in one county, and die of the same stroke or poison in another county within one year thereafter, the offender shall be tried in the court within whose jurisdiction such county lies, where the stroke or poison was given; and in like manner an accessory to murder or felony committed, shall be tried by the court within whose jurisdiction such person became accessory.

XVIII. **And be it enacted**, That if a person be feloniously stricken or poisoned on the waters of the Chesapeake Bay, and not within the body of any county, and within one year thereafter die of the same stroke or poison within any county of this state, or if a person be feloniously stricken or poisoned in any county of this state, and within one year thereafter die of the same stroke or poison on the waters of the Chesapeake Bay, and not within the body of any county, the offender, his or her aiders, abettors and comforters, or any person accessory thereto, shall be tried in the court within whose jurisdiction such county lies, where the death happened or the stroke or poison was given.

XIX. **And be it enacted**, That any person who shall commit any crime, offence or misdemeanor, upon the waters of the Chesapeake Bay, within the limits of this state, and without the body of any county thereof, and all aiders, abettors, comforters and accessories thereof and thereto, may be indicted and tried in any court of this state having jurisdiction of similar crimes, offences and misdemeanors, of the county in which he or she may be arrested, or into which he or she may be first brought.

XX. **And be it enacted**, That if any person against whom an indictment has been found, shall suggest, in writing, supported by affidavit or other proper evidence, that a fair and impartial trial cannot be had in the court where such indictment is found, such court shall order the record of the proceedings in the said prosecution to be transmitted to the court having criminal jurisdiction in any adjoining county, either within the same or any adjoining district, in which the same shall be heard and determined, in the same manner as if such prosecution had been originally instituted therein; provided, that all costs incident on the trial and final determination of the same, and all costs and charges incurred by removing the offender, if convicted, to the penitentiary, as herein directed, shall be paid, borne and defrayed, by the county in which the indictment was found, and the clerk of the court in which such trial and determination was had, shall make out a true and full bill of all such costs and charges, and certify the same to the levy court of the county in which such indictment was found, and the same shall be levied, collected and paid over to the persons entitled thereto, in like manner as other county dues are levied, collected and paid.

XXI. **And be it enacted**, That if any slave or servant be convicted of any crime, the punishment whereof may be death or a confinement in the penitentiary, the court before whom such conviction and condemnation shall take place, shall, immediately thereafter, proceed to value such slave, or the time of such servant, and enter the same in their proceedings, and such value shall be assessed and collected with the county assessment, and paid to the owner of such slave or servant; and if any slave or servant sentenced to undergo a confinement in the penitentiary, shall survive his or her time of confinement, such slave or servant shall, immediately on the expiration thereof, be sold at auction by the order of such court, or any two judges or justices thereof, and the money arising from the sale shall be applied to the use of the county in which the conviction took place; provided always, that such servant shall not be sold for a longer time than shall remain unexpired of his or her servitude at the time of his or her being sentenced.

XXII. **And be it enacted**, That the real and personal estate of the person convicted and sentenced to undergo a confinement in the penitentiary, or to be executed, shall, after paying the retribution and reparation to the party injured,

be liable to the discharge of the expenses incurred by the state in the apprehension, prosecution, conviction and removal, of such criminal; and in order to ascertain the amount thereof, the court before whom such offender is convicted, shall cause their clerk to certify to the keeper of the penitentiary the amount of reparation adjudged, and all costs and charges incurred in the prosecution and conviction of such offender, which the keeper shall enter in books to be by him kept for that purpose.

XXIII. **And be it enacted**, That in all cases where restitution or reparation is adjudged to be made to the party injured, and immediate restitution or reparation is not fully made, the court before whom the offender is convicted shall, at the instance of the party injured, issue execution against the property of such convicted person, in the name of the person injured, for the value of the property taken, or so much thereof as is not restored, such value to be estimated by the said court; provided, that nothing herein contained shall be construed to extend to deprive the party injured from having and maintaining a civil action against such offender, either before or after conviction, or against any other person, for the recovery of the money received or property taken, or the value thereof.

XXIV. **And be it enacted**, That if any person or persons shall be presented or indicted for a misdemeanor, or any offence of an inferior nature, and shall, on trial thereof, be acquitted, or shall plead guilty, and submit his, her or their case, to the court, such court may, at their discretion, order that no compensation for any attendance of the prosecutor shall be allowed.

XXV. **And be it enacted**, That the penitentiary-house, situated in Baltimore county, in the vicinity of the city of Baltimore, heretofore begun, and now in great part erected and finished under the superintendence of certain commissioners appointed for that purpose by a resolution of the general assembly, passed at November session, in the year eighteen hundred and four, so soon as the same is completed or put in order, shall be and the same is hereby appropriated for the reception of criminals that have been, or may hereafter be, condemned under the laws of this state, for each term upon such conditions, and under such regulations, as are herein, or may hereafter be, enacted and declared.

XXVI. **And be it enacted**, That the cells of the penitentiary shall be appropriated to the purpose of confining such males and females as shall be convicted of the offences above enumerated, as punishable with imprisonment and labour, but the males and females are hereby required to be kept separate and apart from each other, and all the prisoners shall be subject to the visitation and superintendence of the inspectors herein after mentioned.

XXVII. **And be it enacted**, That every person convicted in any court of this state, and sentenced to undergo a confinement in the penitentiary, shall, as soon as possible after conviction, be safely removed, by the sheriff of the county where such conviction took place, and at the expense of such county, to the penitentiary, and therein to be kept during the term of his or her confinement, in the manner, and on the terms, herein mentioned; and every sheriff who shall wilfully neglect to remove, and safely to deliver, at the penitentiary, such convict, shall forfeit and pay the sum of one thousand dollars, to be recovered by action of debt in any court of record, and applied, one half to the use of the county where sentence was passed, the other to the use of such person as will sue for the same.

XXVIII. **And be it enacted**, That every person convicted of any crime, the punishment whereof shall be confinement in the penitentiary, shall be placed and kept in the solitary cells therefrom, on low and coarse diet, for such part or portion of the term of his or her imprisonment, as the court, in their sentence, shall direct and appoint; provided, that it be not more than one half, nor less than one twentieth part thereof, and that the inspectors of the said penitentiary shall have power to direct the infliction of the said solitary confinement, at such intervals, and in such manner, as they shall judge best.

XXIX. **And be it enacted**, That all such convicts shall, at the public expense, during the term of their confinement, be clothed in habits of coarse materials, uniform in colour and make, and distinguishing them from the good citizens of this state; and the males shall have their heads and beards closely shaven, at least once every week, and all such offenders shall, during the said term, be sustained upon bread, Indian meal, or other inferior food, at the discretion of the inspectors, and shall be allowed two meals of coarse meat in each week, and shall be kept, as far as may be consistent with their sex, age, health and ability, to labour of the hardest and most servile kind, in which the work is least liable to be spoiled by ignorance, neglect or obstinacy, and where the materials are not easily embezzled or destroyed; and if the work to be performed is of such a nature as may require previous instruction, proper persons for that purpose, to whom a suitable allowance shall be made, shall be provided by order of any three of the inspectors, during which labour the said offenders shall be kept separate, apart and from each other, if the nature of their several employments will admit thereof, and where the nature of such employment require two or more to work together, the keeper of the penitentiary, or one of his deputies, shall, if possible, be constantly present.

XXX. **And be it enacted**, That such offenders, unless prevented by ill-health, shall be employed in work every day in the year, except Sundays and Christmas day, and such days when they shall be confined in the solitary cells; and the hours of work in each day shall be as many as the season of the year, with an interval of one half an hour for breakfast, and one hour for dinner, will permit, but not exceeding eight hours in the months of November, December and January, nine hours in the months of February and October, and ten hours in the rest of the year, and when such hours of work are past, the working tools, implements and materials, or such of them as will admit of daily removal, shall be removed to places proper for their safe custody until the hour of labour shall return.

XXXI. **And be it enacted**, That in order to encourage industry, as an evidence of reformation, separate accounts shall be opened by the keeper, in the books of accounts to be kept by him, for all convicts who have no property, and are sentenced to hard labour for six months or upwards, in which such convicts shall be charged with the expenses of their prosecution, conviction, and removal to the penitentiary, and of clothing and subsistence, and of such proportional part of the expenses of the raw materials upon which they shall be employed, as the inspectors, at their quarterly or other meetings, shall think just, and shall be credited with the sum or sums from time to time received by reason of their labour; if the same shall be found to exceed the said expenses, the said excess shall be laid out in making restitution to the party injured, and if none is adjudged, then in decent raiment for such offenders at their discharge, or otherwise applied to their use and benefit, as the said inspectors shall upon such occasion direct; and if such offender, at the end or other determination of his or her term of confinement, shall labour under any acute or dangerous distemper, he or she shall not be discharged, unless at his or her own request, until he or she can be safely discharged.

(To be continued.)