

CHAP.
CXXXVIII.

Challenge

XIII. AND BE IT ENACTED, That in all capital cases, and in all other criminal cases, the punishment whereof upon conviction is confinement in the penitentiary for five years at the least, or the punishment whereof may be extended to twelve years confinement in the penitentiary, and in all cases of larceny, where the money, goods or chattels, alleged to have been stolen, shall be valued in the indictment at the sum of one hundred dollars, or upwards, the person indicted shall be allowed the right of peremptory challenge, but in no case shall the accused be admitted to challenge more than twenty jurors, without assigning cause; and if any person so indicted shall peremptorily challenge above the number of twenty persons of the jury, the court, in such case, shall notwithstanding proceed to the trial of the person so challenging, as if he or she had pleaded not guilty, and put himself or herself upon the country, and render judgment thereon accordingly.

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