

**Jury trial.**

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.

If the law under which a condemnation is had, provides for an original assessment or award and for a jury trial on appeal therefrom, this article and art. 3, sec. 40. of the Maryland Constitution, have been complied with. *Steuart v. Baltimore*, 7 Md. 511.

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. 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 practiced, been the subjects of jury trial. *State v. Glenn*, 54 Md. 599. *Cf. Danner v. State*, 89 Md. 225.

Art. 26, sec. 9, of the An. Code, referred to in holding that the constitutional right of jury trial is not infringed by the compulsory appointment of an auditor in an action of law involving intricate accounts, with a view to his making a report which will simplify issues for the jury. Power to appoint auditor inherent in district court as a trial court. Limitations on right of jury trial. *Matter of Walter Peterson*, 253 U. S. 308.

**Generally.**

This article held to be a conclusive answer to an objection that the lottery commissioner had no right to file a bill of discovery in aid of a suit at law. *Broadbent v. State*, 7 Md. 429.

The acts of 1838, ch. 205, and 1845, ch. 176, extending the time of notice of the filing of a mechanics lien claim, and the act of 1845, ch. 346, extending the first mentioned acts to Howard district, held under this article and under art. 13 (as they stood in the Constitution of 1851), to have been extended to Howard county. *Pue v. Hetzell*, 16 Md. 539. And see *State v. Manly*, 1 Md. 139.

In the light of this article as it stood in the Constitution of 1851, the act of 1845, ch. 352, requiring usury to be specially pleaded, etc., held (in 1859) to be still in force. *Bandell v. Isaac*, 13 Md. 222.

The registry act of 1865, ch. 174, disfranchising those who had been in the Confederate army and requiring a test oath, thought to be in plain conflict with this article. *Anderson v. Baker*, 23 Md. 573 (dissenting opinion).

Sec. 239 of art. 16 of the An. Code, providing that where property is resold at the risk of a defaulting purchaser, the court may direct any deficit to be paid by such purchaser, held not to violate this article. *Capron v. Devries*, 83 Md. 224.

This article referred to in upholding the right of a court to hear and decide (without a jury) a motion to quash an attachment. *Howard v. Oppenheimer*, 25 Md. 365.

This article referred to in upholding the power of the general assembly to pass an act of divorce. *Wright v. Wright's Lessee*, 2 Md. 452 (decided prior to the Constitution of 1867—see art. 3, sec. 33, thereof).

This article referred to in discussing a prayer to take a case from the jury on the ground of the insufficiency of the evidence. *Kagel v. Totten*, 59 Md. 453.

This article referred to in construing art. 15 of the Declaration of Rights—see notes thereto. *State v. C. & P. R. R. Co.*, 40 Md. 63 (dissenting opinion).

This article referred to in construing art. 24 of the Bill of Rights and art. 3, sec. 33, of the Maryland Constitution—see notes thereto. *Brown v. State*, 23 Md. 507.

This article referred to in construing art. 19 of the Declaration of Rights and art. 15, sec. 6, of the Maryland Constitution—see notes to the latter. *Knee v. City Passenger Ry. Co.*, 87 Md. 624.

This article referred to in construing art. 4, sec. 11, and art. 5, sec. 2—see notes thereto. *Groome v. Gwinn*, 43 Md. 631 (concurring opinion).