5. Every late sheriff, elizor, or other person against whom such writ is issued, may give security, to be approved by the court, or some judge thereof, that he will produce the property mentioned in such writ of possession, whenever a writ of replevin is issued, if it be personal or movable property, and make oath that he does not believe the sheriff is, as such, entitled to the possession of the same; in which case the writ of possession shall be quashed, and the property returned to him. The sheriff may then maintain an action of replevin for such property, in which it shall be sufficient for him to show a right to the possession thereof as sheriff. If the property be real or fixed, no security need be given, but the party may file his affidavit, as above directed, and thereby put the sheriff to his ejectment, which he may maintain by averring in his complaint, and proving the facts which entitle him to the possession.

6. Every sheriff, clerk, elizor, trustee, constable, or other ministerial officer, is liable to an action of damages, for any official misconduct.

7. If an elizor or trustee dies, or is removed, having property in his hands, the same proceedings may be had against him or his legal representative, as against a late sheriff or his legal representative.

8. Where judges, justices of the peace, or other officers, are judges of a particular court in rotation, those only whose turn it is to sit in court at any term, are to be considered as judges during such term. The word term is defined for the purpose of this section, in the forty-eighth section of the second chapter of this title.

CHAPTER XXIII.

OF THE WRIT OF HABEAS CORPUS.

The writ of habeas corpus, is a writ directed to the sheriff, or other person, who may have the custody, legally or illegally, of any person, directing such sheriff, or other person, to have the body of the person, who is in custody before the court or judge named in the writ, for the purpose of enabling such court or judge to inquire into the cause of the confinement or detention of such person, and to discharge such person from such detention, confinement, or custody, if it should appear to be proper so to do. The person to whom the writ is directed is called the defendant; the person whose body is directed to be produced is called the prisoner.

2. The form of the writ of habeas corpus, shall be the following; but changes may be made in the gender and number of the pronouns, and such similar alterations, as the circumstances of each case may render necessary or proper. Several persons may be included in one writ.

Maryland in Liberia, to [*insert the name of the defendant*] Greeting:

You are hereby commanded to have the body of [*insert the name of the prisoner*] now in your custody, before [*insert the name of the court or judge, and, if the latter, his official style*] on [*insert the time*] at [*insert the place*] together with this writ, and the day and cause of his detention, in order that he may be discharged from detention, confinement, and custody, if it shall appear to the said court, [*or judge*] proper that he should be so discharged. Hereof fail not at your peril. Given under my hand [*and the seal of the court*] this [*insert the date.*] Issued in duplicate.

The writ shall be signed by the clerk of the court, or by the judge who issues it, with his name and official style, and the clerk shall, if he sign it, annex the seal of the court, if there be one. If there be no seal annexed to the writ, the words '*and the seal of the court*' shall be omitted. If the court have no seal, the certificate, required by the third section of the ninth chapter of this title is hereby dispensed with. No writ of habeas corpus shall ever be quashed for any defect of form, nor shall any advantage ever be taken or allowed, in any way, on account of any such defect.

3. Every court of record, having any other jurisdiction whatever, either original or appellate, shall have the power of issuing writs of habeas corpus in all cases whatever; and every judge of any such court shall have the like power.

4. The writ of habeas corpus, shall be issued as of right, whenever any person shall apply for the same, and shall satisfy the court or judge, that the person to be named in such writ as prisoner, is in confinement, detention, or custody; unless such court or judge shall know, either from the proceedings had upon a then recent writ, or from other judicial proceedings,

Maryland Historical Society

The Maryland State Colonization Society Papers

XIII. Colonization Pamphlets

1. The Declaration of Rights,
The Constitution of the
State of Md. in Liberia
(rough draft, engrossed copy, printed copy)