jury, and consequently responsible for violating a contract made by those whom he represents, or under whom he claims, and which is binding on him as a representative or assignee, or on his property, although he is not capable of making a contract.

45. Every person under twenty-one years of age is an infant.

46. A married woman is capable of committing an injury, and for every such injury her husband is responsible in an action against himself, although it may consist in the violation of a contract binding on such married woman, as a representative or assignee, or on her property, or made by herself before marriage. A married woman cannot make a contract to bind herself, although she may contract as her husband's agent; he will be bound by every such contract, and the agency may be directly proved or inferred from circumstances and the usages of society. A wife is presumed to be her husband's agent in providing for his family, and clothing herself and his female children, and males under the age of fifteen; but this presumption may be contradicted by proof to the contrary.

47. An idiot or insane person is capable of doing an injury, though not of making a contract, or committing a crime, and is responsible for an injury, though not for a crime; he may be responsible for the violation of a contract made by another person whom he may represent, in the same manner as an infant, under similar circumstances, and not otherwise. He shall be also liable for a violation of a contract made by himself before his insanity.

48. No judicial act, done by a judge or other judicial officer, within his jurisdiction or authority, or any omission to do such act, can ever be deemed an injury, although if the judge or officer act corruptly or maliciously, or wilfully refuse or neglect to do his duty, it is a crime. This section is to be considered as controlled by the provisions of the twenty-third chapter of the second title, on the subject of writs of habeas corpus.

49. No ministerial officer is guilty of an injury in executing any writ directed to him by any authority or tribunal, having jurisdiction over the place where the writ is executed, and having authority to issue similar writs. If the writ shall have been improperly obtained, or the court or other tribunal has exceeded the precise limits of its jurisdiction, a remedy may be had against the persons who procured the issuing of the writ.

50. A ministerial officer who does any act under or by colour of any writ which such writ does not authorize, is guilty of an injury, if his act produce damage to any person.

51. The object of actions for the redress of injuries, being the indemnification of the injured, and not the punishment of the injurer, it follows that the measure of damages in such actions is the actual amount of loss or inconvenience sustained by the plaintiff, without any reference to the degree of misconduct of which the other party may have been guilty. The only exceptions to this rule are those contained in the next section.

52. Adultery, the seduction of a wife or daughter, illegally taking away or harbouring a wife or a child, ward or apprentice under twenty-one years old, or enticing an idiot or insane person from his or her legally appointed trustee or guardian; the breach of a contract, engagement, or promise to marry; injuries to the reputation for which an action will lie without alleging and proving special damage, and the injuries for which remedies are given by the twenty-third chapter of the second title, are injuries of a peculiar nature, and partake of a criminal character. Actions for the above enumerated injuries partake of the nature of criminal prosecutions. They are exceptions to the rule for the measure of damages laid down in the last section, and a jury in estimating damages in such cases, may take into consideration the misconduct of the defendant, and increase the damages at their discretion for the purpose of punishing him. Other personal injuries are not exceptions to the rule in the last section.

53. In every case of an injury, the condition of the defendant is to be preferred; that is, the facts must be proved by the plaintiff. Where the right or the wrong are equal, the condition of the defendant or the party in possession of the thing in dispute, is to be preferred.

54. The enumeration of particular injuries, except those to reputation in some of the preceding sections, shall not be construed to exclude from the class of injuries, any particular case not enumerated, which amounts to an injury agreeably to the principles of the first six sections, or the tenth section. The first six sections and the tenth section, contain general principles; which the others are designed to explain, apply, or restrain. But they are only to be restrained by express words, not by mere omissions.

55. All the provisions of this title are to be considered as annexed to, incorporated in, and controlling all the provisions of the second title, except those contained in the twenty-third chapter.

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)