TITLE II.

OF REMEDIES.

CHAPTER I.

OF ACTIONS.

1. An action is a mode of proceeding to obtain redress of an injury by means of a court of justice.

2. The party who seeks redress in an action, is called the plaintiff, the party against whom the action is brought is called the defendant.

3. Actions are divided into three general classes,—where the injury for which redress is sought is a breach of contract, the action is said to be an action growing out of contract; where it is an injury of any other description, the action is said to grow out of a wrong. The third class, consists of actions growing out of judgments in former actions.

4. Actions growing out of contracts, are subdivided into those in which a specific performance of the contract is sought,—and those which, are intended to recover damages for the non-performance of the contract.

5. There are three actions growing out of contract, in which the specific performance of a contract is sought,—debt,—specific performance of contracts, other than for the payment of money,—and injunction.

6. An action of debt is an action to enforce the payment of a sum of money, which the defendant has contracted to pay to the plaintiff.

7. An action for the specific performance of a contract, other than for the payment of money, is an action in which it is sought, to compel a defendant to do any act other than the payment of money, in pursuance of a contract into which he has entered. It may be briefly called an action of specific performance.

8. An action of injunction, is an action in which the plaintiff seeks to compel the defendant, to permit matters to remain in the present

state, either in pursuance of a contract, or because of a right growing out of the general principles of law. It is classed with actions founded on contract as a matter of convenience, although it is capable of being applied in cases, where the wrong is not, precisely, a breach of any contract.

9. An action to recover damages for the breach of a contract, is an action in which the plaintiff seeks to obtain from the defendant a sum of money, as damages or compensation for the injury he has sustained by reason of the defendant not performing some contract, into which he, or some person under whom he claims, or whom he represents, had entered. It may be briefly called an action of damages.

10. Whenever a person is bound under a penalty, that himself or any other person, shall do or omit any act, and the obligation is violated, or whenever any person is bound in any sum of money, the obligation to be released or void, on the omission or doing of any act by himself or any other person, in case of a breach of the contract or condition, an action of contract shall be the proper remedy. In such action the plaintiff may recover the amount of the damages sustained by him in consequence of the act or omission complained of, and no more, even although the penalty or sum in which the party is bound, may exceed such amount of damages. Against a surety, or the principal party, if sued with the surety, the plaintiff can never recover more than the penalty or sum in which such surety was bound: but he may have a separate action against the principal, either of contract or damages, according to the circumstances, and recover the excess of his damages beyond the penalty.

11. There are three actions growing out of wrongs,—replevin,—ejectment,—and the action to recover damages for a wrong.

12. Replevin is an action to recover the possession of movable property, wrongfully withheld by the defendant from the plaintiff.

13. Ejectment is an action to recover possession of real or immovable property, wrongfully withheld by the defendant from the plaintiff. A widow may recover her dower in ejectment.

14. The action to recover damages for a wrong, is an action in which the plaintiff seeks to obtain from the defendant, a sum of money, as damages or compensation for the injury he has sustained, by reason of some act of the defendant. It may be briefly called an action of damages. It is the action which lies for every injury, for which there is no other remedy.

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)