by law, be in all cases ascertained by a jury. The jury who try an action of replevin, when the goods are in possession of the plaintiff, shall, if they find a verdict for the defendant, ascertain the value of the goods.

7. The court shall try all questions and ascertain the amount of debt and damages in all cases in which a jury is not required.

8. If in an action of enforcement, or in any other case, in which a judgment is stated in a complaint, the defendant deny the facts stated in the complaint, the court shall try the question, whether there is such a judgment or not, and their opinion on that subject, shall be conclusive upon the jury, if there is one.

9. It is the right and the duty of the court, to expound to the jury all written evidence, produced in the course of the trial, but depositions and affidavits, although actually reduced to writing, are not to be considered as written evidence within the meaning of this section.

10. It is the right of the court, to decide on the admissibility of evidence, but when it is admitted, it is the right of the jury to decide upon its credibility and effect.

11. Consequently the court have no right to instruct the jury, that there is no evidence of any particular fact, if any evidence not written has been given in the cause.

12. It is the duty of the court when applied to by either party or by the jury, to instruct the jury upon any point of law which is important to the decision of the cause; and the court may so far decide upon the effect of unwritten evidence, as may be necessary to enable them to ascertain whether a point, upon which instruction is asked, is important to the decision of the cause.

13. The court shall not instruct the jury upon any point of law, which has not a bearing upon the merits of the cause.

14. On the trial of an action for a malicious suit, prosecution or proceeding, it shall be the right of the jury, to determine whether reasonable cause for such suit, prosecution, or proceeding existed or not, which they shall do by taking into consideration all the facts and circumstances of the case. The court shall only instruct them, as to what facts are requisite and proper to furnish a sufficient foundation in law for similar suits, prosecutions, or proceedings.

15. Either party may require the court to reduce its opinions and instructions to writing, and whenever an appeal is to take place, the whole evidence in the cause, shall be reduced to writing, and with the opinions and instructions, signed by the judges, shall be transmitted to the court, before which the appeal is to be heard.

16. The court may set aside the verdict or decision of the jury, and order a new trial, whenever it shall be proved that the jury or any of them have received a bribe, or have conversed, otherwise than openly in the presence of the court, with any party to the suit, or agent of such party, on the subject of the trial, after being affirmed; or if any juryman was related to either of the parties, or to the wife of either of the parties, as father, son or brother, or had himself any pecuniary interest in the cause, or if the verdict shall be manifestly against the evidence, the law, or the legal instructions of the court, or if the debt or damages found by the jury, be greatly too much or too little, when compared with the evidence in the cause.

17. The court in awarding a new trial, may impose such terms upon the party in whose favour they award it, as to them shall seem just.

18. Every motion for a new trial, must be made within four days after the verdict, or if on the ground of the verdict being against evidence, law, or the instructions of the court, or of a mistake in the amount of damages, within two days. Within one day after such a motion is made, it shall be the duty of the court to appoint a time for hearing it, which shall be within ten days after the verdict, if the ground of the motion shall be such as, by the provisions of this section, would render it necessary to make the motion within two days after the verdict.

19. When a verdict is set aside, it shall be the duty of the court to appoint as early a day, as conveniently may be, for a new trial.

20. Every question of law or fact, shall be disposed of at the term at which it is raised, unless the court are prevented from disposing thereof by want of time, or are satisfied by affidavit or other sufficient evidence, that the ends of justice require a postponement, and that the necessity does not grow out of the misconduct or negligence of the party applying for the postponement.

CHAPTER VIII.

OF COURTS.

1. Every court shall consist of one or more judges, and shall have a clerk, and, if it has been in existence ten years, a seal.

2. Every act of a court unless otherwise directed by law or rule

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)