qualified as jurymen in the cause to be chosen as triors, in the manner following: that is to say, the court shall nominate nine persons, whose names shall be put in the ballot box and seven of them drawn and entered on a list; each party shall strike two from the list, and the remaining three shall try the impartiality of the juryman without appeal. Should the same persons be struck by both parties, the number shall be reduced to three by the court. But if a juror is admitted to try a cause without objection or after a trial by the court, or by triors, the verdict shall not be set aside on account of any disqualification in him to serve on the jury, not mentioned in the fifteenth section of the seventh chapter.

7. If, after the list of a jury is made out, it shall appear that the whole twelve are not present, or one or more of them shall prove not to be lawful jurors, the court may nominate five persons qualified as jurors in the cause, for each juryman wanting; the names of such persons shall be put in the ballot box, and three for each juryman wanted drawn, and written on a list, from which each party may strike one-third of the names thereon, and the remaining third shall be the jurymen. The court may nominate persons whose names have been before in the box and not drawn; but not a person whose name has been stricken from the list by either party in the same cause.

8. In all cases where a party refuses or neglects to strike a name or names from any list, the court may do it for him.

9. Every juryman must be twenty-five years old, of good moral character, and able to read and write.

10. Every jury must be kept together, from the time at which they are affirmed, until they render a verdict, without communicating with any person, unless the court dispense with any part of this section. A jury may, notwithstanding, have food, water, light, and other necessaries.

11. If the court are satisfied that there is no prospect of three-fourths agreeing, they may be discharged and a new trial awarded.

12. The jury may always find the facts specially, and refer the law to the court. If they disagree upon the amount of debt or damages, they may report to the court the opinion of each juryman, and the court may ascertain the amount.

13. The sheriff shall cause twenty-four qualified jurymen to attend at each term of every court, having original jurisdiction, to be summoned as equally as may be from the several townships within his jurisdiction, and in rotation in each township. If from any cause

any particular juryman shall be disqualified from serving in a particular case, or shall be absent, the place of his name may be supplied in the ballot box by that of any person qualified to serve as juryman in the case, without reference to township or rotation. The persons whose names are substituted for those of others, shall be called additional jurymen, and shall be summoned by the sheriff before their names are put into the box. Their service in a particular case shall not be accounted instead of their service in rotation.

CHAPTER X.

OF THE GENERAL RULES OF EVIDENCE.

1. It shall be the duty of every party alleging the existence of any fact to prove it. The burden of proof rests on the party who maintains the affirmative, except in special cases.

2. Where a party charges another with a culpable omission or breach of duty, he shall be bound to prove it, although it involve a negative. Every man shall be presumed to be innocent until the contrary is shewn.

3. Where the facts lie peculiarly within the knowledge of one party, he shall be held to prove the negative.

4. When the fact alleged is the life of any person, if he be shewn ever to have existed, the party denying his continuing existence must shew his death. But death shall be presumed from an absence of seven years, during which no account can be given of the absentee.

5. The legitimacy of every person is presumed.

6. Marriage is presumed, whenever the parties have lived together as husband and wife.

7. It is sufficient if the allegations of a party are substantially proved.

8. The best evidence which the case admits of, must always be produced; that is, no evidence is sufficient which supposes the existence of better evidence.

9. A copy is not evidence, unless the original is proved to be lost, or to be in the possession of the opposite party, who has received notice to produce it, or unless it be a copy of some record or other public document.

10. Hearsay is not evidence, except in particular cases.

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)