CHAPTER XII.

OF ORAL TESTIMONY.

1. Oral testimony is the detail given on oath by living witnesses, of their knowledge of facts.

2. It shall be the right of the court to decide on the competency or admissibility of oral testimony, and of the jury to judge of its credibility and effect.

3. All oral testimony shall be admissible, which is delivered by a competent witness, and from which the human mind can properly draw any inference, having a bearing on the case.

4. Every witness shall be considered as competent, who cannot clearly be shewn to be incompetent. All objections not absolutely and directly going to competency, shall go to credibility only.

5. Every person shall be a competent witness who is not rendered incompetent, by defect of understanding, defect of religious belief, defect of moral character, through infamy, interest in the cause, or relation to one of the parties.

6. No person shall be deemed an incompetent witness by reason of a defect of understanding, who is able to give an account of the nature and obligation of an oath. It shall be the duty of the court to examine all children under twelve years old, as to this matter, before administering an oath to them.

7. No person shall be deemed an incompetent witness by reason of a defect of religious belief, except one who does not believe in a future state of rewards and punishments.

8. No person shall be deemed an incompetent witness by reason of a defect of moral character, or through infamy, except one who has been convicted of perjury.

9. No person shall be deemed an incompetent witness on account of an interest in the cause, except he be a party thereto, or bail, or otherwise security in the cause, for the party who calls him, or be answerable over to such party, or be responsible for the costs, or a part of them, or except the verdict or judgment can be given in evidence against him, or except he has an interest in the plaintiff's claim, or other thing in dispute. If he can be shewn to have an equal interest on both sides, he shall not be deemed disqualified on either.

10. No person shall be deemed incompetent on account of relationship to a party, except the relation be that of a husband and wife,

or except the witness be under twelve years of age, and be the child of the party, or reside with him under his care.

11. The persons described in the exceptions in the last five sections, shall be deemed incompetent witnesses.

12. Where a witness is incompetent from interest in the cause, he may be called and examined by the party against whom he is interested. Where a witness is incompetent, from interest, because he is bail, or surety, another sufficient surety may be substituted, and he discharged, to restore his competency.

13. A party to the cause shall not be called and examined as a witness at the trial, unless to prove his own handwriting, or the loss or delivery of a paper, or in some other case specially provided for by law, or by consent of all parties. But he may be examined on interrogatories in writing, filed in court, and a copy served on him, not less than ten days before the trial, and unless he file his answers in writing verified by oath, before the jury is affirmed, he shall be taken to admit the truth of all suggestions contrary to his interest, contained in the interrogatories. If he files answers, they and the interrogatories must be read to the jury. A party against whom interrogatories are filed, may within two days afterwards, file interrogatories, and serve a copy on the other party, which shall have the same effect, as if they were served ten days before the trial; unless the court shall be of opinion, under the special circumstances of the case, that such effect would work injustice. The case may, however, be postponed until such interrogatories are answered. If the court shall be of opinion that the answers to any interrogatories filed by any party, are defective or evasive, they may, in their discretion, require such party to be sworn in their presence, and examined as a witness at the trial, provided the other party agree thereto; and may permit the other party to abstain from reading them, whether the person giving written answers shall be so examined or not.

14. The incompetency of a witness by means of a defect of the understanding, must be proved by examination by the court.

15. The incompetency of a witness by reason of a defect of religious belief, may be proved by the examination of the court or by witnesses.

16. The incompetency of a witness by reason of a defect of moral character, must be proved by the record of his conviction, and by testimony of his identity.

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)