them; or if property has been previously sold and the proceeds are in court, they may be paid over by an order of court.

6. When a sheriff goes out of office, or dies, it shall be his duty, or that of his representatives, to hand over to his successor all property in his hands under execution or attachment; and the new sheriff shall in each case file a statement or schedule of the property so handed over to him, and as to all such property the writ of sale shall go to the new sheriff.

7. The party may, giving reasonable notice to the old sheriff, or his representatives, move the court for a judgment against such sheriff or his representatives, for the value of any property not handed over, and the court may enter such judgment in a summary way, without formal proceedings, regarding it as a judgment in an action of damages. A jury shall not be necessary, but the court may ascertain the damages by comparing the two schedules. A similar proceeding may take place, whenever the sheriff shall refuse or neglect to pay over money, or deliver over property which he ought to pay or deliver over as sheriff.

8. Where an attachment has been laid in the hands of a garnishee, who has appeared and defended the case, or where an attachment has been laid in the hands of a garnishee, and neither the defendant nor the garnishee appear, there shall be a final judgment against the garnishee, a judgment by default having been first entered in the last case; and on such final judgment an execution may issue against such garnishee for the amount so attached in his hands. But if the garnishee appear and defend the case, he may demand that the jury inquire into the value of the debt due from him to the defendant, or of the property of the defendant in his hands; and if it be less than the sum attached in his hands, the judgment shall be for no more than the jury find; and if it be property, he shall not be obliged to purchase it, at the valuation of the jury, but may prevent an execution, by delivering up to the sheriff the specified articles, which he may require the jury to find, and which shall then be sold by writ of sale, the sheriff having first filed a schedule of them.

9. When the defendant has appeared, there shall be no judgment against the garnishee, until after a proceeding similar to that directed against a sheriff in the seventh section; in which, however, the garnishee may demand a jury, and such proceedings by and before them may be had as are directed in the eighth section, and the party may relieve himself from execution in the manner provided for in the eighth section; but the proceedings and judgment, if one

is rendered, shall in all other respects be regulated by the seventh section.

10. Whenever property in the hands of the sheriff, on account of its perishable or expensive nature, or for any other legal reason, is ordered to be sold, a writ of sale shall be issued.

11. If property against which a writ of sale has been issued is not sold in pursuance of the first writ of sale, other writs of sale may be issued until it is sold.

12. If the sheriff neglects his duty under a writ of execution or sale, an action of damages may be maintained against him.

13. Every sheriff, to whom a writ of execution or sale has been directed, shall have authority, and it shall be his duty, to put the purchaser or purchasers of any property movable or fixed, sold by virtue of such writ, in possession of such property, if the sheriff himself, or the person against whom the writ was issued, is in possession of the same. It shall also be his duty, and he shall have authority, to execute all instruments of writing or other evidences of title, which may be necessary or proper for the security of such purchaser or purchasers.

14. Whenever a plaintiff shall recover in ejectment or replevin, the goods in the latter case being in the possession of the defendant, he may, in his discretion, obtain a writ of possession, directing the sheriff to deliver to him such lands or goods, which writ it shall be the duty of the sheriff to execute.

15. The purchaser of lands or goods at sheriff's sale may have a writ of possession, requiring the sheriff to deliver such lands or goods to him, upon shewing sufficient evidence of his title, and that the lands or goods were in possession of the sheriff or of the party, as whose property they were sold. All of which matters the court may inquire into in a summary way, without a jury, giving such notice as they may deem reasonable to the parties in possession.

16. Judgments in injunction and specific performance, may be enforced by writ of arrest, bringing the defendant before the court. On his appearance, the court may punish him by fine, or otherwise in their discretion, and may repeat the proceeding until the object is attained.

17. Where property has been attached as per schedule, at the commencement of proceedings, and the attachment has not been dissolved, but the property remains in the hands of the sheriff, as security for the judgment; or where mortgaged, or pledged property, has so been attached, and so remains, a writ of sale shall

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)