ever, either original or appellate, shall have the power of issuing writs of habeas corpus in all cases whatever; and every judge of any such court shall have the like power.

4. The writ of habeas corpus shall be issued as of right, whenever any person shall apply for the same, and shall satisfy the court or judge that the person to be named in such writ as prisoner is in confinement, detention, or custody; unless such court or judge shall know, either from the proceedings had upon a then recent writ, or from other judicial proceedings, within the personal knowledge of such court or judge, that such confinement, detention, or custody, is legal.

5. If the majority of any court refuse a writ of habeas corpus, the minority may, notwithstanding, grant the same, and one judge may issue a writ which has been refused by another.

6. An action of damages shall lie against every judge refusing a writ of habeas corpus, either at the suit of the party applying for the same, or of the party whose name was wished to be inserted in the writ as prisoner, but not of both. In such action, it shall be only necessary for the plaintiff to allege and prove that the party whose name was wished to be inserted in the writ as prisoner, was actually in confinement, detention, or custody, and that the judge refused the writ, or consented to the refusal by the court, after reasonable proof of that fact had been made. The defendant in such action can then only defend himself by alleging and proving the existence of such judicial proceedings as might justify his conduct under the last section. In every such action the jury shall be the exclusive judges of what is reasonable evidence of detention, confinement, or custody.

7. Every writ of habeas corpus shall be issued in duplicate. It shall be served by leaving one copy with the person to whom it is directed. This may be done by any person. The duplicate copy shall be returned to the court or judge issuing the same, with an affidavit of the service annexed.

8. It shall be the duty of every person upon whom a writ of habeas corpus shall have been served, to attend at the time and place named in the writ, if he shall have had reasonable notice thereof, and then and there to return to the court or judge named in the writ, or to any other judge who may be there attending for the purpose, the writ, with an explanation annexed, of the causes of the detention of the prisoner; and also to deliver to such court or judge the originals of all documents relied upon as justifying such detention; and to produce before him the body of the prisoner. But if he shall make oath, before such court or judge, that the person named in the writ of habeas corpus is not in his custody or power, and was not so at the time of the service upon him of the writ, he shall be excused for not producing the body of such person, unless the court or judge shall, on hearing, order him to produce it, in which case it shall be his duty so to do.

9. It shall be the duty of the court or judge before whom a writ of habeas corpus shall have been made returnable, having reasonable notice of the fact, to attend at the place appointed for the return of the same, or procure some other judge to do so, for the purpose of receiving the same; and it shall be the duty of any judge who shall agree to act for another judge in such a case, to keep his appointment; and an action shall be maintainable against any judge neglecting his duty in this matter.

10. If any writ of habeas corpus is not returned at the time and place specified therein, it shall be the duty of the court or judge, upon the production of the duplicate copy, and of sufficient evidence that it has been served so as to give reasonable notice to the party to whom it is directed, so as to enable him to comply with the same, of which the said court or judge shall have full power to inquire and decide, to issue a writ of arrest against the person to whom such writ was directed, and when brought before such court or judge, to punish him by fine, imprisonment, or otherwise; and also to compel him to produce the body of the prisoner. It shall also be the duty of such court or judge to issue a compulsory writ of habeas corpus, directed to the sheriff, or to an elizor, as such court or judge may think proper.

11. If the court or judge shall think that the person to whom the writ of habeas corpus shall have been directed had not reasonable notice of the time and place of the return, such court or judge shall appoint another time for the return, at the same place, and shall direct what notice thereof shall be given to the said person; and the said person, having had such notice, shall be bound to perform such duties as he would have been bound to perform, if he had appeared at the first time of return, and under precisely the same penalties.

12. Every court or judge, to whom an application is made for a writ of habeas corpus, or before whom it is made returnable, shall have full power and authority, either at the time of such application or return, or any other time, to inquire, by all the ways and means in the power of such court or judge, of the situation of the

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)