POLITICAL AND LEGISLATIVE HISTORY OF LIBERIA

The Political and Legislative History of Liberia

A Documentary History of the Constitutions, Laws and Treaties of Liberia from the Earliest Settlements to the Establishment of the Republic, a Sketch of the Activities of the American Colonization Societies, a Commentary on the Constitution of the Republic and a Survey of the Political and Social Legislation from 1847 to 1944

With Appendices Containing the Laws of the Colony of Liberia, 1820-1839, and Acts of the Governor and Council, 1839-1847

By

CHARLES HENRY HUBERICH

J.U.D. (Heidelberg), D.C.L. (Yale), LL.D. (Melbourne)
Sometime Professor of Law, Stanford University
Member of the Bar of the Supreme Court
of the United States of America

WITH MAPS AND ILLUSTRATIONS

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CHAPTER XXIII

The Constitution of 1847

Introductory

Chapters XXIII-XXV deal with the provisions of the Constitution of 1847 and its Amendments up to the close of the year 1943, and with the legislative enactments and treaties of this period, in so far as they relate to matters within the scope of this Work or reflect the general political, economic and social trends in the Republic of Liberia up to the close of the administration of President Edwin Barclay.

The interpretation of the Constitution, Legislative Acts, and Regulations by the Supreme Court and the Attorney General up to the beginning of the year 1937 are considered, and, owing to the fact that this material is available in very few libraries outside Liberia, and that the Opinions of the Supreme Court for the important periods, 1916-1933 and 1935-1936 and the Opinions of the Attorney General after 1925 have never been published,[1] justify the publication of copious extracts from these Opinions. Important Acts of the Legislature, also not generally available, have been incorporated in the text. In some instances, where there are no judicial interpretations by the Liberian courts, references to American cases have been made. This is justifiable as the Liberian Constitution, itself drafted by the eminent American jurist, Professor Simon Greenleaf, of the Harvard Law School, is based on the Constitution of the United States, and various American State Constitutions, notably that of Massachusetts, and the Liberian laws, among others those relating to nationality, immigration and deportation of aliens are largely based on the Act of Congress. While the common law of England and the United States is the law of Liberia, so far as applicable to local conditions and not altered by Liberian enactments, the Liberian courts rely chiefly on American decisions, compilations and textbooks to support their views, and upon the Code of 1840, a codification of the common law (contained in the "Old Blue Book"), compiled by a distinguished Baltimore lawyer.

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[1] The Opinions for 1935-1936 were printed but not put on sale. The manuscript Opinions covering the period 1916-1933 were placed at the disposal of the Author by the Honorable Louis Arthur Grimes, Chief Justice of the Supreme Court, and certain private individuals.

Chapter XXIII deals with the text of the Constitution and its Amendments; its territorial and personal application; source of the Constitution, and its supremacy; the Declaration of Rights: the territorial limits of Liberia.

Chapter XXIV deals with the acquisition and loss of Liberian nationality, and the rights and disabilities of aliens.

Chapter XXV deals with the organs of government, the general and native laws in force, and certain special topics, with special reference to recent social legislation.

CONSTITUTION OF 1847

Literal Text of the Constitution

The official text of the Constitution of 1847 was first published in March, 1848.[1]

The following is a literal reprint, absolutely exact in word, spelling, capitalization and punctuation of the official text:

CONSTITUTION
OF THE
REPUBLIC
OF
LIBERIA.

ARTICLE I.

DECLARATION OF RIGHTS.

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it, with the power of enjoying in safety and tranquility, their natural rights, and the blessings of life; and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

Therefore, we the People of the Commonwealth of Liberia, in

[1] *Constitution of the Republic of Liberia with the Laws of the Republic, enacted by the Senate and House of Representatives at their First Session, held in Monrovia, January and February, 1848.* Printed at the Herald Office, by Authority, March, 1848, 1-11.

Africa, acknowledging with devout gratitude, the goodness of God, in granting to us the blessings of the christian religion, and political, religious, and civil liberty, do, in order to secure these blessings for ourselves and our posterity, and to establish justice, insure domestic peace, and promote the general welfare, hereby solemnly associate, and constitute ourselves a Free, Sovereign and Independent State, by the name of the REPUBLIC OF LIBERIA, and do ordain and establish this Constitution for the government of the same.

Section 1st. All men are born equally free and independent, and have certain natural, inherent and unalienable rights; among which, are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property and of pursuing and obtaining safety and happiness.

Sec. 2nd. All power is inherent in the people; all free governments are instituted by their authority and for their benefit and they have the right to alter and reform the same when their safety and happiness require it.

Sec. 3rd. All men have a natural and unalienable right to worship God, according to the dictates of their own consciences, without obstruction or molestation from others: all persons demeaning themselves peaceably, and not obstructing others in their religious worship, are entitled to the protection of law, in the free exercise of their own religion; and no sect of christians shall have exclusive privileges or preference, over any other sect; but all shall be alike tolerated: and no religious test whatever shall be required as a qualification for civil office, or the exercise of any civil right.

Sec. 4th. There shall be no slavery within this Republic. Nor shall any citizen of this Republic, or any person resident therein, deal in slaves, either within or without this Republic, directly or indirectly.

Sec. 5th. The people have a right at all times, in an orderly and peacable manner, to assemble and consult upon the common good; to instruct their representatives, and to petition the government, or any public functionaries for the redress of grievances.

Sec. 6th. Every person injured shall have remedy therefor, by due course of law; justice shall be done without sole denial or

delay; and in all cases, not arising under marital law, or upon impeachment, the parties shall have a right to a trial by jury, and to be heard in person or by council, or both.

Sec. 7th. No person shall be held to answer for a capital or infamous crime, except in cases of impeachment, cases arising in the army and navy, and petty offences, unless upon presentment by a grand jury; and every person criminally charged, shall have a right to be seasonably furnished with a copy of the charge, to be confronted with the witnesses against him,—to have compulsory process for obtaining witnesses in his favor; and to have a speedy, public and impartial trial by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself: and no person shall for the same offence, be twice put in jeopardy of life or limb.

Sec. 8th. No person shall be deprived of life, liberty, property or privilege, but by judgment of his peers, or the law of the land.

Sec. 9th. No place shall be searched, nor person seized, on a criminal charge or suspicion, unless upon warrant lawfully issued, upon probable cause supported by oath, or solemn affirmation, specially designating the place or person, and the object of the search.

Sec. 10th. Excessive bail shall not be required, nor excessive fines imposed, nor excessive punishment inflicted. Nor shall the legislature make any law impairing the obligation of contracts; nor any law rendering any act punishable, in any manner in which it was not punishable when it was committed.

Sec. 11th. All elections shall be by ballot and every male citizen, of twenty-one years of age, possessing real estate, shall have the right of suffrage.

Sec. 12th. The people have a right to keep and bear arms for the common defence. And as in time of peace, armies are dangerous to liberty, they ought not to be maintained, without the consent of the legislature; and the military power shall always be held in exact subordination to the civil authority, and be governed by it.

Sec. 13th. Private property shall not be taken for public use without just compensation.

Sec. 14th. The powers of this government shall be divided into three distient departments: Legislative, Executive, and Judi-

cial; and no person belonging to one of these departments, shall exercise any of the powers belonging to either of the others. This section is not to be construed to include Justices of the Peace.

Sec. 15*th.* The liberty of the press is essential to the security of freedom in a state; it ought not, therefore, to be restrained in this republic.

The printing press shall be free to every person, who undertakes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may freely speak, write and print, on any subject, being responsible for the abuse of that liberty.

In prosecutions for the publication of papers, investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

Sec. 16*th.* No subsidy charge, impost, or duties ought to be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

Sec. 17*th.* Suits may be brought against the Republic in such manner, and in such cases as the legislature may, by law direct.

Sec. 18*th.* No person can, in any case, be subjected to the law martial, or to any penalties or pains by virtue of that law, (except those employed in the army or navy, and except the militia in actual service,) but by the authority of the legislature.

Sec. 19*th.* In order to prevent those who are vested with authority, from becoming oppressors, the people have a right at such periods, and in such manner, as they shall establish by their frame of government;—to cause their public officers to return to private life, and to fill up vacant places, by certain and regular elections and appointments.

Sec. 20*th.* That all prisoners shall be bailable by sufficient sureties, unless, for capital offences, when the proof is evident, or presumption great: and the privilege and benefit of the

writ of *habeas corpus,* shall be enjoyed in this Republic, in the most free, easy, cheap, expeditious and ample manuer: and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

ARTICLE III.*

LEGISLATIVE POWERS.

Section 1st. The Legislative power shall be vested in a Legislature of Liberia, and shall consist of two separate branches. A House of Representatives and a Senate, to be styled the Legislature of Liberia; each of which shall have a negative on the other, and the enacting style of their acts and laws, shall be, "It is enacted by the Senate and House of Representatives of the Republic of Liberia, in Legislature Assembled."

Sec. 2nd. The representatives shall be elected by, and for the inhabitants of the several counties of Liberia, and shall be apportioned among the several counties of Liberia as follows:—The County of Montserrado shall have four representatives, the County of Grand Bassa shall have three, and the County of Sinoe shall have one; and all counties that shall hereafter be admitted in the Republic shall have one representative; and for every ten thousand inhabitants one representative shall be added. No person shall be a representative who has not resided in the county two whole years immediately previous to his election and who shall not when elected, be an inhabitant of the county, and does not own real estate of not less value than one hundred and fifty dollars, in the county in which he resides; and who shall not have attained the age of twenty-three years. The representatives shall be elected biennially, and shall serve two years from the time of their election.

Sec. 3rd. When a vacancy occurs in the representation of any county by death, resignation, or otherwise, it shall be filled by a new election.

Sec. 4th. The House of Representatives shall elect their own Speaker and other officers; they shall also have the sole power of impeachment

* *Sic,* obviously Article II.

Sec. 5th. The Senate shall consist of two members from Montserrado County, two from Bassa County, two from Sinoe County, and two from each county which may be hereafter incorporated into this Republic. No person shall be a Senator, who shall not have resided three whole years immediately previous to his election in the Republic of Liberia, and who shall not when elected, be an inhabitant of the county which he represents, and who does not own real estate of not less value than two hundred dollars in the county which he represents, and who shall not have attained the age of twenty-five years. The Senator for each county who shall have the highest number of votes shall retain his seat four years, and the one who shall have the next highest number of votes, two years; and all who are afterwards elected to fill their seats, shall remain in office four years

Sec. 6th. The Senate shall try all impeachments; the Senators being first sworn or solemnly affirmed to try the same impartially, and according to law; and no person shall be convicted but by the concurrence of two thirds of the Senators presen. Judgment in such cases shall not extend beyond removal from office, and disqualification to hold an office in the Republic: but the party may be tried at law for the same offence.

When either the President or Vice President is to be tried, the Chief Justice shall preside.

Sec. 7th. It shall be the duty of the Legislature, as soon as conveniently may be, after the adoption of this constitution, and once at least in every ten years afterwards, to cause a true census to be taken of each town, and county of the Republic of Liberia, and a representative shall be allowed every town, having a population of ten thousand inhabitants, and for every additional ten thousand in the counties after the first census, one representative shall be added to that county, until the number of representatives shall amount to thirty; afterwards one representative shall be added for every thirty thousand.

Sec. 8th. Each branch of the Legislature shall be judge of the election returns and qualifications of its own members. A majority of each shall be necessary to transact business, but a less number may adjourn from day to day and compel the attendace of absent members. Each house may adopt its own rules of proceedings, enforce order, and with the concurrence of two thirds, may expel a member.

Sec. 9th. Neither house shall adjourn for more than two days without the consent of the other; and both houses shall always sit in the same town.

Sec. 10th. Every bill or resolution which shall have passed both branches of the Legislature, shall before it becomes a law, be laid before the President for his approval, if he approves, he shall sign it, if not, he shall return it to the Legislature with his objections—if the Legislature shall afterwards pass the bill or resolution by a vote of two thirds in each branch, it shall become a law. If the Preaident shall neglect to return such bill or resolution to the Legislature with his objections for five days after the same shall have been so laid before him—the Legislature remaining in session during that time, such neglect shall be equivalent to his signature

Sec. 11th. The Senators and Representatives shall receive from the Republic a compensation for their services to be ascertained by law; and shall be privileged from arrest except for treason, felony or breach of the peace, while attending at, going to, or returning from the session of the Legislature.

ARTICLE III.

EXECUTIVE POWER

Section 1st. The Supreme Executive Power shall be vested in a President, who shall be elected by the people, and shall hold his office for the term of Two Years. He shall be Commander-in-Chief of the army and navy. He shall in the recess of the Legislature, have power to call out the Militia or any portion thereof, into actual service in defence of the Republic He shall have power to mak treaties, provided the Senate concur therein, by a vote of two thirds of the senators present. He shall nominate, and with the advice and consent of the senate, appoint and commission al Ambassadors, and other public Ministers and Consuls, Secretaries of State, of War, of the Navy, and of the Treasury, Attorney Gneral, all Judges of Courts, Sheriffs, Coroners, Marshalls, Justices of the Peace, Clerks of Courts, Registers, Notaries Public, and all other officers of State civil and military, whose appointment may not be otherwise provided for by the Constitution, or by standing laws. And in the recess of the senate, he may fill any vacancies in those offices, until the next session of the senate. He shall receive all ambassadors and other public

ministers. He shall take care that the laws be faithfully executed:—he shall inform the Legislature from time to time, of the condition of the Republic, and recommend any public measures for their adoption, which he may think expedient. He may after conviction, remit any public forfeitures and penalties, and grant reprieves and pardons for public offences, except in cases of impeachment He may require information and advice from any public officer, touching matters pertaining to his office. He may on extraordinary occasions, convene the Legislature, and may adjourn the two houses whenever they cannot agree as to the time of adjournment.

Sec. 2nd. There shall be a Vice President who shall be elected in the same manner, and for the same term as that of the President, and whose qualifications shall be the same: He shall be President of the Senate, and give the casting vote when the house is equally divided on any subject. And in case of the removal of the President from office, or his death, resignation, or inability to discharge the powers and duties of the said office; the same shall devolve on the Vice President; and the Legislature may by law provide for the cases of removal, death, resignation or inability, both of the President, and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

Sec. 3rd. The Secretary of State shall keep the records of the State, and all the records and papers of the Legislative body, and all other public records and documents, not belonging to any other department, and shall lay the same when required, before the President or Legislature. He shall attend upon them when required and perform such other duties as may be enjoined by law.

Sec. 4th. The Secretary of the Treasury or other persons who may by law, be charged with the custody of the public monies, shall before he receive such monies, give bonds to the State with sufficient sureties, to the acceptance of the Legislature, for the faithful discharge of his trust. He shall exhibit a true account of such monies when required by the President or Legislature, and no monies shall be drawn from the Treasury, but by warrant from the President, in consequence of appropriation made by law.

Sec. 5th All Ambassadors and other public Ministers, and Consuls, the Secretary of State, of War, of the Treasury and of

the Navy, the Attorney General, and Post Master General, shall hold their offices during the pleasure of the President. A justices of peace, sheriffs, coroners, marshalls, clerks of courts, registers, and notaries public, shall hold their offices for the term of two years from the date of their respective commissions; but may be removed from office within that time by the President, at his pleasure: and all other officers whose term of office may not be otherwise limited by law, shall hold their offices during the pleasure of the President.

Sec. 6th. Every civil officer may be removed from office by impeachment, for official misconduct. Every such officer may also be removed by the President, upon the address of both branches of the Legislature, stating their particular reason for his removal.

Sec. 7th No person shall be eligible to the office of President, who has not been a citizen of this Republic for at least five years; and who shall not have attained the age of thirty five years; and who is not possessed of unincumbered real estate, of the value of six hundred dollars.

See 8th The President shall at stated times receive for his services, a compensation which shall neither be increased nor diminished during the period for which he shall have been elected: And before he enters on the execution of his office, he shall take the following oath or affirmation.

I do solemnly swear, (or affirm) hat I will faithfully execute the office of President of the Republic of Liberia, and will to the best of my ability preserve, protect and defend the constitution, and enforce the laws of the Republic of Liberia.

ARTICLE IV.

JUDICIAL DEPARTMENT.

Section 1st. The Judicial power of this Republic shall be vested in one Supreme Court, and such subordinate courts as the Leglature may from time to time establish The Judges of the Supreme Court, and all other Judges of Courts, shall hold their office during good behaviour; but may be removed by the President on the address of two thirds of both houses for that purpose, or by impeachment and conviction thereon. The Judges shall have salaries established by law, which may be increased, but not dimin-

ished during their continuance in office. They shall not receive any other perquisits or emoluments whatever from parties or others, on account of any duty required of them.

Sec. 2nd. The Supreme Court shall have original jurisdiction in all cases affecting ambassadors, or other public ministers and consuls, and those to which a County shall be a party. In all other cases the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Legislature shall from time to time make.

ARTICLE V.

MISCELLANEOUS PROVISIONS.

Section 1st. All laws now in force in the Commonwealth of Liberia and not repugnant to this constitutor, shall be in force as the laws of the Republic of Liberia, unti they shall be repealed by the Legistature.

Sec. 2nd. All judges, magistrates, and other officers now concerned in the administratoin of justice, in the cmmonwelth of Liberia, and all other existing civil and military officers therein, shall continue to hold and discharge the duties of their respective offices, in the name and authority of the Republic, until others shall be appointed and commissioned in their stead, pursuant to this Constitution.

Sec. 3rd. All towns and municipal corporations within the Republic, constituted under the laws of the Commonwealth of Liberia, shall retain their existing organizations and privileges, and the respective officers thereof shall remain in office, and act under the authority of this Republic, in the same manner and with the like powers as they now possess under the laws of said Commonwealth.

Sec. 4th. The first election of President, Vice President, Senators and Representatives, shall be held on the first Tuesday in October in the Year of our Lord, Eighteen Hundred and Forty Seven, in the same manner as election of members of the Council are held in the Ccommonwealth of Liberia and the votes shall be certified and returned to the Colonial Secretary, and the result of the electoun shall be ascertained, posted and notified by

him, as is now by law provided, in case of such members of Council.

Sec. 5th. All other elections of President, Vice President Senator and Representatives, shall be held in the respective towns on the first Tuesday in May in every two years to be held and regulated in such manner as the Legislature may by law prescribe. The returns of votes shall be made to the Secretary of State, who shall open the same, and forthwith issue notices of the election to the persons apparently so elected, Senators and Representatives: and all such returns shall be by him laid before the Legislature at its next ensuing session, together with a list of the names of the persons who appear by such returns, to have been duly elected Senators and Representatives; and the persons appearing by said returns to be duly elected, shall proceed to organize themselves accordingly as the Senate and House of Representatives. The votes for President shall be sorted, counted and declared by the House of Representatives. And if no person shall appear to have a majority of such votes the Senators and Representatives present, shall in Convention by joint ballot, elect from among the persons having the three higest number of votes, a person to act as President for the ensuing term.

Sec. 6. The Legislature shall assemble once at least in every year, and such meeting shall be on the first Monday in January unless a different day shall be appointed by law.

Sec. 7th. Every Legislator and other officer appointed under this constitution shall before he enters upon the duties of his office, take and subsecribe a solemn oath or affirmation to support the Constitution of this Republic, and faithfully and impartially discharge the duties of such office. The presiding officer of the Senate shall administer such oath or affirmation to the President, in Convention of both houses, and the President shall administer the same to the Vice President, to the Senators, and to the Representatives in like manner. When the President is unable to attend, the Chief Justice of the Supreme Court may administer the oath or affirmation to him at any place, and also to the Vice President, Senators and Representatives, in Convention. Other officers may take such oath or affirmation before the President, Chief Justice, or any other person who may be designated by law.

Sec. 8th All elections of public officers shal be made by a

majority of the votes, except in cases otherwise regulated by the Constitution or by law.

Sec. 9th. Offices created by this Constitution which the present circumstances of the Republic do not require that they shall be filled, shall not be filled until the Legislature shall deem it necessary.

Sec. 10th The property of which a woman may be possessed at the time of her marriage, and also that of which she may afterwards become possessed, otherwise than by her husband, shall not be held responsible for his debts; whether cotracted before or after marriage.

Nor shall the property thus intended to be secured to the woman be alienated otherwise than by her free and voluntary consent, and such alienation may be made by her either by sale devise or otherwise.

Sec. 11th. In all cases in which estates are insolvent, the widow shall be entitled to one third of the real estate during her natural life, and to one third of the personal estate, which she shall hold in her own right subject to alienation by her, by devise or otherwise.

Sec 12th. No person shall be entitled to hold real estate in this Republic, unless he be a citizen of the same. Nevertheless this article shall not be construed to apply to Colonization, Missionary, Educational, or other benevolent institutions, so long as the property or estate is applied to its legitimate purposes.

Sec. 13th. The great object of forming these Colonies, being to provide a home for the dispersed and oppressed children of Africa, and to regenerate and enlighten this benighted continent, None but persons of color shall be admitted to citizenship in this Republic

Sec. 14th. The purchase of any land by any citizen or citizens from the aborigines of this country for his or their own use, or for the benefit of others, or estate or estates in free simple, shall be considered null and void to all intents and purpose.

Sec. 15th. The improvement of the native tribes and their advancement in the arts of agriculture and husbandry, being a cherished object of this government, it shall be the duty of the President to appoint in each county some discreet person whose duty it shall be to make regular and periodical tours through the

country for the purpose of calling the attention of the natives to these wholesome branches of industry, and of instructing them in the same, and the Legislature shall, as soon as it can conveniently be done, make provisions for these purposes by the appropriation of money.

Sec. 16th. The existing regulations of the American Colonization Society, in the Commonwealth, relative to emigrants, shall remain the same in the Republic, until regulated by compact between the Society and the Republic; nevertheless, the Legislature shall make no law prohibiting migration. And it shall be among the first duties of the Legislature, to take measures to arrange the future relations between the American Colonization Society and this Republic.

Sec. 17th. This constitution may be altered whenever two thirds of both branches of the Legislature shall deem it necessary. In which case the alterations or amendments, shall first be considered and approved by the Legislature, by the concurrence of two thirds of the members of each branch, and afterwards by them submitted to the people, and adopted by two thirds of all the electors at the next biennial meeting for the election of Senators and Representatives

Done in CONVENTION, *at Monrovia, in the County of Montserrado, by the unanimous consent of the people of the Commonwealth of Liberia, this twenty-sixth day of July in the Year of Our Lord One Thousand Eight Hundred Forty-seven, and of the REPUBLIC the First. In witness whereof we have hereto set our names.*

Montserrado County.
S. BENEDICT, *President.*
J N. LEWIS,
H TEAGE,
BEVERLY R WILSON,
ELIJAH JOHNSON,
J. B GRIPON.

Grand Bassa County.
JOHN DAY,
A. W. GARDINER,
AMOS HERRING,
EPHRAIM TITLER.

County of Sinoe.
R. E. MURRAY.
JACOB W. PROUT.

Secretary of Convention.

Monrovia, July 29 1847.

[Ed. The official text of the Amendments to the Constitution is set out in the Section on Amendments.]

The Constitutional Law of the Republic of Liberia is set out in a single instrument, the foregoing Constitution of 1847, as amended. It is not, like the English Constitution, contained in a number of texts—Magna Charta, Act of Settlement, etc. As pointed out in the preceding Chapter, the Declaration of Independence does not form a part of the Constitutional Law of Liberia.

The Preamble contains a Declaration of Independence. The "People of the Commonwealth," for the purposes set forth "solemnly associate and constitute" themselves "a Free, Sovereign and Independent State". This declaration like the similar one in the Declaration of Independence only proclaimed an existing fact; it does not mark the beginning of Liberia's existence as a free, sovereign and independent State.[2]

The People of Liberia, in the exercise of their right to alter the form of their Government, "ordain and establish this Constitution" for the government under the new form. (Preamble, Art. I, sec. 2.)

Source of the Constitution. The Constitution of 1847 is the outward manifestation of the collective will of the People of the political community known as Liberia as to the form and functions of the Government established by the People to execute their sovereign will. It is a delegation of a part of their sovereign power, and may be revoked or altered by them at will. (Const. Art. I, sec. 2.)

The People of Liberia. The Constitution, according to its terms, was ordained and established by the People of the Commonwealth of Liberia. The word "People" is used in a technical juridical sense, not in the popular sense of the term. It is not synonymous with "inhabitants," whether transient or permanent; it does not include the white residents, just as the word "People" as used in the preamble of the American Constitution did not include the Negroes, whether slave or free, inhabiting the United States.[3] Nor does it include the native or recaptured Africans inhabiting the Commonwealth,—unless they had acquired citizenship—no more than the Indians are included under the designation of "people" in the American Constitution. By "People of the Commonwealth of Liberia" is meant the citizens of that Commonwealth, regardless of whether they possess the right to vote; it includes the persons who on account of age or sex were excluded from the franchise.[4]

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[2] See Chapter V, *supra*

[3] *Dred Scott* v. *Sandford*, 19 How (U. S.) 393 (1857).

[4] There were no property qualifications for voters under the Commonwealth regime.

The question whether the Commonwealth Constitution should be amended, the election of delegates to the Constitutional Convention, and, finally, the question whether the proposed Constitution should be adopted were all decided by a direct majority vote of the persons qualified to vote for Councillors under the existing election laws, that is to say, the adult, male citizens of the Commonwealth.[5]

The recaptured Africans were in charge and under the protection of the United States Government Agent, but under the Instructions of the American Government were subject to the laws of Liberia.[6] By agreements between the Liberian authorities and the American Government these persons had the right to remain in Liberia, but could leave at will. They could acquire citizenship on the same terms as other persons of their race. The native Africans were aliens, subject, like other aliens, to the territorial laws with such special rights as to residence and application of their own tribal laws as were accorded them under treaties with their tribal overlords. They could legally acquire citizenship. Some of the treaties of cession provided that the members of the tribe were entitled to retain their lands and become completely subject to the local law. But unless he had acquired citizenship a recaptured or native African inhabiting Liberia was not a part of the "People of the Commonwealth" as that term is used in the Constitution.

The Constitution of 1847 was adopted by a majority vote of all the qualified electors of the Commonwealth. The Constitution of 1820, as we have seen,[7] was unanimously accepted by all of the settlers of the Colony, and was a true Social Compact; the Constitution of 1847 is an example of the application of the democratic principle of majority rule.

Supremacy of the Constitution. The Constitution is supreme and paramount over all the departments of the Government. There is no Law of Nations, or Divine Law, or Law of Nature that can be invoked in derogation of the principles announced in the Constitution.

Every member of the Legislature before entering upon the duties of his office, and the President and the Vice President must take an oath to support the Constitution (Art. VI, sec. 7; Art. III, sec. 8). The breach of this promissory oath may be the ground for impeachment or removal of an officer, or entail other legal consequences, but the con-

[5] The Constitution of the United States was ratified by the People of the United States by the intermediary of the Assemblies of the several States.

[6] *Instructions of the Secretary of the Navy to J. B. Winn*, July 26, 1821. Text in Chap. XVI, *supra*.

[7] Chap. II, *supra*.

stitutionality of an act depends solely on whether it is violative of a constitutional provision, regardless of the breach of the oath of office taken by the person responsible for the act.

The Constitution is operative throughout the territory of Liberia in respect of all persons whether citizens, aliens or natives. It grants certain privileges to citizens—*e.g.*, the electoral franchise, the right to hold office; it places certain disabilities on aliens, *e.g.*, the negation of the right to acquire freehold title to land. The native has been held entitled to the protection afforded by the writ of habeas corpus under the Constitution Art. I, sec. 20. *William Gray* v. *Gibasely Beverly*, 1 Lib. L. R. 500 (1907). The position of the native is well set forth in the case of *Peter Davis* v. *Republic of Liberia*, 1 Lib. L. R. 17 (1862), where the Court, per Drayton, C. J. says:

> It is well for the judiciary to understand, as well as the whole people, whether they be rightful franchised citizens, or such of its inhabitants as are held as subjects, over whom extends the sovereign and political jurisdiction of the authority of the government. It is undoubtedly a fact that our native inhabitants, under treaty stipulations, which treaties are laws when confirmed by the Legislature, are *bona fide* subjects of this State, and the political authority of the same covers them in all of their relations. The peculiar situation of the natives in their mode of living, their depth of ignorance and their incapability to understand the workings of civilized governments, made it necessary to draw their connection and acknowledgment of our political rule over them by forms of treaties, but not to be misconstrued that the whole law of the land is not binding upon them, and that they are not to have the benefit of it when they are arraigned under it for crime committed.
>
> To speak of the records as a whole might be done with propriety, but as the error is simply a question of law founded upon treason, it is well to say that our native inhabitants are capable of committing treason. The treaties and laws extending over their political, as well as sovereign jurisdiction, and they being answerable to this Government alone, and this Government answerable for their acts toward foreigners, constitute them a part and parcel of the people of this Republic, and they, being such, would make any act of theirs in concert with the enemies of this Government with whom it may be contending, treason. If the people against whom this man was contending were not in treaty with this Government, and they were waging a war against the Government

and he aided them, it would be treason. But, as we have been informed, both parties owe an allegiance to this Government, and as such they entered into an uproar which resulted in a riot. A riot, being usually the act of a large number of persons, is otherwise described as a tumultous disturbance of the peace by persons assembling together of their own authority (which this man and people have done) with an intent mutually to assist one another against any one who may oppose them in the execution of some enterprise of a private nature, and afterwards actually executing the same, in a violent and turbulent manner, to the terror of the people of the town, whether the act intended was of itself lawful or unlawful.

The act of the man now a prisoner apparently partook of this feature. It may be considered that they can rebel, as others might do living under the same Constitution and laws, to prevent its due execution, or put themselves up in defiance of the lawful authority preventing the course of Government. All this may be repelled by force of arms by Government, when milder proceedings cease to prove to be a virtue. But treason, that highest of all crimes, can only be committed by an attempt, by conspiracy or otherwise, to destroy the Government, by giving aid and comfort to its enemies to accomplish it. "Treason, to betray: the attempting to overthrow the Government of the State to which the offender owes an allegiance, or of betraying the State into the hands of a foreign power."

In England, treason is an offence particularly directed against the person of the sovereign, "in carrying war against the King in his Realm, in adhering to the King's enemies." In the United States the definition of treason is fixed by the Constitution, it being declared to consist only in levying war against the United States or the adhering to their enemies giving them aid and comfort. (Burrill, part 2, page 996.) Such is the law of Liberia, as the laws of both countries in criminal cases have been adopted by this country. The fact attempted to be proved against the prisoner falls short of the law, and the crime he has committed, being only a misdemeanor of a high character, has been unfortunately magnified to be treason, and thereby supported by the court, which would, if allowed to stand upon such a construction, hazard the liberties of the people. In finding this conclusion, the court holds that our native subjects have of right the privilege of a trial by jury, and the law of the land; but in all cases they must

> be allowed the full benefit thereof, as the law guarantees, and not deprive them of their liberties by circumstances, after being brought under the panoply of the law. The Court is of the opinion that the prisoner, from the records, has committed a crime against the peace of this Republic, and the indictment endeavored to show it, and the court to support it, to be treason. This court declares that he has not committed treason, but this crime is in the nature of high misdemeanor, for which he is responsible to the laws and government of the land.

The Constitution is also declared operative extraterritorially in respect of the slave trade carried on without the Republic by citizens or residents of the Republic (Const. Art. I, sec. 4).

Unlike that of the National Government of the United States, the National Government of the Republic of Liberia is one of general, not one of enumerated powers. Subject only to the limitations imposed by the Constitution, it exercises the plenitude of governmental powers of a sovereign State. There is no exercise of governmental power by any subdivision of the State, except under delegation from the Central Government. The Republic of Liberia is a unitary, not a federal State.

The historical and political reasons that made it desirable to incorporate in the Constitution of the United States (U. S. Const. Am. X) the provision regarding the supremacy of the Federal Constitution, treaties and laws did not exist in Liberia, and the Liberian Constitution contains no provision on the subject. At all times, however, the courts of Liberia have declared themselves competent to test the constitutionality of an act of the Legislative or Executive branch of the Government, and their power in this regard is unquestioned.

The leading case is *In re the Constitutionality of the Act of the Legislature of Liberia Approved January 20th, 1914*, decided May 12, 1914, by the Supreme Court (4 Semi-Ann. Ser. 4, at 10).

Chief Justice Dossen delivered the opinion of the court:

> * * * We now proceed to construe and interpret the Act under consideration and to decide whether or not its provisions are in conflict with the Constitution. And first, let us enquire whether the Supreme Court has power to annul and set aside a Legislative enactment when in its opinion it is repugnant to the provisions of the Constitution.
>
> The Constitution of Liberia divides the government into three

separate and distinct co-ordinate branches; and declares in positive terms that in the exercise of the respective functions of the three co-ordinate branches, each shall be free and independent of the other. The same instrument lodges the power to enact laws in the Legislative branch of Government, and its enactments when they pass into law by force of any one of the three processes mentioned in the Constitution, becomes the law of the land. But the people, who are the sovereign power in a republic like ours, in this very instrument in which they conferred the power to enact laws upon a legislature, composed of the representatives of the people, also of themselves, and by virtue of their right as the sovereign power of the nation, created by the exercise of organic powers, certain fundamental laws and enunciated certain basic principles which are and must be regarded as the *Highest Law.*

It follows therefore from the most ordinary reasoning that if the Legislature passes a statute whose provisions infringes in the lowest degree what we have termed the *Highest Law*, that statute is void *ab initio;* because of its repugnancy to the Constitution. But it is equally obvious that to decide such points it was necessary that one of the three great powers of government should be invested with that function. While the Constitution does not in express terms confer that power upon the courts, yet from the very nature of such questions they fall under judicial observation, and we contend are a proper subject for adjudication by the highest tribunal of the country; and this view is uniformly held by authors and publicists on the American Constitution after which ours is framed, and by opinions and decisions of the Supreme Court of that country handed down from time to time. Let us, before announcing our opinion on this point quote some of these opinions. In the case *Marbury* v. *Madison,* 1 Cranch (U. S.) 137 (1803), Chief Justice Marshall held the following opinion on the power of the Supreme Court to construe and interpret Legislative enactment; said he:

"It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases must of necessity expound and interpret that rule. If the laws conflict with each other, the Courts must decide on the operation of each. So, if a law be in opposition to the Constitution; if both the law and the Constitution applied to a particular case, so that the Court must decide that case conformably to the law disregarding the Constitution; or conformably

with the Constitution; disregarding the law; the Court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty." Watson on the Const., 1182.

Again in the case of *Martin* v. *Hunter's Lessee,* 1 Wheat. (U. S.) 304 (1816), Justice Story held that:

"The Courts of the United States can, without question, revise the proceedings of the Executive and Legislative authorities of the States, and if they are found to be contrary to the Constitution, may declare them to be of no legal validity." *Ibid.,* 1183.

And in the case *Hepburn* v. *Griswold,* 8 Wall. (U. S.) 603 (1870), Chief Justice Chase laid down this rule that:

"When a case arises for judicial determination and the decision depends on the alleged inconsistency of a legislative provision with the fundamental law, it is the plain duty of the court to compare the act with the Constitution, and if the former cannot upon a fair construction be reconciled with the latter, to give effect to the Constitution rather than the Statute."

Numerous other cases in which acts of the Legislature and of the Executive were held unconstitutional are considered below.

The duty of a court in cases involving the constitutionality of an act is thus stated in *Sherman* v. *Republic of Liberia,* 1 Lib. L. R. 145, at 150 (1881):

* * * Constitutional questions generally cannot fail to be of great interest to all, and of much difficulty to those who have specially to deal with them, and to decide whether the law be void for its repugnancy to the Constiution, is at all times a question of the greatest delicacy, and one that demands the greatest and most deliberate consideration.

Chief Justice Marshall, in giving the opinion of the Supreme Court of the United States in the case of Fletcher against Peck (as found in 6 Cranch, 128), made this declaration: "A question with respect to the constitutionality of a law is one which ought seldom if ever to be decided in the affirmative in a doubtful case." "The court," said he, "when impelled by duty to render such a judgment, would be unworthy of its station could it be unmindful of the solemn obligation which that station imposes. But it is not on slight implication and vague conjecture that the Legislature is to be pronounced to have transcended its powers, and its

> acts to be considered as void. The opposition between the Constitution and the law should be such that the judge feels a clear and strong conviction of their incompatibility with each other." The force and justness of this observation of the Chief Justice, we opine, is apparent to all. Now, while it may be the duty of a judge to harmonize the acts of the Legislature as far as he can do so consistently, with the Constitution which he is sworn to support, yet it does not interfere with or annul his obligation faithfully and impartially to discharge the duties of said office, nor require him to uphold a law simply because it has been enacted. While he should be extremely careful in pronouncing a law void for its unconstitutionality, a faithful discharge of his duty renders it imperative that he should do so without hesitation when there is apparent to him a repugnancy between the law and the Constitution.

In determining the constitutionality of an act of the Legislature or the Executive, the courts are passing on the validity of the act of a co-ordinate branch of the Government, and every doubt must be resolved in favor of the legality of such act. If the case before the court can be properly decided on grounds other than the constitutionality of an act of a co-ordinate branch of the Government it is the duty of the court to avoid passing on the constitutional validity of the act.

The courts have no veto power over the acts of the Legislature. In *Delaney* v. *Republic of Liberia,* 2 Ann. N. S., 92 (1935) Justice Dossen, in his concurring opinion, says:

> We are of opinion that the arguments thus advanced here are presented to the wrong forum. The courts are not at all concerned with whether or not a law as enacted by the Legislature is good or bad, useful or not. For while the courts may, and, when the question arises and is properly presented, must, determine the constitutional power of the legislature to enact a particular statute, where a law does not transcend the limits of legislative power it cannot be held invalid by the courts because they may question the wisdom of the enactment. Within constitutional limits, the necessity, utility and expedience of legislation are for the determination of the legislature alone. The remedy for unwise legislation is not in the courts but remains in the people who, by making the necessary changes, in the legislative body, may have the unwise, improvident or pernicious legislation of one legislature corrected by another.

The doctrine of the supremacy of the Constitution applies also to treaties. (No treaty has ever been held unconstitutional in the United States.) In its nature a treaty is a contract, not a legislative act. But where a treaty is self-executing, and operates without the aid of legislation it is the equivalent of a legislative act, and subject to the same tests as to constitutionality. A treaty, considered infra-territorially, may be a law, but it is wrong to regard it as in any sense a "supreme law of the land". In case a provision of a treaty and an act of the Legislature are both applicable, if they are inconsistent with each other the one later in date is to be applied. (Cp. *Chinese Exclusion Cases,* 130 U. S. 501 (1889)). The foregoing statements may be made clearer by illustrations. A treaty provision whereby the citizens of the other treaty party are given the right to acquire freehold ownership of land would be void, as violative of Constitution, Article V, section 2. The alien grantee or devisee would not acquire title. On the other hand, a treaty provision giving to the citizens of a foreign country the right to own ships under the Liberian Flag would be valid. The treaty merely supersedes an existing legislative act, and being of later date, becomes the applicable law. (But cp. *Charge to Grand Jury,* 1 Sprague (U. S.) (D. C. Mass. 1861), 30 Fed. Cas. No. 18, 273.)

An act of the Legislature and a treaty being of equal dignity, in so far as they are not inconsistent, effect should be given to both.

The rule is well stated in the case of *Edye* v. *Robertson* (Head Money Cases), 112 U. S. 580 (1884): "A treaty, then, is a law of the land, as an act of Congress is, whenever its provisions prescribe a rule by which the rights of the private citizen or subject may be determined. And when such rights are of a nature to be enforced in a court of justice, that court resorts to the treaty for a rule of decision for the case before it as it would to a statute." As the law of the land such a treaty the courts are bound to take judicial notice of, and to enforce in any appropriate proceeding the rights of persons growing out of it; it constitutes a rule of decision in all courts. *United States* v. *Rauscher,* 119 U. S. 407 (1886); *Strother* v. *Lucas,* 12 Pet. 410 (1838). Courts of justice have no right to annul or disregard any of the provisions of a treaty, unless they violate the Constitution. It is their duty to interpret and administer the treaties according to their terms. *Doe ex dem. Clark* v. *Draden,* 10 How. (U. S.) 635 (1853). Treaties should be interpreted in a broad and liberal spirit calculated to make for perpetual amity, so far as it can be done without sacrifice of individual rights or essential principles of personal liberty, *Tucker* v.

Alexandroff, 183 U. S. 424 (1902), but a court cannot go behind a treaty, duly executed and ratified, for the purpose of annulling its operation. *Fellows* v. *Blacksmith*, 19 How. (U. S.) 300 (1857).

The operation and interpretation of treaties as between the sovereign contracting States are governed by the rules of international law, and present political questions to be dealt with solely by the Executive branch of the Government.

Illustrative of the doctrine that a treaty must be interpreted so as to protect private rights is the Opinion of the Attorney General L. A. Grimes in a matter involving the application of the Treaty of Versailles (August 26, 1926. Unpublished, 106-11-'26).

After discussing the rights over property of enemies, the Attorney General says:

> Even our own Legislature before making of said Treaty apparently recognized the justice of protecting the rights of the Germans against the time when peace should have been restored by ordering that their property be not confiscated but "Sequestered" and "Liquidated".
>
> The Government's right then to dispose of the property having been limited by the terms of the Act above cited it now becomes necessary to examine same and see to what extent was the Government permitted to exercise dominion over same. They were empowered merely to "sequester and liquidate". Sequestration has been defined in its relation to the subject matter as applied to the act of a belligerent power which seizes the debts due from its own subject to the enemy power; (see 24, Ency. Brit. p. 659) and Liquidation as the act of settling debts, or ascertaining their amounts or balance due; the settlement or adjustment of an unsettled account. See 25 Cyc. p. 1445; and according to those principles the Government was expected to convert all choses in action into possession, and then to preserve and account for all amounts received to the persons entitled to the proceeds when peace had been restored. That the Treaty of Peace signed at Versailles on the 28th of June A. D. 1919, section IV Article 297 sub-section (b) on page 146, quoted *supra*, and sub-section (h) 2 on page 147, would seem to warrant our Government, in common with others, in applying the amounts realized from the liquidation of German property to the credit of the amount awarded us by the Reparation Commission (Cf. our unprinted Opinions 106-1-'24 dated January 26th, 1923) and would seem to relieve this and other Governments of the Allied and Associated Powers

from such accountability to quondam alien enemies, does not, in my opinion, enable the Government of this Republic to retain the property of any of its citizens one day longer than was necessary to liquidate any amount due by said citizen to said German nationals as an advance payment for which the leasehold was pledged as collateral security.

Finally, the doctrine of the supremacy of the Constitution applies to legislative acts of subordinate political divisions of the State, acting under delegated authority, *e.g.* municipal ordinances and regulations.

The doctrine of *stare decisis* is of special importance where the Constitution is involved. The maxim means "to adhere to precedents, and not to unsettle things which are established." (Bouvier, Law Dictionary, *s.v. Stare decisis.*) The maxim is discussed in *Brownell* v. *Brownell* (January 3, 1936, Unissued Reports, 56, 57), where Justice Dossen says:

> '*Stare decisis*' is but an incomplete quotation of the legal maxim our learned colleague has seen fit to attack in his dissenting Opinion. Said maxim continues: *et non quieta movere.* The Justices concurring in the judgment in this case are of opinion that the rule properly applicable to the present state of facts appears to us to be that stated in Ruling Case Law Vol. VII, pages 1002-3, 30, which reads as follows:
>
> "Decisions construing the Constitution or Acts of the Legislature should be followed, in the absence of cogent reasons to the contrary, inasmuch as it is of the utmost importance that the organic and statute law be of certain meaning and fixed interpretation. And it has been said that the court of last resort of a State will not over-rule one of its prior decisions construing a statute where the Legislature has held several sessions since such decision without modifying or amending the statute, and it may be claimed justly that the Legislature has acquiesced in the decision, and therefore a fair case is presented for the application of the doctrine of *stare decisis.* * * *
>
> "A well-settled rule of practice, which has been silently acquiesced in, will not be set aside where it would probably cause great inconvenience and confusion in the practice, and where it can easily be changed by the Legislature, if there is any necessity therefor. Even though the conclusiveness of its utterances may perhaps be open to debate yet when a court of last resort has persistently declared approval of a rule of law, it should not be

ignored, especially when, in the presence of conflicting decisions in other jurisdictions, such declarations amount to the adoption of the views of those courts approving the rule."

In order to be considered a binding precedent it must be the decision by a majority of the court, *Hertz* v. *Woodman,* 218 U. S. 205 (1919), and it must be a direct decision of a point of law, not *obiter dictum. Pollock* v. *Farmers' Loan and Trust Co.,* 157 U. S. 429 (1895). To adopt the language of Justice Brandeis, in his dissenting opinion in *Burnet* v. *Coronado Oil & Gas Co.* (285 U. S. 285 (1932)): "*Stare decisis* is not, like the rule of *res judicata,* a universal, inexorable command." Chief Justice Taney states his position, *Smith* v. *Turner* (Passenger Cases) 7 How. (U. S.) 283 (1849), that "it be regarded hereafter as the law of this Court, that its opinion upon the construction of the Constitution is always open to discussion when it is supposed to have been founded in error, and that its judicial authority should hereafter depend altogether on the force of the reasoning by which it is supported." The United States Supreme Court has on numerous occasions over-ruled its own decisions on constitutional law.

A distinction must be drawn between the judgment, which fixes the rights of the parties, and the opinion of the court. As to the latter, the Attorney General (L. A. Grimes) in an opinion in 1923 (Opinions, II, 18 says: "The opinion is the authorized exposition and interpretation of the law binding upon all the citizens. They declare the unwritten law, and construe and declare the meaning of statutes." Cited with approval in *Tubman* v. *Murdoch,* 2 New Ann. Ser. 5 (1934).

Where the meaning of a statute has become fixed by judicial interpretation, a change of view as to such meaning may amount to the impairment of the obligation of a contract. (See section on Impairment of the Obligation of Contract.)

Not within the doctrine of *stare decisis* are advisory opinions of a court. In rendering an advisory opinion the courts are not acting in a judicial capacity; they are merely expressing in an extra-judicial capacity their views on the questions propounded to them by a coordinate branch of the Government. They have no weight as a precedent, *Taylor* v. *Place,* 4 R. I. (U. S.) 362 (1856); and see *infra,* under Division of Powers of Government. Nevertheless the Supreme Court in *In the Matter of the Petition of C. D. B. King* (Unreported, decision of May 6, 1932) expressly adopted the views of the former Supreme Court in its advisory opinion in *In re Payne,* 1 Lib. L. R. 509 (1870).

The position of the Supreme Court is thus stated in *West* v. *Dunbar*, 1 Lib. L. R. 313 (1897):

> During the traverse of this case, repeated reference has been made to the ruling and opinion of this court as pronounced in the case of Richard Bingham against J. Oliver. The court sees no reason for disturbing that judgment or any other opinion previously expressed by this court, and will not, unless bound by duty to do so, when it will be in either upholding or overthrowing such judgments as are not in keeping with law and the Constitution. This court feels bound only by the law, the Constitution, and well-founded precedents.

Amendments to the Constitution

The Constitution of 1820 contained a provision (Art. X) that no alteration could be made therein, except by the unanimous consent of all present at a regular meeting of the Board of Managers of the American Colonization Society, or by the vote of two thirds of the members present at two successive meetings of the Board.

The Constitution of the Commonwealth (1839) was not an amendment of the Constitution of 1820. It was a draft submitted by the Board of Directors of the Society, acting, so to speak, as a self-appointed constitutional convention, and adopted by the people of the constituent Colonies. The Constitution of the Commonwealth made no provision for its amendment.

The genesis of the Constitution of the Republic has been discussed in preceding Chapters.

The present Constitution provides for its own amendment in Article V, sec. 17:

> This Constitution may be altered whenever two-thirds of both branches of the Legislature shall deem it necessary; in which case the alterations or amendments shall first be considered and approved by the Legislature by the concurrence of two-thirds of the members of each branch and afterwards by them submitted to the people and adopted by two-thirds of all the electors at the next biennial meeting for the election of Senators and Representatives.

The Amendment adopted in May, 1907, extended the terms of office of Senators and Representatives to four years, and, therefore, the word "biennial" must be regarded as altered to "quadrennial

(Rev. St. I, 138 n). And so now with the terms increased to eight years, the word "octennial" must be substituted for "biennial".

The power to amend extends to all of the provisions of the Constitution, including the amending clause itself. Such an amendment is now pending. It is extremely conservative; while the requirement of a qualified majority in the votes of the two branches of the Legislature is an ordinary one in American constitutions, the requirement of a two thirds majority of the voters is a striking one The requirement of the assent of three-fourths of the States in the corresponding article in the United States Constitution was due to historical causes, and is appropriate in a federal state, where a large part of the sovereignty is left to the component States.

The mode of amendment prescribed is absolute, and permits of no deviation. It is not constitutionally possible for the Legislature to call for the assembling of a constitutional convention with power to frame a constitution or amend the existing one, even subject to adoption by a majority, simple or qualified, of the electors. To do so would itself require an amendment of the Constitution. Cp. *Opinion of the Justices*, 6 Cush. (Mass.) 573 (1833); *In re the Constitutional Convention*, 14 R. I. 649 (1889).

The adoption by each House by a two-thirds vote sufficiently shows that the amendment is deemed necessary by all who voted for it. An express declaration to this effect is not necessary. Cp. *Rhode Island* v. *Palmer* (National Prohibition Cases) 253 U. S. 350 (1920). In the United States, in the early periods, no declaration of necessity was made. In Liberia it is usual. (Cp. Acts, 1926, c. 16, p. 22.)

Two-thirds of both branches of the Legislature means two-thirds of a quorum present, not two-thirds of all the elected members of each branch [Cp. *Rhode Island* v. *Palmer, ut supra; Missouri Pacific Ry. Co.* v. *Kansas*, 248 U. S. 276 (1919)], just as two-thirds of all the voters means two-thirds of the total of all votes cast, not of the total number of qualified electors. The usual form of proposal is by a Joint Resolution, but it may be by an Act. Resolutions proposing amendments to the Constitution are not bills or resolutions within the meaning of Article II, sec. 10, and do not require presentation to the President. They are not subject to the presidential veto. This might become of practical importance in a case where the resolution was duly adopted by a two-thirds vote of a quorum in both branches and the President should veto the measure, and the necessary vote to override the veto is not obtained. In *Hollingsworth* v. *Virginia*, 3 Dall. (U. S.) 378 (1798), it was held by the Supreme Court of the

United States that the veto power does not extend to proposals for amending the Constitution, and that, therefore, the fact that the resolution was not presented to the President did not affect the validity of the adoption of the constitutional amendment.

The procedure regarding amendments is that after due submission to the voters, the election returns are submitted to the Legislature, which, if it appears that a full and complete two-thirds vote of all the electors who voted at the election was in favor of the adoption, enacts a Declaratory Act reciting these facts, declaring the amendments adopted, and authorize and direct the President to proclaim the same by Public Proclamation (Vide Act of June 3, 1935, Acts, Extraordinary Session, 1935, c. i, p. 1).

The Legislature by a Joint Resolution, approved January 29, 1943 (Acts, 1942-1943, c. 5, p. 5), submits to the voters at the next octennial election an amended text of the present amending clause, under which proposed constitutional amendments are to be voted on by the people at a special election called for that purpose. (For text of proposed amendment, see List of Amendments at end of this Section).

Neither the date of the Legislative Act nor the date of the Proclamation of the President fixes the effective date of the amendment. The effective date is that of the election at which the electors cast their votes in favor of the adoption of the amendment. Thus, in *Dillon* v. *Gloss,* 256 U. S. 368 (1921), the Supreme Court of the United States held, that the Eighteenth Amendment became part of the Constitution of the United States on January 16, 1919, when ratification by the States was consummated, and not on the date when (according to American practice) ratification was proclaimed by the Secretary of State (January 29, 1919). The Legislature cannot fix the date when the amendment shall go into effect, unless the amendment gives power to do so. But if the amendment by its own terms fixes a later date when it is to become effective it is a part of the Constitution when ratified by the electors, and the Legislature can validly pass laws in anticipation, to go into effect on the date so fixed. *Druggan* v. *Anderson,* 269 U. S. 36 (1925). The courts will take judicial notice of the date when the amendment was adopted by the electors. Cp. *United States* v. *Chambers,* 291 U. S. 217 (1934).

It has been held by the Supreme Court of the United States that a private citizen cannot bring proceedings in a Federal Court to have an Amendment declared void, *Fairchild* v. *Hughes,* 258 U. S. 126 (1922).

but the courts have power to determine whether an alleged amendment is in fact a part of the Constitution.

Under the law returns of elections are sent by the local officials to the Secretary of State, who transmits them to the Legislature (Const. Art. II, sec. 5). The Constitution provides that the House of Representatives shall sort, count and declare the votes cast for the President, but says nothing regarding the votes cast for against proposed constitutional Amendments, but it is the practice for the Legislature to pass an Act or Resolution declaring that the results of the returns indicate an adoption of the Amendment. (See *supra.*) Charges of fraud and bribery were made as to the returns regarding a constitutional Amendment voted on at the May 1869 election. The law does not provide the method of dealing with this question. The Legislature adopted a Resolution, February 7, 1870 (Acts, 1869-1870, p. 13) as follows:

> Sec. 1. That the President be and he is hereby authorized to submit the question to the people of this Republic to be voted on in May, 1870: Is the Amendment to the Constitution which was to have been submitted to all the electors of this Republic May last *A.D.* 1869 carried?
>
> Sec. 2. The tickets shall read:
>
> The Constitutional Amendment carried, Yes
>
> The Constitutional Amendment carried, No
>
> Sec. 3. The President shall cause this Resolution to be published immediately after its approval, and sent to each of the counties of this Republic.

The Resolution is unconstitutional; the Legislature cannot delegate to the voters the function of passing on the question whether a constitutional Amendment was adopted or not. The electors can only vote on the question whether a proposed Amendment shall be adopted.

Amendments to the Constitution. The following amendments have been adopted:

I. *Increasing the Number of Representatives of Sinoe County*

At the second session of the First Legislature the following Resolutions were adopted:[8]

> Whereas in the opinion of the Legislature, Sinou ought to have an equal ratio of representation with Grand Bassa County, the

[8] Stat. Laws (Old Blue Book) 1856 ed 243; 1879 ed. 19.

number of inhabitants being equal or nearly so;—and whereas in the opinion of the Legislature, the counties should be as far as practicable represented equally;

Therefore it is Resolved by the Senate and House of Representatives of the Republic of Liberia in Legislature Assembled,—and passed by the concurrence of two thirds of the members of each branch of the Legislature.——

That the 2nd section of the 2nd article of the Constitution be so altered and amended as to read that the county of Sinou shall have three representatives.

It is further Resolved that the alteration and amendment be submitted to the People at the biennial election agreeably to the provisions of the 17th section of the 5th article of the Constitution, and the ballot shall be written "adoption or no adoption."

The amendment was adopted by the voters, May, 1849.

II. *Providing for Representation of Maryland County*

The admission of Maryland in Liberia as a County made necessary a provision for proper representation in the Legislature. Like all counties Maryland became entitled to two seats in the Senate, and one representative.

The Legislature adopted a Resolution for submission of a constitutional amendment:[9]

It is Resolved by the Senate and House of Representatives of the Republic of Liberia in Legislature Assembled: and passed by the concurrence of two thirds of the members of each branch of the Legislature; that the second section of the second article of the Constitution be altered and amended by the insertion of the words—"and the County of Maryland shall have three Representatives" which shall be inserted immediately before the words "and all counties hereafter admitted into the Republic shall have one."

It is further Resolved,—That the amendments proposed by the first section of this resolution be submitted to the people for their vote at the next biennial election, to be held in the several townships of this Republic, on the first Tuesday in May, in the year of Our Lord, one thousand eight hundred and sixty one, agreeably to the 17th section of the 5th Article of the Miscellaneous

[9] Acts, 1857-1861, page 50.

provisions of the Constitution; and the ballot shall be written "Adoption", or "No Adoption".

The Amendment was adopted by the voters at the May, 1861, election, and this was notified in a Resolution adopted in the December, 1861 session of the Legislature:[10]

"Resolved by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

"Sec. 1. That the Amendment to the Constitution, approved by two thirds of both branches of the Legislature, at its sessions in the years of Our Lord 1859-60, and adopted by a vote of two thirds of the citizens, on the day of the biennial election, held in the several counties of this Republic, May 1861, allowing the county of Maryland three Representatives, is declared to be a part and parcel of the Constitution of this Republic."

III. *Extending the Term of Office of the President and of Members of the House of Representatives to Four Years, and of Senators to Six Years, Providing for the Filling of a Vacancy in the Office of Vice President, Amending the Provision Relating to Citizenship, and the Composition of the Supreme Court*

The Legislature passed an Act (Acts, 1907-1908, p. 36) proposing the Amendments:

It is enacted, etc.:

Sec. 1. That the following amendments shall become part of the national Constitution and be submitted to the people at the ensuing biennial election to be held on the first Tuesday in May, A.D. 1907, throughout the several counties of the Republic for their consideration and approval, or non-approval, and the ballot shall be written "adoption", or "no adoption".

Sec. 2. That Article 3, Section 1, be made to read, "The supreme executive power shall be vested in a President, who shall be elected by the people and shall hold this office for the term of four years and be elected quadrennially."

Sec. 3. That Article 2, Section 2, after the words "twenty-three years" be made to read, "The representatives shall be elected quadrennially and shall serve for four years from the time of their election."

[10] *Ibid.* 76.

Sec. 4. That Article 2, Section 5, after the words "twenty-five" be made to read, "The senators shall serve for six years and shall be elected quadrennially, and those elected May, A.D. 1905, shall retain their seat for six years, from the time of their election, and all who are afterwards elected, six years."

Sec. 5. That when a vacancy occurs in the office of Vice-President by death, resignation or otherwise, after the regular election of the President and Vice-President, the President shall immediately order a special election to fill said vacancy.

Sec. 6. That Article 5, Section 13, be made to read, "None but Negroes, or persons of Negro descent, shall be eligible to citizenship in this Republic."

Sec. 7. That Section 3, of Article 4, be made to read, "The judges of the Supreme Court shall be the chief and two associate justices."

Any law to the contrary notwithstanding.

The amendments were adopted at the May, 1907, elections, and the Legislature passed an Act (Acts, 1907-1908, p. 4) proclaiming the results of the election:

Whereas certain amendments to the Constitution of the Republic of Liberia were proposed and submitted to the people of the Republic for adoption, by virtue of an Act passed by the Legislature at its session 1906-7 in accordance with the Constitution in such cases provided as found in the Acts of the Legislature, 1906-7 page thirty six (36) entitled an Act proposing sundry Amendments to the Constitution of Liberia, and whereas the said amendments were voted upon at the biennial election held on the seventh day of May, 1907, and whereas from the "returns" of the election submitted to the Legislature of Liberia at the present session, and upon due examination of said returns it doth appear that said amendments were duly adopted by a full and complete two thirds vote of all the electors who voted at said election.

It is enacted, etc.

Sec. 1. That the Constitutional Amendments as submitted in the above cited Act of the Legislature be and are hereby declared

adopted by the people of the Republic of Liberia and become a part of the fundamental laws of the Republic of Liberia. And the President of the Republic is hereby authorized and directed to proclaim the same by public proclamation throughout the Republic any law to the contrary notwithstanding.

Approved January 8, 1908 Acts 1907/8 p. 4.

IV. *Relating to the Qualifications of the Presidents, the Members of the House of Representatives and Senators, and the Composition of the Supreme Court*

The text of the Joint Resolution of December 8, -1926 (Acts, 1926, c. 16, p. 22) is as follows:

Whereas the Republic of Liberia has outgrown the experimental stage and the humble position of an asylum for refugees and malcontents; and

Whereas it is admitted by all reasonable citizens of the Republic that those who may be chosen by the people to represent them in the Legislature and executive department ought to have long and general experience in the affairs of the various counties which they are elected to represent and also to own an appreciable amount of real estate unencumbered previously to such election.

Therefore be it resolved by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

Sec. 1. That Article 3, Section 7, be made to read, "No person shall be eligible to the office of President who has not been a citizen of this Republic for at least fifteen years and who is not possessed of unencumbered real estate of the value of two thousand and five hundred dollars."

Sec. 2. That Article 2, Section 2, be made to read after the words "one representative shall be added", "No person shall be a representative who has not resided in the county two whole years immediately previous to his election, and does not own real and unencumbered estate of not less value than one thousand dollars in the county in which he resides."

Sec. 3. That Article 2, Section 5, be made to read after the words, "incorporated into the Republic", "No person shall be senator who shall not have resided three whole years immediately

previous to his election in the Republic of Liberia and who does not own real and unencumbered estate of not less than one thousand two hundred dollars in the county in which he resides."

Sec. 4. That Article 4, Section 3, be made to read, "The number of justices of the Supreme Court of the Republic of Liberia shall be limited to one chief justice and four associate justices, and a majority of whom shall be deemed competent to transact the business of the Supreme Court and from whose judgment there shall be no appeal."

Sec. 5. That these amendments be referred to the people at the ensuing quadrennial election for adoption or no adoption and be published in hand bills.

Any law to the contrary notwithstanding.

The Act proclaiming the adoption (1927-1928, c 3, p. 4) reads:

Whereas certain amendments to the Constitution of the Republic of Liberia were proposed and submitted to the People of the Republic for adoption by virtue of a Joint Resolution passed by the Legislature at its Session 1926 in accordance with the Constitution in such cases provided as found in the Act of Legislature approved December 8, 1926, on pages 22 and 23, entitled, Joint Resolution proposing sundry amendments to the Constitution of Liberia.

Whereas the said amendments were voted upon at the quadriennial election held on the 3rd of May and,

Whereas from the returns of the election submitted to the Legislature of Liberia at its present session and upon due examination of said returns it doth appear that said amendments were duly adopted by a full and complete two third vote of all the electors who voted at said election,

Therefore it is enacted, etc.:

Sec. 1. That the Constitutional Amendments as submitted in the above cited Act of the Legislature are hereby declared adopted by the people of the Republic of Liberia. And the President of the Republic is hereby authorized and directed to proclaim the same by Public Proclamation throughout the Republic.

Any law to the contrary notwithstanding.

(Approved December 31, 1927.)

V. *Extending the Term of Office of the President to Eight Years, and Providing that the President shall be Ineligible for Election for Two Successive Terms, and Authorizing a Civil Service Law.*

The Act of November 26, 1934 (Acts, 1934-1935, c. 3, p. 3) is as follows:

Whereas, in order to promote efficiency and to insure continuity in the policy in the administration of Government, it is necessary that certain amendments be made to the Constitution of the Republic therefore,

It is enacted, etc.:

Sec. 1. That the following amendments to the Constitution of the Republic be and the same are hereby approved by the Legislature.

(a) Article 3, Section 1, after the words "term of", delete the word "four" and insert the word "eight" instead, so that the first sentence of said article shall read: The Supreme Executive Power shall be vested in a President who shall be elected by the people and shall hold office for the term of eight years. No president shall be elected for two consecutive terms.

(b) The Legislature shall pass a standing law organizing and regulating the Civil Service of the Republic, which law shall declare what offices may be controlled by the provisions of said law. The provision of Article 3, Section 5 of the Constitution relating to tenure of office shall not apply to offices falling within the provisions of the Civil Service law.

Sec. 2. Their alterations and amendments shall be submitted to the people at the quadrennial election in the year 1935, agreeably to the provisions of the 17th Section of the 5th Article of the Constitution. On the ballot shall be written "adoption" or "no adoption".

Any laws to the contrary notwithstanding.

The amendments were adopted in May, 1935, and proclaimed under authority of an Act of June 3, 1935 (Acts, 1935 Extraordinary Sess. c. 1, p. 1) in the following terms:

Whereas certain amendments to the Constitution of the Republic of Liberia were proposed and submitted to the people of the Republic for adoption by virtue of an Act passed by the Leg-

islature at its regular session nineteen hundred and thirty four (1934) in accordance with the Constitution in such cases provided as found in the Acts of the Legislature, "entitled an Act recommending Amendments to the Constitution of the Republic of Liberia," and

Whereas the said amendments were voted upon at the quadrennial election held on the seventh day of May, A.D. 1935; and

Whereas from the returns of the election submitted to the Legislature of Liberia at its present session and upon the examination of said returns it doth appear that said amendments were duly adopted by a full and complete two third vote of all the electors who voted at said election.

Therefore, it is enacted, etc.:

Sec. 1. That the Constitutional Amendments so submitted in the above cited Act of the Legislature are hereby declared adopted Liberia is hereby authorized and directed to proclaim the same by the people of the Republic of Liberia. And the President of by Public Proclamation throughout the Republic.

Any law to the contrary notwithstanding.

Pending Amendments Relating to Qualifications of the President and Method of Amending the Constitution.

By Joint Resolution, approved January 29, 1943 (Acts, 1942-1943, c. 5, p. 5) it was enacted:

Sec. 1. That Article 3 Section 7 of the Constitution of Liberia be so amended as to read:

"No person shall be eligible to the Office of President who is not a citizen of this Republic by birth or a naturalised citizen of over twenty-five years residence and who is not possessed of real estate of the value of two thousand and five hundred dollars."

Sec. 2. That Article 5 Section 17 be so amended as to read:

"This Constitution may be altered whenever two-thirds of both branches of the Legislature shall deem it necessary; in which case the alteration or amendments shall first be considered and approved by the Legislature by the concurrence of two thirds of the members of each branch and afterwards by them submitted to the people and adopted by two thirds of all the electors at a special election called for that purpose."

Sec. 3. That these amendments be referred to the people at the ensuing octennial election for adoption or non-adoption and be published in hand-bills.

These amendments will be voted on in the 1951 election.

Present (1944) Text of the Amended Articles of the Constitution.[11]

Article II, section 2. (Amended 1849, 1861, 1907 and 1927). The representatives shall be elected by and for the inhabitants of the several counties of Liberia, and shall be apportioned among the several counties of Liberia as follows: the County of Montserrado shall have four representatives, the County of Grand Bassa shall have three, the County of Sinoe shall have three, and the County of Maryland shall have three representatives, and all counties thereafter which shall be admitted into the Republic shall have one representative, and for every ten thousand inhabitants one representative shall be added. No person shall be a representative who has not resided in the county two whole years immediately previous to his election, and does not own real and unincumbered estate of not less value than one thousand dollars in the county in which he resides and who shall not when elected be an inhabitant of the county, and who shall not have attained the age of twenty-three years. The representatives shall be elected quadrennially and shall serve for four years from the time of their election.[12]

Article II, section 5. (Amended 1907 and 1927). The Senate shall consist of two members from Montserrado County, two from Bassa County, two from Sinoe County, and two from each county which may be hereafter incorporated into this Republic. The senators shall serve for six years and shall be elected quadrennially, and those elected May A.D. 1905, shall retain their seals for six years, from the time of their election, and all who are afterwards elected, six years.

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[11] The official text of the Constitution, as published in *Declaration of Independence and Constitution, as amended, of the Republic of Liberia,* printed by Authority (Monrovia, 1908), does not contain Amendments 1 and 2, *supra.* The error is also contained in the text as published in the Memorial volume published by the American Colonization Society (1867), Johnston's *Liberia* (1906), Starr's *Liberia* (1913), Yancy's *Historical Lights of Liberia, Yesterday and Today* (1934), Brown's *Economic History of Liberia* (1941). Jore, in his *La Republique de Liberia* (1911) omits Amendments 1, 2 and 3 (in part).

[12] By Legislative Acts the County of Grand Cape Mount has been admitted and accorded three representatives. The representation of Montserrado County has been increased to five, and that of Grand Bassa, Sinoe and Maryland increased to four each The Territory of Marshall has been granted one representative, making the total number of representatives twenty-one.

No person shall be senator who shall not have resided three whole years immediately previous to his election in the Republic of Liberia, and who shall not when elected be an inhabitant of the county which he represents and who shall not have attained the age of twenty-five years, and who does not own real and unencumbered estate of not less than one thousand two hundred dollars in the county in which he resides.

Article III, section 1. (Amended 1935). The Supreme Executive Power shall be vested in a President, who shall be elected by the people and shall hold his office for the term of eight years. No president shall be elected for two consecutive terms. (The remainder of the section, beginning with the words "He shall be Commander-in-Chief" remain in force.—Ed.)

Article III, section 2. (Not as an amendment of this section, but relating to the same subject-matter, adopted 1907.) When a vacancy occurs in the office of Vice-President by death, resignation or otherwise, after the regular election of the President and Vice President, the President shall immediately order a special election to fill said vacancy.

Article III, section 5. (Additional provision, as adopted, 1935.) The Legislature shall pass a standing law organizing and regulating the Civil Service of the Republic, which law shall declare what offices shall be controlled by the provisions of said law. The provisions of Article 3, section 5 of the Constitution relating to tenure of office shall not apply to offices falling within the provisions of the Civil Service Law.[13]

Article III, section 7. (Amended 1927.) No person shall be eligible to the office of President who has not been a citizen of this Republic at least fifteen years and who is not possessed of unencumbered real estate of the value of two thousand and five hundred dollars.

Article IV, section 3. (Added, 1907, and amended 1927.) The number of justices of the Supreme Court of the Republic of Liberia shall be limited to one chief justice and four associate justices, and a

[13] A Civil Service Act was adopted in 1934 (Acts 1934, c. 4, p. 17) and since amended. The Legislature would have power to pass a Civil Service law without special authorization, but would not have power to modify the tenure of office, except subject to Art. III, sec. 5. It acquired this power under the Amendment when it was adopted by the electors at the 1935 election, but could validly pass laws affecting the tenure in anticipation of the adoption, which then became operative when the constitutional amendment was adopted. Cp. *Druggan* v. *Anderson*, 269 U. S. 36 (1925).

majority of whom shall be competent to transact the business of the Supreme Court, and from whose judgment there shall be no appeal.

Article V, section 13. (Amended 1907.) The great object for forming these Colonies being to provide a home for the dispersed and oppressed children of Africa, and to regenerate and enlighten this benighted Continent, none but Negroes or persons of Negro descent shall be eligible to citizenship in this Republic.

Article V, section 17. (Amendment by implication.) This section, though not expressly amended, as elections are now held octennially, must be regarded as reading as follows:

This Constitution may be altered whenever two-thirds of both branches of the Legislature shall deem it necessary. In which case the alterations or amendments shall first be considered and approved by the Legislature, by the concurrence of two-thirds of the members of each branch, and afterwards by them submitted to the people, and adopted by two-thirds of all the electors at the next octennial[14] meeting.

Declaration of Rights

Article I, sections 1-20, contains the provisions ordinarily called the Bill of Rights together with others relating to separation of governmental powers, prohibition of slavery, or taxation without representation, elections and suits against the State. For the most part they are modelled upon the provisions in the American Federal and State Constitutions, which in turn had their origin in Magna Charta and the English Bill of Rights and the works of John Locke and Montesquieu. The principles contained in the Declaration of Rights are a part of the Constitution, but they have no superior force over other provisions of the same Instrument by reason of being set out at the beginning of the Constitution nor because of their historical origins. They are to be applied in the same manner and are subject to the same rules of construction as other provisions of the Constitution.

We shall consider the various sections in their numerical order.

1. *Natural and Inalienable Rights.*

Section 1 provides: "All men are born equally free and independent, and have certain natural, inherent and unalienable rights;

[14] The Joint Resolution of January 29, 1943 (Acts, 1942-1943, c. 5, p. 5) proposing certain Amendments to the Constitution, refer them to the people "at the ensuing octennial election".

among which, are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property and of pursuing and obtaining safety and happiness."

This provision is taken over, almost verbatim from the Massachusetts Constitution of 1780 (Pt. I, Art. I); which in turn formulated the theories of the great writers on the inalienable rights of man. It proclaims some of the basic principles of democracy. But, while indicating the spirit in which the acts of Government are to be performed, it contains no express limitations on the powers of the organs of government.

By implication, however, this Section may impose a prohibition on the grant of a hereditary title of nobility as tending to create a system of caste. The United States Constitution expressly prohibits the granting any title of nobility, and any person holding any office or trust under the United States (not a private person) from accepting, without the consent of Congress, any present, emoluments, office or title from any Sovereign or State. U. S. Const. Art I, sec. 9; see *Downes* v. *Bidwell,* 182 U. S. 244 (1901); 13 Opinions of the Attorney General (U. S.) 538 (1871). Similar prohibitions were contained in the Constitutions of 1833 and 1853 of Maryland in Liberia. The provision in the American Constitution did not, however, deter Thomas Jefferson, while he was President, from accepting a bust from Czar Alexander (Watson, Constitution of the United States, I, 762). There is no corresponding provision in the Liberian Constitution. In 1879, President Gardner was made a Knight Grand Cross of the Spanish Order of Isabella Catholica.[15]

In the same year a charter was granted (Acts, 1879, p. 10; Rev. St. sec. 1208) establishing the Liberian Humane Order of African Redemption having for its object "the glory of God in the civilization of the African tribes within and in the neighborhood of Liberia," with authority to confer decorations on individuals.

Although legally a corporation the Order has a governmental character as appears from a dispatch from G. W. Gibson, Secretary of State to Leopold Carrance, Liberian *chargé d'affaires* in France, September 2, 1879, transmitting a copy of the Act of the Legislature, and directing that official notice of the existence of the Order and the decorations be given to the French Government. (Text of dispatch in Chicago Historical Society, Catalogue—Exhibition of Objects illustrating the History . . . of Liberia, 16.)

This Order was the only one of this character in Liberia until the

[15] Johnston, *Liberia,* I, 274

passage of the Act of February 13, 1920 (Acts, 1919-1920, on ch. 17, p. 13) authorizing the President to establish an Order of Merit to be styled "The Order of the Star of Africa," to be conferred on Liberian citizens who have rendered service to the Republic or to Africa, in the public service, in literature, art and science, and with an honorary membership limited to fifty, on distinguished foreigners who have rendered similar services to the world or to Africa. The total membership is limited to two hundred and fifty. In its general features the Order is similar to the French *legion d'honneur;* the distinctions conferred are not titles of nobility.

2. *Inherent Power of the People.*

Section 2 provides: "All power is inherent in the people; all free governments are instituted by their authority and for their benefit and they have the right to alter and reform the same when their safety and happiness require it."

This is a declaration of the sovereignty of the people with the right to alter the established form of government. But they have entered into a solemn compact to change this form only in the manner prescribed in the Constitution itself. A new Constitution cannot be drawn up in a convention assembled by the people, with or without the authority of the Legislature, because the Constitution does not provide for such a method of amendment.

There is no provision in the Constitution for an initiative and referendum. All legislation must be in the form of acts or resolutions adopted by the Legislature. The Legislature must act on its sole responsibility and cannot make the adoption of a law dependent upon a vote of the people—*delegatus non potest delegare.*

3. *Freedom of Religion and Worship.*

Section 3 provides: "All men have a natural and unalienable right to worship God, according to the dictates of their own consciences, without obstruction or molestation from others: all persons demeaning themselves peaceably, and not obstructing others in their religious worship, are entitled to the protection of law, in the free exercise of their own religion; and no sect of Christians shall have exclusive privileges or preference, over any other sect; but all shall be alike tolerated: and no religious test whatever shall be required as a qualification for civil office, or the exercise of any civil right."

The principles announced were taken from various American State constitutions, which do not differ widely from each other.

There never was an Established Church in Liberia and no serious clashes between the various sects of the Christian Church, though during the administrations of Governor Buchanan and Governor Roberts the Board of Foreign Missions of the Methodist Episcopal Church under the leadership of the unscrupulous John Seys, claimed exemption from certain local laws and tried to gain for its adherents political control. (See *supra.*)

The American Colonization Society, which derived its revenues from numerous sects, while refusing to participate actively in the evangelization of the natives, extended equal facilities to the various churches, Protestant and Catholic, to establish missions and schools in the country. This policy has been rigidly pursued under the Republic. With rare individual exceptions, the immigrants and their descendants have not possessed great missionary zeal to carry their faith to the natives, and have left this to various religious organizations in the United States.

This does not mean that the inhabitants lack religious fervor. On the contrary, all foreign observers note the extremely religious character of the people. Says Sir Harry Johnston:[16] "With a few rare exceptions the mass of the Americo-Liberian community suffers from religiosity."

But in spite of the absence of religious rancor between the Christian sects, the provision regarding freedom of worship is of importance in a State where over nine-tenths of the population are non-Christians, and where Islamism was established more than four centuries ago, brought millions of Pagan natives under its civilizing influence and retains a strong hold on its devotees. The church, the mosque, the synagogue, and the sacred Pagan fetishes, pools and groves are entitled to equal protection.

Fundamentally Liberia must be classed as a Christian State. All of its institutions are similar to those of the Christian States of Europe and America. Acceptance of the Christian faith by the majority of the inhabitants of a country is no longer a prerequisite to admission to the Family of Nations (China, Japan, Turkey).[17]

The constitutional provision cannot be used as an excuse for the commission of acts which by general consent of mankind are regarded as crimes. Says Justice Field, in *Davis* v. *Beason,* 133 U. S. 333 (1890):

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[16] *Liberia,* I, 353, 354.

[17] The Treaty of Peace between the United States and Tripoli, Art. XI, contains the statement that "the Government of the United States is not in any sense founded on the Christian religion". It has never been asserted that Liberia is not a Christian State.

> However free the exercise of religion may be, it must be subordinate to the criminal laws of the country, passed with reference to actions regarded by general consent as properly the subjects of punitive legislation. There have been sects which denied as a part of their religious tenets that there should be any marriage tie, and advocated promiscuous intercourse of the sexes as prompted by the passions of its members. And history discloses the fact that the necessity of human sacrifices, on special occasions, has been a tenet of many sects. Should a sect of either of these kinds ever find its way into this country, swift punishment would follow the carrying into effect of its doctrines, and no heed would be given to the pretence that, as religious beliefs, their supporters could be protected in their exercise by the Constitution of the United States. Probably never before in the history of this country has it been seriously contended that the whole punitive power of the government for acts, recognized by the general consent of the Christian world in modern times as proper matters for prohibitory legislation, must be suspended in order that the tenets of a religious sect encouraging crime may be carried out without hindrance.

The Criminal Code, section 109, prohibits bigamy, and a person charged with this crime cannot plead that polygamy is sanctioned by the religious faith of which he is an adherent. This has been uniformly so held in the United States in connection with prosecution against members of the Morman Church. The leading case is *Mormon Church v. United States,* 136 U. S. 1 (1889), where Bradley, J., says:

> "One pretence for this obstinate course is, that their belief in the practice of polygamy, or in the right to indulge in it, is a religious belief, and, therefore, under the protection of the constitutional guaranty of religious freedom. This is altogether a sophistical plea. No doubt the Thugs of India imagined that their belief in the right of assassination was a religious belief; but their thinking so did not make it so. The practice of suttee by the Hindu widows may have sprung from a supposed religious conviction. The offering of human sacrifices by our own ancestors in Britain was no doubt sanctioned by an equally conscientious impulse. But no one, on that account, would hesitate to brand these practices, now, as crimes against society, and obnoxious to condemnation and punishment by the civil authority. The State has a right to prohibit polygamy and all other open offenses

against the enlightened sentiment of mankind, notwithstanding the pretence of religious conviction by which they may be advocated and practiced.

But what is prohibited is the practice of polygamy, not membership of a religious community having as one of its tenets the belief in polygamy.

According to the Hinterland Regulations, 1936, although in general the Criminal Code of 1914 is in force (Art. 69), martial cases, where Mohammedans or Pagans are involved are governed by special rules (Art. 80, reprinted *infra*, Chap. XXV, *sub* Hinterland).

Repressive measures such as those under the Act of January 18, 1921 (Acts 1920-1921, c. 15, p. 13) may be taken against associations claiming a religious character committing murder and offering human sacrifices as part of their cult, such as the Neegee and Human Leopard Societies.[18]

The practice of witchcraft or conjuration is punishable by fine and deportation (Rev. St. sec. 770). But while this practice by reason of the fact that it usually involves the administering of poisonous drugs is prohibited, the secret religious societies in the Hinterland and their institutions are protected by the provision of section 35 of the Act of October 13, 1914 (Acts, 1914, p. 16): "It shall be their (*i.e.* the District Commissioners') duty to see that no trader, travellers or officers interfere with the sacred institution of the country. Any official, trader, or traveller interfering with the secret societies of the country shall be punished according to the law of the society, except such punishment be barbarous, or be reported to the Department of Interior for information of His Excellency the President who will confer with the chiefs on the subject."

Many treaties to which Liberia is a party contain provisions regarding freedom of worship; the earliest of these is the treaty with France, 1852, the latest the treaty with the United States, 1938.

4. *Slavery, Pawning and Forced Labor.*

Section 4 of the Declaration of Rights provides:

"There shall be no slavery within this Republic. Nor shall any citizen of this Republic, or any person resident therein, deal in slaves, either within or without this Republic, directly or indirectly."

[18] The constitutionality of the Act above cited is, however, open to attack on other grounds—trial by special courts martial and excessive punishment.

The constitutional provision is directed against the institution of slavery and against the slave trade. In this respect it differs from the provision in the Constitution of 1820 (Art. V) which simply declares that "there shall be no slavery in the Settlement."

In 1830 charges were brought before the Board of Managers of the American Colonization Society that certain residents of the Colony were engaged in the slave trade, actually buying and selling slaves and assisting slave traders. The Board immediately met and adopted Resolutions (October 15, 1830) providing that such acts shall be punishable, in case of a first offense by a minimum fine of one thousand dollars and imprisonment for at least one year, and on a second conviction by the death penalty.[19]

There was a recrudescense of the slave trade in the closing years of the Colonial Period, which came before the Board at their meeting of August 23, 1838.[20]

The Commonwealth Constitution of 1839, Article 20, repeats the provision of the Constitution of 1820, and in Article 21 provides that "there shall be no dealing in slaves by any citizen of the Commonwealth either within or beyond the limits of the same." These provisions are the sources of the section of the Constitution of the Republic, which also incorporates some of the provisions of the aforementioned Resolution of October 15, 1830.

The Agents of the American Colonization Society were all sworn enemies of slavery and the slave trade. Colonial and Commonwealth laws against the slave trade were rigidly enforced, and punitory expeditions were undertaken against the Spanish and French slave factories in the Colony and even beyond its boundaries. The Colonists rendered invaluable services to the American and British cruisers by informing them of the presence of slavers off the Coast, and the policy of the Government was to acquire all of the coast line from Sierra Leone leeward so as to form a "living cordon" against the slave traders.

It is to be emphasized that the constitutional provision is directed against slavery and the slave trade, both terms being used in the sense as in current use in the middle of the nineteenth century. "Slavery" did not include conditions such as the Mexican peonage, the Russian serfdom, the Chinese coolie labor or the villeinage of the common law.

The Thirteenth Amendment to the Constitution of the United States

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[19] The text of the Committee's Report and of the Resolution are given in Chap. XI, *supra*.

[20] Ms. Mins. of Board of Managers, III, 385 *et seq.*

prohibits slavery and involuntary servitude. The latter clause was added to cover cases such as peonage. But neither the Liberian nor the United States Constitution prohibits forced labor on public roads.[21]

It was certainly not intended by the framers of the Liberian Constitution to prohibit the ancient native custom of pawning nor the engaging of labors for work within or without the Republic. Contracts of seamen are also by usage not subject to the constitutional prohibitions.[22]

A slave entering the territory of Liberia immediately became free by the application of the rule in the *James Sommerset Case*, 6 State Trials (1772). British cruisers brought their prizes into Liberian ports, where they were taken over by the Liberian authorities and either confiscated or sent to the United States for adjudication. Liberia declared the slave trade piracy. From the beginning Liberia became the depot for recaptured Africans taken by United States cruisers.

The provision in the Constitution is not alone a prohibition against slavery, but also prohibits all citizens and residents of Liberia from engaging in the slave trade either within or without the Republic.

One of the first laws of the Republic is set out in *Statute Laws* (*Old Blue Book*), 1865 ed. 77, 1879 ed. 92. These provisions, as later amended, are contained in *Revised Statutes*, sections 1355-1363.

The *Criminal Code*, 1914, section 64 defines slave trading. This section must be read in conjunction with section 59, relating to kidnapping, one of the forms of which is a seizing of a person with intent to sell him as a slave. The only decision of the Supreme Court on slave trading that has been traced is *Zarglayor* v. *Republic of Liberia* (January 19, 1927, unpublished, Judgment Book, p. 463), where the defendant had obtained by illegal means, a young girl, whom he compelled to live with him as his mistress, and then sold her to another person.

Liberia was intent on aiding in the suppression of the slave trade, and the first treaty concluded by the Republic, the one with Great Britain, November 28, 1848, contains the following provisions:

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[21] In *Butler* v. *Perry*, 240 U. S. 328, 333 (1916), sustaining a State law requiring of every able-bodied man a certain amount of work upon the public roads annually "In view of ancient usage and the unanimity of judicial opinion, it must be taken as settled that, unless restrained by some constitutional limitation, a State has inherent power to require every able-bodied man within its jurisdiction to labor for a reasonable time on public roads near his residence without direct compensation."

[22] Cp. *Robertson* v. *Baldwin*, 165 U. S. 275 (1897)

Art. IX. Slavery and the slave trade being perpetually abolished in the Republic of Liberia, the Republic engages that a law shall be passed declaring it to be piracy for any Liberian citizen or vessels to be engaged or concerned in the slave trade.

The Republic engages to permit any British vessel of war which may be furnished with special instructions under the treaties between Great Britain and foreign Powers for the prevention of the slave trade, to visit any vessel sailing under the Liberian flag, which may, on reasonable grounds be suspected of being engaged in the slave trade; and if, by the result of the visit, it should appear to the officer in command of such British vessel of war that the suspicions which led thereto are well grounded, the vessel shall be sent without delay to a Liberian port, and shall be delivered up to the Liberian authorities, to be proceeded against according to the laws of the Republic.

Art. X. The Republic of Liberia further engages to permit any British vessel of war which may be furnished with special instructions as aforesaid, to visit, on the Coast within the jurisdiction of the Republic, or in the ports of the same, any vessel which may be suspected of being engaged in the slave trade and which shall be found sailing under any flag whatever, or without any flag: and if the suspicions which led to the visit should appear to the officer in command of such British vessel of war to be well grounded, to detain such vessel in order to send it as soon as possible before the competent Court for adjudication. Duly constituted ports of entry in the Republic of Liberia shall be excepted from the operation of the stipulations of the present article; and no vessel shall be visited by a British cruiser within the limits of such ports, except on permission specially granted by the local authorities.

Liberia is a party to the Anti-Slavery Convention, signed at Geneva in 1926.

In 1927, after the election, Thomas J. R. Faulkner, the defeated candidate for the presidency, began his venomous attacks on his political opponents charging that slavery existed in Liberia and that certain high officials, including President King and Vice President Yancy, from motives of personal gain, were furthering the recruitment of laborers for shipment to Fernando Po, where they were placed in a condition of peonage, and that the Liberian Frontier Force had been used to compel natives to accept this overseas service. Faulkner

also made these charges in interviews with American journalists and wide publicity was given to the sensational accusations.

A firm note (June 8, 1929) of the American Government was transmitted to the Liberian Government (see *infra*) and the matter was also taken up by the League of Nations, but neither of these suggested the appointment of a Commission of Inquiry. Liberia of her own free will proposed the appointment of such a Commission and at her instigation such a Commission was appointed, consisting of Dr. Cuthbert Christy, who had served as Senior Medical Officer in Nigeria, designated by the League of Nations, Professor Charles S. A. Johnson, of Fisk University, designated by the American Government, and former President Arthur Barclay, as the representative of Liberia.

On April 7, 1930, the Commission began its investigations and hearings which extended over a period of five months, and presented its Report, the so-called "Christy Report".[23]

The findings of the Commissioner are summarized by Azikiwe:[24]

1. Slavery as defined by the Anti-Slavery Convention, in fact, does not exist in the Republic.

2. Domestic slavery is not participated in or encouraged by the Government of the Republic.

3. Leading citizens of the Republic do not participate in slavery, although they adopt aboriginals as pawns, in accordance with local usage, and have abused the same.

4. The Republic employs forced labour for public and private purposes.

5. Shipment to Fernando Po and Gabun is associated with slavery because the method of recruiting carries compulsion with it.

6. Labour for private purposes is forcibly impressed by the Government, and used in the Firestone Plantations.[25]

7. The Liberian Government has not expressly at any time given sanction or approval to the recruiting of labour with the

[23] *Report of the International Commission of Enquiry*, League Document C 658 M 272 1930 VI (1930 VI B 6) See also an article by Dr. Christy, *Liberia in 1930*, in Geographical Journal, vol. LXXVII, 515-540.

[24] *L c* 193

[25] The Commission, however, expressed its doubts that the Firestone Plantation Company "consciously employs any but voluntary labor on its leased rubber plantation."

aid of the Liberian Frontier Force. Persons holding official positions have illegally misused their office in recruiting with the aid of the Force.

The suggestions of the Commission are thus epitomized by the same author:[26]

1. The abandonment of the policy of "closed door" in favour of the "open door" to the Western nations.

2. The extension of education to all alike irrespective of the fact that one is either a descendant of settlers or aborigines of Liberia.

3. A radical reconstruction of Native policy for a more humane treatment. Barrier between civilized and uncivilized Liberians should be broken down. Suppression of the aborigines should cease. Humiliation and degradation of Chiefs should be stopped and their tribal authority should be re-established.

4. There should be a complete reorganization of the administration of the Hinterlands. Present District Commissioners should be replaced by American or European senior commissioners. Counties should be re-arranged and a civil service should be instituted.

5. Pawning and domestic slavery should be made illegal as a preliminary measure to total abolition.

6. The shipment of labourers abroad should cease.

7. Road programme should be curtailed for a more efficient supervision.

8. The Frontier Force should be under stricter control by their officers, and their duties should be reconsidered by a repeal of the Revised Statutes, section 1082.

9. Immigration of the best type of persons of African descent should be encouraged from the United States "to open educative links with American trade affairs".

Nearly all of the above 9 recommendations have been carried out: (1) the Hinterland has been thrown open to foreign traders by the Act of December 18, 1930; (2) schools are open to children of all nationals on equal terms; (3) the suggestions embodied in points and

[26] *L.c.* 194, 195.

(4) have been satisfied by the Hinterland Regulations of 1936 and the Civil Service Act of 1934; (5) Pawning has been abolished by the Act of December 19, 1930; (6) the shipment of laborers abroad has been prohibited by the Act of December 15, 1930.

The recommendation that the Senior District Commissioners should be Americans or European persons was not carried out and similar stringent provisions in the Plan of Assistance drawn up by the League of Nations and recommended for acceptance by the United States Department of State in 1932 were the cause of the failure of this Plan, ingeniously framed to deprive Liberia of its territorial sovereignty and place it in the position of a mandated territory or a virtual protectorate. Liberia was saved from this by the firm stand taken by President Barclay and the policy of the Legislature as announced in the Joint Resolution of January 12, 1934 (Acts, 1933-1934, c. 4, p. 9). The League of Nations refused to reconsider the Plan in the light of the declarations contained in the above Joint Resolution. The Liberian delegate to the League, Dr. Sottile, made the following Declaration to the League, under instructions from his Government:[27]

> The Liberian Government regrets that the decision to which the Council has come in refusing re-examination of the proposed Plan of Assistance in the light of reservations made by Liberia renders its execution impracticable.
>
> So definite, however, is the Liberian Government's determination to secure the advice of specialists in its administration that it has decided to obtain them otherwise than under the Plan of Assistance, in the belief that this will meet the objectives sought in the Plan, but will do so in consonance with this fundamental law of the country.
>
> Although the Liberian Government has been unable to accept the Plan of Assistance, I desire to thank the League, the members of the Council and the members of the Liberian Committee for the efforts they have made during the past two years to assist my Government. The latter will find in the Plan valuable elements, guidance for the future, which it should be able to appreciate and should remember, and for which it will be grateful to the League.

In pursuance of this Declaration certain specialists were appointed by the President in the manner prescribed by the Liberian Constitution and laws.[28]

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[27] *Annual Message*, October 26, 1934.
[28] *Ibid.*

The publication of the Report of the Commission naturally produced a tremendous sensation not alone in Liberia but throughout the world.[29]

Pawning—Intertribal Slavery. Throughout Western Africa there has existed perhaps for thousands of years a form of domestic slavery, known as pawning. It was distinct from the capture and sale to non-natives for export to foreign countries. The situation is explained by Attorney General L. A. Grimes in his *Report for 1923* (2 Opinions of Attorney General, 9, 10 (1923):

INVOLUNTARY SERVITUDE

For several years there has been a growing agitation in favour of a strict enforcement of the Constitutional provision that:

"There shall be no slavery within this Republic. Nor shall any citizen of this Republic, or any person resident therein, deal in slaves, either within or without this Republic, directly or indirectly."

See Constitution of Liberia, Article I, section 4.

In justice to everybody concerned I must state (1) That the system of domestic servitude in vogue is not confined to Liberia, but is more or less prevalent throughout West Africa. (2) That it is radically different from slavery of the kind that existed in Europe and the Western Hemisphere up to the middle of the 19th century. Independently of the horrors which in the United States followed in the wake of this "curse of curses" the effect even in Western Africa was that:

"Clan feeling and clan hospitality becoming weakened began to decay. * * * The solitary traveller was no longer safe. The hunter who had wandered too far from home in pursuit of game, the farmer on his secluded farm, women going to market or to the spring were ruthlessly captured and sold into foreign slavery. Then it was that parents spurning all holy impulses and dead to natural love and affection, sold their very offspring into foreign bondage. But through all these horrors, through fire and sword and bloodshed, which desolated many a prosperous village, amid all the wailings of the unhappy captives the distinction between the alien slaves and native bondsmen was

[29] For a review of public opinion in America and Europe as expressed by statesmen and in the press, see Azikiwe, *l.c.* 206-210.

well marked, and never once do we hear any native in bondage called a slave, a Bonkor."

See F. C L., pages 7-8.

Domestic servitude in Africa is, and always was, of an entirely different character. Here the servile relationship may arise from one of three reasons; either where unprotected peasants, or persons who are impoverished commend themselves to a more powerful neighbour for protection or sustenance, giving their services in return; or (2) where persons burdened with debt pledge themselves and their belongings to one who could and would pay; or (3) those who in return for some great service rendered them, their relations or ancestors are bound to serve their benefactor and his family.

Though the services of these persons are transferrable from master to master still the relationship was more akin to that of lord and vassal in feudal times; all of them having been treated as members of their household, and not a few have succeeded as heir to their master's estate.

Still there are some of our people who contended in previous administrations that all involuntary restraint should be immediately prohibited; and as they were legally correct in said contention would have forced the measure through but for the determined opposition of most of the leading aboriginal chieftains of all the principal aborginal tribes.

What we now suggest as a means of gradually educating our aboriginal peoples up to the ideals set in our Constitution is that inasmuch as all of that class of our citizens is rapidly acquiring property, both personal and real, of constantly increasing value, a statute be passed forbidding them to pass any human being, and the officials of our Interior administration be directed to instruct them, in case of need, to pledge their goods and chattels, or should they be insufficient, to mortgage their lands in lieu.

The native customs relating to pawns were not uniform, but at the Suehn Conference of Native Chiefs, convoked by President King in 1923 (see Chap. XXV, *sub* Hinterland, *infra*) a uniform set of regulations governing pawn was agreed to, and received the approval of the President, March 29, 1923.[30]

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[30] *Departmental Regulations, Supplementing and Revisory Existing Regulations Governing the Administration of the Interior of the Republic of Liberia; Including General Circulars One and Two.* Monrovia, August, 1923, 22 p. Reprinted, January, 1929, sec. 19, pages 4-6.

Sec. 19. Pawn is a very old custom. The principal governing a pawn may be stated briefly as follows:—

a) All pawns must be accompanied by a token, such as a ring placed on the finger; earring, leopard tooth, or bracelet on the arm or any domestic article of value.

b) Pawns are redeemable.

c) Pawns may redeem themselves.

d) A pawn is redeemed by payment of the original sum advanced and no more.

e) Pawning of Liberians to foreign subjects should be strictly forbidden.

f) No person can be pawned without his or her consent.

g) The correct procedure in giving pawn is to do so in the presence of or with the knowledge of the Town Chief.

h) If a pawn run away or die, the holder is entitled to the payment of his money or the replacing of the pawn.

i) If the pawn run away the holder must try to find him. If he succeeds in such he can identify the pawn by swearing in the usual way.

j) If the usual token aforementioned does not accompany the pawn, the transaction is slave dealing.

k) If a woman is in pawn, the holder may take her to wife until redeemed, in such case there can be no charge of woman palava.

l) If a woman in pawn is taken to wife by any one other than the holder, compensation for woman palava may be demanded by the holder and not the owner. It is customary however, for such that such proceeds to be shared by the holder with the owner.

m) A pawn may be repawned by the holder; but always with the knowledge of the owner.

n) The owner of a pawn is held responsible for the wrong doings of the pawn and may be required by the holder at the time of redemption to make adjustments therefor.

o) If a woman in pawn begets a child, it must be delivered with the mother at the time of redemption and free of any encumbrance.

p) If the holder is father of the child, he has the privilege of retaining it provided he satisfactorily compensates the owner.

q) Excessive ill-treatment of a pawn is sufficient cause of its withdrawal without formal redemption.

r) Any article may be pawned, and may be used by the holder until redemption. If the article is worn or used slightly or badly, it must nonetheless be redeemed.

Of the pawn system as it prevailed after the enactment of the Regulations of 1923 up to its abolition in 1930, Professor Strong[31] says:

> A man in Liberia may pawn as security for a loan of any kind, almost anything he possesses, including his wives or dependents, for any amount that he can get for them. However, the Liberian Government regulations on the subject provide that the person concerned must give his consent, a provision that is obviously disregarded for the most part. In order to differentiate the act of pawning an individual from slave dealing, it is stated that the pawn must be accompanied by some token, such as a ring, a bracelet, or other possession. Inanimate articles pawned may be used by the holder of the pawn, and if clothing, may be worn. In the case of a woman, the holder of the pawn acquires all rights over her person, and according to the regulations can "take her to wife until redeemed". If she bears him a child, he may retain it if he wishes.
>
> In 1923 the Liberian Government in attempting to control further this system of pawning in the hinterland, provided that pawns should be allowed to redeem themselves (which, clearly they can almost never do), and that a pawn should be redeemed by the payment of the original sum and nothing more. The regulations also forbade the pawning of Liberians to foreign subjects. Obviously foreign subjects do not reside in the interior of Liberia, but only in Monrovia and in the coast cities, and this provision discriminating as it were against foreign subjects, brings clearly to mind what may be referred to as the "white slave" traffic in Monrovia, if we understand that the word "native" is to be substituted for the word "white".

As to the custom of pawning children or receiving them to be educated, usually in return for domestic services, Buell[32] states:

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[31] *The African Republic of Liberia and the Belgian Congo*, I, 70, Cambridge, 1930.

[32] *The Native African Problem*, II, 750.

> Practically every negro family in Monrovia and other coast towns has such children in its household. Often such children stay in their new family for a period of ten or fifteen years. During this period they are obliged to do the housework and a number, it appears, perform labor on the farms. In some cases such children are mistreated. A prominent Liberian was found guilty of mistreating eight boys who ran away and took refuge with the county attorney. Nevertheless it seems that many of them receive the same kind of education as the colonists' children, and legally they may leave their foster parents and return to the bush when they like. The children frequently marry into the family, in other cases adopted girls become concubines. The Liberian system has given the native children an education which many of them would not have otherwise received, and by injecting new blood into the coastal population, the system is forging a Liberian nation. Nevertheless, there are in any such system certain obvious abuses which should if possible be prevented by law. Every family accepting such children should be obliged to assume the obligation of a guardian enforced by the courts.

Agitation for the suppression of pawning continued, not always based on humanitarian motives, in Liberia and elsewhere, forming the topic of sensational press accounts, and attacks on Liberia in the League of Nations. In Sierra Leone the Supreme Court held (1926) that slavery was not contrary to law, and finally, in 1927, the Colonial Assembly passed an Act (Ord. No. 24 of 1927, September 2, 1927) providing that "the legal status of slavery is hereby declared to be abolished in the Protectorate." The law came into effect January 1, 1928. The native Chiefs in Liberia protested vigorously against the adoption of any laws abolishing pawning.

Immediately after the findings of the Commission of Enquiry became known, President King issued a Proclamation (September 29, 1930):[33]

> 'Whereas by the recent enquiry instituted by the Government of Liberia through an International Commission of Enquiry it has been found that the system which exists among the tribes of Liberia, heretofore denominated domestic servitude, in its results and incidence falls within the definition of the term "slavery" as fixed by the Anti-Slavery Convention of 1926; and

[33] Text in Brown, *Economic History of Liberia*, 277, 278.

Whereas, it has also been found that the ancient custom which exists among the tribes of taking and giving human beings in pawn is likely to lead to the practical enslavement of the person or persons so pawned; and

Whereas, by Constitution of the Republic slavery in all its forms is prohibited,

Now therefore, I, Charles Dunbar Burgess King, President of the Republic of Liberia, by virtue of the authority of the Constitution of the Republic, do hereby give public notice and proclaim:

(a) That the status of all persons in domestic servitude is an illegal status, and that any and all persons held in domestic servitude in any section, district, or tribal area of the Republic are, from the date of these presents, free.

(b) That the pawn system, in that it might be used as an instrument for the enslavement of persons subjected to it, is illegal, and it is ordered that any and all persons now held as pawns within the limits of the Republic shall immediately be surrendered to their relatives or friends unconditionally, and in cases where neither relatives nor friends can be found, the "pawn" shall nevertheless be freed unconditionally.

(c) It is further notified that the giving and taking of any human being as a pawn shall by the Government of the Republic be construed as slave trading and prosecuted and punished as a criminal offence under existing laws.

And I do call upon all magistrates, civil and judicial, as well as the citizens of Liberia, whether living within or without any tribal area, to take due note of these presents and to supervise and assist in the due enforcement of the provisions herein contained.

Given under my hand and Seal of the Republic at the City of Monrovia this 29th day of September, A.D. 1930, and of the Republic the eighty-fourth.

C.D.B. King.

By the President,
Edwin Barclay,
Secretary of State.

By an Act approved December 19, 1930 (Acts, 1930-1931, c. 3, p. 4) the pawning system was abolished:

Whereas it has been brought to the attention of the Legislature of Liberia that the President of this Republic yielding to Chieftains of the Interior in a Council held with them at Suehn, issued regulations dated August 1923 which regulation *inter alia* includes a pronouncement in favour of the pawning system one of the old customs of the aboriginal tribe, and

Whereas this system in the opinion of the Legislature would appear to be analogous to slavery, notwithstanding the limitations and modifications sought to be placed upon it by said regulations, and

Whereas slavery in all its forms is repugnant to the Constitution and laws of this Republic as well as the principles upon which this Government is founded, therefore

It is enacted, etc.:

Sec. 1. That from and after the passage of this Act, the taking, holding or giving in pawn of any person shall be illegal.

Sec. 2. Any person who shall receive, hold or give in pawn to another human being shall be guilty of a felony and upon conviction shall be imprisoned for a period not to exceed two years and forfeit all civil rights.

Sec. 3. The President of Liberia is hereby authorized to enforce by Executive Order, Proclamation or any other Executive action the release of any and all persons now held in pawn and the due execution of the provisions of this Act.

This Act shall take effect immediately and be published in hand bills.

Any law to the contrary notwithstanding.

The resentment of the tribes whose social economy had been suddenly disturbed by the passage and rigid enforcement of this Act was one of the causes of the troubles with the natives at the outset of President Edwin Barclay's administration,[34] but the pawning system has been completely abolished in Liberia. By 1933 about 84 per cent of the pawns had been freed.[35]

Export of Contract Labor. The problem of the protection of the natives against abuses of recruiting for labor abroad arose in the Commonwealth Period, and an early law of the Republic [Stat. Laws

[34] *Annual Message*, 1931, 4.

[35] Antilanno, *l.c.* 190, note 2, citing Official Journal, January, 1933, 155

(Old Blue Book) 1856 ed. 90, 1879 ed. 105] prohibits masters of vessels taking on board any passenger not holding a passport.

The first large-scale recruiting began in 1852. The acute shortage of labor in the West Indies induced the British Government to enter into a contract with Hyde, Hodge & Co., a London firm to furnish such laborers, and some of the firm's ships went to Liberia where its agents negotiated with some of the old slave chiefs to supply laborers, paying them as high as twenty dollars premium.

A contemporary account of this incident was published in the *Colonization Herald*.[36]

> The history of a single case will illustrate the manner in which Liberia exerts her influence in preventing the native tribes from warring upon each other. The territory of Little Cape Mount, Grand Cape Mount, and Gallinas was purchased, three or four years since, and added to the Republic. The chiefs, by the term of sale, transferred the rights of sovereignty and of soil to Liberia, and bound themselves to obey her laws. The government of Great Britain had granted to Messrs. Hyde, Hodge, & Co., of London, a contract for the supply of laborers from the coast of Africa to the planters of her West India colonies. This grant was made under the rule for the substitution of *apprentices*, to supply the lack of labor produced by the emancipation of the slaves. The agents of Messrs. Hyde, Hodge, & Co. visited Grand Cape Mount, and made an offer of ten dollars per head to the chiefs for each person they could supply as *emigrants* for this object. The offer excited the cupidity of some of the chiefs; and to procure the emigrants and secure the bounty one of them, named Boombo, of Little Cape Mount, resorted to war upon several of the surrounding tribes. He laid waste the country, burned the towns and villages, captured and murdered many of the inhabitants, carried off hundreds of others, and robbed several factories in that region belonging to merchants in Liberia. On the 26th of February, 1853, President Roberts issued his proclamation enjoining a strict observance of the law regulating passports, and forbidding the sailing of any vessel with emigrants without first visiting the port of Monrovia, where each passenger should be examined as to his wishes. On the 1st of March the president,

[36] December, 1852. Quoted in Williams, *History of the Negro Race*, II, 106 The text of President Roberts' proclamation is published in United States Documents, 33 Cong. 1st Sess. Sen. Doc. No. 1, 390. See also letter from President Roberts to the Secretary of the American Colonization Society, September 29, 1853, in *African Repository*, XXX, 111.

with two hundred men, sailed for Little Cape Mount, arrested Boombo and fifty of his followers, summoned a council of the other chiefs at Monrovia for his trial on the 14th, and returned home with his prisoners. At the time appointed, the trial was held, Boombo was found guilty of "*high misdemeanor,*" and sentenced "to make restitution, restoration, and reparation of goods stolen, people captured, and damages committed; to pay a fine of five hundred dollars, and be imprisoned for two years." When the sentence was pronounced, the convict shed tears, regarding the ingredient of imprisonment in his sentence to be almost intolerable. These rigorous measures, adopted to maintain the authority of the government and majesty of the laws, have had a salutary influence upon the chiefs. No outbreaks have since occurred, and but little apprehension of danger for the future is entertained.

The recruiting of Liberian laborers continued, although the Government discouraged the business by enforcing the Passport Law. A treaty with France (December 8, 1892) contains a provision (Art. IV) that

> The Republic of Liberia, like in the past will facilitate to the extent of its means the free engagement of labourers on the Liberian Coast by the French Government or its subjects, reciprocally the same facilities are granted to the Republic of Liberia and its inhabitants on the French part of the Ivory Coast.

Prior thereto Liberia had refused to the French Government permission to recruit laborers for work on the Panama Canal. Similarly a treaty with the Congo Free State (December 15, 1890) provides (Art. XV):

> It will be lawful for the subjects of the Republic of Liberia to go, emigrate and contract engagements with a view of taking service in the territory of the Congo Independent State, and reciprocally, it will be permitted to the subjects of the Congo Independent State to go, emigrate and contract engagements with a view of taking service in the territory of the Republic of Liberia.

A similar provision was contained in a treaty with Great Britain (1926), but this was never extensively applied.

In his Annual Message of December 15, 1896,[37] President Coleman points out the necessity of drastic legislation:

[37] Reprinted in *Liberia Bulletin,* No. 10, 74-78.

> There are thousands of native Africans, Liberian citizens and subjects, who are being shipped on foreign vessels to other ports as laborers, two-thirds of whom never return and are wholly unaccounted for. In order to give them better protection and to make more certain their return, I would recommend that the shipping law be so amended as to require any and all persons soliciting, encouraging, or in any way connected with getting laborers to ship for other ports shall first pay into the general treasury $1,000 in gold annually and obtain a license for such privilege, and on failure to comply with this provision of the law the party or parties shall be declared guilty of a crime equal to that of kidnapping, or be moderately dealt with by imprisonment, to work in irons on the public streets or elsewhere, for a term of not less than one year nor more than three years, and pay a fine each of not less than $500 nor more than $1,500 and all costs and charges of trial, in coin, and the shipping master shall require every master, owner, agent, or supercargo who is to receive these laborers for other ports to give bond with good and certain security, of not less than $500 for each laborer.

Laws were passed dealing with the subject (Acts, 1900, pp. 10-17; *Acts, 1907-1908, pp. 29-48) the principal provisions of which are in*corporated in *Revised Statutes*, sections 1334-1354.[38]

About 1900 Spanish planters on the Island of Fernando Po began recruitment of laborers in Liberia, and this soon reached large proportions. The methods employed by the agents of the Spanish planters were often questionable, and the treatment of the Liberians in Fernando Po became an international scandal. President Howard in his Annual Message of December 1913, asked the Legislature to establish a consulate in Fernando Po to look after Liberian laborers in that Island. In this Message, President Howard says:

> For some years the condition and treatment of labourers going from Liberia to Fernando Po and San Thomé in the Gulf of Guinea, as gathered from reports of returned labourers as well as from official sources, have given the Government great anxiety and concern. These conditions were represented as being tanta-

[38] For an early law prohibiting vessels from entering the Custom House or cruising along the coast for the purpose of enlisting and procuring native African emigrants to transport them beyond the high seas or to any foreign country, or to engage within the Republic in the enlistment and procurement of such natives for a foreign country, and affixing the penalties as for slave trade, see Laws 1857-61, page 26.

mount to slavery, the labourers being flogged publicly, their wages being unjustly kept back from them, they being unwillingly forced to work for longer periods than that which they contracted before leaving their homes, and being the victims of maltreatment in many other ways. To obtain certain and incontrovertible evidence of the reliability and correctness of these reports, your Executive felt compelled to send a special representative to these islands before taking any steps or recommending the adoption of any further measures to restrict or prohibit the shipment of labourers to these places. In July last, Assistant Secretary of State, J. J. Sharp, was directed to proceed to Fernando Po and San Thomé for this purpose and rendered an exhaustive report on this matter which report is at your disposal.

Undoubtedly, the conditions were not all that might have been desired but they appear by no means irremediable. The evils that may have been perpetrated are due primarily to the fact that the Government has no representative at these places, and the shipping agents and planters may have taken advantage of this lack of oversight to disregard the interests of Liberian labourers. Justice and acceptable labour conditions could be immediately and permanently obtained if the Government had a consular representative at these islands. The interests of our people there, as well as the dignity of the Republic, demand and warrant such representation. The Governor of Spanish Guinea is by no means anxious to have us prohibit the shipment of labourers to Fernando Po, and on a visit made to your Executive, heartily expressed his desire and willingness to render all possible assistance to see that such treatment as could not reasonably be complained of would be accorded to labourers coming from Liberia.[39]

A treaty was concluded between Liberia and Spain in 1914, and under this treaty, and the Acts of the Legislature, it was believed that the conditions of the contract laborers would be improved. Such was not the case; the ill-treatment of the Liberian laborers by the Spanish planters on Fernando Po, continued. Liberia could take no active measures against Spain, but on April 23, 1921, Liberia notified Spain that further recruiting under the treaty was barred after six months from that date. International public opinion blamed Liberia for the atrocities which a European Power permitted to be inflicted in one of

[39] Quoted in Azikiwe, *Liberia in World Politics,* 170-173.

her colonies on Liberian nationals. Humanitarians, especially in certain imperialistic countries, overlooked, and their politicians conveniently forgot, that these hapless people were put into the virtual position of slaves by Spain, not by Liberia.

Liberia adopted laws absolutely prohibiting shipment of contract laborers from Montserrado County and the Territories of Grand Cape Mount and Marshall (Act of January 13, 1921, Acts, 1920-1921, c. 3, p. 4), and from the County of Grand Bassa (Acts, 1921-1922, c. 8, p. 7; Acts, 1923-1924, c. 18, p. 21).

Spain did nothing to ameliorate the condition of the laborers still in Fernando Po, nor did Portugal regarding those in St. Thomé. Laborers were smuggled out of Liberia and shipped to these Islands. It was charged that prominent persons in Liberia participated in these transactions.

With the labor supply cut off, the Fernando Po planters sustained great losses, and the Spanish authorities sought to bring about a relaxation of the embargo. After years of negotiation this was finally accomplished in 1928 and the Spanish planters contracted with a recruiting agency composed of Liberian citizens to furnish 1500 laborers annually. Under the terms of this agreement of April 2, 1928, the laborers were to be employed for two years at a wage of $6.00 per month; the laborers to be properly fed and be furnished living quarters and medical care. The recruiting agency was to receive a bonus of five pounds for each laborer shipped. The laborers upon arrival at Fernando Po were to be allocated to the various planters by the Syndicate, under the conditions of Spanish law, in the presence of the Liberian consul, who was to have the right to investigate the conditions under which the laborers were employed. The laborers were to be put in groups of 25, under a headman, who was to receive ten dollars per month for his services. The recruiting agency was to receive £9 as a bonus for each laborer.[40] The recruiting under this agreement was one of the principal accusations against the Government. The American minister in Monrovia, under instructions of his Government handed to the Liberian Secretary of State a note dated June 8, 1929, stating that there have come to the attention of the Government of the United States from several sources reports bearing reliable evidence of authenticity which definitely indicate that existing conditions incident to the so-called "export" of labor from Liberia to Fernando Po had resulted in the development of a system which seems

[40] The text of the agreement is quoted in Yancy *Historical Lights of Liberia, Yesterday and Today*, 268-273.

hardly distinguishable from organized slave trade. It was further asserted that the reports which had reached the American Department of State indicated that these conditions of forced labor were general throughout the Republic, particularly in the Interior, where forced labor procured with the assistance of the Liberian Frontier Force and high Government officials had become a common and usual practice.[41]

To this note the Liberian Government replied under date of June 11, 1929. In this reply, the Liberian Government made a categorical denial of the existence in the Republic of such labor conditions as would justify the characterization which had been applied to those conditions in the American Note, and declared its willingness to have the entire question investigated on the spot by a competent impartial and unprejudiced Commission. It was also pointed out in the Liberian note that it was due to the honour of the Liberian Government that some observations on its part beyond a bare denial, be made upon the charges, which in recent years are becoming increasingly more frequent, but which were first launched nearly a century ago, that slavery exists in Liberia, and is encouraged by the Government and participated in by its citizens.[42]

The incident resulted in the appointment of an International Commission, which has been noted *supra.*

With the development of large plantations in Liberia the need for agricultural labor within the country increased and it became a sound economic policy to place further restrictions on the shipment of laborers. The *Criminal Code,* 1914, Section 123, prohibits unlicensed persons from soliciting laborers to emigrate from the country. Finally, by a Law approved December 15, 1930, (Acts, 1930-1931, c. 1, p. 1) the recruiting of labor for shipment overseas was prohibited. The Act provides:

> Whereas, the recruiting of labourers for service overseas under contract has been the cause of many abuses; and
>
> Whereas in the interest of the national economy it is urgently requisite that such recruiting be prohibited, therefore
>
> It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:
>
> Sec. 1. That from and after the passage of this Act it shall be illegal for any person or persons, firm or corporation to recruit, or cause to be recruited within this Republic, any labourer or

[41] *Annual Message,* October 30, 1929, 49, 50.
[42] *Ibid.* 50

labourers for service at any place, country or territory without the territories of this Republic.

Sec. 2. It shall be illegal for any official of this Government to issue license or otherwise give authorization for the recruiting of any labourer or labourers for service overseas.

Sec. 3. It shall be illegal for any citizen of this Republic or any person resident therein to enter into contracts for the recruitment of Liberian labourers for service overseas or to act as the agent or agents of any person or persons so contracting.

Sec. 4. The provisions of this Act shall not apply to stevedores or ship labourers who engage service on board mercantile vessels.

Sec. 5. Any person or persons who shall violate the provisions of this Act shall be guilty of a misdemeanour and upon conviction shall be punished by a fine in a sum not exceeding two thousand dollars or be imprisoned for a period not exceeding one year.

This act shall take effect immediately and be published in hand bills.

Any law to the contrary notwithstanding.[43]

Forced Labor for Public Works. One of the charges brought against Liberia was that forced labor, without pay, was employed in public works. Such proceedings are permitted under the Anti-Slavery Convention of 1926, Article V, which provides: "It is agreed that subject to the transitional provisions laid down in paragraph (2) below, compulsory or forced labor may only be exacted for public purposes."

As regards work on the public roads President King, in his Annual Message, of October 30, 1929, (pp. 53, 54) says:

> A law as old as the Republic and in continuous operation since its foundation requires every male citizen to give a certain number of days free labour on the public roads annually, and in default of personal service to supply a substitute or be penalized. When it was decided to extend the road system beyond the littoral districts of the country, this law was of course made to apply to the Hinterland districts. In fact, the Chiefs of the various tribes, as anxious for the opening of these means of communication as is the Government itself willingly consent to apply and do supply all the labour necessary for the prosecution of this public enterprise.

[43] For statements regarding the question of recruiting and shipment of laborers, see Azikiwe, *l c.* 169-175, and authorities there cited

These labourers do only the pioneering work upon the roads (the actual road building being done by labour companies paid from moneys provided under budgetary votes), and the Government at certain periods makes a money donation to each Chiefdom, based upon the number of labourers furnished therefrom.

These labourers are not recruited by the use of the Liberian Frontier Force; they are sent down by Chiefs under the leadership of their own headmen.

Forced labor has also been employed in the construction of public buildings—a common practice in all of the African Colonies—and laborers have been forced to act as porters for officials when travelling on Government business. The hours of labor and rate of pay of porters are now fixed by the Hinterland Regulations, 1936, and compulsory unpaid labor is now confined to road work.

As we have seen, pawning and the export of laborers are now prohibited. President Barclay, in his Annual Message, of December 22, 1931, could justly say:

The campaign which, with suspicious vehemence, was launched against Liberia in some sections of the foreign press, because of the reported existence in the Republic of certain social conditions alleged to be analogous to slavery, was without any real point. For immediately the Government was put in possession of the findings on the subject, prompt measures were taken and continuously enforced to rectify those conditions. These measures have been so effectively carried out that I am gratified to be able to report the complete eradication from our social life of the pawn system and every other condition which by any stretch of interpretation or imagination may be considered as analogous to slavery or involuntary servitude. * * *

The continued attack upon Liberia because of the existence of slavery is thus shown to be gratuitous, and whilst it claims to be founded upon moral and humanitarian considerations it is reasonable to believe that it springs from a far less altruistic motivation. Further comment on this phase of administrative action is, I think, unnecessary.[44]

[44] The report of the Government to the League of Nations, under date of June 24, 1931, contains the following statement "In accordance with the custom of sending an annual report on slavery, I have the honour to inform your Excellency that the little slavery which existed in this Republic, as mentioned in the report of the International Commission of Enquiry, has been abolished by proclamation and statutory enactment, copies of which you will find enclosed." Quoted in Brown, *l.c.* 277.

5. *Right of Assembly and Petition*

Section 5 provides: "The people have a right at all times, in an orderly and peacable manner, to assemble and consult upon the common good; to instruct their representatives, and to petition the government, or any public functionaries for the redress of grievances."

The corresponding section in the Massachusetts Constitution is the 19th section of the Declaration of Rights.

In *United States* v. *Cruikshank*, 92 U. S. 542 (1876) the Court says:

> The right of the people peaceably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States. In fact, it is and always has been one of the attributes of citizenship under a free government. It "derives its source" to use the language of Chief Justice Marshall in *Gibbons* v. *Ogden* (9 Wh. 1, 6 L. ed. 23) "from those laws whose authority is acknowledged by civilized man throughout the world." It is found wherever civilization exists. It is not, therefore, a right granted to the people by the Constitution. The government of the United States found it in existence, with the obligation on the part of the States to afford it protection.

The Constitution of 1820 contains no express provision on this subject but the settlers frequently assembled to discuss the affairs of government and presented petitions to the Agent and to the Society. The right is based on Article I of the Constitution that the colonists are "entitled to all such rights and privileges as are enjoyed by the citizens of the United States."

The first exercise of the right to petition to the Society for the redress of grievances was in 1830. The petitions were referred to a committee, who reported at the meeting of the Board of Managers, November 19, 1830.[45] On the constitutional question the Committee states: "That they consider the right of petitioning to the Board of Managers by the colonists either individually or collectively as one which should be recognized in its fullest extent, and that the Board should in its answer to these petitions which are the first that have been offered assure the petitioners that all such representations of any subject of interest to themselves or the Colony which shall be respectfully made will receive prompt attention and due consideration."

The Commonwealth Constitution (1839) provides that the "right of petition shall be inviolate" (Art. 23).

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[45] Ms Minutes of Board of Managers, II, 108-118 The full text of the Report is given in Chap XI, *supra*

The assemblies of the people and their petitions to the American Colonization Society finally brought about the two great constitutional changes, the adoption of the Constitution of the Commonwealth and the adoption of the present Constitution. The right is frequently made use of in the Republic.

6, 7, 9 and 10. Rights of Accused in Criminal Proceedings

These sections partly overlap and contain repetitions. They are therefore considered under one head.

The rights guaranteed to the accused under Section 7 apply only to capital and infamous crimes. "Infamous crimes" are defined in the *Criminal Code,* 1914, section 39, as amended by Acts, 1925-1926, c. 2, p. 2. They are murder, treason, rape, slave trading, burglary, embezzlement, larceny, robbery, receiving stolen goods, perjury, forgery, and arson.

The position of a person charged with the commission of a criminal offense is as follows: the act must be a violation of a law in force at the time of its commission; there must be a presentment by a grand jury; the arrest must be on a lawful warrant; the person charged must be seasonably furnished with a copy of the indictment, and given a speedy public and impartial trial by jury of the vicinity; he must be confronted by the witnesses against him, and is entitled to compulsory process to obtain his own witnesses; he cannot be compelled to furnish or give evidence against himself, nor to be put twice in jeopardy, for the same offense; he has the right to be heard in person or by counsel, or both, and in proper cases, the right to be freed on bail, which must not be excessive. By the same section the imposing of excessive fines and excessive punishment, is prohibited. The accused has a right of appeal under the Constitution.

The provisions of section 7 do not apply in cases of impeachment, cases arising in the army or navy, or petty offenses. The two first classes are clear. Petty offenses are those which by general consent might be summarily dealt with (Willoughby, *l.c.* III, 1143; but see *Callan* v. *Wilson,* 120 U. S. 540 (1888)). They do not apply to contested election cases before the Houses of the Legislature. Nor do they, in general, apply to contempt proceedings, although where the defendant did not commit the contempt in open court, he is, under the due process of law provision, entitled to be informed of the nature of the charges and be given a reasonable opportunity to meet them (Willoughby, *l.c.* III, 1141).

Furthermore these provisions do not apply in disbarment proceedings, which are judged both as to law and facts by the court.

Aliens are entitled to the protection of these provisions in the same manner as citizens. Cp. *Wong Wing* v. *United States,* 163 U. S. 228 (1896); *Le Sing* v. *United States,* 180 U. S. 486 (1901).

Right of Accused to be Informed of Nature of Charge

The defendant must be seasonably furnished with a copy of the charge against him. He must be given this copy "seasonably", that is in time to enable him to prepare his defense and obtain his witnesses.

In *Brewer* v. *Republic of Liberia,* 1 Lib. L. R. 363 (1900), the Court thus summarizes the law.

> Bouvier defines an indictment to be "a written accusation against one or more persons for a crime or misdemeanor, presented to and preferred upon oath or affirmation by a grand jury legally convoked," and he lays down as the essential requisites of a valid indictment, first, that the indictment be presented to some court having jurisdiction of the offence stated therein; secondly that it appear to have been found by the grand jury of the proper county or district; thirdly, that the indictment be a true bill and signed by the foreman of the grand jury; fourthly, that it be founded with sufficient certainty. For this purpose the charge must contain a description of the crime or misdemeanor of which the defendant is accused, and a statement of the facts by which it is constituted, so as to identify the accusation, etc.
>
> The formal requisites are, first, the venue, which at common law should always be laid in the county where the offence has been committed, although the charge be in its nature transitory, as a battery, etc. (Bouv. Law Dict. Vol. 1, p. 789, under the head "Indictment": Blackstone Com. Book 4, pp. 306, 307.)

This case is cited with approval in *Yancy* v. *Republic of Liberia,* Unpublished Opinions, 1935-1936, 122 (1936), where Russell, J., says:

> From a cursory glance of the indictment it is apparent that said indictment was drawn up with gross carelessness and indifference, and when it was attacked in the motion in arrest of judgment, same should have been vacated in order that the prosecution might have prepared a better indictment. We have to remark that the Wedabo section of the Liberian hinterland is situated in Maryland County; the indictment in this case was

drawn up in February in A. D., 1931 and the case was tried in February A. D. 1935, quite four years afterwards, within that time the prosecution had every opportunity to ascertain from the witnesses for the State the names of some, if not all, of the boys who are alleged to have been so forcibly shipped to Fernando Poo.

In Ruling Case Law, it is held: "Upon the principle that the party accused should be fully apprised of the nature and identity of the offence with which he is charged, it is frequently necessary to set out the name of the person against whom the offence was committed, if known, not as a substantive part of the offence itself, but as a circumstance descriptive of its identity. For the same reason, the names of third persons, if they be necessary to the consummation of the offence, or constitute a necessary part of its description, should, if known, be inserted. (See 14 R. C. L., 183, sec. 28)"

Justice Dixon, in *Seton* v. *Republic of Liberia,* 2 New Ann. Ser. 71 (1935) citing 1 Wharton, *Criminal Procedure*, secs. 582, 584 (N. 2) says:

As to points (b) and (c) the indictment is sufficient where it informs the accused of the time, place, circumstance, and conditions of his alleged unlawful act and that the act is unlawful. He is then sufficiently informed of what he is required to meet.

When an information contains a statement of the acts in ordinary concise language and in such a manner as to enable the accused to know what was intended, and contains no prejudicial defects in matters of form, and apprises him of what he must meet, and is sufficiently definite to enable him later to plead former conviction, it is sufficient and not subject to demurrer.

There is, however, a distinction between common law and statutory offenses as to the information that must be conveyed by the indictment. The point is fully discussed by Justice Russell in *Mason* v. *Republic of Liberia,* 1 New Ann. Ser. 85 (1934):

There seems to be a misconception on the part of some practitioners in our law courts of the vast difference that exists between common law offences and statutory offences, and, in consequence, the necessary legal requisites in framing indictments under their respective heads. Any ordinary lawyer will admit that some difference does and should, exist between them; but what that differ-

ence is, and how to translate this distinction into practical effect, is what seems to be the problem with them.

Since the case in point is one emanating from the statutory side of the question, we shall confine ourselves to that division of criminal offences.

Mr. Wharton in his Criminal Procedure, as well as his Pleadings and Practice, under Statutory Offences, or offences created by Statute, says that: "Where a statute prescribes or implies the form of the Indictment, it is usually sufficient to describe the offence in the words of the statute, and for this purpose it is essential that these words should be used. In such case the defendant must be specially brought within all the material words of the statute; and nothing can be taken by intendment. Whether this can be done by a mere transcript of the words of the statute depends in part upon the structure of the statute, in part upon the rules of pleading adopted by statute or otherwise, in the particular jurisdiction." See 1, Wharton's Criminal Procedure, pp. 308 *et seq.*, sec. 269.

Accused Must be Confronted With the Witnesses Against Him

The general principle is laid down in *Tobah alias Winnebah* v. *Republic of Liberia,* 2 Ann Ser. 30 (1911):

> The contention of counsel for appellants in reference to that clause in the Constitution, Art. I, sec. 7, in reference to confrontation this Court says that confrontation is a privilege that the Organic Law of the land gives every person criminally charged and such persons undergoing a trial.
>
> The examination of witnesses must be done in the presence of the accused * * *.

A necessary exception to the rule is the admissibility of dying declarations, and declarations of witnesses who have died since a former trial (Cp. *Robertson* v. *Baldwin,* 165 U. S. 275 (1897). To the same effect, *Kirby* v. *United States,* 174 U. S. 47 (1899)):

> It is scarcely necessary to say that to the rule that an accused is entitled to be confronted with witnesses against him the admission of dying declarations is an exception which arises from the necessity of the case. This exception was well established before the adoption of the Constitution, and was not intended to be abrogated. The ground upon which such exception rests is

that from the circumstances under which dying declarations are made they are equivalent to the evidence of a living witness upon oath—"the condition of the party who made them being such that every motive to falsehood must be supposed to have been *silenced, and the mind to be impelled* by the most powerful considerations to tell the truth."

Right of Accused to Compulsory Process

The accused has the right to have compulsory process for obtaining witnesses in his favor.

This is not a common law right. In early times in England the accused was not allowed to produce witnesses; this was then relaxed by permitting witnesses, who could testify, but not under oath. At the beginning of the eighteenth century witnesses for both the Crown and the defendant were permitted to testify under oath in all cases of treason and felony.

The rule was incorporated into the Sixth Amendment to the United States Constitution and in most of the State Constitutions.

Under this provision the defendant may invoke the aid of the court for obtaining his witnesses.

The Supreme Court in *Cooper* v. *Republic of Liberia,* 1 Lib. L. R. 256 (1894), thus states the rule:

> The Constitution of this Republic (Art. 1, sec. 7) expressly declares that every person criminally charged, "*shall have a right* to have compulsory process for obtaining witnesses in his favor." There is no qualification whatever expressed in this connection. The language is unequivocal and imperative, clearly indicating the intention of the framers of that instrument to throw around the citizen or subject every conceivable safeguard against the exercise of arbitrary power by those who might be invested with authority. That this right has been denied the appellant is apparent on the face of the record of this case, and the action of the court below in this particular was not only a stupendous error, but also a flagrant violation of the Organic Law of the land.

In *Ware* v. *Republic of Liberia,* Unpublished Opinions, 1935-1936, 36 (1935), the Court says:

> Another important point raised in count two of the said Motion for Continuance was that the Honourable Gabriel L. Dennis, Secretary of the Treasury of Liberia, J. C. Johns and Robert

Gray were important witnesses needed by the defence whose testimony he was not allowed to procure.

The court will remark in passing that inasmuch as the Constitution of Liberia guarantees "compulsory process for obtaining witnesses" in favour of the person accused, it would seem that whenever the testimony of a witness is procurable, and such witness is neither exempted by any immunity nor disqualified, it is error for the trial court to proceed to the trial of the cause without giving the accused an opportunity of procuring such witnesses provided he shall have exercised due diligence so to do.

Absence of a material witness for the defendant is a ground for continuance. *Hutchins* v. *Republic of Liberia,* Unpublished Opinions, 1935-1936, 43 (1936). See also *Ledlow* v. *Republic of Liberia,* reprinted *supra.*

Speedy Trial

The provision is also contained in the Sixth Amendment to the United States Constitution. The law is well stated in *Ex parte Stanley,* 4 Nevada, 113 (1868):

> One arrested and accused of crime has not the right to demand a trial immediately upon the accusation or arrest being made. He must wait until a regular term of the Court having jurisdiction of the offense with which he is charged, until an indictment is found and presented, and until the prosecution has had a reasonable time to prepare for the trial. Nor does a speedy trial mean a trial immediately upon the presentation of the indictment or the arrest upon it. It simply means that the trial shall take place as soon as possible after the indictment is found, without depriving the prosecution of a reasonable time for preparation. The law is the embodiment of reason and good sense; hence, whilst it secures to every person accused of crime the right to have such charge speedily determined by a competent jury, it does not exact impossibilities, extraordinary efforts, diligence or exertion from the courts, or the representatives of the State; nor does it contemplate that the right of a speedy trial which it guaranteed to the prisoner shall operate to deprive the State of a reasonable opportunity of fairly prosecuting criminals.

The leading Liberian case is *Page* v. *Republic of Liberia et al,* 2 New Ann. Ser. 276 (1935), where Grigsby, J., says:

The right of a speedy trial is guaranteed to every citizen under the Constitution of Liberia. "Every person criminally charged shall have a right * * * to have a speedy, public and impartial trial by a jury of the vicinity." (See Constitution of Liberia, Art. I, sec. 7.)

According to the exposition of the analogous provision in the Constitution of the United States of America, we find that: (Justice Grigsby here quotes the language of the court in *Ex parte Stanley, supra.*)

Continuing, Justice Grigsby says:

So important is the right that in the event it is denied the judge who is responsible for the neglect promptly to dispose of a cause may be, by mandamus, compelled to proceed to trial, or in the event he refuses either to try, or to discharge, the prisoner he may be impeached. (See II B. L. D. "Judge", p. 1715; Opinions of the Attorney General of Liberia for 1923, p. 18.)

Public Trial

Criminal trials were accessible to the public at common law. The rule is for the protection of the accused as well as of the State. There appear to be no Liberian cases on the topic. Cooley in his *Constitutional Limitations* thus states the law:

By this is not meant that every person who sees fit shall in all cases be permitted to attend criminal trials; because there are many cases where, from the character of the charge and the nature of the evidence by which it is to be supported, the motives to attend the trial on the part of portions of the community would be of the worst character, and where a regard to public morals and public decency would require that at least the young be excluded from hearing and witnessing the evidence of human depravity which the trial must necessarily bring to light. The requirement of the public may see he is fairly dealt with and not unjustly condemned, and that the presence of interested spectators may keep his triers keenly alive to a sense of their responsibility and to the importance of their functions; and the requirement is fairly observed if, without partiality or favoritism, a reasonable proportion of the public is suffered to attend; notwithstanding that those persons whose presence could be of no

service to the accused, and who would only be drawn thither by a prurient curiosity are excluded altogether.

It has been held that limiting the attendance of the public by two relatives of the accused, a few newspaper men and about ten members of the bar is a violation of the provision. Cp. *Davis* v. *United States*, 247 Fed. (U. S.) 394 (1917).

Impartial Trial

The accused is entitled to a fair and impartial trial. The leading Liberian case on the right of the accused to an impartial trial and the admissibility of hearsay and circumstantial evidence is *Ledlow* v. *Republic* (not yet published in the official Reports but published in 4 Reports of the Attorney, 65-68 (1925)). Johnson, C. J. delivered the Opinion of the Court:

> The facts in the case, so far as can be ascertained from the records, are substantially as follows:
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> Some time in the month of May, A. D. 1924, one Susan Ledlow, an old lady living in the lower ward of the City of Buchanan, complained to several persons that on the previous night her residence had been entered by thieves led by Mathew Ledlow, her nephew and one of the appellants in this case, and that said Ledlow had struck her on her face and had a confederate to carry away one of her trunks containing valuables. She further complained that Ledlow told her that he had come for her money; and that when he came back she would have to tell him where her money was or he would kill her. Witnesses J. G. Montgomery, Caroline Payne-Diggs, Lulu Montgomery and others testified that at the time that decedent made this statement, there were marks of violence on her face.
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> The deceased subsequently charged Ledlow to his face with having been one of her assailants, whereupon it is alleged that Ledlow replied: "Oh farce!" On the fourth day of June of the same year the deceased was found brutally murdered in her bedroom and there were indications which showed that there had been a struggle between her and her assailants.
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> It also appeared from the records that Maloney, one of said appellants, charged Ledlow with being the perpetrator of the murder; saying *inter alia* that: "if Mrs. Caroline Payne wanted to know who killed her mother (meaning Susan Ledlow) she should

ask him as he was a member of the secret gang in Lower Buchanan." The reason why Ledlow was ailing at the time of the murder was from serious blows that he had received from Miss Susan Ledlow.

He is also alleged, by a witness for the prosecution, to have said: "if they wanted to know who killed Aunt Susan (meaning Susan Ledlow) why do they not ask Maloney. I am in all of those things and I know a lot of things. Nothing the matter with Ledlow, the old lady give him a good blow." Subsequently Maloney fearing that he would be arrested, fled to Monrovia, but was arrested by order of the Attorney General and returned to Bassa.

A true bill was found against Ledlow, Maloney, Garkpah and Boe-Me-Boe, and appellants were convicted of said offence. Counsel for appellants set out in the 6th point of their brief that "the Constitution of Liberia secures to every person criminally charged the right to have compulsory process for obtaining witnesses in his favour, to have a speedy, public and impartial trial by a jury of the vicinity." Upon the review of the records of this case it is very evident that prisoners were deprived of this great constitutional right by the Court below. This case has had the careful consideration of the Court, and we are constrained to make the following observations.

In all criminal cases, especially in capital cases, the prisoner should be afforded every opportunity to establish his innocence; and when he is deprived of any right or privilege guaranteed to him by the constitution or laws, by the subterfuge of his opponent or the action of the court, he cannot be said to have had a fair and impartial trial.

Now in the trial of the case at bar, there were certain irregularities committed which call for strong comment by this court, for instance, (1st) The sustaining of objections to questions asked by counsel for defence in support of the alibi set up by prisoners; (2nd) The refusal of the Court to allow Frank to testify; (3) Omitting to give Maloney and Garkpah an opportunity to say why sentence of death should not be passed upon them; (4) Carrying on the trial and concluding the case at midnight, or Sunday morning, although Counsel for defence asked that the trial be continued until the ensuing week, (a) because one of the counsellors for prisoners was ill and tired; (b) because some of the witnesses for defence were not present; (5th) The Court refusing to entertain the motion for the arrest of judgment because

it was not stamped. These were grave errors and vitiated the entire proceedings. In all criminal cases, it is illegal to demand fees from parties. See ruling in case of R. H. Dennis, Clerk of the Supreme Court, R. L., at this session of the Court.

It is a wicked and mischievous thing, especially in capital cases, to deprive the prisoner of the testimony of his witnesses because of some technicality or because of his failure to pay the fees of the officers of the Court. This Court has repeatedly held that in criminal cases no fees shall be demanded by the Clerk or Sheriff. This applies as well to the action of the Court, in regard to the motion in arrest of judgment, which was not entertained because it was not stamped. As the Government neither pays nor receives costs, it is unfair to compel persons criminally charged to pay fees, which, in case of their acquittal, they cannot recover from the State. See ruling in case R. H. Dennis, Clerk of the Supreme Court, given at this term of the Supreme Court. But with regard to the point raised by the defence that they were denied the request to continue the case until the ensuing week, because of the illness of one of the counsellors for the defence and because some of their witnesses were absent, we must say that the action of the Court was arbitrary, tyrannical and illegal. The request was a reasonable one and should have been allowed by the Court. The Judge, however, seemed to have regarded the action of the counsel for defence as a personal insult; and hence became so biased, as was admitted by the Attorney General, as to prevent him from fairly considering the questions raised by the defence. Again Maloney and Garkpah, not having been represented by counsel, should have been allowed an opportunity to say something in their own behalf.

In view of the foregoing, we are of the opinion that the case should be remanded to the Court below for a new trial; but before doing so we deem it necessary to comment upon the evidence which was admitted at the trial, particularly the declaration made by decedent, as to the assault alleged to have been made upon her in the month of May, and the evidence of the medical experts.

Ordinarily, this declaration is regarded in law as hearsay, and standing alone would have no value; but in the case of circumstantial evidence it may become important as a link in the chain of evidence connecting prisoner with the crime. Mr. Bouvier says that declarations are not necessarily hearsay because those of a person not under oath. Now in the case at bar the declara-

tion was made to a number of persons, who testified to same in Court, and was supported by circumstances which corroborated the statement of decedent to a certain extent. Witness L. E. Montgomery testified as follows: "I asked her did you really see him yourself? She said a lamp was beside her bed in a chair. She said I was looking at him just as I am looking at you now. I asked her what did he have on, she said he had on his large Chesterfield coat. I asked her did you mean he was standing talking to you all that time? She said yes. She said that when she found out that prisoner was determined, she went to the Bureau and picked up an old lamp to throw at prisoner but he knocked it out of her hand on the floor and it broke; she showed me a piece of the broken lamp. She said prisoner then put the lamp out and struck her a blow on the side of her face. I bathed her face." Several other witnesses testified that decedent made a similar statement to them, and showed them her injured face. Under the circumstances, we are of the Opinion that the Court below did not err in admitting in as evidence the said declaration of decedent, especially since this declaration was made in the presence of the prisoner in a conversation between decedent and prisoner. See Lib. Statute Chapter X, page 53, section 25.

It is claimed by Counsel for defence that the examination of prisoner's person by the two medical men called by the State was a violation of the Constitutional right of the prisoner. We cannot concur in this Opinion. The prisoner, who became so disabled as to be unable to walk, shortly after the murder, claimed that he was suffering from lumbago; it was competent for the State to show that his illness was caused by blows and wounds which was another link in the chain of evidence tending to connect prisoner with the crime.

Circumstantial evidence has been admitted in every age of the common law and it is to be acted on after it has generated full conviction. Everything calculated to elucidate the transaction should be received, since the conclusion depends on a number of links which alone are weak, but, taken, together, are strong, and able to bring to a conclusion.

People do not always commit offences publicly in the open day, but oftener commit them in secret, or at night, and if circumstantial evidence were excluded all secret offences might be committed with impunity. Circumstantial or presumptive evidence therefore is allowed in all cases where direct and positive

evidence of the prisoner's guilt cannot be procured; and it is often as satisfactory as direct and positive evidence.

The State having made out a prima-facie case against the prisoner Ledlow and the latter setting up an alibi, a very important question that arises is where was Ledlow on the night when the murder was committed. He himself stated on the stand that he left Lower Buchanan on Monday the 2nd and returned to his farm, and that he remained there until Friday the 5th; but several witnesses deposed that they saw him in Lower Buchanan on Tuesday the 3rd of June.

Another link in the chain of evidence is this, when on the morning of the alleged assault upon decedent in May, decedent was describing how prisoner was dressed the previous night, saying that he had on his Chesterfield coat, a witness deposed that, just then Ledlow came into the decedent's house, having on a Chesterfield coat.

On the trial of this case, prisoner Ledlow called Francis Hill to prove that at the time of the alleged assault, he did not have the Chesterfield coat as he had left it at Mrs. Carter's for some days and also to prove that he had slept at Mrs. Carter's in Upper Buchanan on the night of the alleged attack, but failed in his proof.

In view of the foregoing, we are of the Opinion that the case should be remanded with instructions to said Court to hear all evidence that is produced by both parties that tend to throw some light upon the case. The medical certificate and evidence being still admitted as evidence. This case taking precedence of all other cases on the Docket.[46]

Trial by Jury

The right of trial by jury is provided for in the first Instructions of the American Colonization Society June 26, 1820 (Chap. I, *supra*). Section 3 of these Instructions provides:

> In all cases, civil or criminal, when the parties require it, there shall be a trial by jury at which the Agents, or one of them, shall preside; the names of 24 such settlers as the Agents shall think competent, shall be put into a ballot box, and 12 names drawn therefrom—the parties to have a right of challenge, whenever

[46] For a statement as to hearsay evidence, see also *Yancy* v. *Republic of Liberia*, Unpublished Opinions, 1935-1936, 122 (1936).

there is a proper objection to a juror; cases where no jury is required, shall be decided by the Agents or by Justices of the Peace to be appointed by them.

The Digest of the Laws, of August 19, 1824, section 13, provides simply that "the party in any judicial trial is entitled, if he desires it, to trial by jury." This is repeated in the unpublished Code of 1828, Dig. Art. XIII.

The Constitution of 1820 contains no direct provision on the right of trial by jury, but declares the common law of the United States (which provides for jury trials, to be in force).

The Commonwealth Constitution (1839) guarantees the right of trial by jury (Art. 23).

The jury referred to is the common law jury composed of twelve adult male citizens in full possession of civil rights.

The jury must reach a verdict by unanimity. The Legislature cannot increase or decrease the number of jurors nor provide for a verdict otherwise than by the unanimous consent of all jurors (Rev. St. sec. 356).

The jurors must be residents of the county in which they are to serve (Const. Art. I, sec. 7; Rev. St. sec. 357).

For the statutory provisions see Revised Statutes, sections 356-360.

The right of trial by jury does not apply to admiralty causes. In *Kruger* v. *Johns,* 1 Semi-Ann. Ser. 8 (1913), Johnson, J., says:

> It was contended, and with great degree of earnestness, by counsel for plaintiff in error, that Art. I, Sec. 6 of the Constitution of Liberia which gives to parties the right to a trial by jury, applied to cases in Admiralty. It might, with equal propriety, be argued that this provision of the Constitution applies also to equity cases and to trial in the courts of justice of the peace.
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> We are of the opinion, however, that this provision of the Constitution does not apply to Instance Courts, where the cause is heard and determined in a summary manner, and that the judge of the court below did not err in determining the cause without the aid of a jury.

Nor does the right of trial by jury apply to cases involving breach of the Army and Navy Regulations, or arising under martial law, nor upon impeachment, nor in proceedings in either branch of the Legislature in contested election cases, nor for breach of a rule of pro-

ceedings, nor does the right exist in proceedings for contempt or for disbarment.

The right to a jury trial, and the right to object to the panel may be waived by the defendant, or forfeited by laches. In *McBurrough* v. *Republic of Liberia,* 1 New Ann. Ser. 30 (1934), Justice Grigsby says:

> The Constitution guarantees to every party criminally charged the right of trial by a jury of his peers; but obviously it becomes the duty of a party desiring to enjoy the privileges guaranteed him under the law to take advantage thereof at the proper time. At the call of the case the trial court proceeded to select twelve good and lawful citizens of the Republic to try the issue joined by allowing challenges for cause. But where a competent and impartial jury shall have been secured in any proceeding its verdict will not be set aside because the trial judge erred in retaining upon the panel one who was in fact disqualified and who was then peremptorily challenged and admitted to which no exception was taken, although it afterwards appears that the party had exhausted all his peremptory challenges. From a careful inspection of the records of the case in point it is nowhere shown that prisoner, or his attorneys, ever called the attention of the court below to the fact that the said juror was not an enfranchised citizen of this Republic, and established the allegation by the testimony of the Justices of the Peace who by law are supposed to have dispossessed him of his rights of franchise or other proof, and such failure, on their part, is tantamount to a waiver. Hence defendant cannot, at this stage, object to the said juror as he is also guilty of laches.

7. Former Jeopardy

The concluding clause of Section 7 provides that "no person shall for the same offence be twice put in jeopardy of life or limb".

The earliest case in which the Supreme Court was called upon to consider this clause is *Wood* v. *Republic of Liberia,* 1 Lib. L. R. 445 (1905):

> This court will now proceed to consider separately the several points laid in the bill of exceptions. So important does this Court regard the principles of law involved in the first exception, that it deems it proper to set forth this exception in full. It is taken as follows: "Because when, on the 18th day of December, A. D. 1903, a jury having been impanelled to try the above entitled

cause, your Honor, on the 19th day of December, A. D. 1903, after the evidence had been gone into and not concluded, informed the counsel for the State and the counsel for the defence that one of the jurors had been seen away from the rest of the jury with one of the bailiffs of the Court, and asked that the place of that juror be supplied and he be dismissed from said jury, or that the said jury be dismissed; to which the State's attorney assented and to which the counsel for the defence dissented, and your Honor then disbanded said jury and ordered said case to be taken up *de novo*, to which prisoner excepted."

The law involved in this exception relates to a constitutional provision, and is one which the Supreme Court of the Republic of Liberia has never passed upon and thereby settled. The provision is borrowed from the American Constitution, after which our Constitution is framed, and appears to have been introduced into the Organic Law of this Republic as a safeguard against the abuse of public justice and an equitable protection to life and liberty. The last clause of the 7th section of the Liberian Constitution declares that "no person shall for the same offence be twice put in jeopardy of life or limb"; that is to say, no person shall for the commission of the same crime be twice tried.

The question as to what is jeopardy and at what stage of a legal proceeding it may be technically said to begin, is one which has afforded a wide field for legal discussion and research. In the American courts the express enactments of the several States have declared what shall and what shall not be regarded as jeopardy in criminal prosecutions before the courts of the respective States. And so divergent and technical are the shades of opinions expressed in these States upon this great subject, that a comparative study of them is rendered in a large degree perplexing, though exceedingly interesting and instructive.

But it is the common law definition of the term jeopardy, which interests us in the consideration of the case under review, and not the *lex scripta* of the American States, and we shall therefore proceed to discuss the principles laid down on the point by some of the ablest and most profound common (law) writers, whose works have been admitted as text-books in the courts of the Republic. And firstly, Mr. Bouvier defines jeopardy to be "The situation of a prisoner when a trial jury is sworn and empanelled to try his case upon a valid indictment, and such jury has been charged with his deliverance" (1 Bouv. *Law Dict.* p. 751). Mr.

Bishop in his treatise on criminal law confirms this view and enters into an exhaustive and minute treatment of the subject. We shall only quote here that part of his observations on jeopardy which applies to the case in point. "It appears", he says "a point not very clear on the authorities, that the keeping of the prisoner's legal rights is not at all with the jury, but only with the judge; and that therefore if a juror of his own motive escapes so that no verdict can be rendered, such escape shows the prisoner never to have been in jeopardy." The same result would perhaps follow if the jury separated with the consent of the officer in attendance who had no right to give any consent. "So it plainly must be", he continues, "if it should be found that a juror was legally incompetent to sit, or not sufficiently sworn, or if the cause should appear to have been tried by a less number of jurors than the law requires" (1 Bisp. *Crim. Law,* sec. 670).

Besides these exceptions to the general rule mentioned here by Mr. Bishop, others laid down in the text books as legal necessities may be mentioned, and which have been uniformly upheld by the decisions of the English and American courts at law. As for example, where during trial the judge takes sick and the trial cannot proceed, the jury, although sworn and empanelled, and the evidence perhaps gone into, may be disbanded and the trial postponed, and the prisoner is not entitled to a discharge on that account. So also the sickness or incapacity of a juror, sickness of the prisoner, expiration of the term, inability of a jury to agree, separation of the jury before their verdict has been made up. Whenever any of these cases arises during the course of a trial, the judge may, with or without the consent of the prisoner, disband the jury and if necessary postpone the trial, and the prisoner will not be entitled to a discharge nor can he legally raise the plea of jeopardy when a new jury has been empanelled to try his cause.

Let us for a moment enquire into the reasons of the law for so holding. And for this purpose we shall reason upon the facts presented in this case and which are pertinent to the foregoing observations.

Here, in the case before us, after the jury had been sworn and empanelled to try the issue raised by the plea of the prisoner, a juror separated from the panel and went beyond the precincts of the court. The possibilities were that he may, during said separation, have come in contact with some influence which may have swayed his mind and his vote in favor of or against the prisoner.

He may have been approached by the hired agents or friends of the accused and bribed to give his vote in prisoner's behalf, no matter how conclusively the State may have proved his guilt. Or, on the other hand, what may be regarded as still more wicked and reprehensible, his vote and influence might have been secured by the haters of the prisoner, to bring down a verdict against him, however doubtful and insufficient the evidence against him may have been.

Under such circumstances, the judge, who, as we have seen, is charged with the keeping of the prisoner's rights, could not have an abiding conviction that the ends of public justice would not be defeated, if that juror were permitted to pass upon the prisoner's guilt. He could not feel a moral certainty that the verdict to be delivered under such circumstances would be guided by the preponderance of the evidence submitted, and that it would be free from the taint of corruption and perversity. What, then, let us inquire, would be his reasonable duty under such circumstances? Obviously, as a dispenser of transparent justice, his duty would be to disband the jury whose legal disinterestedness in the cause could no longer be relied upon, and to empanel a new jury.

In summing up the law bearing on the point raised in the first exception in the bill, this Court will remark that in its opinion the Court below did not err in over-ruling the motion to discharge the prisoner upon the ground that the former jury had been disbanded. Under the circumstances surrounding the case, the judge was in the exercise of sound discretion; the necessity arising, justified this course. To hold that the disbanding of a jury under such circumstances is illegal and should operate as a discharge of the prisoner, would be setting aside plain principles of the statute and common law, and producing loop-holes for the escape of the guilty. But the case would have been far otherwise had the court at this stage of the proceedings disbanded the jury for any cause not recognized by the law as a reasonable necessity for so doing.

In handing down its decision on this much-disputed provision of the Constitution, the Court desires to have its premises, which it thinks are well upheld by law and reason, distinctly and clearly understood. Jeopardy, as this Court understands the law, attaches when, upon a valid indictment, the prisoner is arraigned

and pleas, and the jury empanelled and sworn to try the issue raised by the plea. If at this stage of the proceedings the jury is disbanded and trial postponed, except for the plain causes of necessity mentioned in the common law and referred to above, the prisoner, under the great provision of the Constitution, may demand his discharge. But if, on the other hand, the postponement arises from palpable necessity, over which the court had no control, the prisoner may be tried and convicted by a second jury, upon the same indictment, which proceeding is only a continuance of the former proceedings.

The supreme object of the Constitution, it appears to us, is to protect the prisoner against the inconveniences of repeated prosecutions for the same crime, which would tend to cripple his liberty and freedom. The chief guarantee of the Liberian Constitution is the protection of the liberties and freedom of the Commonwealth. The idea may have derived its origin from the study of the Roman and English law in its early stages, when the freedom of men was sometimes greatly crippled and hampered by repeated prosecutions for the same offence. But we fail to recognize in said provision of our Constitution any design to baffle justice and to screen crime. To admit this would be to impugn the righteous motives of the sainted framers of the Organic Law. This Court refuses to entertain an opinion on this provision of the Constitution, which is in conflict with other portions of the solemn compact, in conflict with the interpretations of the American courts upon a similar provision in the American Constitution, and in conflict with natural law and the rules and principles of written law * * *.

The rule regarding former jeopardy does not apply to petty misdemeanors says Chief Justice Dossen, in *Spiller* v. *Roberts,* 5 Semi-Ann. Ser. 30 (1915):

The provision of the Constitution relied upon in this motion applies to indictable offences and not to misdemeanors over which magistrates and justices of the peace have exclusively summary jurisdiction.

The Constitution provides that no person shall for the same offence be twice put in jeopardy of life or limb, vide Constitution Liberia.

It is obvious that in a prosecution before a magistrate for a petty misdemeanor, the defendant is not put in jeopardy either

of life or limb because the punishment attachable to such offences are merely monetary and not corporeal except in cases of petty larceny.

The test of jeopardy is indictment and arraignment thereupon. The term is inapplicable to suits of the nature of the one at bar.

In the case *Wood* v. *Republic of Liberia,* 445 Liberian Law Reports, this court went into an exhaustive treatment and definition of the term, as employed in the Constitution of Liberia, and enunciated principles in relation therewith, which we believe are well upheld by the weight of opinion of criminal law writers on the definition of jeopardy, and which we see no ground for disturbing. Statutes of different states have modified the common law definition but those statutes have no force in this Republic.

In *Mason* v. *Republic of Liberia,* 1 New Ann. Ser. 85 (1934), it was held that in the event that the jury fails to agree the court may dismiss the jury, and order a new trial, and that in that case the defendant cannot plead former jeopardy.

A much disputed point in the law relating to former jeopardy is the right of the State to appeal. This is dealt with in an interesting opinion of the Attorney General, L. A. Grimes, 2 Opinions of the Attorney General 48 (1923):

> * * * the jury acquitted the accused; and although the undersigned believes that said jury arbitrarily ignored the law, the evidence and the instructions of the court, and returned a wrong verdict, there is an even greater principle involved in the recommendation now under consideration, and that is: could the said accused be again put upon a criminal trial for the same offence without violating the last clause of the seventh section of our Constitution, which provides: "No person shall for the same offence be twice put in jeopardy of life or limb." (See Const. of Lib. Art. I, sec. 7).
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> Our Constitution is not unique in containing the aforementioned inhibition. The oldest written Constitution borrowed said provision from the old common law which according to Hawkins was stated in the following terms, viz: *"Nemo bis punitur pro codem delicto"* (2 Hawk. P. C. 377); or as expressed by Coke was worded: "Nemo debet bis puniri pro uno delicto" (4 Coke 43a). Similar guarantees in favour of personal liberty subsequently

found their way into the written Constitutions of several of the states of the United States, and afterwards formed part of the fifth Amendment to that of the Constitution of the Union, in the following words, *viz*: "Nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb"; the force, meaning and effect of which have several times been interpreted by the Supreme Court of the United States.

For example, in *Ex parte Lange*, decided by the Supreme Court of the United States March 2nd, 1874, Mr. Justice Miller, speaking for the said court, said *inter alia*: "If there is anything settled in the jurisprudence of England and America, it is that no man can be twice lawfully punished for the same offence." * * * "that the common law not only prohibited a second punishment for the same offence, whether the accused had suffered punishment or not, and whether in the former trial he had been acquitted or convicted. Hence, to every indictment or information charging a party with a known and defined crime or misdemeanor, whether at the common law or by statute, a plea of Autrefois Acquit or Autrefois Convict is a good defence." (See 85 U. S. 163, 21 L. ed. 872).

As will have been seen, in the development of English and American law, the worlds life and limb did not limit said provision to offences punishable by death or deprivation of a limb, but the protection was extended even to misdemeanors punishable by mere fine. Going into the history of the clause we find that: "The words 'life or limb' in the clause, do not seem to add force or strength to it, and could well have been omitted. Long ago in England many offences were punished by dismemberment of limbs, and that was the origin of the words in the clause, but when the Constitution was adopted loss of limb was not inflicted as a punishment in any state, and had long been abandoned in England * * *. The clause is one of the great safeguards of personal liberty and is properly now found in the Constitution of every state in the Union. But the nearest approach to it when the Constitution was adopted was found in the Constitution of New Hampshire of 1784, which provided, 'no subject shall be liable to be tried after an acquittal for the same crime or offence'. The benefit of the provision has been extended in the United States to include misdemeanors." See 2 Watson *Constitution of the United States of America,* 1436.

The next question for consideration is: When is a defendant

placed in jeopardy? "An accused is placed in jeopardy where he has pleaded and has been put on trial before a court of competent jurisdiction upon an indictment valid and sufficient in form and substance to sustain a conviction, and the jury has been sworn and impaneled and charged with the case." (See 12 Cyc. p. 261).

Then and thereafter, although the courts are not wholly in accord as to whether or not a conviction upon an invalid indictment is a bar to a subsequent prosecution, if the accused moved to have the proceedings quashed, there is an unanimity in the view that an acquittal is. It is laid down in 12 Cyc. cited *supra*, p. 274:

"An acquittal of a crime is a bar to a further prosecution for that crime, although the court on the trial may have erroneously favored the defendant. So, although the court may have misdirected the jury, or erred in admitting illegal, or in rejecting legal, evidence, or the verdict may have been against the evidence, the judgment and verdict of acquittal, if fairly obtained, are conclusive and will bar a subsequent prosecution for the same offense."

In another case the questions of autrefois acquit and autrefois convict came squarely before the United States Supreme Court. That was in a case in which Millard F. Ball, John C. Ball and Robert E. Boutwell were plaintiffs in error versus the United States, defendant in error, Murder. Said three defendants had been arraigned and tried upon an indictment presented against them at the October term, A. D. 1889, of the Circuit Court of the United States for the Eastern District of Texas, charging them with having on the 26th of June of said year feloniously killed and murdered one William S. Box. On the 3rd of November of said year the jury impanelled returned a verdict acquitting the first named defendant, and convicting the other two. The convicts removed the case to the Supreme Court upon a writ of error alleging that the indictment was fatally defective and bad. Said Supreme Court at its October term, A. D. 1890, held that the indictment was bad, and discharged the defendants.

Later on, to wit: at the April term, A. D. 1891, of the aforementioned Circuit Court the Grand Jury returned a new indictment charging with the same murder the two defendants at whose instance the former proceedings had been annulled, as well as the said Millard F. Ball, who had, as aforesaid, been acquitted and discharged. The first two raised the plea of Autrefois Convict, and the latter the plea of Autrefois Acquit, which pleas having

been overruled, they were again tried, convicted, and all three sentenced to death. The three appealed to the Supreme Court, and the principal questions submitted for consideration were the pleas of Autrefois Convict and Autrefois Acquit so as aforesaid raised and overruled. The pleas were very carefully considered and decided on the 25th of May, A. D. 1896, when Mr. Justice Gray, speaking for the whole court, filed a very elaborate Opinion in which he said *inter alia*: "The verdict of acquittal was final, and could not be reviewed, on error or otherwise, without putting him twice in jeopardy, and thereby violating the Constitution, * * * in this country a verdict of acquittal, although not followed by any judgment, is a bar to a subsequent prosecution for the same offence."

The said Millard F. Ball was thereupon ordered discharged. See 163 U. S. p. 663, 41 L. ed. p. 300.

In view of the foregoing and the identity to all intents and purposes of the language in which said inhibition is framed in the Constitution of the United States and of our own country, I am of Opinion that said Jessie E. Harris cannot legally be again criminally prosecuted for said offence. * * *

The State's right to appeal is considered in *Republic of Liberia* v. *Zoa*, decided at the November, 1925 term of the Supreme Court (Unpublished. Judgment Book, p. 417) which on account of its importance is reprinted in full:

The facts connected with this case are as follows: The aforesaid Zoa having been indicted by the Grand Jury at the May term of the Circuit Court of the second judicial circuit, Grand Bassa County, A. D. 1925 for murder, his trial was continued to the August term of said court, A. D. 1925.

When this case was called for trial the prisoner pleaded guilty. The State however proceeded by witnesses and proved the confession also, whereupon the petty jury to whom was committed the consideration of the charge and the evidence returned a verdict finding the prisoner guilty.

Records show that the attorney for the prisoner tendered a motion in arrest of judgment setting forth therein five objections to the court's rendering judgment against him, but as they were all ruled out except objection three, that objection alone will be noticed. It reads as follows: "And also because the charge of murder is not sufficiently averred in said indictment so as to give

the defendant notice of the facts and circumstances constituting the crime charged, in that the said indictment does not aver whether the said mortal wound of which the said Blay deceased is said to have died was inflicted on the left side of the body, head, neck, shoulder, hip, leg or ankle."

The court after considering the above stated objection, sustained the motion and discharged the prisoner.

The Attorney General of the Republic therefore made application to the Chief Justice and obtained a writ of error which brings this case up before this Court. The application reads as follows: "The Republic of Liberia, plaintiff in the above entitled cause, by and through Honourable Louis A. Grimes, Attorney General of Liberia, respectfully showeth unto Your Honours that the Republic of Liberia was plaintiff in the Circuit Court of the second judicial circuit, Grand Bassa County, against Zoa, a native man of the Bassa tribe, charged with the crime of murder, which was tried at the August term of the said Court A. D 1925. His Honour Edward J. S. Worrell, Judge presiding "

"That during the trial of the case and after verdict of wilful murder was returned against the said Zoa in favour of the said plaintiff as aforesaid, His Honour Edward J. S Worrell, Judge presiding as aforesaid, refused to render judgment on the verdict of the petty jury aforesaid which said plaintiff-in-error respectfully submits was illegal."

"That said plaintiff has not been able to obtain from the clerk of said Court a copy of the records of said case in order that he might prepare a bill of exceptions and bring the case up by regular appeal; he therefore prays that Your Honours will grant unto him a writ of error in order that the errors complained of may be reviewed in this Court as set forth in the following assignment of errors. The error raised in the assignment of errors is that the Judge aforesaid erred in discharging the prisoner and sustaining objection three (3) in the motion; hence I shall now proceed to consider the rights of the plaintiff in the appeal and the act of the Judge of the Court below."

"The process of setting aside the proceedings in cases of both felonies and misdemeanours in arrest of judgment, and discharging prisoners for valid objections raised in a motion in arrest of judgment cannot be denied. (4 Blackstone *Commentaries*, page 375.) The right of the Attorney General of Great Britain to move for the removal of criminal cases into the Court of King's Bench

was formerly enjoyed in England, but it entailed untold injury to the rights of the citizens and subjects for which cause Statutes were enacted by Parliament defining how and what cases could be so removed. This right was then being enjoyed under the sign manual of the King, but in all Statutes allowing appeals by writ of error on the part of the State, not in one case has it been known that a case of felony or treason was ever allowed new trial."

We shall quote the words of Mr. Blackstone with respect to this right: "Yet in many instances where, contrary to evidence, the jury have found the prisoner guilty, their verdict hath been mercifully set aside, a new trial granted by the Court of King's Bench for in such case, as hath been said, it cannot be set right by attaint. But there hath yet been no instance of granting a new trial where the prisoner was acquitted upon the first"; continuing the subject in his 21 note below, he says "no new trial can be granted in cases of felony and treason, but in cases of misdemeanour it is entirely discretionary in the court whether they will grant or refuse a new trial. A new trial cannot in general be granted on the part of the prosecution after the defendant has been acquitted even though the verdict appears to be against evidence." In the 22 note below he says, "these acts are now all repealed and new provisions on the same subject are made, etc." (Blackstone *Commentaries,* page 362, note 21 and 22; *Ibid,* page 392; 1 Archbold top page 572, 573, 574) Fortunately for Liberia none of the foregoing practices were adopted by our Constitution, the fathers were wise enough not to adopt the above procedure in criminal cases.

In addition to the Constitutional guaranty the Legislature in 1914 made the criminal rights of the citizens clearer and stronger and fully defined the spirit and intention of the Constitution. That it is clearly seen that all indictable offences are shut out from second jeopardy, it reads, "where a prisoner is acquitted or convicted on an indictment for a crime he cannot thereafter be indicted or tried for the same crime nor for any degree thereof."

A motion of arrest of judgment is an application on the part of the defendant that no judgment be rendered on a verdict against him. By arrest of judgment is meant the refusal of the Court to enter a judgment for some cause apparent upon the records. The judgment of the Court being a conclusion of law from the fact upon the records must be collected from the whole record.

If therefore the record itself shows no ground for judgment, it cannot be rendered although verdict of guilt be found. (1 Archbold *Pleadings and Practice*, 573, note 1). Statutes have since been enacted by England and adopted by several, if not all, the States amending to some extent the right by which a defendant may enjoy this privilege; still there is no provision made in any of these statutes by which substantial defects are cured.

The right to arrest judgment is within the power of the trial Judge, without the motion in arrest of judgment. The effect of allowing a motion in arrest of judgment is to place the defendant in the same situation in which he was before the indictment was found (1 Archbold *Pleadings and Practice*, page 575 below). If therefore the defendant is discharged in arrest of judgment it is in form an acquittal, the two terms being synonymous.

The objection upon which the defendant was discharged is legal and substantial, and not one of procedure. In the arguments of the Attorney General he said that he does not contend that the case be tried over, but that the prisoner had been seen and a conclusion reached that he the said prisoner was not insane and a jury should be empanelled to so decide.

This is a side question not found raised in the records neither was there any exception of the kind taken at the trial. The question not being legally before this Court it cannot claim our consideration.

It being a degree of the offence of murder of which he is discharged as defined by the Criminal Code of 1914, section 30, he cannot be again tried.

In the conclusion of this application made by the Attorney General it is indirectly claimed that the right to move by appeal on the part of the State in criminal cases is warranted by law, but that in my opinion is unfounded, when compared with the Criminal Code, page 6, section 30; 3rd Supplement Ency. page 798, section 591; 17 Ency. pages 583-4, section 5 note 1-2, Constitution of Liberia, title jeopardy.

The Attorney General further argues that the trial Judge should have rendered judgment in the case. This would be indirect contradiction to the purpose for which the motion in arrest of judgment was offered.

The only duty of the trial court after a motion in arrest of judgment is sustained is to desist from rendering judgment upon the verdict of the jury by announcing that the motion in arrest of

judgment is sustained and the defendant discharged. This puts a final end to the entire proceedings so far as the power of the trial court is concerned.

Except where there is a statute giving the Attorney General the right to appeal in certain cases not falling within the prohibiting clause of the Constitution he cannot remove criminal cases by appeal nor writ of error to the appellate courts of this country. The writ and application should therefore be dismissed.

A limited right of appeal to the Supreme Court by the Republic is now provided for by the Law of September 16, 1938 (Acts, 1938, c. 24, p. 34). The State's right to appeal is limited to the following cases: (a) Upon a judgment for the prisoner on a demurrer to the indictment; (b) Upon an order of the Court arresting the judgment.

The question of the constitutionality of a statute giving the State a right to appeal has come up before the American courts, and the overwhelming weight of authority is that a verdict or judgment in a lower court regularly organized and of competent jurisdiction is final and conclusive as to the defendant (Willoughby, *l.c.* II, 1163). This is also the view of the majority of the United States Supreme Court in *Kepner* v. *United States,* 195 U. S. 100 (1904). In the *Kepner* case Justices Holmes, White and McKenna dissented, arguing that it was within the power of Congress to provide for a writ of error on behalf of the Government, for errors of law committed in the trial court, and in proper cases to order a new trial; the jeopardy is a continuing one until the final disposition of the cause. They urge that the prisoner may be subjected to a second trial where the jury disagrees, or the verdict is set aside on the defendant's bill of errors, or the judgment is arrested upon motion (Willoughby, *ut supra*). The Act of Congress of March 2, 1909 (34 U. S Stat at L. pt. I, 1246), giving the Government a limited right of appeal, contains a proviso "that no writ of error shall be taken by or allowed the United States in any case where there has been a verdict in favor of the defendant".

6. *Assistance of Counsel*

Section 6 provides that the accused shall have the right "to be heard in person or by counsel or both".

As was pointed out in *Ex parte Chin Loy You,* 223 Fed. (U. S.) 833 (1915), cited with approval, *Powell* v. *Alabama,* 287 U. S. 45 (1932), the provision was inserted in the Constitution because the assistance

of counsel was recognized as essential in any fair trial of a case against a prisoner.

At common law the accused could not appear by counsel but the right is now almost universally conceded. In addition, most countries provide that in case a prisoner is without means to employ counsel, he will be furnished one at the expense of the State. Thus the Act of March 2, 1936 (Acts, 1935-1936, c. 20, p. 35), amended by Act of December 16, 1938 (Acts, 1938, c. 21 p. 32), provides for the appointment by the President in each county of a counsellor or attorney at law, to be known as Defense Counsel, whose duty it is to defend destitute persons in criminal trials.

The right of trial by jury and to counsel may be waived by defendant in the exercise of an intelligent choice made with the considered approval of the trial court. (*United States ex rel. McCann* v. *Adams*, 88 L. Ed. (U. S.) Adv. Ops. 16 (Nov. 8, 1943).

7. Immunity from Self-Incrimination

Section 7 provides that the accused shall not be compelled to furnish or give evidence against himself.

The history of this rule is dealt with at length in *Twining* v. *New Jersey*, 211 U. S. 78 (1908): "We think it is manifest, from this review of the origin, growth, extent and limits of the exemption from compulsory self-incrimination in the English law, that it is not regarded as a part of the law of the land of *Magna Charta* or the due process of law, which has been an equivalent expression, but, on the contrary, is regarded as separate from and independent of due process. It came into existence not as an essential part of due process but as a wise and beneficent rule of evidence developed in the course of judicial decision."

The accused may refuse to testify for himself and his refusal may not be regarded as a confession of guilt. The accused may judge for himself whether his answer to the question will tend to incriminate himself.

The leading Liberian case is *Jedah, Boyah et al.* v. *Horace* (quoted *infra*, Chap. XXV, *sub* Hinterland) in which the Court considers the question of the administration of sassywood to the defendant as a method of obtaining his testimony. The Court, per Johnson, J. says: "With regard to the administration of sassywood, which is in some cases an ordeal dangerous to life, we are of the opinion that while it is provided that the native and district courts shall administer the

native customary law, we cannot admit the legality of a proceeding which is evidently intended to extort a confession from the accused, and which is in conflict with the Organic Law of the State, which declares that no one shall be compelled to give evidence against himself."

On the same point Attorney General L. A. Grimes (Unpublished Opinions of the Attorney General Ser. 106-1-'27) states: "Another reason is: that the trial by ordeal has a tendency directly or indirectly to extort a confession from one or more of the persons suspected, and that is a flagrant violation of the principle that a person criminally charged shall not be compelled to furnish or give evidence against himself." (See Const. of Liberia Art. 1, last clause of Section 7).

Obviously admissions and confessions obtained from a prisoner by the use of "third degree" methods are a violation of the Constitution and cannot be used against the defendant. Cp. *United States* v. *Murdock*, 284 U. S. 141 (1931).

The constitutional protection regarding self-incriminating evidence may also arise under section 9 regarding searches, see *infra*. It also raises the question as to whether the accused can be compelled to submit to medical examination, blood tests, etc. or to exhibit himself or parts of his body to the jury, or to allow his finger prints to be taken. On these points Willoughby (*l.c.* II, 1172) says:

"Though there are no direct cases in the United States Supreme Court upon the point, there are State decisions which support the doctrine that the accused's right to immunity from self-incrimination is not violated when he is compelled to exhibit himself or a part of his body to the jury, or to allow a record of his finger prints to be taken." (*State* v. *Ah Chuey*, 14 Nev. 79; *Garvey* v *State*, 52 Miss 207; *State* v. *Graham*, 74 N. C. 646.) But there are decisions *contra*. Cf. *People* v. *Sallow*, 165 N. Y. Supp. 915.

The refusal to testify is a personal one and may be waived by defendant If waived, the defendant may be cross-examined. (Cp. *Powers* v. *United States*, 303 U. S. 223 (1912) See also section 9, Right of Search, *infra*.)

8. Due Process of Law

Article I, section 8, provides that "no person shall be deprived of life, liberty, property or privilege, but by judgment of his peers or the law of the land."

The leading case on the interpretation of this section is *Wolo* v. *Wolo*, cited *infra*, under Division of Powers.

Wolo v. *Wolo* was a petition for alimony brought by the wife. In defense of the petition, the husband introduced an Act of the Legislature declaring the parties divorced *a vinculo matrimonii*. The wife was not given an opportunity to oppose the proceedings in the Legislature before the passage of the Act. The trial court dismissed the petition. On appeal by the petitioner the Supreme Court reversed the judgment on two grounds: (a) that Legislative divorces are an unconstitutional assumption of judicial power by the Legislative branch of the Government, and (b) are, under the facts of the instant case, contrary to the "due process of law" clause of the Constitution. The first point is dealt with in the present Chapter in the section on the Division of the Powers of Government. On the second point Chief Justice Grimes, in his opinion presents in a lucid and comprehensive manner the meaning of "due process of law":

> The first question then arising is: What is meant by the expression "due process of law"? It has been defined as: "A law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial. Law in its regular course of administration through courts of justice." See 8 *Cyc.* pp. 1080-1081.
>
> In the year 1922 the question arose, under what circumstances would the Government of Liberia be justified in expropriating private property for public use, and could that be legally done without notice to the party concerned? The Attorney General of Liberia in his Opinion given on that question on the 11th July 1922 pointed out that Lord Coke had held that the term "law of the land" used in *Magna charta* meant exactly the same thing as "due process of law" used in the Constitution of the United States. See Opinions of the Attorney General of Liberia for 1922, p. 50.
>
> The provision in our Constitution reads: "No person shall be deprived of life, liberty, property or privilege, but by judgment of his peers or the law of the land." See Constitution of Liberia, Art. I, sec. 8.
>
> We must observe in passing that the Constitution of the United States, as originally framed, contained no Bill of Rights. Such Bill of Rights as we have embodied in the first Article of our Constitution is, so far as there is any analogy, contained in Articles I to IX of the Amendments to said Constitution; and the one relevant to this phase of the question is found in the latter clause of

amendment 5, from which is omitted the word privilege embodied in our Constitution. Thus the provision therein reads: * * * "nor be deprived of life, liberty or property without due process of law."

American law writers commenting on the constitutional provision, which, in ours, would seem to be stronger because, as aforesaid, of the inclusion of the word "privilege", have agreed on the following so far as our examination of sundry authors goes: "The term 'due process of law' is synonymous with 'law of the land.' The Constitution contains no description of those processes which it was intended to allow or forbid, and it does not even declare what principles are to be applied to ascertain whether it be due process. But clearly it was not left to the legislative power to enact any process of law which might be devised. 'Due process of law' does not mean the general body of the law, common and statute, as it was at the time the Constitution took effect. It means certain fundamental rights, which our system of jurisprudence has always recognized. The constitutional provisions that no person shall be deprived of life, liberty or property without due process of law extend to every governmental proceeding which may interfere with personal or property rights, whether the proceeding be legislative, judicial, administrative, or executive, and relate to that class of rights the protection of which is peculiarly within the province of the judicial branch of the Government. The term 'due process of law' when applied to judicial proceedings, means that there must be a competent tribunal to pass on the subject-matter; notice actual or constructive, an opportunity to appear and produce evidence, to be heard in person or by counsel, and if the subject-matter involves the determination of the personal liability of the defendant he must be brought within the jurisdiction by service of process within the State, or by his voluntary appearance. And there must be a course of legal proceedings according to those rules and principles which have been established by our jurisprudence for the protection and enforcement of private rights. But the forms of procedure and practice may be changed; and the constitution is satisfied if the substance of the right is not affected and if an opportunity is afforded to invoke the equal protection of the law by judicial proceedings appropriate and adequate." See 8 Cyc. pages 1083-1084, and cases cited.

See also 6 *R. C. L.* pp. 433 *et seq.*, esp. pp. 446-7, sec. 442, which

reads as follows: "The essential elements of due process of law are notice, and an opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case. In fact one of the most famous and perhaps the most often quoted definitions of due process of law is that of Daniel Webster in his argument in the Dartmouth College case, in which he declared that by due process of law was meant 'a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial'. Somewhat similar is the statement that it is a rule as old as the law that no one shall be personally bound until he has had his day in court, by which is meant, until he has been duly cited to appear, and has been afforded an opportunity to be heard. Judgment without such citation and opportunity wants all the attributes of judicial determination, and can never be upheld where justice is fairly administered."

It now becomes pertinent to inquire, what were some of the rights and privileges vested in Juah Weeks Wolo by her marriage to P. Gbe Wolo that the enactment of the Legislature made profert of in appellee's answer would deprive her of contrary to the law of the land? They are the right to share the bed and board of her husband, to his protection, support, comfort and society during their joint lives, and in the event he predeceased her to the possession and enjoyment of one third of his personal property forever, and one third of his realty for her natural life. See Constitution of Liberia, Art. V, sec. 11.

According to the laws in vogue, and until the passage of the new Matrimonial Causes Act, approved February 24th, 1936, ten days after the approval of the enactment now under considera tion, she could only be deprived of these rights and privileges after a verdict and judgment of divorce against her for adultery; and since the passage of said Matrimonial Causes Act for six additional reasons, and after having been given an opportunity to be heard in her own defence, Mr. Wolo, arguing the case here in his own behalf, admitted that she was not cited to appear and answer: that no opportunity was given her to cross-examine witnesses offered against her, nor to produce witnesses in her own behalf; nor indeed could he show that his petition, upon which the Legislature is supposed to have acted, complained of any mis conduct committed by her, in marked contrast to the sworn allega-

tion, in the second count of her petition, that he had cohabited with and impregnated, three different girls that she had been rearing. Compare in this connection Mr. Wolo's own argument in the case: *Bryant vs. Bryant,*—Divorce New Annual Series No. 2, (1934-5) pp. 169 *et seq.*, esp. pp. 185 to 187.

The principle involved in the construction of this constitutional provision now submitted for our consideration is so broad, so deep, so fundamental, that when considered in all its possible ramifications the case *Wolo vs. Wolo* cannot but sink into insignificance besides the potential applications that might arise from any decision we might give in the premises.

Thus in this, and in the matter submitted for the Opinion of the Attorney General of Liberia in 1922 to which reference has been hereinbefore made, we have presented a picture of two persons whose respective social positions are in antithesis the one to the other,—the one, the Honourable Arthur Barclay, then as now an ex-President of Liberia, and therefore of the highest social status in this country, the other Mrs. Juah Weeks Wolo, a woman of practically no social status or importance, both alike appealing to the law of the land in defence of vested rights about to be wrung from them by violence, and invoking *inter alia* the same section 8 of Article I of our Constitution,—the latter in defence of her rights and privileges as a married woman, the former in defence of his rights of property. This picture should be a constant reminder to us that in a country such as ours, the only bulwark of the people against oppression, or the illegal deprivation of their rights and privileges, be they high or low, be they rich or poor, is the written constitution handed down to us as the most precious heritage bequeathed to us by our fathers. If this court should decide that Juah Weeks Wolo, appellant, can be deprived of her rights and privileges as a married woman without due process of law, in violation of the constitutional inhibition, then what will become of the rights and privileges of those civil officers whose removal from office upon the joint address of both branches of the Legislature must be for cause stated? See Art. III, sec. 6, Art. IV, sec. 1. of the Constitution of Liberia.

Should we affirm the judgment of His Honour Judge Brownell on the point now under consideration, could any member of the Legislature, who might at any time, for any purpose, lose his popularity and prestige complain if: (1) The branch of the legislature to which he belonged exercised the right of expulsion,

given in the last sentence of the 8th section of Article II of that sacred document, without previous notice, an opportunity to be heard in his own defence, to cross examine witnesses produced against him, and to offer witnesses in his own behalf? Then, last but not least, and bearing in mind that the disregard of law constantly repeated develops a psychology to violate law just as the propensity to kill unchecked develops homicidal mania, what guarantee would any President of this Republic have, that in the event any new crisis should arise in this country as that of 1930, he would not be deprived of the right of legal trial provided for in our constitution, and removed from his high office, the highest in the gift of this people, without a legal impeachment, and therefore without due process of law which, as has been shown, is identical with the term the law of the land?

All of these probabilities, and more, appear to us to be involved in that particular constitutional point submitted for our consideration in this particular case.

It may be argued, as it has been contended here during the hearing, that private property has in times past been condemned for public use without due process of law; that civil officers and members of the Legislature have been removed from office without due process of law; but, so far as we have been able to ascertain, this is the first time in the history of the country that such a question has been fairly and squarely submitted for the consideration of this court, and having envisaged the extent to which the rights of the people can be successfully assailed by disregard of the principle of due process of law were we to place our *imprimatur* upon the enactment, the basis of appellee's contention, we feel that we would be recreant to the high trust and confidence imposed in us.

The provisions, and others, incorporated in the Bill of Rights primarily for the protection of citizens would seem to inure also to the benefit of aliens who are here by permission of the Government, and especially those by virtue of treaty stipulations.

Enemy aliens may be placed in a different position during the existence of war. (Opinions of the Attorney General, 1926-1927, August 25, 1926, unpublished. Int. Dep. 6-28-'28, Serial 106-11-'28.)

Due process of law is not confined to judicial proceedings. The article of the Constitution is a restraint on the Legislative as well as on the Executive and Judicial powers of the Government, and cannot

be so construed as to make any process due process of law by its mere will and pleasure. *Murray* v. *Hoboken Land and Improvement Company,* 18 How. (U. S.) 272 (1856), quoted with approval in 1 Opinions of the Attorney General, 48 (1922).

The "due process of law" clause is applicable to requests by a foreign Government for the extradition of a person charged with crime in the foreign jurisdiction. Liberia has entered into treaty arrangements regarding extradition with a number of countries. An extradition treaty with the United States was concluded November 1, 1937.

On the question of the surrender of fugitive criminals, Attorney General L. A. Grimes, 1 Opinions of Attorney General 80 (1922) says:

> I have the honour to acknowledge receipt of your 856/L of the 24th instant received here to-day, covering copy of the Acting German Consul-General's No. J. Nr. 569; asking that one Hermam Freyberg expected to arrive in our waters by s s. "Arnfried" now overdue be arrested and his personalty seized with the ultimate intention of his being extradited.
>
> I sincerely regret that the urgency of the matter submitted precludes my making that exhaustive study of the question which its importance demands, especially as there is some diversity of opinion on the subject held by the highest tribunals in the world. The case United States vs. Rauscher decided December 6, 1886 by the Supreme Court of the United States of America reported in 119 U. S. 407 et seq. 30 L. ed. p. 425 refers to the divergent views that have been expressed but the decision in said case was upon a point not relevant to the matter now under consideration. The weight of authority, *semble,* is that:
>
>> "There is no obligation upon a government under the law of nations, to surrender fugitive criminals to a foreign power. . . In the United States, it is well settled that independently of statutory or treaty provision, no authority exists in any branch of the government to surrender a fugitive criminal to a foreign government. And it is the present doctrine in England and Canada that the extradition of a fugitive criminal cannot be granted in the absence of specific legal authority " See 19, Cyc. pp. 52/3 and cases cited.
>
> But even if the weight of international authority were the other way the undersigned is of opinion that according to our laws the desired extradition could not be effected.

Section 6 of our Extradition Act of 1893, sec. p. 12 reads:

"*No fugitive criminal* shall be surrendered to a foreign state unless by arrangement made with said foreign state as provided for in the second section of this Act."

This is mandatory. The second section referred to which in the opinion of the undersigned is the enabling clause thereof is:

"Where an arrangement has by treaty been made with any foreign state with respect to the surrender to such state of any fugitive criminal, the President may direct by proclamation that this act shall apply in the case of such foreign state."

"Every such order by proclamation shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement." Ibid section 3.

Our Constitution Art. I, sec. 8 provides that:

"No person shall be deprived of . . . liberty, property or privileges, but by judgment of his peers or the law of the land;" and in view of the aforesaid provisions of our Constitution and statutory law my Department submits that even for the sake of comity the desired arrest by our officers cannot be ordered for:

"In the recognition and enforcement of foreign laws the courts are slow to overrule the positive law of the forum; and they will never give effect to a foreign law when to do so would prejudice the state's own rights or the rights of its citizens, or when the enforcement of the foreign law would contravene the positive policy of the law of the forum, whether that policy be refuted in statutory enactment or not." See 5, R. C. L., Limitations of Comity pp. 911/12.

Aliens as well as citizens are entitled to due process of law. (Willoughby, *l.c.* 111, sec. 1110).

9. *No Search or Arrest Without Warrant*

Section 9 provides: "No place shall be searched, nor person seized, on a criminal charge or suspicion, unless upon warrant lawfully issued, upon probable cause supported by oath, or solemn affirmation, specially designating the place or person, and the object of the search."

The corresponding provision in the United States Constitution is contained in the Fourth Amendment: "The right of the people to be secure in their persons, houses, papers, and effects, against un-

reasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The American provision is more specific in that it includes seizures of property. For a summary of the Federal Statutes on the subject see *Marron* v. *United States,* 275 U. S. 192 (1927).

Historically the origin of such provisions is to be found in the abuses of general warrants formerly issued in England in order to obtain evidence against persons suspected of the commission or planning of political offenses. In the American Colonies this abuse continued, especially in connection with the execution of the revenue laws (Willoughby, *l.c.* II, 1173, 1174).

Cooley (*Constitutional Limitations*), thus summarizes the American law:

> In the first place they are only to be granted in the cases expressly authorized by law; and not generally in such cases until after a showing made before a judicial officer, under oath, that a crime has been committed, and that the party complaining has reasonable cause to suspect that the offender, or the property which was the subject or instrument of the crime, is concealed in some specified house or place. And the law, in requiring a showing of reasonable cause for suspicion, intends that evidence shall be given of such facts as shall satisfy the magistrate that the suspicion is well founded; for the suspicion itself is no ground for the warrant except as the facts justify it. In the next place, the warrant which the magistrate issues must particularly specify the place to be searched and the object for which the search is to be made. * * * The warrant is not allowed for the purpose of obtaining evidence of an intended crime; but only after lawful evidence of an offence actually committed. Nor even then is it allowable to invade one's privacy for the sole purpose of obtaining evidence against him, except in a few special cases where that which is the subject of the crime is supposed to be concealed, and the public or the complainant has an interest in it or in its destruction. Those special cases are familiar, and well understood in the law. Search-warrants have heretofore been allowed to search for stolen goods, for goods supposed to have been smuggled into the country in violation of the revenue laws, for implements of gaming or counterfeiting, for lottery tickets or prohibited liquors kept for sale contrary to law, for obscene books

> or papers kept for sale or circulation, and for powder or other explosives and dangerous material so kept as to endanger the public safety. A statute which should permit the breaking and entering a man's house, and the examination of books and papers with a view to discover the evidence of crime, might possibly not be void on constitutional grounds in some other cases; but the power of the legislature to authorize a resort to this process is one which can properly be exercised only in extreme cases, and it is better oftentimes that crime should go unpunished than that the citizen should be liable to have his premises invaded, his desks broken open, his private books, letters, and papers exposed to prying curiosity, and to the misconstructions of ignorant and suspicious persons,—and all this under the direction of a mere ministerial officer, who brings with him such assistants as he pleases, and who will select them more often with reference to physical strength and courage than to their sensitive regard to the rights and feelings of others. To incline against the enactment of such laws is to incline to the side of safety.

There appear to be no published Liberian cases on this section. The leading American case is *Boyd* v. *United States*, 116 U. S. 619 (1886), which discusses fully the relation between the Fourth Amendment (sec. 9 of the Liberian Declaration of Rights) and the Fifth Amendment (sec. 7 of the same Declaration, relating to self-incriminating evidence). The *Boyd* case was much criticized, and the Supreme Court gradually modified its doctrine regarding the admissibility of evidence procured through searches (For a review of these later decisions, see Willoughby, *l.c.* II, 1175-1181).

The provisions of the Constitution apply to letters and sealed parcels, subject to letter postage, in course of transmission by the Post Office. Cp. *Ex parte Jackson*, 96 U. S. 727 (1878). As to tapping of telegraph and telephone lines, see *Olmstead* v. *United States*, 277 U. S 438 (1928); *Nardone* v. *United States*, 302 U. S. 379 (1937).

The constitutional guarantees under section 9 are among those that are suspended by a declaration of martial law (see 20, Suspension of the Writ of Habeas Corpus, *infra*).

Under the Emergency Powers Act, June 30, 1942 (Acts, 1941-1942, c. 23, p. 20, sec. 1 (f)), the President is given the power for the duration of the war and six months thereafter, "to exercise without the intermediary of the courts of law, the power of search and seizure over any article, paper or thing suspected to be concealed in any area

declared to be a defense zone and the possession of which article, paper or thing shall be deemed dangerous or pernicious to the welfare or safety of the State."

The President would have the same power even without special Legislative authority where martial law exists.

10. Right to Appeal

The defendant after conviction has the right to appeal in the last instance to the Supreme Court. This is a constitutional right guaranteed by Article V, section 1, relating to the adoption of Commonwealth Laws, including the Code of 1840, Chapter XX, section 1, Of Appeals (Constitution, and Laws of the Commonwealth, 1843, Pt. II, p. 41) and Article IV section 2, relating to the Supreme Court.

The point is discussed in *Warner* v. *Republic of Liberia,* 1 Lib. L. R. 525 (1892):

> The Court here says, that the question raised in the motion of the Attorney General to dismiss the case has had its consideration, and the Court takes pleasure in further saying that there are involved in the motion questions which have been frequently before it, and which were the subject of discussion twenty-five years ago. Coming directly to the merits of the motion, however, in regard to the right to appeal upon a bill of exceptions in criminal cases, we do not hesitate to say that it is our duty to consider what was the intention of the framers of the Constitution, by incorporating those Acts of the Commonwealth with the laws of the Republic of Liberia. In noticing these, together with the Constitution of the Republic of Liberia, we find in the idea of the Constitution that the right of appeal in civil and criminal cases is one of the fundamental prerogatives upon which the liberty of the people stands. To do away with this idea would be to set aside the dearest provision of the fathers, made in the bulwark of our national fabric, which serves as a preventive against oppression and a security to the enjoyment of civil liberty; without which, the people must become dwarfed in manhood and enterprise, and as a consequence energy, thrift, enterprise, and noble aspirations will cease to exist and flourish under our National Flag, and will seek some other land for encouragement and protection. The framers of the Constitution, knowing this, and considering our situation, disadvantages, and our limited knowledge of law and of political government at that time, sought to make our National

road to greatness plain and easy, and to be understood by the whole people; hence, by the Constitution, they clothed the Supreme Court with appellate jurisdiction in all cases of appeal.

The language by which the right of appeal to the Supreme Court is secured may not be mistaken by the simplest mind, if it be free from prejudice, hatred or influence of bribery. And it is also very clear that the fathers, in making the Statute of Appeals, intended it as the proper step by which both civil and criminal cases of appeal should find their way to the Supreme Court. This conclusion we come to from the fact that from the earliest existence of Liberia, both lawmakers under the authority of the Commonwealth and lawmakers under the Constitution of the Republic of Liberia, who knew best their intention in constructing the law, in their practice as lawyers before the courts, in both civil and criminal cases of appeal, followed the direction of the Statute of Appeal, to which we alluded. It is therefore the opinion of this court that appeals in criminal cases lie to the Supreme Court upon bills of exceptions, and a denial of the right would be gross injustice.

It is scarcely necessary for us to say that when several parties are indicted in one indictment they may make common defence, or elect to be tried separately; and if the trial be joint, all should join in the plea or defence, and in case an appeal be prayed, the bill of exceptions should embrace the names of all the parties appealing, however many there may be.

The right of the Republic to appeal is discussed *supra, sub* Former Jeopardy.

10. Excessive Bail, Excessive Fines and Excessive Punishment is Prohibited

Section 10 provides that "excessive bail shall not be required, nor excessive fines imposed, nor excessive punishments inflicted."

Excessive Bail. Section 10 must be read in conjunction with Section 20, which provides, "that all prisoners shall be bailable by sufficient sureties, unless for capital offenses where the proof is evident or presumption great."

There appear to be no published Liberian decisions interpreting this clause.[47] In the law of England the provision dates back to Magna

[47] *Thomas* v *Dennis*, Unpublished Opinions, 1935-1936, 66 (1936), is a civil case citing the Section See also *Roye* v. *Republic of Liberia*, I Lib L R. 528 (1892).

Charta, was contained in an Act of Parliament of 1444, and in the Declaration of Rights (1688). It passed into the constitutions of the United States and of most of the States.

A magistrate in taking bail in criminal cases is to be guided by the compound consideration of the ability of the prisoner to give bail and the atrocity of the offense. (Cp. *United States* v. *Lawrence,* 4 Cranch Circ. Ct. (U. S.) 518 (1835)).

But, says Watson (*Constitution of the United States,* II, 1508), "To require a person to give bail in a sum beyond his ability would not in all cases violate this provision of the Constitution. The object of the provision is to secure the presence of the accused at the trial."

See also section 20, Right of Bail, *infra.*

10. Excessive Fines and Punishments

In *Brewer* v. *Republic of Liberia,* 1 Lib. L. R. 363 (1900), the Court says:

> * * * the judgment of the court below should not be affirmed, for the reason that it inflicts a punishment not compatible with law and justice in such cases made and provided, for the Constitution of Liberia declares that "excessive bail shall not be required, nor excessive fines imposed, nor excessive punishment inflicted." In this instance the punishment was a fine of fifty dollars, disfranchisement, and imprisonment in chains for two weeks with hard labor, which the court says is suitable to crimes and not to a misdemeanor.

Attorney General L. A. Grimes in 1 Opinions of Attorney General, 32 (1922) says:

> My conscience revolts at the idea of imprisoning a person, especially one of tender years and a first offender as I am informed the lads are, for six (6) months for stealing the value of eleven (11) shillings, and equally so at commuting such punishment to a fine of twelve (£12) pounds. But even outside the pale of morals is the constitutional provision we are sworn to uphold and defend that excessive fines shall not be imposed nor excessive punishment inflicted.

In *Scotland* v. *Republic of Liberia,* decided May 1, 1931 (Unpublished Opinions, Judgment Book, p. 579) the Supreme Court held that a penalty of fifty dollars as a fine for each failure to attach the required revenue stamp to a document is an excessive fine within Section 10.

The corresponding provision in the American Federal and State Constitutions uses the term "cruel and unusual punishment". The meanings are not the same—the term "excessive" is broader; every cruel and unusual punishment is excessive.

The meaning of "cruel and unusual punishments" has been much discussed in the American courts and by text writers.[48]

Digest Article V of the unpublished Code of 1828 on the subject of punishment in non-capital felony cases provides:

> Grand larceny and all felonies, punishable in pursuance of judicial sentence with whipping imprisonment either in irons, or not, or by a term of labour in chains on the public works or by banishment.

In his commentary on this Article, Jehudi Ashmun says: "This article is construed to mean 'all felonies not capital', as the Constitution Article VI establishing the authority of the common law certainly requires the punishment of death to be inflicted on capital felons."

The punishment of banishment could be imposed in the Colony. The relative provision of the Code of 1828, are Digest, Articles IX and XII.

Article IX (August 17, 1827) provides:

> Persons obstinately refusing to acquiesce in the express decisions of the Board of Managers, shall, in conviction thereof by a Court of Justice, forfeit all their real estate in the Colony and be compelled to leave it.

Ashmun's commentary is: "This Act is digested from instructions sent to the Agent at an early stage of the Colony, before the proper organization of the government, and when instead of a fixed written code of general laws, the special edicts of the Board of Managers were interposed on many important occasions as they happened to be called for by the circumstances of the Settlement. At present (October, 1827) it has gone far toward desuetude in consequence of the strength of the government, the perfection of the Criminal Code, and the infrequency of references to the Board.

"The decisions of the Board, what are they but laws the moment they are promulgated in the Colony? All the laws of the Colony are strictly considered the edicts or decisions of the Board. The article

[48] A valuable summary may be found in Watson's work on the *Constitution of the United States*, II, 1510-1522

then in practice declares that any person obstinately refusing to obey the laws of the Colony shall be banished from it. True, but it must only be after the power of those punishments which the laws denounce against their violators, have been sufficiently tried upon this obstinacy, and found incapable of subduing it."

Article XII (August 19, 1824), provides:

> Expulsion from the Colony may take place on conviction for offences directly affecting the peace and good government of the Society in punishment of any misdemeanors in their judgment deserving that penalty.
>
> The property of exiles to pass to their next heirs resident in the Colony. In all cases of banishment where the banished person has no heirs in the Colony, the lands held by him shall revert to the Colony.

The comment of Ashmun is: "Digested from Section Second Code Board of Managers, June 26, 1820, second clause. Reapproved in present form by the Board of Managers, May 23rd, 1825. It is an important question what classes of offences are punishable by expulsion from the Colony."

"By Article 9th of the Digest (see notes on that Article) it is settled that culprits after having been so repeatedly convicted of, and punished for any offences, as to have acquired the brand of obstinate disobedience and incorrigible depravity, may, on conviction, be sentenced to final exclusion from the Colony. This describes the first class of offences liable to be punished in this way."

"Secondly, Article 12th allows this punishment to be inflicted on offenders against the peace of the Colony. Not all such offenders, but such only are liable to be expelled as first have been proved to be so addicted to practices violating the peace, as to admit of no reasonable expectation of their reformation, by means of the ordinary penalties of the law, or, secondly, who have been convicted of such outrageous violations of the peace as manifestly to render their further stay in the Colony dangerous."

"Thirdly, Article 12th allows this punishment to be visited on persons convicted of offences against the Government of the Colony—and for the same obvious reasons, viz., that such as are once convicted of mutinous, treasonable or refractory design, and dispositions, cannot be suffered to remain in the Colony, without too greatly endangering by their presence its highest and most sacred interests. The man,

who simply breaks the laws, has injured himself and perhaps a few other individuals. But, he who weakens or attacks the Government commits a crime which may overthrow the whole Colony and bury the community in its ruins. Hence, such firebrands must be at once thrown out of the Colony."

"Fourthly, this Article allows expulsion to be decreed against any other classes of offenders judged to deserve this punishment by the Board of Managers. In all cases of banishment, it is to be observed, that this mode of punishment is adopted not merely for the heinousness of the offenders above described, not for the reformation of the offenders alone, nor principally, and not, I add, for the sake of the example, but to rid the Colony of such wretches as are found digging down its foundations, and who cannot remain in it without endangering its general welfare."

"Who are a man's legal heirs in this Colony that have a right to take his lands? 1. His children (legitimate first, illegitimate next, and wife; 2. His parents by consanguinity; 3. His step-children; 4. His step-parents; nephews and nieces by consanguinity. It is the opinion of the Agent (J. A.) that no relations more distant than these can take lands by descent in the Colony. (Clause second of this edict established by Board of Managers, May 23rd, 1825)."

Standing in the stocks was one of the forms of punishment in the Colony (Law of August 19, 1824).

Under the Criminal Code, 1914, sections 26 and 27, the punishment for felonies is imprisonment for not exceeding five years, unless the statute prescribes a different punishment. Capital punishment is inflicted by hanging. Misdemeanors, unless the statute otherwise provides, are punishable by imprisonment not exceeding one year or by fine not exceeding five hundred dollars. Corporations convicted of a felony are punishable by a fine not exceeding five thousand dollars. Conviction and sentence in case of infamous crimes (sec. 39, as amended) carries with it disfranchisement.

Compared with American penal codes, the Liberian Criminal Code is very lenient—the only capital offense is murder, which includes cases where death results from the commission of certain felonies, *e. g.*, administration of poisonous substances, treason, etc. Confiscation of land and goods is imposed in certain cases. More questionable is the right to banish temporarily or permanently, from the Republic a citizen found guilty of certain crimes, for example under Revised Statutes, section 770. Cp. *Cooper* v. *Telfair*, 4 Dall. (U. S.) 14 (1800). Aliens may be deported for commission of crimes.

10. Impairment of the Obligation of Contracts

The Constitution, Art. I, sec. 10, prohibits to the Legislature the passing any law impairing the obligation of contracts.

The leading case on this subject is *Sherman* v. *Republic of Liberia*, 1 Lib. L. R. 145 (1881), where the Court says:

> We propose to analyze to a certain degree that clause of the Constitution embraced in the question as above stated.
>
> And first—What is a contract? Various definitions have been given of the word, and perhaps the most generally received one is, that "A contract is an agreement in which a party undertakes to do or not to do a particular thing."
>
> Broom, in his *Commentary on the Common Law* (p. 252) says, that "in its widest and most general sense, the word 'contract' signifies an agreement, obligation or compact, which may be either unilateral or *inter partes*"; and at page 255 he further states it to be "of the essence of every contract or agreement, that the parties to be bound should consent, expressly or impliedly, to whatever is stipulated therein; for otherwise no obligation or reciprocal right can be created between them." In our statutes (Legal Forms and Principles, page 4, sec. 11)[49] it is defined to be "an agreement entered into by the assent of two or more minds by which one party undertakes to give some valuable thing, or to do or omit some act, in consideration that the other party shall give or has given some valuable thing, or shall do or omit, or has done or omitted, some act."
>
> Second—What are the obligations of a contract?
>
> The obligatory force of contracts is in every civilized country derived tacitly from the law by reason of the manifest necessity which exists, with a view to the well being of the community, that every man should fairly and honestly perform what he has undertaken to do. (Broom's *Com. Law*, p. 259).
>
> A contract is an agreement in which a party undertakes to do or not to do a particular thing. The law binds him to perform his undertaking, and this is, of course, the obligation of his contract. The term "obligation" is used as equivalent to "binding force", or *vinculum juris*, and as consisting in the efficacy of the law which attaches to the contract, and if it cannot enforce its performance, at all events give pecuniary compensation in lieu

[49] The reference is to *Statute Laws of the Republic of Liberia*, 1856 ed The heading is "Legal Principles and Rules"

of performance. The word obligation is also used as correlative to "right". Whatever I, by my contract, give another a right to require of me, I thereby lay myself under an *obligation* to give or to do. (Broom's *Com. Law,* 261; 3 Parsons on *Contracts,* 555).

The United States Supreme Court in the case of *McCrackon* v. *Hayward,* 2 How. (U. S.) 612, gave this interpretation of the phrase: "The obligation of a contract consists in its binding force on the party who makes it. This depends on the laws in existence when it is made; there are necessarily referred to in all contracts, and forming a part of them as the measure of the obligation to perform them by the one party, and the right acquired by the other. There can be no other standard by which to ascertain the extent of either, than that which the terms of the contract indicate, according to their settled legal meaning; when it becomes consummated the law defines the duty and the right, compels one party to perform the thing contracted for, and gives the other a right to enforce the performance by the remedies then in force. If any subsequent law affect to diminish the duty, or to impair the right, it necessarily bears on the obligation of the contract, in favor of one party, to the injury of the other; hence, any law which in its operation amounts to a denial or obstruction of the rights occurring by a contract, though professing to act only on the remedy, is directly obnoxious to the prohibition of the Constitution." And again, in the case of *Curran* v. *State of Arkansas,* 15 How. 319: "The obligation of a contract, in the sense in which those words are used in the Constitution, is that duty of performing it, which is recognized and enforced by the laws. And if the law is so changed that the means of legally enforcing this duty are materially impaired, the obligation of the contract no longer remains the same."

This brings us to the next query—What impairs the obligation of a contract?

Any law which enlarges, abridges, or in any manner changes the intention of the parties resulting from the stipulation in the contract, necessarily impairs it. The manner or degree in which this change is effected can in no respect influence the conclusion; for whether the law affects the validity, the construction, the duration, the discharge, or the evidence of the contract, it impairs its obligation, though it may not do so to the same extent in all the supposed cases.

Any deviation from its terms by postponing or accelerating

the period of performance which it prescribes, imposing conditions not expressed in the contract, or dispensing with the performance of those which are a part of the contract, however minute or apparently immaterial in their effect upon it, impairs its obligation. (2 Story, *Const.* sec. 1385; *Green vs. Biddle*, 8 Wheat 84). "All laws which can by any possibility impair the obligation of a contract must apply either directly to the terms thereof, or directly to the remedy by which it is to be enforced, etc." (Ledg. on *Const. Law*, p. 605, n.a.)

Our system of jurisprudence being borrowed to a very considerable extent from the English and American laws, we have deemed it as the most prudential course to go to these sources, and to search the reports in the construction of these terms contained in the constitutional inhibition; and having laid down the principles as gathered and deducible from these, the next thing is to apply them to the case now under consideration. And in doing so we would observe that this question will not be considered in the form as presented to this Court, as to whether the law in question does or does not impair the obligation of a contract, but will be confined to the special contract which it is alleged has been impaired. Our statutes declare that "The court to which the appeal may be taken shall examine the matter in dispute upon the record only; it shall receive no additional evidence and it shall reverse no judgment for any default of form, or for any matter to which the attention of the court below shall not appear to have been called, either by some bill of exception or other part of the record." (P. 62, sec. 10). This law does not allow us to travel outside of the record in making up our decision, and if there be any contract other than the one forming a part of the record of this case we do not feel bound to pronounce upon it.

The contract as appearing by the pleadings in this cause and as admitted by libellant, is the engraved bills—bills of credit or paper currency running thus: "On Demand at the Treasury Department, the Treasurer of the Republic of Liberia, will pay to Bearer in Gold or Silver coin—Dollars."

The admission of this as a contract relieves us of the necessity of any elucidation on this point, and we proceed at once to consider its obligations. These are evident and unmistakable on the very face of the instrument. These are that the Republic will at its Treasury Department pay to the bearer of each note, on demand,

the amount specified in gold or silver. It has been contended during the course of the argument that the receiving these notes for duties is a part of the contract so made by the law making these a tender for such.

Contracts between individuals and Government should be construed in the same manner as contracts between private parties. Let us suppose an individual to contract with another to pay him on demand a certain amount, and in a certain class of money; that he should afterwards, for the relief or convenience of either one or the other, say, "I will take up the note or contract so given, by work or merchandise." Would this affect the original condition or obligation of the contract to be paid in a certain class of money, and if it did not affect it, could it rightly be said to form a part of the contract? And if he should afterwards say, "I will no longer take up the note with work or merchandise," upon what would the other seek his remedy, the subsequent permission granted for cancelling the contract, or for the enforcement of the obligation as contained in the contract itself?

While the Legislature cannot legally impair the obligations of any contract, we think this prohibition must be distinguished from its right to adopt measures for the benefit of the nation, and from the necessity of the case, which may be subsequently varied or discontinued as the public good may require. It must be conceded that in every perfect and competent government there must exist a general power to enact and to repeal laws, subject of course to such restrictions and prohibitions as the higher Organic Law or Constitution of the State may prescribe.

The Government is competent to declare anything a legal tender, to say for what it shall be a legal tender, and from time to time restrict or enlarge the province of this tender, unless it be a contract in which it has bound itself to receive unqualifiedly. And the defendant in this action, while he claims that the Government has contracted to pay him in gold or silver coin, does not set forth any subsequent contract where the Government bound itself to receive this contract for duties. And we hold that the binding obligation of the Government is that expressed in the contract, and that this is unaffected by the subsequent tender laws.

Does the act requiring one tenth of the duties to be paid in gold, silver or bills of exchange impair the obligation of this contract?

> We cannot see that this Act in any way enlarges, abridges or in any manner changes the intention of the parties resulting from the stipulations in the contract; we do not see that the Act affects in any way the terms of the contract, or the remedy by which it may be enforced. The Act authorizing the making of the contract does declare that it shall be the lawful paper currency of the Republic. But currency may be lawful and yet not a tender for all dues, and the Legislature is competent to declare for what it shall be a tender, except perhaps in certain cases

An Act of the Legislature giving a particular construction to words used in an existing contract, and thereby changing its meaning, impairs the obligation of a contract (Opinion of the Attorney General (L. A. Grimes) September 2, 1926. 106-12-'26, unpublished).

So, also, where the meaning of a statute has been settled, by judicial construction, this construction becomes part of the statute itself, and a change of decision operates as an impairment of a contract entered into after such judicial interpretation. Cp. *Douglass* v. *Pike County*, 101 U. S. 677 (1880)

Marriage, while sometimes referred to as a civil contract, and originates in a contract, yet the relationship once created is one in which the State, on grounds of public policy, has an interest, and therefore a marriage cannot be dissolved by the mere agreement of the parties. It creates certain reciprocal obligations which may be varied from time by law, without thereby conflicting with the constitutional prohibition against laws impairing the obligation of a contract. Cp. *Maynard* v. *Hill*, 125 U. S. 190 (1888).

A question arises as to the validity of legislation declaring a moratorium on public or private debts, such as the Proclamation issued by Great Britain at the beginning of the First World War, arising also under the Liberian Law of December 23, 1932 (Acts, 1932-1933, c. 3, p. 4) authorizing the President to suspend payment of interest and amortization on the Loan of 1926.[50] Moratory laws have been passed frequently in times of national emergency or in the case of a war, and have been sustained When the draft of the Agreement with the Finance Corporation of America was submitted by the President to the Attorney General, L. A. Grimes, for an opinion, the latter, on the points of the clause requiring prompt payment of interest and amortization, and the clause requiring such payment in times of war

[50] For an account of this legislation, see Azikiwe, *Liberia in World Politics*, 128-135; Annual Message of the President, 1933, 15 *et seq*

as in peace, even to enemy aliens, gave his views, in 4 Opinions of the Attorney General, 60 *et seq.* (1925) as follows:

> According to your instructions I have carefully studied from the legal angle the loan agreement submitted for our consideration, proposed to be executed between the Government of the Republic of Liberia, a Finance Corporation of America and the National City Bank of New York.
>
> One of the provisions of Article II printed on pages 3 to 4 of the draft agreement submitted strikes the undersigned as both illegal and dangerous. It is the provision that:
>
> > The Government covenants that both principal and interest of the bonds will be paid promptly as they respectively become due * * * in gold coin of the United States of America of or equal to the present standard of weight and fineness shall be paid IN TIME OF WAR as well as peace whether the respective owners or holders of the bonds are citizens of a friendly OR A HOSTILE STATE, without deduction for or on account of any taxes or assessments or other governmental charges or duties now or hereafter levied or to be levied by or within the Government or by any taxing authority thereof.
>
> One of the rules for the common law for construing statutes (Blackstone's 9th canon) was that no legislature shall be allowed to make any law that will preclude its repeal or modification by a subsequent legislature. In this, as in most other governments by representation, the legislature meets at certain prescribed periods for the purpose of seeing how far the laws already passed beneficially or adversely affect their constituents in order that wherever the laws in force tend to become oppressive they may be modified to suit the changed conditions. This fact is so elementary that authority need not be cited. It may be argued by those who favour the provision that notwithstanding said rule once an agreement is made by two or more contracting parties and approved by a legislature (especially the Legislature of Liberia), said Body would be precluded by Art. I., section 10 of our Constitution from passing any law that would impair the obligations of said contract, and hence the ratification of said agreement would, contrary to the common law, preclude any and every subsequent legislature from altering it during the life of the contract.
>
> Without taking the time now to discuss that proposition *in*

extenso, or to give my legal opinion thereon I regard the covenant under consideration too vital and far reaching to be allowed to pass unchallenged. No nation can foresee when or against whom it may be called upon to defend its honour or its life by resort to war. In such a contingency the law as ordinarily administered, the most solemnly executed contracts and even the very organic law of the land must all be made subservient to the principle that the Government, through its executive, shall TAKE CARE that the nation suffers no injury. A practical application of said rule relevant to the present discussion, was first adopted when, during the Franco-German war of 1870, France passed several moratory laws. In 1914 when the crisis in Europe showed a danger of war the nerves of the British public were at a great tension on the subject of finance so much that on Friday, July 31st, there was what has been termed a rocket advance in the Bank rate from 3-8 followed by a further advance of two points on the following day, that Parliament had to interpose, and among the measures taken for preventing further panic they, on the 6th of August, passed a Bill declaring a general moratorium for one month, subsequently continued for two additional months.

It is a matter of history that the Bank of England and other important financial institutions came to the rescue and so stabilized finance that many persons did not feel the necessity of taking advantage of these moratory measures, but it is cited here as proof of the power then considered inherent in that legislative assembly to meet a situation of that kind in such manner. Will Liberia whose finances are far from having as solid a foundation as that of Great Britain throw away by contract her privilege by benefiting by that precedent which other nations much more powerful that we are have seen fit to follow? And despite what appears to be the controlling principle in international law that alien enemies shall not be admitted to actions to recover effects which may be carried out of the Kingdom to weaken ourselves and enrich the enemy will we accept a provision by which bonds would be payable even to citizens of a hostile state?

In the year 1914 Liberia was not one of the belligerents, but, nevertheless her finances were so adversely affected that payments of all classes of public servants became impossible, and subsequently interest and amortisation payments on the present loan had to cease. Your Attorney General therefore advises against the covenant in the agreement under consideration which

for FORTY years would leave us in a helpless position on that score should the need arise.

10. *Ex Post Facto Laws*

The Constitution, Art. I, sec. 10, prohibits the enactment of ex post facto laws. The meaning of the clause is considered in *Morais* v. *Republic of Liberia*, decided by the Supreme Court, December 13, 1935 (printed but not published in Opinions, 1935-1936, p. 1). In his opinion Chief Justice Grimes says:

> The second point upon which appellant seemed to have laid most stress in contending that the judgment of the Court below be reversed is, so far as we have been able to gather from the records, that contained in the fifteenth count of his bill of exceptions based upon the first count in his Motion in Arrest of Judgment that he was prosecuted and convicted upon a statute that was *ex post facto* which is contrary to the Constitutional provision contained in Article 1, last part of Section 10 of the Constitution of Liberia.
>
> It is to this contention of his that we have now to address our attention.
>
> An *ex post facto* law is one which inflicts a punishment for an act which was not punishable at the time it was committed, or imposes a punishment in addition to that which was prescribed at the time the act was committed. See 1 Watson *Constitution of the United States*, 734.
>
> In the case of *Calder versus Bull*, 3 Dallas 391; 1 Law ed. 650, *et seq.*, Mr. Justice Chase one of the concurring justices, who filed a concurring opinion at the August term A. D., 1798, that has since been adopted as having stated the principle clearly and succinctly, said *inter alia*: "I will state what laws I consider *ex post facto* laws, within the words and the intent of the prohibition. 1st. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal and punishes such action. 2nd, Every law that aggravates a crime, or makes it greater than it was, when committed. 3rd, Every law that changes the punishment and inflicts a greater punishment than the law annexed to the crime, when committed. 4th, Every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offence in order to convict the offender. All these, and

similar laws, are manifestly unjust and oppressive." Cf. also 1 Watson *Constitution* 740.

These are some of the interpretations of the Supreme Court of the United States upon the provision in its Constitution which reads: "No bill of attainder or *ex post facto* law shall be passed."

The somewhat analogous provision in our Constitution, the one obviously invoked by appellant, reads as follows: "Nor shall the Legislature make * * * any law rendering any act punishable in any manner in which it was not punishable when it was committed. (See latter clause of Section 10 of Art. I of the Constitution of Liberia.)"

The first sedition law enacted by our own Legislature that we have been able to find is Chapter XXX, page 21, of the Acts of 1915-16, amended by an Act passed November 2nd, 1916, published on pages 17-18 of the Acts of 1916. This said Act as amended is incorporated in our Criminal Code of 1914; for, although both of said statutes were enacted after the passage of the Criminal Code, yet said Code not having been published until 1919, the Honourable the Attorney-General, it would appear, incorporated said Act as amended into the Criminal Code when about to publish it; and this fact will be apparent to anyone who will take the trouble to compare the statute as published in the public Acts referred to with the Criminal Code of 1914, and then look at the foreword of the Attorney-General in the said Criminal Code. By said Act, being page 29, and Section 107 of the Criminal Code, Sedition is defined as follows: "Any citizen of Liberia who with intent to stir up rebellion and to set on foot, incite or in anywise promote insurrection against the authority and Government of the Republic, shall write* about said Government to any native tribe or tribes within the limits of Liberia, or to any chief of chiefs of such tribes any word or words, phrase or phrases imputing to the Government of Liberia unfairness in its treatment of such tribe or tribes; or who with similar intent shall create or seek to create among any such tribe or tribes disaffection to the Government of Liberia; or who with such intent shall counsel or advise or in anywise encourage any such tribe or tribes to renounce their allegiance, to the Republic of Liberia; or who shall write or cause to be written any communication to a foreign state or to any official thereof proposing either the

* Copied from the Criminal Code; the Act approved November 2nd, 1916, has for example where indicated by the asterisk, "speak or write about"

dismemberment of the Republic, or presenting to such foreign government or official any matter of complaint against the Government of Liberia properly the subject of domestic enquiry and adjustment with intent in so doing to overturn, subvert or in anywise affect the stability of the Republic; or who shall do or cause to be done any act having a tendency to cause discontent among any tribe or tribes within the limits of Liberia and incite them to revolt, shall be guilty of sedition.

The punishment of Sedition shall be a fine not exceeding two thousand dollars ($2,000.00), and imprisonment for five years and confiscation of all property, real or personal which the convicted person shall own or possess in the Republic."

So long as appellant was prosecuted under the above cited Act, so long as the punishment he was to undergo did not exceed that provided in the above cited Act, this Court fails to see the reasonableness of his contention that the said law enacted in 1916 should be considered as *ex post facto* with regard to an offence alleged to have been committed in 1931-32. It is true that there exists upon our statute book an amendatory law upon sedition passed at the Extraordinary Session of 1932, and approved on the 11th of August, of said year, and which to us appears to extend the scope of original sedition law, and to increase the punishment up to seven years together with the confiscation of all property both real and personal. But the letters written, other acts proved to have been done, appear to us to be within the terms of the enactment of 1916 quoted as aforesaid from our Criminal Code, and the punishment to which he was sentenced by the trial judge as already herein quoted appears to us to be within the limits of the provision of the Criminal Code quoted above, hence we do not find it possible to accept his thesis that he was prosecuted under a statute unconstitutional as to the commission of the acts complained of against him. Hence, in view of the facts found, and the law bearing thereupon and hereinbefore cited, we have reached the conclusion that it is our duty in the administration of justice to declare that the judgment of the Court below ought to be affirmed; and hence it is so ordered.

11. Elections and Qualifications of Voters

Section 11 provides: "All elections shall be by ballot, and every male citizen, of twenty-one years of age, possessing real estate, shall have the right of suffrage."

Elections must be by ballot, not by acclamation.

The qualifications of voters are: (1) citizenship; (2) male sex; (3) full age; possession of real estate.

The interpretation of the clause concerning possession of real estate came before the Supreme Court in 1854, and a notice regarding its decision is published in the Liberia Herald of January 17, 1855 (reprinted in *African Repository,* XXIX, 187), and reads as follows: "Francis Payne, Esq., Attorney General, having at the last session of the Supreme Court solicited its opinion on the eleventh section of the Bill of Rights, article I of the Constitution of the Republic of Liberia, the Court made the following decision: That according to the spirit and intention of the eleventh section of the Bill of Rights, no one is entitled to the right of suffrage who is not twenty-one years of age, and in possession of a deed for real estate, or can prove himself by certificate from legal authority entitled to a deed by virtue of his having complied with the requisitions of law."

Although the Court speaks of the production of a deed or certificate that the person is entitled to one, there is no doubt that proof of ownership as devisee or heir is sufficient. Similarly, the nature of the title whether absolute or as a joint tenant or tenant in common is immaterial. But the possession must be as an owner not as tenant under a lease. [See also Joint Resolution of January 20, 1903 (Acts, 1904-1905, p. 11)].

Members of native tribes cannot qualify as possessing real estate by reason of their membership in a tribe possessing tribal lands. They may, of course, like other citizens, acquire real estate and thus qualify as voters.

The right of suffrage cannot be extended to other classes, for example to females or resident aliens who have filed declarations of intention to become naturalized, nor be restricted, for example, to persons otherwise qualified who meet certain educational requirements or pay a poll tax or other taxes.

The Commonwealth Constitution (1839), Article 25, contains no provision as to a property qualification for voters, and, consequently, citizens of the Commonwealth not possessing real estate lost their right to vote when the Constitution of 1847 was adopted. Similarly the citizens of Maryland in Liberia, where the right of suffrage was given to every colored male citizen (Maryland in Liberia, Declaration of Rights, 1853, Art. 4), who did not possess real estate lost their right to vote when Maryland in Liberia was incorporated into the Republic (1857).

The doctrine of freedom and equality does not necessarily imply anything with regard to participation in the government. The Nineteenth Amendment to the United States Constitution was adopted in 1918. Most of the American States in the middle of the nineteenth century imposed property qualifications on the voters.[51] Other States practically restricted the franchise to taxpayers;[52] and the payment of a poll tax as a qualification of voters is one of the issues of today. Within limits it can not be seriously contended that such qualifications affect the democratic character of a State.

Liberia, moreover, had its peculiar problem of the recaptured Africans, who were being brought into her territory by the United States cruisers in ever increasing number, and the natives remaining on ceded territories. It was a matter of complaint that these persons, often having no interest in the country except as a place of refuge and no knowledge of its institutions, were often able to turn the scales in elections.

12. Right of People to Arms; Military Subject to Civil Power

Section 12 provides:

"The people have a right to keep and bear arms for the common defence. And as in time of peace, armies are dangerous to liberty, they ought not to be maintained, without the consent of the legislature; and the military power shall always be held in exact subordination to the civil authority, and be governed by it."

This is a literal copy of Article 17 of the Declaration of Rights of the Massachusetts Constitution.

The Constitution of 1820 is silent upon the point, but it provides that the colonists are "entitled to all such rights and privileges as are enjoyed by the citizens of the United States." (Art. I). Moreover, the common law of the United States, so far as applicable to local conditions was adopted (Art. VI), and the right was recognized at common law.

Right to Arms. The right is to be exercised primarily for the common defense and only secondarily in defense of personal liberty and the protection of property. It was designed to enable the citizen soldiery to act quickly in defense of the country against a common enemy, foreign or domestic. "The word 'arms' in the connection we

[51] Farnam, *Chapters in the History of Social Legislation in the United States*, 121.

[52] Beard, *An Economic Interpretation of the Constitution of the United States*, 71.

find it in the Constitution of the United States refers to the arms of a militiaman or soldier, and the word is used in its military sense" (*England* v. *State*, 35 Texas 473). A proper construction should not limit the meaning to arms of the exact type used at the time of the adoption of the Constitution for that would defeat the very purpose of the section, the common defense. It is difficult to draw the exact limits—does it include the ordinary equipments of a modern soldier, hand grenades and tommy-guns? It was an offense at common law to go about with unusual and dangerous weapons "to the terror of the people". Cp. the terror of the people. Cp. *State* v. *Workman*, 35 West Va. 367 (1891). The carrying of concealed weapons, *Robertson* v. *Baldwin*, 165 U. S. 275 (1897), and the parading of armed bodies of men, not belonging to the militia, in the public parks or streets of cities, *Presser* v. *Illinois*, 116 U. S. 252 (1886) may be prohibited. The carrying of loaded or dangerous weapons on parades is prohibited by Revised Statutes, section 1158. The State may also regulate the sale of arms and ammunition (Rev. St. sec. 1190), and prohibit aliens from possessing the same.

The General Act of the Brussels Conference, 1890, placed restrictions on the sale of firearms and ammunition to the natives in certain areas of Africa. To carry out the provisions of the Act, Liberia passed an Act (Acts, 1899-1900, p. 10, now Rev. St. sec. 769):

> Any persons violating Articles 9 and 10 of the Brussels Conference of 1890 shall be imprisoned for a term of one year with hard labor, and shall be fined the sum of five hundred dollars; and the arms and ammunition in the possession of such person shall be confiscated by the Government. But nothing in this section shall prevent the civilized inhabitants of this Republic from carrying arms as provided in the Constitution of Liberia.

Subordination of Military to Civil Power. It is an underlying principle of the Liberian Constitution not to have a standing army. When ever it became necessary to protect the country against attacks by the natives, or to suppress inter-tribal wars, the militia was called into active service, and if necessary a call for volunteers was made.

The first deviation, if so it may be called, from this policy, was the establishment of the Liberian Frontier Police Force (Acts 1909, p. 3). The reasons for this action and the history of the organization are well set out in an Opinion of the Attorney General, L. A. Grimes, dated May 12, 1927 (Unpublished Opinions of the Attorney General, 1926-1927, Ser. 106-2-'27):

I have very carefully considered the correspondence between yourself and this Department, same being (1) yours of April 25th informing us that you had been arrested upon a criminal charge "for an act committed in my official capacity" and requesting that a Government legal adviser be made available for your defence; (2) our request of same day for the privilege of inspecting the writ issued against you; (3) yours of April 28th forwarding copy of the said writ and copy of complaint which you had since the 25th made to His Excellency the Commander-in-Chief or the Honourable the Secretary of War as your authority for invading the U. B. F. Hall with force and armed men; and (4) yours of the 29th stating that you received no orders but acted upon your own initiative believing that such an emergency existed at the time of your acts, the subject of prosecution, as warranted the violent procedure you adopted.

When it comes to the question whether or not your taking 16 men armed with rifles and bayonets to the Hall of a chartered organization, and there with drawn sword demanding the surrender to you of a person whom they had under initiation can be justified, it strikes me that that is a question purely of a judicial character, and in accordance with our Opinions, annual Series 3, page 37 and pages 39 *et seq.*, it is but consistent that I should leave that to be determined by the Judicial branch of Government. The principal question for me to express my views on now seems to me to be how far were you directly or indirectly vested with authority by the Executive branch of Government to warrant mobilizing the officers of this Department in your defence before the courts as you have requested me to do . . . .

The Liberian Frontier Force of which you are today the commanding officer had its genesis in the disregard of the authority of the Government, and perpetual inter-tribal wars which were rife throughout our Hinterland up to the end of the first decade of the present century. When the conception first entered the head of the late Colonel Lomax of occupying by an armed force strategic points in the interior of the country in order that the authority of the Government might gradually but effectively be extended throughout the country, not only was there no authority of law therefor, but his proceeding to select and train men for that purpose was vigorously opposed, largely because *inter alia* the Constitution of Liberia had provided that "as in time of peace armies are dangerous to liberty they ought not to be maintained without

the consent of the Legislature; and the military power shall always be held in exact subordination to the civil authority and governed by it". See Constitution of Liberia Article I, section 12.

But the constant necessity of drafting men from their regular occupations to police the frontiers, and protect the trade routes, was of such an economic disadvantage to the whole country that the Legislature at its session of 1907-8, as a tentative measure passed a Joint Resolution forming a frontier police force which should be "employed in garrisoning the posts on the frontiers and maintaining public order". (See Act approved February 6th 1918,—collection of 1908, page 23, section 3.)

On the 18th of September 1909 there was signed in Paris the Johnson-Binger Treaty of 1909, Article II of which provided: "In order to exercise an effective police along the frontier the Liberian Government will assume the obligation of establishing a certain number of posts which the French authorities would be allowed to occupy if the resources of the Liberian Government do not allow her at the time to keep up a garrison there herself. The number of and the place where these posts should be will be determined on the spot by mutual agreement, when pegging out the frontier. The garrison of each of these should not exceed from 40 to 50 men. It is understood that the Liberian Government will inform the French Authorities two months beforehand of her intention of occupying the post or posts here above mentioned and that the handing over of this post or posts shall be effectuated within 5 days after the arrival of the Liberian Police Force."

This treaty, with the insistence of Great Britain, that we must so adequately police our frontiers as would obviate any encroachment by our citizens upon their subjects or territory, confirmed the thoughtful citizens in the conviction that had been gaining ground, that a well-organized and regular force was then imperatively demanded, and hence when the Legislature met at the end of the year their first act was to reorganize the force, and provide for its being recruited, organized and equipped for services not later than the 30th of July following in order that our Government might be able to meet its obligations under the treaty hereinbefore referred to, and of those demands required of us by Great Britain without burdening our French friends with the necessity of performing the former duty in our behalf nor increasing the friction with our English friends which up to that time had threatened to interfere with our friendly relations.

But note the object of this departure from the traditional aversion to a standing army was specifically circumscribed in section 2 of said Act which reads as follows: "Said Force shall be stationed on the Anglo-Liberian and Franco-Liberian Frontiers and shall be employed in maintaining peace and order; in preventing incursions and raids by natives of Liberia in the territories of neighbouring states; in suppressing inter-tribal feuds and keeping roads open to trade and travel; and in enforcing such laws and regulations as are now or that may hereafter be passed, relative to the aboriginal population.

"In addition to the said duties said Force shall also be utilized in such scientific service as the mapping of the interior; the exploring of rivers and their watersheds and laying out of roads from the interior to the coast and such other duties of a scientific and economic character as the President may require to be done."

You do not claim, nor can you successfully contend, that the alleged disturbance of the peace at the U. B. F. Hall in the metropolis of Liberia was within the area of the legitimate operations of your force; nor have you contended that a situation had arisen with which the civil police was unable to cope, and that your force was called out as ancillary thereto, as in my opinion would be your only excuse for bringing the military police into action, or inchoate action, in a law abiding community. On the contrary you have yourself negatived any such proposition for in your letter to the Commander-in-Chief dated April 25th you impliedly admit that you lost your self-control because of the exciting character of the report made to you by Sergt.-Major Helbe, since you therein confessed that when you regained your equipoise you called upon Lieutenant McCabe, Superintendent of the *civil* Police and having "explained all that had happened" he "assured you that he would assume responsibility" and was quite sure he could handle it,—the situation.

That assurance of Lieutenant McCabe, related by yourself, in my opinion, puts the seal upon what the judicial branch of Government may decide was illegal, premature and unauthorized interference by you with a peaceful organization working under a charter from the Government of the Republic; and as the opinion of the Attorney General is accepted as the guide for all Executive officers, especially the subordinates of this Department,

it would be futile, in view of the conclusions I have reached, and hereinbefore expressed, to order any officer of my Department to appear in your defence.

13. Eminent Domain

The Constitution Article I, sec. 13, provides that "private property shall not be taken for public use without just compensation." This Article must be read in connection with Article I, sec. 8, that no person shall be deprived of his property but by judgment of his peers or the law of the land. As a sovereign State, the Republic of Liberia has an inherent right to take the property of its nationals for public purposes. The afore-mentioned provisions are a limitation on this power.

A very restrictive application of the law relating to compensation and of the provisions of the Act, regarding suits against the Republic (see text of Act in the section on Suits against the Republic, in this Chapter) is made by The Supreme Court in the case of *Johnson* v. *Republic of Liberia,* 1 Lib. L. R. 103 (1878):

> This is an action of damages brought up on appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County. The case depends entirely on the construction of the word "otherwise" in the 3d section, page 147, I Lib. Stat., of the Act showing in what case suits may be brought against the Government. To us the obvious meaning of that section is that whenever any person or persons shall receive any damage by the application of any part of his or their property by this Republic to its use, or by the application of this property otherwise, i. e., "in a different manner", "or in another way", than to its own use, so as to occasion any damage or loss, he or they shall on proof, etc., receive such compensation as the jury shall under the circumstances award. And the rights which it seems to be the spirit and intent of this law to guard are those guaranteed by the Constitution, which provides that "private property shall not be taken for public use without just compensation" (Const. p. 233, art. 1, sec. 13); but being an extension thereof, as it makes the government liable though the property is taken for use otherwise than public.
>
> The present case is not one of those authorized by law to be brought against the Government.

The right to take is not confined to real property; it extends to all forms of property. But it must be for a public use. Private prop-

erty cannot be taken for the private use of other persons. To illustrate: the Government may take private lands and houses for use as a public school, military barracks, government building, public roads, and utilities, and the like, but not for use as a private school, or a church, or a private right of way. The taking may be for a permanent or a temporary use. It extends to all kinds of private property, corporeal or incorporeal, except legal tender. Cp. *Williams* v. *Mayor*, 2 Mich. 560 (1853).

Not within the constitutional protection is a taking in the exercise of the police power of the State—destruction of houses to prevent the spread of a conflagration, destruction of infected premises or objects to check the spread of disease-infected cattle, crops, clothing, etc. And in time of war private property may be seized or destroyed to prevent its falling into the hands of the enemy. Cp. *Mitchell* v. *Harmony*, 13 How. (U. S.) 115 (1852).

The fundamental principles of the law are well set out in an opinion of Attorney General L. A. Grimes, dated July 11, 1922, Opinions of the Attorney General I, 48 (1922):

> The undersigned has had under careful consideration the petition of Honourable Arthur Barclay for compensation for lands of his children "appropriated" by Act of the Legislature of Liberia at its session of 1908/9, which petition was by you referred to this Department for an opinion on the 6th ultimo.
>
> First of all I may be permitted to say that it does appear to be true from the evidence adduced here that the true owners of the land in question were, as they now are, the children of said petitioner, as heirs at law of their deceased mother, the late Mary L. Barclay formerly Mary L. Marshall; that no compensation has been paid for the taking of same; and that neither the exact area nor boundaries has been definitely ascertained.
>
> The most authoritative writers on the subject of "Eminent Domain" hold that even if there should be no express provision of law giving compensation to the owner in all cases where private property is condemned for public use, still the obligation so to do attaches to the exercise of the power as an original element of its existence. Despite dicta to the contrary the above quoted view is held in New Hampshire, one of only three of the States of the United States whose Constitution and laws do not expressly provide for compensation, and in 159 U. S. p. 380 the Supreme Court of the United States seemed to have approved the doctrine that: "It is a condition precedent to its exercise under a statute

that it make reasonable provision for compensation to the owner of the property taken."

See 1 B. L. D. "Eminent Domain". And the editor of Thayer's *Cases on Constitutional Law* is also quoted as having been the father of this beautiful thought: "If recompense is not made, the duty of the sovereign is violated and the individual 'has an eternal claim against the state which can never be blotted out except only by satisfaction.' " See *Ibid* p. 660.

I have made reference to the foregoing opinions in order to bring into stronger contrast, and, therefore, to give greater emphasis to, the position of Liberian property holders who in addition to the guarantees of natural law against the unrequited condemnation of their realty or other possessions are further protected by the inhibition of our Constitution which provides that: "Private property shall not be taken for public use without just compensations." See Constitution of Liberia, Art. I, sec. 13.

The Honourable Mr. Barclay claims, however, that the manner of the appropriation was illegal and wrong, and, in answer to some queries which the undersigned put to him, expressed the view that the Legislature had no power both to take over and at the same time fix the price of land appropriated.

It does appear to be well settled that condemnation proceedings are partly legislative and partly judicial or quasi judicial in character. For example, whether or not the proposed taking is for a public use is purely a judicial question which none but the judicial power can legally determine, while, that point once decided, the extent to which said property shall be taken is exclusively legislative. See 1 B. L. D. "Eminent Domain", p. 663. And the Legislature must provide by the statute for the payment of compensation, some certain and adequate remedy whereby the owner can procure same, and should constitute a tribunal before which a land owner may make his claim and receive his damages. 15 *Cyclopaedia of Law and Procedure,* 642 and note, and 775.

Hence arises another necessity for the interposition of the judicial branch of government. Nor can it seriously be contended that it is too late to raise the question now, for there is yet another and a very important duty to be performed of a judicial nature without which the whole proceedings are considered null and void. It is this, the person whose property is to be taken must have notice, that notice must be provided for by statute, and

must be followed by a hearing. That this is true has been settled by an unbroken line of decisions both in the English and American Courts, based in the former upon Magna Charta, and in the latter upon the 5th and 14th Amendments to the Federal Constitution of the United States which is in all essential respects identical with the similar provision in ours, *viz*: that "No person shall be deprived of . . . property or privilege but by judgment of his peers or the law of the land." See Constitution of Liberia Art. I, sec. 8.

Lord Coke held that the term "law of the land" used in Magna Charta and incidentally in our Constitution was exactly the same as "due process of law" which latter term is that incorporated in the American Constitution. See 1 B. L. D. "Due Process of Law" p. 621; and that provision is construed to mean: "That a person should be brought into court and have an opportunity to prove any fact for his protection." See *People* v. *Essex County,* 70 New York 229 quoted in notes to 11 L. R. A. p. 224.

But one of the most interesting and illuminating pronouncements on this subject is the opinion in the case *Peter Kuntz* vs. *Mahlon Sumption* wherein Mr. Chief Justice Elliott speaking for the court said *inter alia*: "It is not enough that in fact the taxpayer does have some notice or information, for the law must provide for notice, or else no legal notice can be given"; it may be by personal service or publication "providing there is back of it some law providing for notice".

And again he says in another part of said opinion to add to one's tax list, or to increase the valuation of his property, imposes upon him a burden: "For it deprives him of property in the form of money. That notice is required in all cases where individual property rights are involved, . . . has been again and again decided by our courts * * *. There is really but one logical and consistent position in the matter, and that is that a statute that does not provide for notice is invalid." See 2, L. R. A., pp. 655 *et seq.*, esp. 657 and 8.

Among the other authorities in support are *Chauvin* v. *Valiton,* 3 L. R. A., 194 *et seq.*, and *Ulman* v. *Baltimore* reported in 11 L. R. A. pp. 224 *et seq.* where Mr. Justice McSherry speaking for the court quoted *inter alia* with approval, *Murray* v. *Hoboken Land and Improvement Company,* 59 U. S. 18 How. 272, 15 Law edition 755 where it was said: "Due process of law is not confined to judicial proceedings. The Article of the Constitution is a re-

straint on the legislative as well as on the executive and judicial powers of the Government, and cannot be so construed as to make any process due process of law by its mere will and pleasure."

From the foregoing I am of opinion that the contention of petitioner is well founded; that an arbitration should be appointed to consider the price for which the owners now offer to part with the property; that a survey should be made, and upon payment being made or arranged for, the deeds be taken over by Government.

As the questions hereinbefore discussed are new to this country, and may ever and anon arise when improvements shall have been commenced upon a large scale, permit me to digress so far from the points submitted as to suggest the propriety of recommending to the next session of the Legislature such appropriate legislation as may obviate any recurrence of the injustice which petitioner complains was done him.

The compensation must be a just one. The amount cannot be arbitrarily fixed by the Legislature or Executive. The proceedings need not be before a court, but may be left to a board; a jury trial is not required. A special benefit to the owner as a result of the expropriation, e.g. enhancement in the value of his remaining property, may be taken into consideration in the assessment of compensation. Cp. *Baumann* v. *Ross*, 167 U. S. 548 (1897).

The procedure where private lands are to be acquired for public purposes is regulated by Revised Statutes, section 1385, as amended by the Act of March 5, 1932 (Acts, 1931-1932, c. 4, p. 4).

14. Division of the Powers of Government

The constitutions of the United States and of the American States are based on the theory of the tri-partite separation of government—legislative, executive and judicial. But the constitutions themselves contain no express provision to this effect. The American doctrine is the result of a long series of judicial decisions. The Liberian Constitution (Art. I, sec. 14), on the other hand contains a clear statement of this fundamental doctrine:

The powers of this Government shall be divided into three distinct departments: Legislative, Executive and Judicial, and no person belonging to one of these departments shall exercise any of the powers belonging to either of the others. This section is not to be construed to include Justices of the Peace.

The doctrine has been applied in numerous instances some of the more important of which will be noted below.

A leading case is *Wolo* v. *Wolo*, privately published,[53] involving the constitutionality of legislative divorces. The Court discusses the validity of such divorces in the light of the provision of the Constitution regarding the separation of powers and also the question whether such legislative acts are violative of the due process of law clause and other clauses of the Bill of Rights.

The Opinion of the Court was delivered by Chief Justice Grimes, who, on the point now before us, says:

> The Republic of Liberia was commenced with a written Constitution published to the World on the same day, and at the same time as the declaration of *our* Independence. Although in many respects ours would appear, *prima facie*, to have been modelled after that of the United States, the more one studies the two, the clearer it becomes that there are certain points of difference between them. So far as is pertinent to the points now submitted for our consideration, we have, after the most careful examination, failed to find in the Constitution of the United States of America any provision analogous to sections 2 and 14 of Article I of ours which reads as follows:
>
> [Ed. The Chief Justice here quotes Sections 2 and 14 of Article I of the Constitution.]
>
> It is true that the Constitution of the United States of America article I vests all legislative power in a Congress, article II vests the judicial power in the Supreme Court and such inferior courts as the Congress may establish, and article III vests the executive power in a President of the United States, but there is lacking therein that inhibition against any person's belonging to one of the three distinct departments exercising any of the powers belonging to either of the others which is a provision unique in ours, as found in section 14 of article I.
>
> Keeping in mind that there is the omission from the Constitution of the United States of America of the clause found in ours to which attention has just been drawn, yet it is nevertheless true that the Supreme Court of the United States has repeatedly

[53] Advance Copies of Two of the Opinions and Judgments of the Honourable the Supreme Court of Liberia, Delivered During the November Term of Court A. D 1936, with Foreword by the Hon. Arthur Barclay (Monrovia, Liberia, May 1937)

so construed their constitution as to "block out with singular precision, and in bold lines, in its three primary articles, the allotment of the powers."

See Martin vs. Hunter, 1 Wheaton, 304; 4 L. ed. pp. 694 et seq.
See Kilbourn vs. Thomson, 103 U. S., pp. 168 et seq., 26 L. ed. pp. 377 et seq. esp. p. 387, where Mr. Justice Miller speaking for the court said:

"It is believed to be one of the chief merits of the American system of written constitutional law, that all of the powers entrusted to governments, whether state or national, are divided into three grand departments of the executive, the legislative and the judicial. That the functions appropriate to each of these branches of government shall be vested in a separate body of public servants and that the perfection of the system requires that the lines which separate and divide these departments shall be broadly and clearly defined. It is also essential to the successful working of this system, that the persons entrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other. To these general propositions there are in the Constitution of the United States some important exceptions. One of these is, that the President is so far made a part of the legislative power, that his assent is required to the enactment of all statutes and resolutions of Congress. This, however, is so only to a limited extent, for a bill may become a law notwithstanding the refusal of the President to approve it, by a vote of two-thirds of each House of the Legislature. So, also, the Senate is made a partaker in the functions of appointing officers and making treaties, which are supposed to be properly executive, by requiring its consent to the appointment of such officers and the ratification of treaties. The Senate also exercises the judicial power of trying impeachments, and the House of preferring articles of impeachment."

"In the main, however, that instrument, the model on which are constructed the fundamental laws of the States, has blocked out with singular precision, and in bold lines, in its three primary Articles, the allotment of power to the executive, the legislative, and the judicial departments of the government.

It also remains true as a general rule, that the powers confided by the Constitution to one of these departments cannot be exercised by another."

If, with a constitution lacking the unique and express inhibition in ours to which attention has been called, the Supreme Court of the United States felt itself in duty bound to emphasize the separateness and distinctness of the powers of the three co-ordinate branches of that government, based upon logical inferences, how much more is not that duty enjoined upon us since the provision in ours is express and not merely implied?

When it comes to what shall constitute a valid marriage, the age when, or other capabilities of the parties to enter into the contract, we are of Opinion that that is purely a legislative function with which ours, the judicial branch of government, may not interfere. So too, what shall constitute legitimate grounds for divorce, when and by what tribunal same shall be tried, &c., that also seems to us to be purely a subject of legislation, with regard to which, as we have before said, the laws, when passed, whether in our Opinion any such law be good or bad, wise or unwise, we have no constitutional authority to question. But, as to whether the tribunal empowered to divest either of the parties of vested rights shall be a judicial tribunal or not, and shall proceed only by due process of law, does seem to us to be a question wholly and solely within the power of the judiciary to determine, since the legislature would be acting ultra vires to confer judicial power upon any other branch of government but the courts, for this court has decided since 1914 that "no department of government can exercise judicial functions but the court itself."

See 4 Lib semi-annual,

"In *re* the Constitutionality of the Act," &c pp. 4 et seq., esp. pp. 15—16.

where the late Chief Dossen, speaking for this Court, said:

"It is clearly to be seen that no department of the government can exercise judicial functions but the court except as it may be otherwise provided in the Constitution, as each branch of the Government set up in the Constitution is independent as well as co-ordinate. Legislation therefore is unconstitutional which seeks to have other branches of Government participate

in judicial work. It is this feature of the act under consideration which renders it void and inoperative."

See also Posum vs. Pardee, New Annual Series No. 2, p. 139.

It was contended during the argument at this Bar that the Legislature of Liberia, in times past, granted divorces; and the old Statutes were examined when the following facts were established: 1) That in all thirteen (13) legislative divorces had been granted in Liberia, viz:

[Ed. Here follows list of Acts granting divorces.][54]

2) That until the one now under review no legislative divorce had been granted since 1873, after the passage of the first amendatory statute on divorce.

Obviously our forefathers followed the rule with which they were familiar in the United States, imported there from Great Britain as we have seen, during their old colonial days, where there never was a written constitution, nor the separation of the powers of government into separate and distinct departments as is the case in the United States of America, and more particularly so in Liberia.

This evoked another query, namely: why were these legislative divorces discontinued in this country after 1873?

It appears that in 1920 the Honourable James S Smith, then a Senator of the Republic of Liberia from Grand Bassa, applied to the Legislature of Liberia for a legislative divorce from his former wife. Said matter having been, by the Honourable the Legislature, referred to its committees on judiciary, of one of which committees our colleague, Mr. Justice Dossen, then a member of the Legislature from Maryland County was a member, said committees instituted joint hearings to ascertain under what circumstances such divorces had been granted up to 1873, and discontinued thereafter. It was then established before said committees, largely upon the testimony of the late Rev. R. A. M. Deputie, then one of the oldest citizens of Liberia, who had held several important public offices, and was then serving as Chaplain of the Senate, that all such divorces were granted upon the joint petition of the parties, and hence there was no one to raise any objection. This would seem to be further supported by the fact that in those days the defendant in a divorce proceeding, especially

[54] The list contained in Rev St II, 131, is not quite complete There were two legislation divorces granted in the session of 1853/4

for incompatibility of temper, always had to signify his or her consent to be filed with the pleadings. The practice appeared to have ceased when the Legislature of Liberia first prohibited a divorce procured by collusion; and hence upon the committees' reporting their findings to the Honourable the Legislature, the petition of the Honourable James S. Smith was denied, and he admonished to seek his divorce before the courts which had exclusive cognizance of such matters.

There are other questions raised in the pleadings in the court below, and argued here, such as whether or not a contract of marriage is or is not strictly to be interpreted according to the law of contracts generally; how far legislation of the character under review tends to impair the obligation of contracts as prohibited in the 10th section of Article I of our Constitution: and whether or not the enactment was not in the nature of class legislation. But these we do not consider it necessary, in view of the discussions above, to consider now. For, we have reached the conclusion, from the foregoing reasoning, that the enactment specially plead by Mr. Wolo in his answer is in violation of sections 2, 8, & 14 of Article I of our Constitution above quoted, and is, therefore unconstitutional and void.

Another leading case is *In re the Constitutionality of the Act of the Legislature approved January 20, 1914, entitled, an Act providing for uniform Rules of Practice in all the Circuit Courts in this Republic,* 4 Semi-Ann. Ser. 4 (1914). The Act provided for the appointment by the President of a committee to be composed of the Supreme Court and all the Circuit Judges to formulate rules governing the practice in the Circuit Courts, and to forward the same to the President to be by him laid before the Legislature for approval. In compliance with the terms of the Act, the President addressed a communication to the Supreme Court appointing the Court a part of the committee.

Chief Justice Dossen delivered the opinion of the Court. Extracts from the opinion are set out above (*sub* Supremacy of the Constitution). The Act of the Legislature was held unconstitutional as violative of the constitutional provision regarding the division of governmental powers. (See also a note by Attorney General L. A. Grimes, on the power of the Court to make rules even though such rules have been enacted by statute (2 Rev. St. p. 245, Note).

The same question arose in connection with the provisions of the Act of October 13, 1914, regarding the administration of the

Hinterland, where the Supreme Court held that certain provisions were unconstitutional on the grounds that they conferred judicial powers on members of the Executive branch of the Government. The cases are *Ballah Karmon* v. *Morris* (May 2, 1920, Judgment Book, p. 247. Unpublished, printed *infra,* Chap. XXV, *sub* Hinterland) and *Jedah, Boyah et al.* v. *Horace* (May 6, 1916, Judgment Book, p. 209, reprinted in full in the opinion of the Court in *Posum* v. *Pardee,* 3 New Ann. Ser. 139, at 140-143, and also *infra* Chap. XXV, *sub* Hinterland).

The *Wolo* case, *supra* was destined to produce certain additional results raising novel constitutional questions. To understand the position it is necessary to present some additional facts. Shortly after the passage of the Act declaring the dissolution of the marriage between P. G. Wolo, and Juah Weeks Wolo, the former contracted a marriage with Milisa Dennis. Both parties acted in utmost good faith, believing that the marriage between P. G Wolo and Juah Weeks Wolo had ceased to subsist by reason of the legislative divorce declared by the Act of February 14, 1936. Then came the decision of the Supreme Court, rendered February 12, 1937, declaring the legislative divorce unconstitutional and that the marriage between P. G. Wolo and Juah Weeks Wolo a valid and subsisting one.

In the ensuing session of the Legislature an Act was passed, approved November 29, 1937 (Acts, 1937, c. 32, p. 89), "declaring legal the present marriage of P. G. Wolo, to Milisa Dennis Wolo." The text of the Act is as follows:

> Whereas by an Act of the Legislature, approved February 14, A. D. 1936, the marital relation heretofore existing between P. G. Wolo and Juah Weeks Wolo was duly dissolved and annulled; and
>
> Whereas by virtue of the said Act of the Legislature the said P. G. Wolo did in compliance with the requirement of law of the land and with appropriate observance of religious rites subsequently marry one Milisa Dennis; Therefore,
>
> It is enacted, etc.
>
> Sec. 1. That the marriage of P. G. Wolo to Milisa Dennis has been legal from the date of its consummation, said P. G. Wolo being a single person in law to all intents and purposes, at the time said marriage was contracted.
>
> Sec. 2. That the question of the legality of said marriage does not, cannot and shall not arise, and is not a proper subject matter for adjudication in the courts of this Republic; it being the out-

come or result of a former marriage regularly annulled by the Legislature of Liberia for causes not at the time cognizable before any court of the Republic of Liberia.

Sec. 3. Any judge or court violating the provisions of this Act shall be held in contempt by the Legislature of Liberia for malfeasance of office, and ordered removed from office.

Sec. 4. This Act shall take effect immediately and be published in hand-bills.

Any law to the contrary notwithstanding.

The foregoing Act is clearly unconstitutional. First and foremost it violates the fundamental constitutional principle of the division of governmental powers. The question of the legality of a marriage is purely judicial, and a co-ordinate branch of the Government cannot deprive the courts of jurisdiction to determine the question, and, a fortiori, the Legislature cannot threaten the judges taking jurisdiction with proceedings in contempt of the Legislature and order the removal of any judge acting contrary to the Act. The Constitution (Art. IV, sec. 1) prescribes the modes of the removal of judges of the Supreme Court and all other judges of courts—either by conviction on impeachment or by the President on the address of two-thirds of both Houses of the Legislature. Any other procedure is unconstitutional. Under the terms of the Act the Legislature may by a simple majority vote adopt an Act or Joint Resolution removing the judge acting contrary to the Act, and do so without the intervention of the President (except under Article II, section 10). Any other view would enable the Legislature to incorporate in any Act a provision prohibiting the courts from determing the legality—which includes constitutionality—of its provisions, or of acts done thereunder. Taking from the courts these powers would give to the Legislature of Liberia the omnipotence of the English Parliament.

The Act of 1937 is also open to attack on other grounds. It deprives both parties to the second marriage of the right to attach the validity of the marriage, and is thus violative of the due process of law clause of the Declaration of Rights (Sec. 8) unless both parties assented to the Act.

The judgment of the Supreme Court in *Wolo* v. *Wolo* (*supra*) declares that Juah Weeks Wolo is the lawful wife of P. G. Wolo; that status continues until the marriage is legally dissolved; that question is res judicata. Indirectly the Act under consideration deprives Juah

Weeks of this status, a right and privilege protected by the due process of law clause, of which she is deprived by an arbitrary act of the Legislature. It also may deprive Juah Weeks Wolo of property rights in the shape of her rights under Article V, section 11 of the Constitution.

Advisory Opinions. The Constitution of Liberia does not contain, as do some of the American State constitutions, a provision imposing on the Supreme Court the duty of giving advisory opinions at the request of the Chief Executive or the Legislature. The Constitution prescribes the jurisdiction of the Supreme Court. A request by a coordinate branch of the Government would be one for the Supreme Court to take original jurisdiction in the matter, and the cases where the Court may do so are specifically enumerated, and do not include the giving of advisory opinions Cp. *Marschalk Zagury,* 1 Lib. L. R. 117 (1878).

In England under a usage of the Constitution, the twelve judges frequently gave advisory opinions to the King, and to the House of Lords, whether acting in a legislative or in a judicial capacity. But during the Stuart regime the practice of the kings to demand the extrajudicial opinions of the judges was regarded as unconstitutional. But the older view was again followed, and as late as 1760 Lord Mansfield, Chief Justice Willes and other judges gave advisory opinions to the king.

Under the Constitution of Massachusetts, the opinion of the justices of the Supreme Judicial Court can be demanded by each branch of the Legislature as well as the Governor and Council, but "in giving such opinions, the justices do not act as a court but as the Constitutional advisers of the other departments of the Government, and it has never been considered essential that the questions proposed should be such as might come before them in their judicial capacity." (*Opinion of the Justices,* 126 Mass. 557 [1878].) Obviously, the opinion is not binding on the Legislature or Executive demanding the opinion, who cannot thus transfer their own constitutional responsibilities. (Cp. Macqueen, *Appellate Jurisdiction of the House of Lords,* 49, 50).

In the absence of an express constitutional provision the courts may not be called upon to give an advisory opinion, even where there is a statute requiring them to do so, because such a statute is itself unconstitutional (*In the Matter of the Application of the Senate,* 10 Minn. 78 [1865].) There are, however, some American cases where the courts rendered advisory opinions on the authority of a statute. *People* v. *Green,* 1 Denio (N. Y.), 614. Even where there was no constitutional or statutory provision, American courts, especially dur-

ing Colonial times, sometimes gave such extra-judicial opinions. (Jameson, *Constitutional Conventions* (4th ed.), 663; and see Thayer, *Cases on Constitutional Law,* I, 183, n. 1.)

As stated above, in Liberia there is no constitutional or general statutory provision authorizing the Legislature or the Executive to request advisory opinions. Nevertheless, in the 1857 session of the Legislature a Joint Resolution was passed (Acts, 1857-1861, 14): "That the President be, and he is hereby authorized to instruct the Attorney General to motion the Supreme Court, at its present Session, for its opinion and decision upon the Query: What is the spirit, intention and just interpretation of the Second Section of the Second Article of the Constitution in all its bearings and connections?

"And further, that the said opinion and decision, when obtained, shall be laid before the Legislature."

A few years before, in the November term, 1854, the Supreme Court at the request of the Attorney General, Francis Payne, rendered an advisory opinion on the meaning of section 11 of Article II relating to suffrage. (January 17, 1855; *African Repository* XXIX, 187).

In 1870, in compliance with a Resolution of the House of Representatives, the Supreme Court rendered an opinion as to the interpretation of the Article of the Constitution relating to impeachment. [Opinion of the Court on Interpretation of Section 6, Article II of the Constitution, 1 Lib. L. R. 509 (1870)].

While the Joint Resolution of 1857 may be regarded as an Act of the Legislature authorizing the particular request for an opinion, the Resolution of 1870 does not possess this quality, as it is only a Resolution passed by one of the branches of the Legislature.

What disposition was made regarding the Joint Resolution of 1857 has not been published,—the first Reports of Opinions of the Supreme Court begin with the year 1860.

Having regard to Article I, sec. 14, of the Constitution, it is submitted that neither the Legislature nor the Executive can demand the opinion of the Supreme Court, or any other court on any question, and that any action, even though based on a statute is unconstitutional.

15. Liberty of the Press-Libel

Section 15 provides: "The liberty of the press is essential to the security of freedom in a state; it ought not, therefore, to be restrained in this Republic."

"The printing press shall be free to every person, who under-

takes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may freely speak, write and print, on any subject, being responsible for the abuse of that liberty."

"In prosecutions for the publication of papers, investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases."

The first sentence is taken verbatim from the Massachusetts Constitution, Declaration of Rights, section 17. Similar provisions are contained in American State Constitutions. The First Amendment to the United States Constitution prohibits Congress from making any law abridging the freedom of speech or of the press. Neither the Petition of Right (1628) or the Bill of Rights (1689) contains such a provision. At common law the right was limited, and a Government censorship on publications prevailed. This freedom was of slow growth in England and the English colonies in America followed the policy of the mother country. Censorship of publications was established in Massachusetts in 1662 and continued until 1719. In 1682 the printer of the laws of Virginia was placed under bond not to publish the laws again.[55]

The first printing press was sent to Liberia in February, and a few numbers of a newspaper were issued. Publication ceased owing to the death of the printer, and no further attempts at the publication of a newspaper were made until March 6, 1830, when the first number of the *Liberia Herald* appeared. Nine years later began the publication of *Africa's Luminary*. A large number of periodicals have been published in Liberia; most of them had only a brief existence.[56]

Cooley thus summarizes the law:

> The constitutional liberty of speech and of the press, as we understand it, implies a right to freely utter and publish whatever the citizen may please, and to be protected against any responsibility for so doing, except so far as such publications, from their

[55] For an interesting account of the historical development, see Watson, *l.c.* II, 1398—1402

[56] A tentative list for the period 1830-1912, in Starr, *Liberia: Description, History, Problems*, 30, 31 The list is incomplete and inaccurate.

> blasphemy, obscenity, or scandalous character, may be a public offence, or as by their falsehood and malice they may injuriously affect the standing, reputation, or pecuniary interests of individuals. Or, to state the same thing in somewhat different words, we understand liberty to publish, but complete immunity from legal censure and punishment for the publication, so long as it is not harmful in its character, when tested by such standards as the law affords. For these standards we must look to the common-law rules which were in force when the constitutional guaranties were established, and in reference to which they have been adopted.

The most celebrated case of libel in Liberia grew out of the personal and political feud between President J. J. Roberts and President S. A. Benson, culminating in a civil action brought by Roberts against Benson.[57]

The case came upon appeal, *Benson* v. *Roberts,* 1 Lib. L. R. 32 (1865). On the question of the respective functions of the court and the jury in mixed questions of law and fact the Court says:

> It is the opinion of the Court that the latter part or clause of the fifteenth section of the Bill of Rights relates particularly to criminal prosecutions for libel, and that a mere law question was raised as to this point, which ought to have been settled by the court below. For it is very plain to the understanding of the Court that every contradiction raises an issue. If the truth of the fact stated is denied, it is an issue of fact. But if, on the contrary, the right in law is denied, it is an issue of law. Or if one party in pleading denies the other party's right in law, the party claiming under the law is bound to assert his right in law, or he will be taken to admit the want of law to support his point, in which the question is involved. But if the party claiming under the law asserts his right in law, an issue of law is raised. And it is for this reason that the court must determine all questions of mere law. And it is the duty of the court in all mixed questions of law and fact, to expound the law to the jury, and direct them in the investigation of the matter under their consideration. The opinion of the court shall in all cases be the evidence to the

[57] For an account of the trial before the Court of Common Pleas and Quarter Sessions, see Proceedings in an Action on the Case for Liberal before the Court of Common Pleas and Quarter Sessions, Montserrado County, March Term, 1864, J. J. *Roberts* vs. *S. A. Benson.* Monrovia, 1865.

jury of the law of the land, the jury being compelled to bring their verdict accordingly.

Thus it is clear, as will be seen emphatically expressed in the fifth section of the seventh chapter, Liberia Statutes, first book, page twenty-eight, that in all cases whatever (criminal or civil) the opinion of the court to the jury is the evidence of the law of the land. And this is quite reasonable from the fact that the trial of all mixed questions of law and fact shall be by a jury, with the assistance and under the direction of the court. The two laws harmonize in principle, and the reason for it is plain without commentation. But if the court mistake the law, that is, the meaning and spirit of the law, the party claiming the benefit thereof where his rights are thereby infringed upon, is consequently entitled to an appeal, because the evidence of the law emanated from an erroneous opinion of the court. Because no one will doubt the fact that if the evidence of the law to the jury is erroneous, the conclusions drawn therefrom are erroneous also. Therefore, if the jury received the impression from the court that they were the judges of the law and fact, they were misled; because the jury is to try all mixed questions of law and fact, and determine them, under the direction of the court. The word "under" is a preposition meaning "in subjection to," and the word "direction" is a substantive meaning "order, command, prescription." Thus it is clear, from the word used in the latter clause of the fifteenth section of the Bill of Rights (also from the words used in the third section of the seventh chapter, Liberia Statutes, first book), that the jury are not the judges of the law and fact, because the jury can only determine the law and fact according to the instruction of the court, or, in other words, according to the prescribed rules laid down by the court; otherwise an appeal lies from the verdict.

And secondly, the court ought to have decided the law questions (respecting libellous written words), since it was a question of mere law. If they were libellous in tendency, the Court ought to have instructed the jury to ascertain from the evidence whether the defendant could establish the truth of the allegations against the plaintiff, or that if the tendency of the words written were only by way of advice, or public information, to instruct the jury how far this right is guaranteed by the Constitution of the Republic of Liberia.

And thirdly, the court is of the opinion that two of the counts

are bad from the fact that the defendant has sustained the allegations respecting lands.

The defendant is not responsible for the inuendoes written by the plaintiff. The law only holds him for his own acts, (See page 1, *sections 1 and 2, Liberia Statutes, first book.)*

And lastly, the verdict being general, that is, not leaving out the bad counts which appear upon the record, and the entire damage assessed having been given without specifying on which count the jury found their verdict, renders the verdict fatal. The entire damage in contract means the whole amount agreed upon by the parties to be forfeited, but it is not so in an action of damage for injury to the reputation. The whole or entire amount in this case means what you have contracted to pay on the assessment of a jury, by due course of law. This contract is the political or constitutional contract of every Liberian.

The entire damage, then, is the entire amount given by the jury, within the meaning of the law of the land. For it must be remembered that every party in a suit at law is under a constitutional contract to legally conduct his course, or, in other words, to seek his remedy by due course of law, otherwise he will deprive himself of his legal advantages. The court doubts not that if this case had been regularly conducted the plaintiff may have had judgment on some of the counts; but order and regularity do not appear upon the record. Therefore, since no good reason can be assigned for this irregularity, unless it be taken in a bad sense, as to the want of the right influence of the law, it is therefore the duty of this court to arrest the judgment in this case.

As to the measure of damages in civil libel, see *Ditchfield* v. *Cooper*, 1 Lib. L. R. 492 (1907), the leading case on this point.

The law relating to the criminal offenses of libel are contained in Criminal Code, 1914, and in the Act of February 8, 1924 (Acts, 1923-1924, c. 24, p. 31, superseding Section 60 of the Criminal Code, 1914).

The Criminal Code, 1914, provides:

Section 107a. Seditious libel. Any person who with intent to disturb the peace of society and the existence of government, or to bring the executive authorities or the Courts of justice or any public authority into contempt, shall make, publish, circulate or expose to public view any writing, drawing, engraving, printing or effigy, or shall by such publication attempt to stir up against

constituted authority sedition and rebellion, shall be guilty of seditious libel. The punishment for seditious libel shall be a fine of not more than one thousand dollars and imprisonment not exceeding three years.

Section 111. Obscene libel. Any person who shall publish or expose to public view or circulate either by sale or otherwise, any obscene book, photograph, printing or engraving or effigy or any publication or other exhibition tending to corrupt the morals of the people, with intent in so doing to play upon the sexual passions of others, or for the purpose of showing the errors of an obnoxious party, either religious or political, or to corrupt and deprave others, shall be guilty of obscene libel. The punishment for obscene libel shall be a fine of not more than one thousand dollars and imprisonment not exceeding three years.

The Act of February 8, 1924, provides:

Whereas the present statute defining criminal libel, and prescribing the punishment therefore is inadequate for the protection of the functionaries of the Republic of Liberia.

Therefore, it is enacted, etc.

Section 1. That from and immediately after the passage this Act, section 60 of the Criminal Code, be, and the same is hereby repealed; and the following substituted in lieu thereof:

Section 2. That it shall be Criminal Libel for any person to maliciously make, publish, expose for sale or to public view any writing, printing, engraving, drawing or effigy charging the President of the Liberia or the Diplomatic Representatives of any Foreign Government with the commission of any act which, if true, would warrant a criminal prosecution against such official, with the intent in so doing to defame, degrade, revile or expose to public hatred, ridicule and contempt any of the aforesaid officials, or to disturb the peace and friendship between any Foreign Government and our own. Any persons who shall be convicted of said offense shall be punished by a fine not less than $300.00 nor more than $1,000.00 and by imprisonment for a period of not less than six months nor more than two years according to the gravity of the offence.

Section 3. In all prosecutions for the commission of said offence malice shall be conclusively presumed in cases where the

President of the Republic of Liberia and members of Diplomatic Representatives accredited to the Government of Liberia are the subject of the libellous attack, the Circuit Court shall in all such cases direct the empanelling of a special jury for the trial of said case in said Court.

Section 4. For the reason stated in section 3 hereof where the President of the nation shall have been defamed, the period of limitations for the commencement of a civil suit of defamation shall not begin to run until one year after the incumbent shall have retired to private life.

Any law to the contrary notwithstanding.

The Act of January 14, 1925 (Acts, 1924-1925, c. 15, p. 26) prohibiting the publication of false statements, provides:

Whereas it is desirable that some deterrent should exist in form of Statute Laws to restrain persons from making establishments which are harmful and false albeit, perhaps, made through carelessness; therefore,

It is enacted, etc.:

Section 1. This Act may be cited for all purposes as the false publication Act.

Section 2. Whosoever prints or publishes or causes to be printed or published any statement:

(a) Which is misleading and calculated to do harm by reason of a mis-statement of a fact or facts or

(b) Which is misleading and calculated to do harm by reason of the implying a mis-statement of a fact or facts, or

(c) Which is misleading and calculated to do harm by reason of the suppressing of a fact or facts, shall if the statements relate to a matter of public interest or concern, be liable on summary conviction to a fine of not less than fifty ($50.00) dollars and not more than one hundred ($100.00) dollars.

Section 3. Nothing in this Act shall be construed as affecting any way the law relating to libel, or the procedure in actions or proceedings respecting or relating to libel.

Section 4. This Act shall extend to the Hinterland as well as Counties, and proceedings thereunder shall be brought before the

District Commissioners in the Hinterland and Counties or to any Court having competent jurisdiction.

Any law to the contrary notwithstanding.

16. No Duties, etc., Without Consent of the People or Legislature

Section 16 provides: "No subsidy charge, impost, or duties ought to be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the Legislature."

This section is taken verbatim from the Massachusetts Constitution, Declaration of Rights, section 24. There are no reported decisions in Liberia. The Massachusetts provision was applied in *Lowell* v. *Oliver* (8) Allen (Mass.) 247 (1864). Cited but not construed, *In re Opinions of the Justices,* 294 Mass. 616 (1936); *In re Opinion of the Justices,* 302 Mass. 605 (1939); *Baker* v. *Commonwealth,* 312, Mass. 490 (1942).

17. Suits Against the Republic

The Constitution, Article I, section 17, provides: "Suits may be brought against the Republic in such manner and in such cases as the Legislature may by law direct."

This is only a formulation of a rule prevailing in most countries that the sovereign cannot be sued without his consent. The immunity extends to suits against the Republic as a garnishee, as proceeding against the Republic in that quality are practically a suit against the Republic itself. 3 Opinions of the Attorney General, 45 (1924).

Similarly, an action for specific performance cannot be brought against the Republic until the Legislature has authorized such proceedings. *Ross* v. *Republic of Liberia,* 1 Lib. L. R. 520 (1884).

In the first years of the Republic a law was enacted, *Statute Laws* (*Old Blue Book*) 1856 ed. 146, 1879 ed. 209, reading as follows:

> Section 1. That from and after the passage of this act, when ever any person or persons, shall consider himself or themselves aggrieved by the nonperformance of any contract or contracts, made, on the part of the Government, by any person or persons, whose duty it shall be to make such contracts, having sufficient authority for that purpose from Government.—That the person or persons so aggrieved, shall have his or their remedy by due course of law, before any court of this Republic having competent jurisdiction, as in other actions or contract.

2. It is further enacted: That it shall be necessary, in order to bring up said suits, that a regular complaint, stating the cause of action, etc., be brought before the courts, in the manner and form prescribed for bringing up such suits against individuals, substituting the words "Republic of Liberia as defendant" the clerk of the court notifying the attorney, acting in behalf of the Republic, to appear to defend said suit.

3. It is further enacted: That when ever any person or persons shall receive any damage by the application of any part of his or their property by this Republic to its use, or otherwise, so as to occasion any damage or loss; he or they, shall on proof thereof before the Court of Quarter Sessions, enter his or their complaint according to law, as in individual suits, with the exception as made in the second section, receive such compensation as a jury shall under circumstances award.

4. It is further enacted: That when ever the person or persons, so aggrieved, or damaged, shall obtain a judgment in his or their favor, that the court before whom the cause or causes shall be adjudicated, after having ascertained the amount of judgment so rendered in favor of the plaintiff, which order shall be signed by the President, in his usual manner of signing orders for the payment of money the Treasurer or Sub-Treasurer, on the receipt of said order or orders, shall immediately pay over to the party, or parties, the amount specified therein; nevertheless, this section shall not be so construed as to destroy the right of appeals in cases where the Republic is defendant.

By an Executive Order of November 12, 1928 (No. 1-f) a Commission was created to hear and determine claims against the Republic. This Commission was superseded by a permanent Claims Commission authorized by the Act of December 10, 1929 (Acts, 1929, c. 12, p. 15) creating a permanent Claims Commission composed of the Secretary of the Treasury, as Chairman, the Financial Adviser, the Comptroller, and the Auditor, who shall act as Secretary. The Commission is vested with "power and authority to consider and determine the validity and amount of all claims not already discharged against the Republic of Liberia." Claims already presented must be registered with the Commission. After the publication of the Act, "all claims founded upon the Constitution of Liberia or any laws of its Legislature, upon any regulation or Executive Order, upon any contract expressed or implied with the Liberian Government, or for damages, liquidated or

unliquidated in cases not sounding in tort,[58] must be filed and registered with the permanent Claims Commission within a period of three years of the date that the claims arose, or right of action accrued, otherwise such claims shall become null and void and the prosecution thereof against the Liberian Government shall forever be barred."

The permanent Claims Commission has full power to hear and decide, and its decision is final in the following cases:

"(a) The validity and amount of any and all claims against the Government of the classes set forth in the preceding paragraph of this Act; and

"(b) All set offs and counter-claims liquidated or unliquidated or other demands whatsoever of the Government against the claimant against the Government. Any final decision against the claimant of any claims prosecuted as provided in this Act, shall forever bar any further claim or demand against the Republic of Liberia arising out of the matters involved in the controversy."

The Commission has power to summon as witnesses the claimants and require the production of records from Heads of Departments, and may formulate rules of procedure. The Commission is part of the Executive; it is not technically a court; its "judges" hold their position by virtue of holding certain executive offices. *Semble*, it has no power to punish for contempt. Its money judgments, like those of the United States Court of Claims require legislative appropriations for their fulfilment. Cp. *Collins* v. *United States*, 15 Ct. of Cl. (U. S.) 22 (1879); *Reeside* v. *Walker*, 11 How. (U. S.) 272 (1851).

On principles of public policy, statutes of limitations do not run against the State—nullum tempus occurrit regi—unless the state has expressly waived this right, but the State may avail itself of the benefits of such statutes. *Stanley* v. *Schwalby*, 147 U. S. 508 (1893). Thus, mere possession of government land, though open and exclusive and uninterrupted for a period sufficient as between individuals, creates no impediment to its recovery by the Government or by anyone who within that period receives a conveyance from the Government. *Birch* v. *Quinn*, 1 Lib. L. R. 309 (1897).

In the Matter of the Claim of the Liberian Rubber Corporation the question arose of the right of a foreign Government to present claims for damages sustained by its nationals through the acts of the Government of Liberia done in connection with the re-occupation of

[58] The jurisdiction clause is similar to that of the United States Court of Claims, U. S. Code Tit. 29 sec 250.

National lands under lease, for non-payment of rental, after abandonment of the leased premises by the lessee, arose. The British Government presented the claim on behalf of certain of its nationals. The matter is dealt with in an elaborate opinion dated July 27, 1926, of the Attorney General, L. A. Grimes [Opinions of the Attorney General, 1926-1927 (unpublished), Int. Dept. 5-23-'26, Serial 106-9-'26]:

> Mr. Dresselhuys in presenting a note to the Foreign Office on this subject was instructed to call attention to the irregularity in making this matter the subject of diplomatic controversy before same had been submitted to the arbitrament of a court of justice. To this proposition His Majesty's Government retorted that "since the Liberian Government appear to have been the first in this case to dispense with the usual procedure, His Majesty's Government cannot but consider that the Corporation are dispensed from any necessity of taking other action before resorting to the diplomatic channel."
>
> It appears to this Department that His Majesty's Government overlook the fact that there is a distinction between the Government of Liberia as a sovereignty vindicating the rights of its nationals and said Government as a party to a contract asserting its rights of occupying land within its territorial domain that had been abandoned by the former tenant, rights that any private individual, bound under similar contractual obligations, would be warranted to exercise. Hence we hereby again invoke the principle of international law to which the attention of the British Foreign Office has already been directed. Moreover
>
> "*Claims Founded on a Tort.* Claims of a private citizen against a foreign government are in their nature either contractual or tortious. Where the claim is founded on a tort committed by a foreign government, if the wrong committed is grievous in its nature, and especially if it is the result of animosity against the injured party is morally bound to assert the rights of its citizen and demand indemnity from the other government. The highest duty which a government owes to its citizens is to protect them against injuries inflicted *on account of their nationality.*"
>
> "*Claims Founded on Contract.* It is different, however, with claims founded on contract, for, while the government of the injured citizen may endeavour to obtain redress for its citizens in such case, the same moral obligation does not exist as in case of tort, because the elements of national honour are not involved

to such a great extent, and the citizen is merely sustaining the same loss in a business risk that he might have sustained had he embarked his capital in a private enterprise and suffered loss as the result of individual delinquency or ordinary mercantile misfortune. While this cannot be laid down as a hard-and-fast rule in regard to the assertion and enforcement of claims against foreign governments by the government of the aggrieved citizen founded on contract such has been the policy of the United States and Great Britain. Some of the modern writers on international law, especially Calvo and Drago, have advanced the theory that no government should use force to collect claims of its citizens against foreign governments, especially if founded on contract. It has been a matter of discussion whether or not the term claim against foreign government, when used generally, does not refer exclusively to a claim founded upon tort." See 22 Cyc. pp. 1734-6.

"(f) Contractual claims. The mere breach of a promise by a contracting sovereign to perform terms of agreement with an alien is not *per se* internationally illegal conduct. International interposition ordinarily is unwarranted unless, at least, such breach is attended by a refusal of local adjudication or refusal to perform in accordance with an adverse local decision. Such refusal of justice brings the contract within the range of international jurisdiction." See Thorpe's *International Claims* p. 54 (f).

In the Declaration of our Independence upon which recognition of our Sovereignty was given by the Government of Her late Majesty Queen Victoria, we guaranteed that our courts of justice were "open equally to the stranger and the citizen, for the redress of grievances, for the remedy of injuries, and for the punishment of crime." To this declaration we have consistently adhered, improving and modernizing our judicial administration from time to time so as to fully measure up to our national and international responsibilities in this regard. To allow an alien to invoke in the first instance the diplomatic interposition of his Government without recourse having been had to our courts would, as Calvo points out, "constitute an unjustifiable privilege for the foreign members of the community since nationals could not, except by municipal law, claim the privilege. Finally, the mere fact of questions of this nature being withdrawn from the cognizance of the ordinary courts would amount to a serious interference with the authority and dignity of the jurisdiction of the local courts."

Hence, in the declaration subscribed by the Latin American Republics at the second Pan-American Congress, there is a provision as follows:

"Whenever a foreigner may have claims or complaints of a civil, criminal, or administrative nature against a state or its citizens he shall apply to a competent court, filing at the same time his demands, and such claims or complaints shall not be made through diplomatic channels, except in cases where there may have been, on the part of the court, manifest denial of justice, or unusual delay, or evident violation of the principles of international law."

"There are some writers who regard with little favor this principle of abstinence from diplomatic interposition, but it must be remembered that the provision does nothing more than to place foreigners on an equal footing with nationals, thus removing the unfairness of allowing the alien element of the community greater benefits on account of the diplomatic pressure than is unduly brought to bear on the weaker states. For the probability of threatening measures that may be adopted by the diplomatic agents in these countries lends itself to the double evil of granting the former a boundless scope for putting into practice the dictates of a mistaken and excessive sentiment of patriotism on behalf of their countrymen, and also of giving to subjects of powerful nations, when residing in Latin America, some reason for adopting a feeling of indifference, and even of disrespect, for the local courts. Such procedure cannot fail to create difficulties in the continuance of perfectly friendly relations between nations, while, at the same time, hindering the local administration of a weak state, for every diplomatic intervention naturally deprives the government of much of its moral weight—a fact that is of supreme importance for all the members of the community, whether they be nationals or foreigners." See *American Journal of International Law,* for October 1913, p. 760.

It is significant that although according to the Constitution of Liberia "suits may only be brought against the Republic in such manner, and in such cases as the Legislature may by law direct" said Legislature by one of its earliest enactments made provision for the bringing of suits against the Republic for breach of contract. See Old Blue Book, p. 209.

Summing up we submit that

1. The subject matter of the despatch presented to our Minister in London by the British Foreign Office is not yet ripe for diplomatic discussion . . .. (Ed. Here follow conclusions regarding the law relating to leases.)

Where the parties are properly before the court, and a judgment has been rendered, the State of which the losing party is a national cannot assert a claim on his behalf, unless there has been a denial of justice, within the meaning of this term in international law.

On this subject in *Cavalla River Comp.* v. *Prince Pepple,* New Ann. Ser. 45 (1934) where there was a suggestion that the British Government was seeking to protect the defendant the court says:

> The other observation which the Court is constrained to make at this time is that that was not the first time that cases decided in this court have been subsequently made the subject of diplomatic inquisition. For after the decision had been rendered in this court in January 1904 in the Case *Houston Brothers & Co. vs. Fischer & Lemcke, Bill in Equity for a Dissolution of Partnership* reported in 1 Lib. L. R. 434, the then Imperial German Government very strongly contested the justice of said decision. But His Excellency H. W. Travis, then Secretary of State, was able to defend at Berlin the position taken by our courts so successfully that the claim of the German Government for an indemnity had to be waived.
>
> "More recently the Government of the Netherlands protested against the decision given at the November term A. D. 1922 of this court in the case *W. F. Walker vs. The Oost Afrikaanische Compagnie,* in an *Action of Damages for the Violation of a Contract,* and in that case His Excellency Edwin Barclay, then Secretary of State, was able to irrefutably reply to their protest.
>
> In neither of those cases, however, was any imputation made or attempted to be made, against the conduct of any member of the court.
>
> This court will not then allow itself to be influenced by any existing, or threatened, attacks upon it. Our effort will be to so demean ourselves that our personal characters will be above reproach; and then to endeavour by hard study, and careful research, to so pass upon the principles of law that from time to time may be presented for our consideration as to reduce any errors of judgment to the lowest possible minimum.

18. Martial Law

Section 18 provides: "No person can, in any case, be subjected to the law martial or to any penalties or pains by virtue of that law, (except those employed in the army or navy, and except the militia in actual service,) but by the authority of the Legislature."

The term "martial law" in this section is used partly in the sense of military law, to which persons in the army and navy and the militia while in actual service are subject. In proceedings under military law certain sections of the Declaration of Rights do not apply (*e.g.*, Sections 6 and 7, *supra*). The militia is subject to this special law only when in actual service. (The corresponding provision of the United States Constitution (Amendment 5) adds the words "in time of war or public danger".) See *Johnson* v. *Sayre*, 158 U. S. 109 (1895). To persons in the armed services the application of military law is due process of law, and not subject to review by the courts. Cp. *Nishimura Ekiu* v. *United States*, 142 U. S. 651 (1892).

By authority of the Legislature certain districts or persons may be made subject to martial law, which may include the suspension of the writ of habeas corpus for a period not exceeding one year (Section 20).

For the suppression of certain secret societies[59] the Legislature passed an Act, approved January 18, 1921 (Acts, 1920-1921 c. 15, p. 13), reading as follows:

> Sec. 1. That from and immediately after the passage of this Act the Secret Societies, established in certain Native Districts known as the Neegee and Human Leopard Societies are hereby declared to be illegal associations. It is also illegal for any person to be a member thereof or to attempt to gain membership therein.
>
> Sec. 2. That for the better protection of the lives of the citizens in general against the atrocious and inhumane acts of the two

[59] The activities of these socities has furnished journalists and travellers with material for sensational accounts, often wildly exaggerated These societies, especially the Human Leopard Society were especially active in the districts bordering on Sierra Leone and the Ivory Coast and within the territories of these colonies, especially in Sierra Leone. The Liberian as well as the British and French Governments, aided by the native chiefs, took stern measures against the societies. For accounts of these societies, see Sibley and Westermann, *Liberia, Old and New* (New York, 1926), 179-182; Harley, *African Medicine* (Cambridge, Mass, 1941) 139-141; Beatly, *Human Leopards* (London, 1915) *passim*, Migeod, *A View of Sierra Leone* (London, 1926) 227-231; *Donner Hinterland Liberia* (1939) passim. Clara Wilson (translator). *The Secret Societies in Western Africa*, in Liberia Bulletin No 23, 38-51

devilish and mysterious Societies known as the Neegee and Human Leopard Societies, the President of the Republic is, immediately after the passage of this Act, hereby authorized to declare any District or Section of a District, where atrocities are committed by any one or both of these Societies, under Martial Law, and shall upon these urgent and pressing occasions suspend the privilege and benefit of the Writ of Habeas Corpus in any District or section of a District, when said offence is reported committed for a period not to exceed six months at the time.

Sec. 3. That the President be and is hereby authorized to institute a Board of Court Martial to be composed of Liberian Officers who shall proceed to institute investigations strictly in accordance with the native customary laws of that District.

Sec. 4. Any person who is found to be a member of either the Neegee or Human Leopard Societies or who shall attempt to become a member shall be deported from the locality and shall upon conviction forfeit to the Republic all their estate both real and personal. Any person or persons found to be members of such prohibited Societies and who shall be proven to have been guilty of committing any murder or to be participant in any such murders either as accessories before or after the fact he or they shall be punished with death in the manner set forth by the said Court Martial.

Sec. 5. All trials under this Act shall in the first instance be conducted under native customary law, subject to an appeal to General Court Martial.

The Act of 1921 is the most drastic criminal law ever enacted in Liberia, not alone as to the penalties imposed but also as to procedure. Atrocious as were the crimes committed by these Societies, they were in the end directed against private persons and not, like treason or sedition, directed against the safety of the State itself. Treason is punishable by hanging only if death ensues from the acts of the offender; otherwise only by imprisonment; in both cases confiscation of all property is imposed. Sedition is not a capital offense; only fine, imprisonment (five years) and confiscation of property may be imposed. (Criminal Code, 1914, secs. 105, 107.) Both offenses are triable before the ordinary courts.

Under the Act of 1921, the President is authorized to place any district, where the two Societies are operating, under martial law,

to suspend the writ of habeas corpus, to create a Board of Court Martial composed of officers to "institute investigations strictly in accordance with the native customary laws of that District," and trials in the first instance are to be conducted under native customary law, subject to an appeal to the General Court Martial. Murder is punishable by death in the manner prescribed by the Court Martial. Membership in the Societies or an attempt to become a member, is punishable by deportation from the District and confiscation of all property, real and personal, of the offender. The conduct of the investigations and trial in accordance with native customary law is an authorization to employ the ordeal of sassywood, which the Supreme Court declared unconstitutional. See Unpublished Opinion of Attorney General L. A. Grimes, Ser. 106-1-'27, quoted *supra,* sub 7, Immunity from self-incrimination. The Act was certainly not designed to be applicable only to members of the armed forces, and the offenses—membership in the Societies and murder are not military offenses. Finally, deportation and confiscation of property in cases of simple membership in the Societies may be an excessive punishment. It is submitted that the Act of 1921 is unconstitutional.

There are no published decisions under this Act. Sibley and Westermann (*l.c.* 181) mention that in 1926 there were several members of these Societes under arrest at Sonoquelleh awaiting trial. But whatever its constitutional defects, the Act appears to have had a wholesome, deterrent effect.

Under the Hinterland Regulations, 1936, Articles 81, 82, see text *infra,* Chap. XXV, *sub* Hinterland, membership in the Human Leopard Society and other secret societies is punishable by imprisonment not exceeding twenty years.

19. Right to Return Officials to Private Life

Section 19 provides: "In order to prevent those who are vested with authority, from becoming oppressors, the people have a right at such periods, and in such manner, as they shall establish by their frame of government;—to cause their public officers to return to private life, and to fill up vacant places, by certain and regular elections and appointments."

This section is taken verbatim from the Massachusetts Constitution, Declaration of Rights, section 10. There are no reported decisions in Liberia or in Massachusetts.

20. Right of Bail and Habeas Corpus

Section 20 provides: "That all prisoners shall be bailable by sufficient sureties, unless, for capital offences, when the proof is evident, or presumption great: and the privilege and benefit of the writ of *habeas corpus,* shall be enjoyed in this Republic, in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months."

The section deals with two entirely unrelated matters. Section 10 prohibits excessive bail. The present section protects the right to be released on bail, except in capital offenses when the proof is evident or presumption great. This is an ordinary provision in American state constitutions. The Constitution excludes capital offenses. At the time of its adoption the common law of crimes was in force in Liberia, and a large number of offenses were punishable by death. Now murder is the only capital offense, and thus the number of bailable offenses is greatly extended.

The Constitution speaks in general terms of the writ of habeas corpus. While the greatest value of the writ lies in the protection it affords against oppressive measures of the Government and its servants, and in the field of criminal law, the writ has a wide application in purely civil matters where some form of restraint is imposed on the person ordered to be produced. Usually the applicant claims a legal right of custody, as, for example, a husband for the custody of his wife [Cp. *Gray* v. *Ghibasely Beverley,* 1 Lib. L. R. 500 (1907); *Chea Gbay Peaken,* 1 Semi-Ann. Ser. 21 (1913); *Saab* v. *Sanison,* 3 New Ann. Ser. 28 (1936)]; or a parent for the custody of his child [Cp. *Tec Mancy and Kamar* v. *Cash Money,* Unpublished Opinions, January 19, 1927; Judgment Book, p. 458]; a guardian of his ward; or the master of his apprentice. There are also the writs of habeas corpus to produce a prisoner to enable him to act as a witness, or to transfer him for trial before another court, and others.

But we are here interested principally in the writ of habeas corpus ad subjiciendum which began to assume a definite place in English constitutional law in the reign of Charles I, and received statutory formulation in the celebrated Habeas Corpus Act passed in the reign of Charles II (21 Car. 11) which deals only with cases where a person is in custody for "criminal or supposed criminal matters." It was introduced in the American colonies, not without difficulties, became a part of the American common law, and thus became under the Constitution of 1820, Article VI, a part of the law of Liberia. The sub-

sequent adoption of the English common law (Digest of Laws, August 19, 1824, section 14) also made applicable the Act 56 Geo. 111, c. 100. The writ of habeas corpus is not specifically mentioned in Colonial acts nor in the Constitution of 1820, but by Article I the settlers are to enjoy "all such rights and privileges as are enjoyed by citizens of the United States," which would include the writ of habeas corpus.

There is no specific provision regarding the writ of habeas corpus in the Commonwealth Constitution (1839), but this Constitution adopts the criminal law as in force in the component Colonies and further adopts in civil matters the common law as set forth in Blackstone's Commentaries (Art. IX).

Suspension of the writ of habeas corpus. The Constitution provides that the writ of habeas corpus "shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months (Const. Art. I, sec. 20).

We shall deal with this subject under four heads: (1) In what branch of the Government does the Constitution vest the power to suspend the writ of habeas corpus? (2) Under what circumstances may the writ be suspended? (3) What are the legal effects of the suspension? (4) Period of suspension?

Power to suspend. Neither the United States Constitution nor the Liberian Constitution specifically designates the branch of the Government exclusively vested with the power to suspend the writ of habeas corpus.

During the first years of the Civil War, President Lincoln issued a number of proclamations suspending the writ in specified districts, some of which were not within the area of military operations. The action of the President was sustained by some lower courts, but Chief Justice Taney, sitting in a Circuit Court filed a strong protesting opinion in the case of *Ex parte Merryman,* 17 Fed. Cas. No. 9487 (1861), where a military officer of the United States, acting under authority of the President, refused to obey the writ. Taney argued that Congress alone had power to suspend the writ.[60]

The Act of 1863 was the first Act of Congress suspending the writ, but before that, during the administration of President Washington, the writ had been suspended by the military authorities during the Whisky insurrection in Pennsylvania. In 1786-1787, during Shays'

[60] See also Willoughby, *l.c.* II, 1614, 1615, and authorities there cited.

rebellion, the writ was suspended in certain districts of Massachusetts by the Governor acting under the provisions of the State Constitution.

During his administration President Jefferson, in connection with the Burr conspiracy sent a Message to Congress (January 22, 1807, Richardson, *Messages and Papers of the Presidents,* I, 412) suggesting legislative authority to suspend the writ. The Senate passed a bill providing for the suspension of the writ for three months in certain cases, but the House rejected the measure.[61]

Subsequently Congress passed an Act, March 3, 1863 (12 Stat. at L. 755), which specifically vested in the President the authority "whenever in his judgment the public safety might require it, to suspend the privilege of the writ in any case arising in any part of the United States, during the present rebellion." The power conferred was discretionary, to be exercised upon an opinion of certain facts, and grants an exclusive power to judge as to the existence of those facts. [*Martin* v. *Mott,* 12 Wheat. (U. S.) 19 (1827); *Luther* v. *Borden,* 7 How. (U. S.) 1 (1849)]. The constitutionality of the Act of 1863 came before the Supreme Court in *Ex parte Milligan,* 4 Wall. (U. S.) 2 (1866) where five out of the nine Justices sustained the constitutionality of the Act.

In 1871 President Grant suspended the writ of habeas corpus in certain counties of South Carolina, under authority of an Act of Congress of April 20, 1871 regarding the enforcement of certain provisions of the Fourteenth Amendment. Richardson, *Messages of the Presidents,* VII, 136.

The practice is now settled in the United States that the President must have the authority of Congress in order to suspend the writ of habeas corpus.

In Liberia the constitutional provision is clear; only the Legislature has power to suspend the writ. But in Liberia, as in the United States, where martial law is declared, the military commander may suspend the writ of habeas corpus and certain other constitutional guarantees of civil liberty.

When writ may be suspended. The Constitution provides that the Legislature may not suspend the writ of habeas corpus "except upon the most urgent and pressing occasions."

Under the United States Constitution the writ cannot be suspended, unless when in cases of rebellion or invasion the public safety may require it.

The Legislature is the sole judge when "a most urgent pressing

[61]For the history of these various measures, see Watson, *l c* I, 730-733.

occasion" exists. The courts cannot examine the question of the necessity of the suspension. Cp. *Ex parte Merryman,* 17 Fed. Case No. 9487 (1861). But under both the Liberian and the American Constitutions the President may be empowered to put the suspension into effect when in his judgment it becomes necessary, and this Executive discretion is not subject to judicial review. Cp. *Ex parte Milligan,* 4 Wall (U. S.) 2 (1866).

Legal effect of the suspension of the writ. The suspension of the privileges of the writ does not suspend the writ itself. It merely denies to the person arrested the privilege of being released by means of the writ. The court issuing the writ must dismiss it upon its return, without inquiring into the merits. Cp. *Ex parte Milligan,* 4 Wall. (U. S.) 2 (1866); *Ex parte Yerger,* 8 Wall. (U. S.) 85 (1869). If a writ was issued and served before the effective date of the suspension, further proceedings are suspended. Cp. *Matter of Dunn,* 8 Fed. Cas. No. 4171 (1863). But a civil court has jurisdiction to determine whether the military court had jurisdiction. Cp. *Swaim* v. *United States,* 165 U. S. 553 (1897).

Period of suspension. The United States Constitution imposes no limit of time during which the writ may be suspended. The Liberian Constitution imposes a limit of twelve months. The Liberian Act of 1916 limited the suspension to five months, the 1921 Act to six months, the 1940 Act to twelve months, the 1942 Act to twelve months.

The principal provisions of aforementioned Liberian Acts are:

1. The Act of November 16, 1916 (Acts, 1916, 1917-1918, p. 30) was passed in connection with the suppression of an insurrection on the Kroo Coast, and suspended the writ in certain described areas, for four months.

2. The Act of January 18, 1921 (Acts 1920-1921, c. 15, p. 13), was designed to suppress the Neegee and Human Leopard Societies. The suspension of the writ was limited to six months. (The text of the Act is reprinted *supra, sub* 18, Martial Law.)

3. The Act of December 6, 1940 (Acts, 1940, c. 1, p. 1) is an Act suspending the writ throughout the Republic for a period of twelve months. The Act, by its own terms ceased to be operative one year after its passage. The text is as follows:

> Whereas, it appears to the Legislature requisite in view of world conditions that the Executive Government be clothed with

sufficient authority to secure internal order in any eventuality; therefore,

It is enacted, etc.:

Section 1. That the privilege and benefit of the Writ of Habeas Corpus are hereby suspended throughout the Republic of Liberia for a period of twelve calendar months from the date of the passage of this Act.

Section 2. That should any external or internal situation arise which in his judgment is detrimental to the interest and existence of the State, the President of the Republic of Liberia is hereby authorized to set up a Military Commission for the purpose of inquiring into and adjudging any infraction of order, security and good government in the interest of public safety and tranquility.

Section 3. This Act shall take effect immediately and be published in hand bills.

Any law to the contrary notwithstanding.

The Emergency Powers Act of June 30, 1942 (Acts, 1942-1943, c. 23, p. 20, reprinted in full *infra*, Chap. XXV, *sub* Powers of the President) grants to the President the power to declare any area deemed necessary to be a defense area, and therein suspend the benefit of the writ of habeas corpus for a period not exceeding one year (Sec. 1 (a)).

Territorial Limits of the Republic in 1848

One of the principal disputes between Liberia and the Governments of Great Britain and France during the decade preceding the establishment of the Republic was the exact extent of the territory of Liberia. At the first session of the Legislature an Act was passed,[62] approved February 1, 1848, which after a preamble reciting the basis of title, states:

We the Representatives of the People of the Republic of Liberia in Legislature Assembled in virtue of the purchases and treaties made as above stated, do hereby declare the following to be the Territorial Boundary of this Republic: To Wit;

A line commencing at the mouth of Grand Cape Mount River, on the North West, running along the centre of that river to its

[62] Constitution of the Republic of Liberia with the Laws Enacted by the Senate and House of Representatives at the First Session * * * January and February, 1848, 26, 27. The preamble to this Act is reprinted in Chapter V, *supra*. The text is in *Statute Laws of Liberia* (1856 ed.) 120, 121 (1879 ed.) 143.

source, or to the interior frontier of the Cape Mount section of the Vey territory, thence by a line running Eastwardly, separating the territory of the Vey and Dey tribes, from the territories of the contiguous interior tribes, until it strikes the Northern boundary of the Millsburgh purchase; thence along the North Eastern boundary of the Millsburgh purchase, and through the trace of country lying between the said Millsburgh purchase and Junk, until it strikes the Northern angle of the purchase of Junk territory, thence along the interior boundary of the purchase from Bassa to the St. John's River; thence across the St. John's and along the interior boundary of the territory of the Atlantic tribes from whom the purchases were made, until it reaches the South Eastern front of the Grand Cesters territory; thence in a South Westerly direction to the ocean at Grand Cesters in 40 and 41 north latitude; and 80 and 61 west longitude, being a mean parallel distance from the Ocean, of Forty-five miles; thence along the sea coast in a North Westerly direction to the place of commencement including all rivers, harbors, bays, islands, and such a distance out in the ocean as is determined by the law of nations, to be just and proper in such cases, or as security, protection and a wholesome jurisdiction may demand.

The foregoing Act was amended in 1859 (Acts 1857-1861, p. 50):

Sec. 1. That all of the words after the word "Montserrado" in the first section of the second article of an Act entitled "An Act establishing the boundaries of the Republic, and defining the boundaries of the several counties", which reads "and the southeastern boundary of said county (Montserrado) shall be a line one mile to the southeast of the southeastern bank of the main branch of Junk River, and running parallel with the said river, back into the interior", be and the same are hereby abrogated and annulled.

Sec. 2. It is further enacted—That the main branch of the Junk River, generally known as the Farmington River be and the same is hereby declared as the southeastern boundary of Montserrado County, and the Northwestern boundary of the county of Grand Bassa.

In addition, the territorial jurisdiction of Liberia extends over the territorial waters, as defined by international law.

A map of Liberia, prepared by the American Colonization Society in 1846 is contained in this Work.[63] A list of the treaties of cession executed during the period December 15, 1821 to January 15, 1833, is contained in a Report to the Board of Managers of the American Colonization Society, April 8, 1835, reprinted in Chapter XIII. This Report gives the boundaries described in the deeds.

Important accessions of territory were made in 1848 and the following years, and in 1857 the entire territory of the State of Maryland in Liberia was incorporated in the Republic.

The territory of the State of Maryland in Liberia so incorporated in the Republic in 1857 comprised according to its Constitution of 1853 (Art. I, sec. 2) the following:

> That the territory of the State between the North Western boundary line of Garroway, and the Eastern line of Grand Taboo, or the line formed by the river San Pedro on the East, be divided into two divisions to be styled the Western and Eastern Districts; that the former be known as comprising all the lands, harbors, bays, rivers, lakes, creeks and the Atlantic waters thereunto appertaining, between the Eastern margin of the river Cavalla, and the line joining the Nefau or Poh River people's lands on the extreme Western boundary of the Garroway territory; and that the latter be known as embracing all the lands, harbors, bays, rivers, etc., as aforementioned between the extreme Eastern boundary line of Grand Taboo or the line formed, by the river San Pedro on the East, and the said Eastern margin of the river Cavalla * * *.[64]

On the other hand, Liberia lost valuable territories to Great Britain and France under boundary treaties with these countries.[65]

The Republic of Liberia has no non-contiguous territories nor unincorporated possession or dependencies; there are consequently no

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[63] See map following page 820

[64] A map of Maryland in Liberia, prepared in 1834, was published in the Third Annual Reports of the Maryland State Colonization Society (1835). The deeds of cession by the native chiefs to the Maryland State Colonization Society, 1834-1849, are reprinted in Latrobe, *Maryland in Liberia*, 95—125.

[65] The present area of the Republic of Liberia is estimated at 43,000 sq mi. The *Statesman's Year Book*, 1944, 1083 Liberia is, therefore, approximately as large as Cuba, Honduras, Guatemala, Bulgaria, or the States of Ohio or Tennessee. The estimated population of Liberia as of December 31, 1939 according to the *League of Nations Statistical Yearbook* (1940-41) is 2,500,000, about the same as that of Haiti or Lithuania.

questions, such as arise under the American Constitution regarding "unincorporated" territories.

Liberia is under no treaty obligations toward other Powers regarding cessions of its territory, except that under the Libero-French Frontier Treaty of December 8, 1892, it is provided (Art. V) that if "the Republic of Liberia should alienate any part of the territories which are recognized to her by the present Convention, France makes all reservations."

The sovereignty of Liberia was gradually extended interiorward over contiguous territory and a distinction was made between the original littoral territory having width of about forty miles and the country adjoining which came to be known as the Liberian Hinterland. This is dealt with *infra*.

The extent of the territorial limits of the Republic is a political, not a judicial question.

CHAPTER XXIV

Nationality and Alienage

NATIONALITY

In General. The terms "nationality" and "national" though currently used as synonymous with "citizenship" and "citizen" are broader in their meaning. Primarily, their meanings are to be determined by municipal law, not by international law. They connote the relation between the State and the persons, whether resident or nonresident, under its allegiance.

The relations between a State and its nationals create reciprocal rights and duties. (Hackworth *l.c.* III, 6). "Citizenship is membership in a political society and implies a duty of allegiance on the part of the member and a duty of protection on the part of the Society. These are reciprocal obligations, one being a compensation for the other." *Luria & United States,* 231 U. S. 9 (1913).

A state has the sovereign right to determine the conditions under which a person may acquire or lose his nationality, and to do so through its own organ of Government, executive or legislative within the limits of any supreme Organic Law. A State may refuse to accept a person or class of persons on any grounds it pleases and confine nationality to persons of a particular race, or particular religious or political creed. No person has an inherent right to membership in a political community by reason of birth within the jurisdiction or descent from persons owing allegiance to it. But a State may be responsible under international law for acts of its residents, regardless of their nationality, directed against the security of another State or its residents. (Indian depredations against Canada and Mexico, Moore, *Digest of International Law,* 11, sec. 219).

The laws of some States, *e.g.* the United States, make a distinction between nationals and citizens—all persons owing allegiance to the United States are nationals, *e.g.* the nations owing allegiance to the United States in some of the outlying possessions are nationals but not citizens of the United States. See Hackworth, *l.c.* III, 1 *et seq.*

No such distinction exists under Liberian law. All persons, whether civilized or uncivilized, of the Negro race or of Negro descent, owing

allegiance to the Republic, are nationals of Liberia. "It is undoubtedly a fact that our native inhabitants, under treaty stipulations, which treaties are laws when confirmed by the Legislature, are *bona fide* subjects of the State." *Davis* v. *Republic of Liberia*, 1 Lib. L. R. 17 (1862).

It is for each State to determine who shall be deemed its nationals, to grant or withhold from them such rights and privileges as it thinks proper, and to terminate the relationship at will. But a foreign country may refuse to recognize within its own territory the rules of nationality prevailing in another country. Thus, a State may regard the children born to aliens within its territory as its own nationals, while the State of which the parents are nationals may claim the children as its own nationals (Multiple Nationality). Or it may refuse to recognize a denationalization law of the State to which a person once owed allegiance and treat him as still a national of that State. (Denationalization of nonresident German Jews by Germany not accepted as terminating their political status as German nationals. Many other examples may be cited).

The right to vote or eligibility to public office, may be extended to non-citizens.

The determination of the question of nationality is primarily a judicial not an executive one. The issuing of a passport or accepting the registration of a person as a national involves only a determination that *prima facie* a particular person is a national; it is limited to the particular ministerial act; it is not an adjudication on the general question of the citizenship of the applicant.

Multiple Nationality. The conflicting rules of municipal laws on nationality frequently give rise to difficult questions. One of these is that of multiple nationality. A person may have two or more nationalities. An ordinary case is that of a child born of alien parents in a country where the *jus soli* principle applies and where the country of the allegiance of the parents adopts the *jus sanguinis* principle either alone or in conjunction with the *jus soli* rule. Other cases arise where a person who is naturalized is a national of a State not recognizing the right of expatriation, and cases of woman nationals whose country of nationality allows the retention of its nationality and the country of the husband's nationality declares her to have acquired the husband's nationality. Or, to cite an actual case, which never came before the courts, of a woman possessing Greek nationality of origin who married a British subject and thereby acquired British nationality, which she elects to retain upon her subsequent marriage to a German national, possesses three nationalities. The Greek nationality of origin

continues to attach under the Greek rule of perpetual allegiance, the British and German nationalities attach by operation of law, without any formal act relating to nationality on her part.

In cases of multiple nationality each State may claim the persons exclusive allegiance, without regard to the other States. Difficulties arise when the question comes up collaterally in a third State, not claiming for itself the allegiance of the person. In determining enemy character in connection with the sequestration and liquidation of enemy property it was the praxis of the Mixed Arbitral Tribunals instituted under the Treaty of Versailles and of courts that where one of the countries claiming allegiance was an enemy country the person should be regarded as an enemy.

Statelessness. Except in isolated cases, the original settlers of Liberia were stateless inhabitants of the United States.

A person may be one of no nationality because of birth of stateless parents in a country not adopting the *jus soli* principle; or, though adopting this principle, restricts its application to persons of a certain race (Liberia) and non-Negro child born in Liberia of unknown parentage is stateless. Or a person may by his own acts have lost his nationality (*e.g.* child born abroad of Liberian parents, who does not reside in Liberia nor takes the oath of allegiance to the Republic upon attaining his majority), and persons who have been denationalized under a special decree (France) or under a general law (*e.g.* German law of November 25, 1941, expatriating non-resident Jews). These questions become of special importance during war. The status of statelessness was recognized for certain purposes in England, *Stoeck* v. *Public Trustee* (1911) 2 Ch. 67; for a consideration of the state of the law during World War I, see Huberich, *The Law Relating to Trading with the Enemy* (New York, 1918) 86-88; see also Domke, *Trading with the Enemy in World War II* (New York, 1943) 84-103, citing the late cases and other authorities.

In the United States the authorities are loath to accept the doctrine of statelessness, and regard stateless persons as nationals of their country of origin,—a purely arbitrary rule, which at times creates unjust results, and is not in accord with the best views prevailing in other countries. There appear to be no Liberian precedents on the question. The question may arise in Liberia in connection with Jewish refugees of German or Austrian nationality of origin who have been permitted to reside in Liberia.

Constitutional Provision. The Constitution of Liberia, unlike the United States Constitution (Amendment XIV), contains no definition of citizenship.

The Constitution as originally adopted contained the following provision (Art. V, sec. 13):

> Sec. 13th. The great object of forming these Colonies, being to provide a home for the dispersed and oppressed children of Africa, and to regenerate and enlighten this benighted continent, none but persons of color shall be admitted to citizenship in this Republic.

This reflects the policy of Liberia from the very beginning of its history.

The words "none but persons of color" were ambiguous, and there were cases of persons of pure Arab blood from the interior or from North Africa who claimed the right to be admitted to citizenship on the ground that they were of African descent.[1] The same might be said of the Jews of Morocco[2]. This was clearly not the intention when the Constitution was adopted.

This point is now settled by the Amendment to the Constitution, adopted in May, 1907, and proclaimed under authority of an Act approved January 8, 1908 (Acts, 1907-1908). By this Amendment the concluding clause of the section is made to read: "None but Negroes or person of Negro descent shall be eligible to citizenship in this Republic." The Amendment substitutes a racial test for a geographical or color test.

The only term used in the constitutional amendment requiring discussion is the word "Negro". There appear to be no judicial or administrative decisions in Liberia as to the meaning of the term "Negro" as used in the Constitution, but it was doubtless intended to be interpreted in its widest sense as including all persons having a trace of Negro blood in their veins.

In the United States (except on the Pacific Slope) the words "colored person" are used synonymously with "Negro". The term is variously defined as a person of Negro blood, either unmixed or to

[1] *Johnston,* Liberia, I, 248.
[2] *Ibid.*

the extent of one-half, or one quarter, or even less, and this is the accepted view in Liberia.[3]

A similar problem as to race arises under the American Naturalization and Immigration laws as to the meaning of "white persons or persons of African nativity or African descent."

Under the American law the words "African nativity or descent" dates from the Act of July 14, 1870, which includes "all native-born Africans from the Mediterranean to the Cape of Good Hope" [*Matter of San C. Po,* 28 N. Y. Supp. (U. S.) 283 (1894)], "thus making eligible the Arabs and the Moors of North Africa, the Hamitics of the Sudan, the Pygmies of Central Africa, the real Negroes and Negroids of Central and South Africa * * * and the Hollander stock of South Africa, who would in any case be eligible as 'white' ". Wigmore, OUR NATURALIZATION LAW, in *American Bar Association Journal,* XXIX, 313 (1943). The American authorities have sought to reconcile out-moded popular conceptions with the constantly changing views of ethnologists.

The naturalization of Egyptians has not been opposed by the United States Bureau of Naturalization, presumably on the ground that they are persons "of African nativity". (Hackworth, *l.c.* III, 47).

There appears to be some doubt on the question whether a Saudi Arab is eligible to naturalization as a "white person", although Syrians who belong to the same race have been naturalized, Turks are also eligible to naturalization. (*Ibid.* 46, 47). It has been held that Arabs are excluded. *In re Ahmed Hassan,* 48 Fed. Supp. (U. S.) 843, *sed quaere* where they are of African descent. Parsees were once held to be "white persons" [*United States* v. *Balzara,* 180 Fed. (U. S.) 694 (1910)], but it is now held by the Department of Labor that they are not eligible. (*Ibid.* 45, 46). Polynesians are not eligible. In 1924 the Department of Labor took the position that "a person having one-eighth Samoan or Malay blood is ineligible. (*Ibid.* 48).

In *Morrison* v. *California,* 291 U. S. 82 (1934) it was said: "The privilege of naturalization is denied to all who are not white (unless

[3] Some of Liberia's greatest men were of mixed blood President Roberts was generally regarded as an octoroon (Johnston, *Liberia* I. 185, n. I) John B Russwurm was a mulatto (*Ibid* 150) as was also Hilary R. W. Johnson the first native-born President of Liberia (*Ibid* 279). Arthur Barclay, afterwards President of Liberia (1904-1912) emigrated to Liberia from Barbados in 1865. His father was a free Negro who had associated himself with political agitation and found himself obliged to leave the island. He emigrated with all his family who throve greatly in their new home; among his descendants are some of the most distinguished citizens of Liberia. The Barclays were of unmixed negro origin and originally came from Little Popo (Dahomey). One son, Ernest J. Barclay (d. 1894) was Secretary of State (*Ibid.* 250, 331.)

the applicants are of African nativity or African descent), and men are not white if the strain of colored blood (black, red or yellow) in them is a half or a quarter; or not improbably, even less. The governing test always [*United States* v. *Thind*, 261 U. S. 204 (1923)] being that of common understanding."

The child of a white father and an Indian mother is not a "white person". [*In re Camille*, 6 Fed. (U. S.) 256 (1880); Indians may now be citizens (U. S. Nationality Law, 1940)]. Similarly, an alien of one-quarter African blood and three-quarters Indian blood is ineligible. [*In re Cruz*, 23 Fed. Supp. (U. S.) 774 (1938)].

By way of dictum the Court *In re Knight*, 171 Fed. (U. S.) 299 (1909) says: "A person one-half white and one-half of some other race, belongs to neither of those races." This view is clearly to be rejected in Liberia, where a large proportion of immigrants from the earliest times were of mixed blood.

The American State statutes defining the term "colored person" in their separate-coach laws, separate-schools laws, and laws prohibiting mixed marriages give widely divergent definitions and are based on local policies. The decisions of the courts are equally unsatisfactory. The pre-Civil War cases deal largely with the interpretation of local laws relating to slavery or imposing disqualifications on free Negroes, the later ones with the interpretation of the local Civil Rights acts, suffrage, school laws, transportation and mixed marriages.

The term "Negro" under the Liberian Constitution and laws must be interpreted according to the common interpretation of the term in Liberia, always having regard to the fact that it is intended to provide a racial, not a color or a geographical test.

Acquisition and Loss of Nationality. The existing law is contained in the Act of February 8, 1922. (Acts, 1921-1922, c. 4, p. 4; reprinted in Br. Parl. Pap. Misc. No. 7, 1928, Cmd: 3221, p. 33; also in Flournoy and Hudson, *Nationality Laws*, 413-415).

The text of the Act is as follows:

> Section 1. That from and after the passage of this Act, the Regulations for the Consular Service of the Republic of Liberia be and is hereby approved.
>
> Section 2. That the Secretary of State is hereby authorized to make such modifications in its provisions and to make such new provisions as the needs of the service from time to time may demand, such modifications are to be reported to the Legislature for their approval.

The Consular Regulations are not reprinted, but are adopted by reference. Reference must be had to these Regulations.[4] They are cited below as "Cons. Regs".

The second Act is the present Naturalization Act, 1938, reprinted below.

Acquisition of Nationality

Nationality is acquired (A) By birth. (B) By naturalization.

A. *Acquisition by birth.* This may be birth within the Republic and subject to its jurisdiction—the principle of *jus soli,*—native born nationals, or by birth abroad of Liberian parents—the principle of *jus sanguinis.*

Native Citizens. All persons of Negro descent born in the Republic of Liberia and subject to the jurisdiction thereof are citizens of the Republic of Liberia. The circumstance of birth within the Republic of Liberia makes one who is of Negro descent a citizen thereof, even if his parents were at the time aliens, provided they were not, by reason of diplomatic character or otherwise, exempted from the jurisdiction of its laws. (Cons Regs. sec. 66).

Analyzing this section:

Of Negro Descent. The meaning is plain, and is in accord with the Constitutional provision, dealt with *supra.*

In Liberia. This includes the whole of the territory, over which Liberia exercises sovereignty, including its territorial waters as defined by international law. It follows that a child born on a foreign private (not public) vessel in Liberian territorial waters is born in Liberia. In *Cunard S. S. Co.* v. *Mellon,* 262 U. S. 124 (1923), the United States Supreme Court says: "A merchant ship of one country voluntarily entering the territorial limits of another subjects itself to the jurisdiction of the latter. The jurisdiction attaches by virtue of her presence, just as with other objects within those limits." See also *Case of Edgar Stahl,* a person born on a British merchant vessel within the territorial limits of the United States. (Hackworth, *l.c.* III, 11).

Quaere, whether birth of a Negro child of alien parents on board a Liberian vessel on the high seas confers citizenship. It is a long-established rule, always stated without qualifications, that a vessel on

[4] The relevant sections are reprinted in the British Parliamentary Papers and in Flournoy and Hudson, *l.c* 413-415 The Consular Regulations are contained in *Consular Regulations of the Republic of Liberia, Formulated by the Department of State* (Monrovia, 1908)

the high seas is a floating part of the territory of the country under whose flag she sails. Cp. *Crapo* v. *Kelly*, 16 Wall. (U. S.) 610 (1872). But it has been held that birth on an American merchant vessel on the high seas is not equivalent to birth "in the United States," and therefore a child born on board such a vessel does not acquire American citizenship by birth, *Lam Mow* v. *Nagle*, 24 Fed. (2d) (U. S.) 316 (1928). The court, per Dietrich, Circ. J. says:

> This appeal is from a judgment dismissing a petition for a writ of habeas corpus by one Lam Mow or Lam Korea, a person of the Chinese race who seeks to prevent the enforcement of an order of the Department of Labor excluding him from admission to the United States upon the alleged ground of his alienage. There is no dispute about the facts, and the single question for consideration is whether a child born on a merchant vessel of American registry, on the high seas, of parents of the Chinese race and subjects of China, but domiciled in the United States, to which country they are returning from China at the time of the child's birth, is a citizen of the United States.
>
> The petitioner's contention is that a child so born comes within the scope of section 1 of article 14 of the Constitution of the United States which provides that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States. * * *" The meaning of this provision and the general subject of citizenship, both by birth and by naturalization, are elaborately discussed in United States v. Wong Kim Ark, 169 U. S. 649, 18 S. Ct. 456, 42 L. Ed. 890, where it is definitely held, in effect, that if the petitioner here had been born within an area of land over which the United States exercises dominion as a sovereign power, he would be a citizen though of alien parentage. The real point in issue is therefore limited to the inquiry whether such a birth upon an American merchant vessel at sea is birth "in the United States" within the meaning of the Constitution.
>
> Undoubtedly petitioner's theory that a merchant ship is to be considered a part of the territory of the country under whose flag she sails finds a measure of support in statements made in some of the decided cases and in texts upon international law. But no one of the decisions brought to our attention involved the precise question here presented, and the general statement, or its equivalent, that a vessel upon the high seas is deemed to be a part of the territory of the nation whose flag she flies, must

be understood as having a qualified or figurative meaning. Manifestly in a physical sense that must be true. In view of recent decisions of the Supreme Court, elaboration upon this point is thought to be unnecessary. Scharrenberg v. Dollar S. S. Co., 245 U. S. 122, 127, 38 S. Ct. 28, 62 L. Ed. 189; Cunard S. S. Co. v. Mellon, 262 U. S. 100, 122, 43 S. Ct. 504, 67 L. Ed. 894, 27 A. L. R. 1306. In the latter case the court had under consideration the territorial coverage of the clause "United States and all territories subject to the jurisdiction thereof" in the Eighteenth Amendment. Speaking of defendants' contention that by this language the Prohibition Law extends to domestic merchant ships outside the waters of the United States, the court said:

In support of their contention the defendants refer to the statement sometimes made that a merchant ship is a part of the territory of the country whose flag she flies. But this, as has been aptly observed, is a figure of speech, a metaphor. Scharrenberg v. Dollar S. S. Co., 245 U. S. 122, 127, 38 S. Ct. 28, 62 L. Ed. 189; In re Ross, 140 U. S. 453, 464, 11 S. Ct. 897, 35 L. Ed. 581; 1 Moore, International Law Digest, § 174; Westlake, International Law (2d Ed.) p. 264; Hall, International Law (7st Ed., Higgins) sec. 76; Manning, Law of Nations (Amos) p. 276; Piggott, Nationality, pt. II, p. 13. The jurisdiction which it is intended to describe arises out of the nationality of the ship, as established by her domicile, registry and use of the flag, and partakes more of the characteristics of personal than of territorial sovereignty. See The Hamilton, 207 U. S. 398, 403, 28 S. Ct. 133, 52 L. Ed. 264; American Banana Co. v. United Fruit Co., 213 U. S. 347, 355, 29 S. Ct. 511, 53 L Ed. 826, 16 Ann. Cas. 1047; 1 Oppenheim, International Law (3d Ed.) §§123-125, 128. It is chiefly applicable to ships on the high seas, where there is no territorial sovereign; and as respects ships in foreign territorial waters it has little application beyond what is affirmatively or tacitly permitted by the local sovereign. 2 Moore, International Law Digest, §§ 204, 205; Twiss, Law of Nations (2d Ed.) § 166; Woolsey, International Law (6th Ed.), § 58; 1 Oppenheim, International Law (3d Ed.) §§ 128, 146, 260. The defendants further contend that the Amendment covers foreign merchant ships when within the territorial waters of the United States. Of course, if it were true that a ship is a part of the territory of the country whose flag she carries, the contention would fail. But, as that is a fiction, we think the contention is right."

And it was further said:

Various meanings are sought to be attributed to the term "territory" in the phrase "the United States and all territory subject to the jurisdiction thereof." We are of opinion that it means the regional areas—of land and adjacent waters—over which the United States claims and exercises dominion and control as a sovereign power. The immediate context and the purport of the entire section show that the term is used in a physical and not a metaphorical sense—that it refers to areas or districts having fixity of location and recognized boundaries. See United States v. Bevans, 3 Wheat. 336, 390, 4 L. Ed. 404. It now is settled in the United States and recognized elsewhere that the territory subject to its jurisdiction includes the land areas under its dominion and control, the ports, harbors, bays and other enclosed arms of the sea along its coast and a marginal belt of the sea extending from the coast line outward a marine league, or three geographic miles [citing cases]. This, we hold, is the territory which the amendment designates as its field of operation; and the designation is not of a part of this territory, but "all" of it.

We find no substantial reason for holding the phrase of the Fourteenth Amendment, "in the United States," was intended to have a wider scope.

It is said upon behalf of the petitioner that under this view we would have an absurd and unjust result in that appellant and others similarly situated would have no political status and would be in the position of a man without a country. But such conclusion does not necessarily follow. In Inglis v. Sailor's Snug Harbor, 3 Pet. 99, 155, 70 L. Ed. 617, Mr. Justice Story said:

"Two things usually concur to create citizenship; First, birth locally within the dominions of the sovereign; and secondly, birth within the protection and obedience, or, in other words, within the ligeance of the sovereign. That is, the party must be born within a place where the sovereign is, at the time, in full possession and exercise of his power, and the party must also, at his birth, derive protection from, and consequently owe obedience or allegiance to, the sovereign, as such de facto. * * * There are some exceptions, which are founded upon peculiar reasons, and which, indeed, illustrate and confirm the general doctrine. Thus, a person who is born on the ocean is a subject of the prince to whom his parents then owe allegiance; for he is still deemed under the

protection of his sovereign, and born in a place where he has dominion in common with all other sovereigns. So the children of an ambassador are held to be subjects of the prince whom he represents, although born under the actual protection and in the dominions of a foreign prince."

And the language was quoted with apparent approval in United States v. Wong Kim Ark, 169 U. S. 649, 659, 18 S. Ct. 456, 42 L. Ed. 890. In that view appellant is not without a country, but was born in allegiance to and under the protection of the Chinese government, with such temporary qualification only of the rights and obligations of that sovereignty as are recognized by the law of nations during the time the nationals of one country are being carried on the ships of another on the high seas. Moreover, if we resort to considerations ab inconvenienti as an aid to construction, we are inclined to think that in a comprehensive view the weight of such argument is against appellant's contention.

No appeal was taken, and the United States Department of State therefore regards the law as settled on this point. (Hackworth, *l.c.* 11, 12).

A Negro child of unknown parentage found in Liberia acquires nationality *jure soli.* Cp. U. S. Nationality Act, 1940, sec. 201. A child is presumed to be born in the country in which its existence first became known, *Case of Jules Michol,* Moore, *Digest of International Law,* III, sec. 374.

"In Liberia" has a meaning different from "subject to the jurisdiction." By the Agreement of March 31, 1942, between Liberia and the United States (approved by Joint Resolution of June 29, 1942, Acts, 1941-1942, c. 21, p. 19) the United States are granted the right to construct, control, operate and defend certain military and commercial airports within Liberia. The United States were granted "exclusive jurisdiction" over these areas and over the military and civilian personnel of the Government of the United States and their families, but these words are to be construed, according to the Joint Resolution so as not to "include American citizens and foreigners of non-American nationality not connected with said defense operations" and that "it is understood that the Government of the United States of America will turn over to the Liberian authorities for trial and punishment any person, not under the exclusive jurisdiction of the Government of the United States of America (as defined in this Joint Resolution) committing an offense in such defense areas." The grant is not a cession

of territory nor of territorial sovereignty. The areas do not become an "unincorporated territory" of the United States. Cp. *Downes* v. *Bidwell*, 182 U. S. 244 (1901). A child born of non-American parents within these areas does not thereby acquire American citizenship. A case directly in point is one referred to in a communication of the Assistant Secretary of State, Carr, to the Secretary of the Navy, March 26, 1932 (Hackworth, *l.c.* III, 9):

> While the United States undoubtedly exercise a certain jurisdiction and control over the United States Naval Station at Guantanamo Bay, it is the view of this Department that this locality has never been incorporated into or become a part of the United States and that, accordingly, that portion of Article 14 of the Amendments to the Constitution of the United States which relates to the acquisition of American citizenship through birth in the United States does not apply thereto.

Even without the express grant of "exclusive jurisdiction" a body of foreign troops entering the territory of a State with permission, is deemed to have complete control over its personnel, to the exclusion of the territorial sovereign. (Moore, *Digest of International Law*, II, sec. 251; *Tucker* v. *Alexandroff*, 183 U. S. 424 (1902); *The Exchange* v. *McFaddon*, 7 Cr. (U. S.) 116 (1812). See also Wigmore, THE EXTRATERRITORALITY OF THE UNITED STATES ARMED FORCES ABROAD, *in American Bar Association Journal*, XXIX, 121; Goodhart, *The Legal Aspect of the American Forces* in *Great Britain, Ibid.* XXVIII, 762).

The American jurisdiction does not extend over the civilian population in the areas, nor do the foreign laws become applicable to them. The Libero-American Agreement expressly provides that the "exclusive jurisdiction" is confined to persons connected with the American military establishment.

It is clear that a child born within the military areas, if of the Negro descent, acquires Liberian nationality *jure soli;* such child does not acquire American nationality *jure soli.*

A child born either within or without the military areas to a person belonging to the American military establishment of non-Liberian citizenship, although born in Liberia is not born subject to the jurisdiction of the Republic and is not a native citizen *jure soli.* (Kent, *Commentaries* (6th ed.) II, 42).

Occupation of a foreign country with which Liberia is at war does not make the occupied territories even temporarily a part of the ter-

ritory of the Republic. Children born in such occupied territory would not thereby become native citizens. Cp. *Fleming* v. *Page*, 9 How. U. S. 603 (1850). On the other hand, children born in a part of Liberia in hostile military occupation, are native born, except children born of enemy aliens because not born subject to the jurisdiction of the Republic. Cp. Willoughby, *l.c.* I, secs. 177, 196. Such territory is not to be considered as incorporated into the dominion of the enemy, except after renunciation or long continued possession. [Cp. *United States* v. *Hayward*, 2 Gall. (U. S.) 485 (1815); *United States* v. *Rice*, 4 Wheat. (U. S. 246 (1819)].

Alien Parentage. It is the fact of birth within Liberian territory that makes a child of Negro descent a citizen of the Republic "even if his parents were at the time aliens." The child may at the same time acquire the nationality of the foreign country of which the parents are nationals. (See Multiple Nationality).

Subject to the jurisdiction. The child must be born subject to the jurisdiction of the Republic of Liberia. This clause is explained in Section 66 by the proviso "that they (the parents) were not by reason of diplomatic character or otherwise exempted from the jurisdiction of the laws."

Under international law a person born abroad as the child of a foreign ambassador, minister or other person entitled to diplomatic immunities is deemed born in the country which the parent represents. (*Case of Viscount de Suzannot*, Hackworth, l.c. III, 14; an Immigration Law Case). But the rule does not extend to cases, where the father was accredited to a third State (*De Saavedra Case, Ibid*). Whether such child acquires citizenship in the latter country depends upon the municipal law of that country. Such child, born in a country (*e. g.* Liberia) where the principle of *jus soli* is adopted, is not a native born citizen, if the parent is accredited to that country, because not born subject to the jurisdiction thereof. But it is different if the parent is accredited to a third State. In this case jurisdiction over the parent attaches and the child acquires, *jure soli* the nationality of the country of birth. Cp. *Case of Marie Francoice de Hedry*, Hackworth, *l.c.* III, 13 (1937). Here the child was born in the United States of a father who had at the date of the child's birth, the status of a Hungarian diplomat accredited to Mexico.

It has been held that a child born in the United States of a foreign diplomat accredited to the United States, but whose mission had terminated, and after he has left the country, acquires United States nationality at birth. (Hackworth, *l.c.* III, 12).

The exemptions apply to the members of the families and staffs of foreign diplomatic representatives. The exemption does not apply to consular officers and their assistants. (Hackworth, *l.c.* III, 14, 15).

The clause in the proviso, "or otherwise exempted," covers the well-recognized immunities of foreign heads of State, the members of foreign armed forces in hostile occupation of the territory of the Republic or present there by permission.

Birth Abroad of Liberian Parents. Section 67 of the Consular Regulations provides:

> All children born out of the limits and jurisdiction of the Republic of Liberia whose fathers are at the time of their birth citizens thereof are citizens of the Republic of Liberia; but the rights of citizenship do not descend to children whose fathers never resided in the Republic of Liberia. That the citizenship of the father descends to the children born to him when abroad is a generally acknowledged principle of international law.

This is the principle of *jus sanguinis.*

Whose Fathers. The law envisages the existence of a valid marriage between the parents of the child. It is the Liberian nationality of the father that confers this nationality on the child. The nationality of the mother is immaterial; though married to a Liberian husband she may not have acquired his nationality under Liberian law, because not of Negro descent.

The determining factor is the nationality of the father at the time of birth of the child. A child born abroad, the issue of a valid marriage between a non-Liberian father and a woman who has retained her Liberian nationality, does not acquire Liberian nationality. Such child may acquire *jure sanguinis* the nationality of the father and *jure soli* the nationality of the country of birth.

The status of an illegitimate child born abroad of a Liberian mother presents a difficult question.

Under United States Revised Statutes, section 1993, which contains provisions identical with those in the Consular Regulations, section 67, it was held for many years that under the afore-mentioned section 1993 nationality is not inherited through women; and an illegitimate child born abroad to an American woman was held not a citizen of the United States. (Moore, *Digest of International Law*, II, sec. 374).

This rule was gradually modified in its application, and for many years (at least following 1912) the Department of State uniformly

held that an illegitimate child born abroad of an American mother, acquired at birth the nationality of the mother in the absence of legitimation or adjudication establishing the paternity of the child. Section 1993, *supra,* was construed to apply on the basis that the mother in such a case stood in the place of the father (Hackworth, *l.c.* III, 27). This appears to be the view taken by the Liberian authorities.

The American law has now been changed (U. S. Nationality Law, 1940, sec. 205) to the effect that "if the mother had the nationality of the United States at the time of the child's birth, and had previously resided in the United States or one of its outlying possessions, shall be held to have acquired at birth her nationality status."

Consular Regulations, section 67 provides that children born abroad of a Liberian father, who never resided in the Republic, do not acquire Liberian nationality *jure sanguinis.*

Finally, persons who acquire nationality *jure sanguinis* if resident abroad must take the oath of allegiance:

> Every child born without the Republic of Liberia of Liberian parents and resident abroad upon attaining his majority is required in order to conserve his Liberian citizenship, to take the oath of allegiance to the Republic of Liberia before a Liberian consul. (Cons. Regs. sec. 74).

Acquisition by Naturalization

Historical. Under the Constitution of 1820 (see Chapter II, *supra*) all persons born in the Settlement or establishing a domicile therein, who take the oath to support the Constitution are given the privileges of settlers. There is no express provision regarding race or color, but as no person could reside in the Settlement without the permission of the American Colonization Society, and as the sole object of the Settlement was to create a home for the free Negroes of the United States, it was not contemplated that permission to reside would be granted to other persons. Only persons who had taken the oath of allegiance could draw lands, and no white person could own lands. No abjuration of former allegiance was required, and a settler removing from the Colony forfeited his citizenship, and his lands escheated to the Colony unless his wife and children did not also leave.

The Constitution of the Commonwealth (1839) contains a provision that the Governor and Council shall have power "to prescribe uniform rules of naturalization for all persons of color," but no law on the subject was passed.

By an Act of 1841 (Com. Acts. 1841, 14, sec. 4) the elective franchise was extended to native Africans, who had resided in the Commonwealth upwards of three years, thereby conferring full rights of citizenship:

> Section 4. Be it further Enacted,—That no native African or Africans excepting such as may be brought here under the character of recaptured Africans from beyond the sea, by the authority of the American Colonization Society shall be entitled to the elective franchise, unless he or they shall have remained in the Colony at least three years immediately preceding the election at which the privilege is claimed, and shall have during that continuous period exhibited an uniform course of civilized life. The standard of decision in this case shall be the solemn declaration of three creditable and disinterested persons, (who shall have had an opportunity of noticing the conduct and life of the party or parties), that the person or persons so claiming the right to vote have during the three aforesaid consecutive years, abandoned all the forms, customs, and superstitions of heathenism, and that he or they so claiming to vote have during the period aforesaid conformed to the forms, customs, and habits of civilized life.

During the session of 1853-1854, the Legislature had before it a bill providing for the naturalization of every colored man arriving in Liberia, and making citizenship a prerequisite to the enjoyment of the right of suffrage. The period of residence was to be two years. Owing to certain features, the proposed law was attacked as unconstitutional as violative of Article V, section 16, providing for freedom of immigration and the allotment of lands to immigrants.[5]

During the Republic three Naturalization Laws have been passed: the Law of January 27, 1876, the Law of January 6, 1908, and the Law of December 14, 1938, as amended January 12, 1942. These are dealt with below.

Law of January 27, 1876. This Law (Acts, 1876-1877) provides:

> That after the first day of January A. D. 1878, aliens may be admitted to become citizens of the Republic of Liberia in the following manner and not otherwise. The applicant for citizenship shall declare on oath before any one of the clerks of the Courts of Quarter Sessions and Common Pleas of the respective

[5] See the article, *The Naturalization Law, Liberia Herald*, April 4, 1855, reprinted in *African Repository* XXXII, 23, 24

counties of this Republic one year at least prior to his admission that it is his *bona fide* intention to become a citizen of the Republic of Liberia, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty of which the alien may be at the time a citizen or subject and for which service the applicant shall pay the clerk fifty cents.

The alien shall at the time of his application to be admitted, declare on oath before one of the Clerks of Court as above specified, that he will support the Constitution of the Republic of Liberia and that he absolutely and entirely renounces and abjures all fealty to every foreign prince, potentate, State, or sovereignty and especially by name to the prince, potentate, State or sovereignty of which he was before a citizen or subject, which proceedings shall be recorded by the Clerk of the Court in a suitable book provided by the Government for said purpose, and it shall be the duty of the clerk of court before whom said alien shall have taken the oath of allegiance and abjuration, to be fully satisfied that every such alien has resided in the Republic of Liberia at least three years prior to his application for citizenship; that during said time the applicant has behaved as a man of good moral character; and that he is attached to the principles of the Constitution of the Republic of Liberia, and well disposed to the good order and happiness of the same. Provided, nevertheless, the oath of the applicant shall in no case be allowed to prove his time of residence in the Republic * * *.

At the session of 1895-1896, a Joint Resolution was passed, the salient feature of which is the clause referred to in the Message of President Arthur Barclay, quoted below.

In this Annual Message[6] the President, after quoting section 1 and 2 of the Act of January 2, 1876 (*supra*), says:

The Naturalization Law found in the Act of 1877-78 is in some particulars affected by the Joint Resolution regulating immigrant expenses found on page 52 of the Acts of last session. * * *

The first clause of the first section of the Resolution of the session of 1895-96 is in the following words: "That from and immediately after the passage of this Joint Resolution any immigrant or immigrants coming into the Republic of Liberia must first take oath of allegiance to the Republic and adjuration of

[6]Annual Message, December 11 (1906); reprinted in *Liberia Bulletin*, No. 30 (1907), 61-82

the sovereign or State whence he comes, after which he may receive aid from the Government as such." An immigrant applying for assistance can at once become a citizen, while one of independent means could not be admitted as a citizen for four years after his arrival, under the earlier law.

Incidentally the two Laws illustrate two methods of procedure in naturalization cases, which have grown up and continued side by side in this Republic.

Before 1868 the American Negro was not regarded as a citizen of the United States. It was solemnly declared by the Supreme Court of the United States that a Negro had no right before the law or which a white man was bound to respect; and although that decision met with the moral reprobation of a large section of the people of the United States, yet its legal accuracy and correctness was never denied. The Negro immigrant from the United States who came to Liberia before 1866 had no international status. It was therefore quite unimportant whether he took the oath of allegiance or not, and most of those who came arrived with no other intention but of settling down in the country. Since that time the Negro immigrant who comes into Liberia comes as a recognized citizen of the United States. I observe the practice in vogue in Liberia before the American Civil War is still persevered in as regards the American immigrant. He is often allowed to draw land, to vote, and to exercise the right of citizenship before he has taken the oath of allegiance to the Republic of Liberia. Some years ago one of these immigrants arrived in the country and went to Robertsport, where he drew land and settled; within a couple of months he died intestate and the Monthly and Probate Court of the District proceeded to take possession of his effects and administer them for the benefit of creditors and possible heirs. The Minister Resident of the United States claimed that this man's effects ought to be delivered to him, on the ground that he was a citizen of the United States, and finally his claim had to be conceded. About two years ago a party of immigrants from the United States went to Sinoe; they were received, housed, and fed at the expense of the Government, had lands assigned them, and, although it was contrary to law and objected to, were allowed to vote. Some of the company immediately after returned to the United States. One of them told the Secretary of the Treasury that he was not a citizen of Liberia, but of the United States. He had not taken oath of allegiance and abjuration.

There is no desire whatever on the part of the Government and people of Liberia to throw obstacles in the way of immigrants. Indeed, to do so would be contrary to the Organic Statute, which ordains, "There shall be no law prohibiting immigration." We must have, however, a properly drawn naturalization law, and we must have the same procedure applicable to immigrants of Negro descent from all countries.

Now, when the law of 1877 was drawn, the author was probably not thinking of American immigrants at all. He had in his mind the earlier mode of procedure. But laws must be applied to all persons without discrimination. The statute must be changed to meet actual circumstances, and especially the term of probation, before citizenship must be shortened as much as possible. In this connection I desire to explain a matter about which there has been a good deal of quiet misrepresentation of the motives of the Executive Government.

Some colored Americans desired to buy land in the country, but did not wish by any express act to acquire the status of citizens. The Government announced that it would be compelled to oppose any act of that kind. The Constitution says: "No person shall be entitled to hold land in the Republic unless he be a citizen of the same." And again all our treaties contain a most favored nation clause. Hence we cannot, in view of the provisions of the Constitution, accord to citizens of the United States, although Negroes, the right to hold property and withhold that right from citizens or subjects of other Governments.

The Amendment to the Constitution had been adopted in 1907 altering the final clause of Article V, section 16, so as to make only Negroes or persons of Negro descent eligible to citizenship. Accordingly a new Naturalization Law was passed (Act of 1908, *infra*).

Law of January 6, 1908. The material parts of this Law (Acts, 1907-1908, p. 24; reprinted in Flournoy and Hudson, *Nationality Laws,* 411-413; Rev. St. secs. 1214-1220, with slight editorial modifications) are as follows:

Section 1. Any alien Negro of the age of twenty-one years and upward or any alien person of Negro descent of the age of twenty-one and upward may become a citizen of the Republic of Liberia in the manner following, to wit:

First. If he be an immigrant and should desire to draw land under the laws alloting lands to immigrants, or if he should de-

sire to purchase land, he shall first make, under oath before the Clerk of the Court of Quarter Session of the county in which he settles, declaration of his intention to become a citizen of the Republic, and shall also declare allegiance to the Republic of Liberia and renounce forever all allegiance and fidelity to any foreign power of which he is at the time a citizen or subject, which declaration shall be substantially as hereinafter provided, and shall be recorded and filed by the Clerk of said Court of Quarter Session. He shall then be entitled to a certificate of citizenship and to an order for his immigrant allotment, and, upon its survey, to a certificate for same under the laws governing allotments.

Second: Any alien Negro or any alien person of Negro descent, not being an immigrant but a resident of the Republic, shall first make, under oath before the Clerk of the Court of Quarter Session of the county in which he resides, declaration of his intention to settle permanently in the county, and his desire and intention to become a citizen of the Republic; and shall also declare allegiance to the Republic of Liberia and renounce forever all allegiance and fidelity to any foreign power, and particularly the foreign power of which he is at the time a citizen or subject, as herein provided. He shall then be entitled to a certificate and order as provided for in Section 1.

Section 2. If any alien shall fraudulently secure a certificate of citizenship or if any alien within three years after the issuance of a certificate of citizenship to him shall return to the country of his nativity, or go to any other foreign country and take permanent residence therein, for seven consecutive years during which time no account can be given of his absence, the Court of Quarter Session may cancel his certificate, and the Clerk of the Court shall notify the Department of State of such cancellation, and all lands held by the person whose certificate of citizenship is cancelled shall escheat to the government, he having no widow or heir in the Republic.

Sections 3 and 4 relate to intervention of the Attorney General (later the Secretary of State) or the District or County, and cancellation of fraudulent certificates.

As the evils arising under the Joint Resolution passed at the 1895-1896 session was one of those to be remedied, these provisions must be deemed to have been repealed under the general repealing clause of the 1908 Act.

Law of December 14, 1938. This Law (Acts, 1938, c. 13, p. 17) as amended contains at the end the clause usual in Liberian enactments, "Any law to the contrary notwithstanding," and the general repealing clause of section 1, repeals the Acts of 1876, 1908 and Revised Statutes, sections 1214-1220. It was slightly amended by an Act of January 12, 1942 (Acts, 1942-1943, c. 8, p. 8), noted at the end of the principal Act. The Naturalization Act, 1938, together with certain provisions of the Consular Regulations, adopted by the Law of February 8, 1922 (Acts, 1921-1922, c. 4, p. 4) constitutes the present law relating to naturalization.

The full text of the Naturalization Act, 1938, as amended, is as follows:

AN ACT RELATING TO NATURALIZATION

It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

Section 1. That from and after the passage of this Act, all laws or parts of law conflicting with the provisions of this Act, are hereby repealed.

Section 2. This Act shall be known as the Naturalization Act, and shall be enforced from the date of its publication.

Section 3. The term Naturalization, when used in this Act, shall mean the act of clothing or adopting any alien Negro of the age of twenty-one years and upward, or any alien person of Negro descent, of the age of twenty-one years and upward with the privileges of a native citizen of the Republic of Liberia.

Section 4. Filing of Declaration of Intention to become a citizen: Any alien Negro or any alien person of Negro descent intending to become a citizen of the Republic of Liberia, shall as a pre-requisite appear before the office of the Clerk of any Circuit Court, or his authorized deputy, in the jurisdiction in which such alien resides and file a declaration upon oath or affidavit of his intention to become a citizen.

Section 5. The Declaration of Intention mentioned above must give information regarding the applicant, that is, his name, age, occupation, physical description, place of birth, last foreign residence, and allegiance, date of arrival in Liberia, name of vessel (if any) by which he entered the territory of the Republic, and present residence.

Section 6. Petition for Citizenship: An application for naturalization must not less than two nor more than three years after he has made his declaration of intention, make and file a petition signed in his own handwriting and duly verified in which he must give information similar to that required in the Declaration of Intention, and he must state that he does not believe in Anarchy. The petition must also show that he renounces all foreign allegiance and intends to reside permanently within the Republic of Liberia, and must state whether he has heretofore been refused naturalization, and if so, on what grounds; and it must be verified by two credible witnesses, citizens of the Republic of Liberia, who personally know that the applicant has been at least two years a resident in the territory of the Republic of Liberia, or of the County where the application is made, and who personally know him to be of good moral character, and that he has not been guilty of any impropriety in his public conduct.

Section 7. Oath of Allegiance: The applicant shall declare upon oath before the Clerk of the Circuit Court of the County in which he resides that he will support the Constitution and laws of the Republic of Liberia, and that he absolutely and entirely renounces and adjures all allegiance and fidelity to every foreign Prince, Potentate, State and Sovereignty whatever and particularly to the one of which he was before a citizen or subject.

Section 8. Notice and Hearing: Upon the filing of a Declaration of Intention and a petition for naturalization, the Clerk of the Court is required to file a copy thereof with the Attorney General for his information, and to give public notice thereof by posting data regarding the applicant, together with the date, as near as may be, of the final hearing, and the names of the witnesses whom the applicant expects to summon in his behalf; and if the applicant desires the Clerk of Court shall issue subpoenas for such witnesses, who shall not be those verifying the position.

Section 9. Fees: The Clerk of the Court shall charge and collect from the petitioner the following fees in each proceeding for naturalization, an internal revenue stamp fee $3.00, and stamps of the aforesaid value shall be placed upon each Declaration of Intention. A further charge of $3.00, shall be made by the Clerk of the Court for his services in receiving and filing each Declaration of Intention and Petition for Naturalization and for issuing a Certificate of Citizenship to the Petitioner.

Section 10. The Department of Justice shall have the right to intervene in all matters of naturalization for the purpose of cancelling Certificates of Citizenship, or for the purpose of cross examining the petitioner and the witnesses produced in support of his petition, and has the right to call witnesses and produce evidence in opposition to the petition.

Section 11. Cancellation of certificate for fraud or absence: If any naturalized alien shall have fraudulently secured a Certificate of Citizenship, or if any alien who after the issuance of a Certificate of Citizenship shall return to the country of his nativity, or go to any other foreign country, and take up permanent residence therein for seven consecutive years, and no account can be given of his absence, the Judge of the Circuit Court upon information of the Attorney General, County or District Attorney shall have authority to cancel the certificate of the said naturalized alien and the Clerk of the Court shall notify the Department of State and of such cancellation. All lands held in the territory of the Republic by any person whose Certificate of Citizenship is so cancelled, shall be forfeited and they shall be escheated to the Government, unless said naturalized alien shall leave a wife or legitimate children in the Republic. Officials and employees of Government who may be engaged on Governmental duties abroad are however exceptions to the provisions of this paragraph.

Section 12. Application to be filed in the Department of State: The Secretary of State shall furnish the Clerk of Court in each County with forms of Declaration of Intention, and Certificate of Citizenship. All declarations shall be signed by the applicant in triplicate, and a copy thereof shall be forwarded by the Clerk of Court to the Department of State, within thirty days after the date of its execution, and the same shall be filed in the Department of State.

Section 13. Penalty for fraud or official neglect: Any person falsely procuring the naturalization of any party, or any person making any false statement, or doing any wrongful thing contrary to the provisions of this chapter, shall be deemed guilty of a felony, and shall be punished with a fine not exceeding $300.00 or imprisonment not exceeding six months or both; and any officer neglecting any duty imposed upon him by this chapter shall be deemed guilty of a misdemeanor, and shall be punished with a fine not exceeding $200.00 or dismissal from office, or both.

Section 14. Evidence of Naturalization: The Clerk of Court

shall keep a record of all naturalization certificates issued and of all cases where naturalization has been refused, and such record shall be sufficient proof of naturalization. If the record is available parol evidence will not be admitted to prove or disprove naturalization, but where no naturalization records can be produced secondary evidence of the contents may be given just as secondary evidence of the contents of any record may be given.

Section 15. After an immigrant shall have been naturalized he shall then be entitled to a Certificate of Citizenship to be issued to him by the Clerk of the Circuit Court.

SCHEDULE OF FORM:

DECLARATION OF INTENTION:

Republic of Liberia,
County .....

I .....age .....years, do declare on oath [or affirm] that it is my intention to settle permanently in the Republic of Liberia, and to become a citizen thereof; and I hereby declare my allegiance to the Republic of Liberia and renounce forever all allegiance and fidelity to any foreign Power and particularly to the .... being the foreign Power of which I am now a citizen or subject, so help me God.

Subscribed and sworn to before me this ..... day of ..... A. D. .....

Clerk of the Circuit Court.
.....County.

CERTIFICATE OF CITIZENSHIP.

Republic of Liberia,
County .....

Be it known that on this.. .....day of. . ....A. D..... who previous to his [or her] naturalization was a citizen or subject of.....at present residing at.....in the Republic of Liberia, having filed his [or her] Declaration of Intention as provided by law, and having satisfied me by his [or her] own statement under oath that he [or she] is a person of

good moral character, attached to the principles of the Constitution of the Republic of Liberia, and has been in every respect a law abiding person during his [or her] residence in the Republic; and having taken oath to support and defend the Constitution and laws of the Republic of Liberia against all enemies, foreign and domestic, and to renounce and abjure all allegiance and fidelity to any foreign power particularly to the.... .. ..being the foreign power to which he [or she] formerly owed allegiance.

Therefore it is ordered: That said .... be and he [or she] is hereby admitted as a citizen of the Republic of Liberia.

In Witness whereof this Certificate is signed by the Clerk of the County of.....this.....day of..... A. D.....

.....
Clerk of the Circuit Court,
..... County.

Any law to the contrary notwithstanding.

Approved December 14, 1938.

By the Act of January 12, 1942 (Acts, 1941-1942, c. 8, p. 8) the foregoing Act was amended as follows:

Section 1. That Section 15 of the above entitled Act be amended so as to admit the signing of the declarant's name at the bottom of the schedule form of the Declaration of Intention set forth in said Act. The concluding part of the Act shall therefore read as follows:

"Sworn and subscribed to before me this.....day of .....A. D. 19....

Clerk of the Circuit Court
.....County, R. L.

.....
Declarant and Affiant."

Any law to the contrary notwithstanding.

The Naturalization Act provides for the voluntary

The Naturalization Act provides for the voluntary naturalization of adult alien Negroes or persons of Negro descent, whether male or female. An adult alien married woman possessing the racial qualifica-

tions may become a naturalized citizen on her own application independently of her husband.

The right of expatriation was recognized in Liberia from the very beginnings of the Colony. This right is the very foundation of the right of the settlers to establish a new State. (See Chap. V, *supra*). Therefore the existence of a law in the country of the applicant's nationality prohibiting expatriation or imposing certain conditions on the acquisition of a foreign allegiance are to be completely disregarded. The precise point is covered by an opinion of Attorney General L. A. Grimes of October 31, 1922 (1 Opinions of Attorney General, 73):

> Taking together your 745/L of the 25th ultimo covering letter from the American Minister Resident of September 21, received here on the 26th idem, and your 789/L of the 16th instant covering despatch from the American Minister Resident received here the 24th idem, I have culled the following facts.
>
> A certain man, name not given, an American by birth, but of African descent, emigrated from the State of Oklahoma in the United States of America, and arrived in Liberia on the 28th of April A. D. 1916 with his wife. Afterwards, to wit, on the first day of May 1917 he applied for, and was granted, naturalization papers as a citizen of the Republic of Liberia. There is a statute in the United States of America which provides *inter alia* that "No American citizen shall be allowed to expatriate himself when this country", i. e. the United States of America, "is at war"; and inasmuch as the United States declared war on Germany April the 6th A.D. 1917 the queries propounded for my consideration are:
>
> 1. Would the Liberian Government regard such naturalization valid?
>
> 2. In the absence of any separate act of the wife would the transfer of allegiance of the husband operate *ipso facto* as a naturalization of the wife? And
>
> 3. Congress having rescinded the said act at the end of the war and the man being dead, what would be the status of the widow in the absence of any specific act of hers either in confirmation or disavowal of her husband's act of expatriation?

Our present statute for the naturalization of aliens provides that:

[Ed. The Attorney General here quotes secs. 1 and 2 of the Act of 1908].

Not only did the above cited act repeal the previous Naturalization Act approved January 27th 1876, but its object, without a doubt, was to ensure such a reversal of the policy indicated by the former statute as to facilitate the obtaining of certificates of citizenship by persons of our race the world over. This change seems to have grown out of two conflicting policies of procedure in dealing with immigrants which had grown up in Liberia as pointed out by President Barclay in his Message to the Legislature on the 11th December A.D. 1906, and his recommendation therein that:

> "The statute should be changed to meet actual circumstances and especially the term of probation before citizenship must be shortened, as much as possible", so that it might conform to that constitutional provision of ours which reads "The Legislature shall make no law prohibiting immigration."

See Message of President Barclay to the Legislature of Liberia 1906, pp. 7/10.

See Const. of Lib. Art. V, part of sec. 16.

From the statement of facts there seems to be nothing urged against the validity of the Naturalization of the person whose status is now under consideration save only that his expatriation was effected while his country was at war, and that was in violation of a statute of the United States of America.

The record shows that he was in Liberia, not the United States of America, when his country entered the conflict in 1917, and hence he was at the time under local or actual allegiance to this Republic. The fact that his country was at war was not a disability under *our* statute to his altering his *natural* allegiance at that time; and our law under the circumstances must take precedence for:

> "The laws of every state effect and bind directly . . . all persons resident within its jurisdiction, and are supreme within its own limits by virtue of its sovereignty." See B.L.D. "Conflict of Laws" p. 392.

Furthermore

"In the recognition and enforcement of foreign laws the courts are slow to overrule the positive law of the forum; and they will never give effect to a foreign law when to do so would prejudice the State's own rights or the rights of its citizens, or when the enforcement of the foreign law would contravene the positive policy of the law of the forum, whether that policy be refuted in statutory enactment or not."

See 5, R. C. L. "Limitations of Comity" p. 911, fig. 5.

Passing to the second query, there seems to be a more or less settled principle of international law that the status of a wife usually follows that of her husband; which finds expression in the United States in the following terms:

"An Alien woman whose husband becomes a naturalized citizen of the United States is thereby made a citizen even though she has not attained her majority, or does not come to the United States until after his death." See 2, Cyc. p. 118, fig. 4 and cases cited esp. Kelly vs. Owen, 7 Wall. (U. S.) 496; 19, Law ed. pp. 283/4. See 3, B.L.D. Naturalization p. 2299.

Our Legislature obviously intended to enunciate substantially the same policy for section 2 of the Naturalization Law quoted supra provides that:

"If any Alien shall fraudulently secure a certificate of citizenship or if any Alien within three years after the issuance of a certificate of citizenship to him shall return to the country of his Nativity, or go to any other foreign country and take permanent residence therein for seven consecutive years during which time no account can be given of his absence, the Court of Quarter Sessions may cancel his certificate, and the Clerk of the Court shall notify the Department of State of such cancellation, and all lands held by the person whose certificate of citizenship is cancelled shall escheat to the Government he *having no widow or heir in the Republic.*"

The above taken together with the provision that a married man was entitled to an immigrant allotment approximately once and a half that of a bachelor (see Statute of Liberia, Old Blue Book, page 136, section 2) satisfies me beyond a doubt that our law-

makers not only followed recognized principles generally extant but also acted upon the presumption that every Negro woman who follows her husband to this country and remains with him after he shall have abjured allegiance to his *quondam* home thereby signifies her readiness and willingness to share with him the benefits of his altered national status, and become a citizen of this Republic.

My answer to the third query as foreshadowed in the quotation from 2 Cyc. and the case Kelly vs. Owen cited above is that the widow retains her citizenship in Liberia (especially if she continues to enjoy such realty as she may have acquired by virtue thereof), unless and until by some affirmative action on her part she renounces the act of her late husband in expatriating himself.

The Declaration of Intention may be filed at any time after arrival in Liberia. The Declaration of Intention, in addition to facts of the declarants life and arrival is confined to a declaration of his intention to become a citizen. It does not (as under the Act of 1908) contain an oath of allegiance to the Republic nor an abjuration of allegiance to his former sovereign. He must also swear that he is not "a believer in anarchy," a new provision. Other alien persons, undesirable because of their political views, criminal record or insanity, would be excluded, or if admitted would be deported under the Alien Residence Act, 1928, and therefore be unable to comply with the provision as to residence under the Naturalization Act.

Not less than two years nor more than three years thereafter the applicant may receive a Certificate of Citizenship upon taking the oath of allegiance and abjuration. He then becomes a citizen and is entitled to purchase lands and to receive allotments.

The 1908 Act provided (sec. 3) that an adult naturalized person acquires all of the privileges of a native citizen of the Republic. He may exercise political rights and privileges on the same terms and conditions as a native citizen, and is eligible for election or appointment to public office, except that he cannot become President of the Republic until fifteen years after his naturalization, or twenty-five years' residence under the Amendment now submitted for adoption in 1951. Furthermore, naturalized citizens are not eligible to enter the competitive examinations for the Classified Civil Service unless they have previously resided in the country as a naturalized Liberian at least five consecutive years from, December 12, 1934 the date of the passage of the Civil Service Act (Acts, 1934, c. 14, p. 17). *Quaere,* as

to the retrospective application of this provision to citizens naturalized before this date; it deprives them of a right to equal treatment with other citizens acquired when they were naturalized.

The Certificate of Citizenship will be treated by the Consular officers as conclusive evidence of citizenship (Cons. Reg. sec. 68), unless the person is not a Negro nor of Negro descent (*Ibid.* Sec. 69).

Under an early Statute, *Statute Laws* (*Old Statute Book*) 1856 ed. 148, 1879 ed. 161, an Act relating to Expatriation, sec. 2, a person who has expatriated himself by taking the oath of allegiance to any foreign Government and makes a false declaration that he did not take the foreign oath of allegiance, is "forever debarred from citizenship therein (*i. e.* Liberia)." The words are substantially repeated in Revised Statutes, section 1185: "he shall be forever debarred from the privileges of citizenship in this Republic."[7] This provision applies only where the person has expatriated himself by taking the foreign oath of allegiance and declares under oath that he did not take such foreign oath, not where a foreign nationality is acquired by operation of law, *e.g.* a minor child acquiring a foreign nationality by the naturalization of the parent, and where no oath of allegiance is given.

Individual Naturalization and Reintegration by Special Act. As stated above, there is no restriction on the power of the Legislature to pass an Act declaring certain named Negro persons, who have not complied with the provisions of the Naturalization Laws to be citizens of Liberia. Thus, by an Act (Acts, 1939-1940, c. 33, p. 63), it was provided:

> Whereas Charles A. James and Felix O. Lawrence have petitioned respectively the Legislature not to subject them to the two years condition mentioned in Section 6 of the Act relating to Naturalization passed and approved December 14, 1938, but to declare them citizens of the Republic of Liberia; and,
>
> Whereas good and tangible reasons have been shown in said petitions to warrant such actions on the part of the Legislature.
>
> It is enacted, etc. Sec. 1. That from and immediately after the passage of this Act, Charles A. James and Felix O. Lawrence of the City of Monrovia, County of Montserrado, Republic of Liberia, are hereby declared citizens of the Republic.

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[7] The Revised Statutes, were declared the Statute Laws of Liberia by the Act of December 9, 1929 (Acts, 1929, c 7, p 9) and section 1185 has not been expressly repealed or amended *Quaere,* whether it is impliedly repealed by the Naturalization Act, 1938.

There would appear to be no constitutional objection to an Act of the Legislature declaring a named person or named persons of the Negro race or of Negro descent to be citizens of Liberia, even though no steps towards naturalization had been undertaken.

No grant of citizenship to a named individual, except the cases of Nellie Grant Sartoris and Frances Scoville Mumm (*infra*), which were cases of reintegration rather than of naturalization, appear to have been made by an Act of Congress of the United States. By an Act of the State Legislative Assembly of Maryland, November 1784—January, 1785 (Maryland Acts, 1784, c. 12) "That the Marquis de la Fayette, and his heirs male for ever, shall be, and they and each of them are hereby deemed, adjudged, and taken to be, natural born citizens of this State, and shall henceforth be entitled to all the immunities, rights and privileges, of natural born citizens thereof, they and every one of them conforming to the Constitution and laws of this State, in the enjoyment and exercise of such immunities, rights, and privileges." By an Act of the House of Burgesses of Virginia, of October, 1785, the Marquis de Lafayette, but not his descendants, was declared a citizen of Virginia.

Both Acts were passed prior to the adoption of the Constitution of the United States (1787). Apart from these two Acts which conferred State, but not United States, citizenship, there appears to be no evidence to confirm any belief that the Marquis de Lafayette was made a citizen of the United States.[8] A State of the Union can declare any person (even one who cannot become a citizen of the United States by naturalization) a citizen of that State, but he does not thereby become a citizen of the United States. *Re Wehlitz,* 16 Wisc. 443 (1863); contra, *Lanz* v. *Randall,* 4 Dill. (U. S. Circ. Ct.) 428 (1876).

By a Joint Resolution passed by Congress, approved May 18, 1898, Nellie Grant Sartoris, a daughter of General U. S. Grant, and a native born citizen who had lost her American nationality by marriage with a British subject, was readmitted to American citizenship. The Joint Resolution provides that Mrs. Sartoris was "on her own application readmitted to the character and privileges of a citizen of the United States." (Moore, *Digest of International Law,* III, 456). Similarly by a Joint Resolution of Congress, Mrs. Frances Scoville-Mumm was readmitted to the American citizenship acquired by her at birth. (41 U. S. Stat. Part 2, c. 83, Private Laws, p. 1449).

The constitutionality of the foregoing Joint Resolutions was never

[8] Hackworth, *Digest of International Law,* III, 54, 55

tested in the courts. The question under the United States Constitution is whether Congress, whose powers of legislation are enumerated, and which has specific power to pass a uniform naturalization law is authorized to pass special naturalization laws applicable to definite persons. In Liberia the Legislature under its general powers may enact such special naturalization acts, admitting any person, whether a former citizen or not, to citizenship of the Republic.

Resumption of Nationality. "A Liberian woman who marries a foreigner takes the nationality of her husband. At the termination of the marital relation, by death or absolute divorce, she may resume her Liberian citizenship; if abroad, by registering as a Liberian citizen within one year with a Consul of the Republic of Liberia, or by returning to reside in the Republic of Liberia; or if residing in the Republic of Liberia at the termination of the marital relation by continuing to reside therein." (Cons. Reg. sec. 71). But see *infra,* LOSS OF NATIONALITY.

As to the effect of the mother's resumption of nationality on her minor child, the American law distinguishes between the case where the child at the time of the mother's resumption of nationality was residing in the country and the case where the child is resident abroad. In the former case the child acquires American nationality as of the date of the mother's resumption of nationality, *United States ex rel. Guest* v. *Perkins,* 17 Fed. Supp. (U. S.) 177 (1936). This view probably also represents the Liberian rule. In the latter case the child does not acquire American citizenship (*Case of Annie Spiegel Gross* (1937), Hackworth, *l.c.* III, 82), at least not until the child becomes a permanent resident of the Republic.

Under Liberian law, *semble,* such child acquires Liberian nationality upon taking up permanent residence in the Republic.

Alien Woman Marrying Liberian National. The Consular Regulations, section 70, provide that:

> Any woman of Negro descent married to a citizen of the Republic of Liberia is a citizen thereof; and it is immaterial whether the husband became a citizen before or after marriage. Any woman who acquires Liberian citizenship by marriage shall be assumed to have retained it after the termination of the marital relation by death or absolute divorce if she continues to reside in the Republic of Liberia, unless she makes formal renunciation thereof before a court having jurisdiction to naturalize aliens, or, if she resides abroad, she may retain Liberian citizenship by registering

as a Liberian citizen before a Liberian consul within one year after the termination of the marital relation.

The wife acquires Liberian citizenship even though she "believes in Anarchy," and therefore would be ineligible to naturalization on her own petition. (Naturalization Law, 1938, sec. 6). And, not being an alien, she cannot be excluded from Liberia although belonging to one of the classes proscribed under the Alien Residence Act, 1928, section 14. The woman, a former alien, to be recognized as a Liberian citizen, need prove only three facts: her own Negro descent, the Liberian nationality of her husband, and the existence of a valid marriage. The circumstance that under her own law (*e.g.* that of the United States) she retains her own nationality is immaterial.

Derivative Naturalization of Wife: the wife of a naturalized national acquires Liberian nationality through the naturalization of her husband, provided she is a Negro or a person of Negro descent, and is a resident of Liberia, even though she does not acquire such residence until after her husband's death.

The point is fully dealt with in an Opinion rendered October 31, 1922, 1 Opinions of the Attorney General, 73-75, reprinted *supra.*

If the wife is not resident in Liberia at the time of her husband's naturalization, she acquires his nationality the moment she begins to reside permanently in the Republic. Her position is identical with that of an alien woman marrying a native born national. Of Minor children: "The naturalization or resumption of Liberian citizenship of the parents confers Liberian citizenship upon the minor children and shall begin at the time such minor children begin to reside permanently in the Republic of Liberia." (Cons. Reg. sec. 72).

The wording covers not alone the offspring of an existing marriage but, *semble*, also the children of either spouse. The acquisition of citizenship is dependent upon residence in Liberia.

The question is dealt with in an Opinion of Attorney General L. A. Grimes, of May 26, 1927 (Unpublished, Ser. 106-3-'27, Int. Dep. 5-11-'27) as follows:

> I find that the latter is a despatch covering the copy of one from His Britannic Majesty's Chargé d'Affaires at this capital numbered $\frac{\text{S.D. 16}}{54/27/242}$ forwarding certain birth certificates and emergency passports of Charles Harold Dickinson Fredericks and Margaret Dickinson Fredericks, son and daughter of John Harold

Dickinson Fredericks and his wife Elizabeth Charlotte Mary Dickinson Fredericks née Brass, British born subjects who, *i.e.* the father, naturalized as a Liberian citizen on June 20, 1914; and his son and daughter having travelled from time to time upon emergency passports issued respectively by our Consul and Vice Consul in London, and the former having also obtained a permit of residence as an alien in Liberia, His Britannic Majesty's Government naturally desires to know the national status of the two persons in question according to the laws of Liberia.

Charles Harold Dickerson Fredericks, according to birth certificate submitted, was born at Brook Lodge, Cannington, R. D. County of Somerset, England on the 6th of March, A.D. 1904; and his sister Margaret at Belvedere Road, Taunton W. D. in the aforesaid County of Somerset, on the 16th of August 1905; hence they were, at the time of their father's naturalization in Cape Palmas, Liberia, on June 20th, 1914 as aforesaid, respectively 10 years 3½ months and 8 years ten months and four days old.

The rule of law with respect to the minor children of parents who have naturalized as Liberian citizens, taken from the American authorities which we have adopted, so paraphrased as to insert in the quotation following the words Republic of Liberia whenever United States is printed, is as follows:

"The minor child of an alien, though born out of the Republic of Liberia, if dwelling within the Republic of Liberia at the time of the naturalization of his parent, becomes a citizen by virtue of such naturalization. It has also been held that if an alien father takes the oath declaring his intention to become a citizen, his minor child thereby acquires an inchoate status as a citizen, and if he attains majority before the father completes his naturalization, that status is capable of being converted into complete citizenship by other means than the direct application provided for by the Naturalization Law. But the naturalization of a father does not affect the citizenship of his minor son who did not come to the Republic of Liberia until after his father had been naturalized." (See 2 *Cyc.* pages 117 and 118.)

Bouvier agrees with the authority just above cited, putting the relevant portion even more emphatically as will be seen from the pages following:

"Minor children, though born out of the United States, if living within the United States at the time of the naturalization of the

parents, become citizens by virtue of the naturalization of the parents; *Gumm* v. *Hubbard,* 97 Mo. 311, 11 S.W. 61, 10 Am. St. Rep. 312; but not so if they came after the father had been naturalized; *Behrensmeyer* v. *Kreitz,* 135 Ill. 591, 26 N.E. 704." (See 3 B.L.D. "Naturalization", p. 2200).

The record shows that on the 23rd of October 1920 our Vice-Consul in London granted Margaret Dickinson Fredericks an emergency passport upon which she travelled in the Continent of Europe, principally in Switzerland; but she never apparently came to Liberia. There can, therefore, be no question whatever as to her being still of British nationality in view of the principles cited *supra.*

Charles Harold Dickinson Fredericks had obtained on the 30th of August 1920 a passport identical with that of his sister above described, upon which he likewise travelled in Europe. On the 15th of February 1926 he filled out, subscribed, and swore to a form before our Consul-General in Hamburg prescribed for all aliens about to depart from a European port for Liberia, and having arrived at Cape Palmas on the 5th of April following being then 22 years of age, appeared before the Honourable the Superintendent of Maryland County, represented himself as a British born citizen and obtained the "permit of residence" which every alien must have who desires to remain in Liberia for a period longer than two weeks.

Had he been sincere in procuring the emergency passport upon which he had travelled in his minority that was his opportunity, being then of age, to declare his intention of becoming a Liberian citizen as his father had done, taking the oath of allegiance and applying for his certificate of naturalization. But the course he pursued is, in my opinion, sufficient evidence, even had the law been less emphatic than it is, that he did not desire to benefit from the altered national status of his father.

The Department is, therefore, of opinion that neither child of John Harold Dickinson Fredericks is a Liberian citizen, and that the passports upon which they travelled as such are illegal and should be cancelled by your Department.

If at the time of naturalization the children are abroad it does not become operative until the children begin to reside permanently in the Republic. Until then they are aliens, and, *semble,* their admission

is subject to the provisions of the Alien Residence Act, 1928, and they may be barred if they belong to the classes named in section 14 thereof.

It has been held, under the United States naturalization laws, that the child must have established a permanent residence in the United States after a legal entry in accordance with the provisions of the immigration laws. *Zartarian* v. *Billings*, 204 U. S. 170 (1907). It has been further ruled that the minor child of a naturalized parent who enters the United States after the parent has expatriated himself does not acquire citizenship *Case of Francesco Cozzetto* (1930), Hackworth, *l.c.* III, 74.

Citizenship of the minor child begins at the time such child begins to reside permanently in the Republic of Liberia (Cons. Reg. sec. 72). If the child already is permanently resident in Liberia, it begins the moment the parent completes his own naturalization. If abroad at that time, it begins when the child establishes a permanent residence therein, after a legal entry into the country. Under the United States law it has been held that where the minor had a permanent residence in the United States, but was temporarily abroad at the time of the parent's naturalization, the child is deemed to be a resident of the United States at the time of the parent's naturalization. (See Hackworth, *l.c.* III, 74, 75).

The term "minor children" includes not alone children born in lawful wedlock but also those legitimated by the subsequent marriage of the parents in accordance with the laws applicable to them at the time of marriage. But, *semble,* there must exist a blood tie, and, consequently adopted children do not acquire Liberian nationality by virtue of the naturalization of the parent.

The minor child acquires an inchoate right to naturalization by the preliminary step taken to that end by the parent. If the parent dies before completing his own naturalization the minor may, upon attaining his majority, complete the formalities and acquire nationality.

Adoption: Adoption is an institution unknown to the common law; it is a creature of statute. It establishes the relation of parent and child between the adopting parent and the adopted child and gives rise to such reciprocal rights and duties as may be provided in the Legislative act under which the adoption took place. The relation is of a purely civil character. By an Act of the Legislature (Acts, 1901, p. 3, Rev. St. secs. 997, 998) the "adopted child shall be entitled to all the rights and privileges of a natural child in every respect whatsoever." Some Private Acts were passed in the sessions of 1883-1884 and 1884-

1885, regarding certain adoptions (See Rev. St. II, 136, 137), but this procedure is no longer necessary since the Act of 1901.

Broad as are the words in the Act of 1901—"all the rights and privileges of a natural child"—they must be restricted to those of a private character. The foster father does not confer his public law quality of Liberian national on the adopted child. Adoption differs in this respect from legitimation, where the relation of father and child exists from the beginning.

The American Department of States has on numerous occasions ruled that adoption does not confer American citizenship on the child. [Hackworth, *l.c.* III, 82; to the same effect, *Powers* v. *Harlen*, 183 Iowa, 764 (1918)]. Under the United States Nationality Act 1940 (sec. 316) an alien adopted child under the age of 18 years, may, under certain conditions acquire citizenship upon the petition of the foster American parent or parents.

Collective Naturalization. Nationality may be conferred under the terms of a treaty or by Legislative Act on the inhabitants of a territory annexed by the Republic.

The independent State of Maryland in Liberia became part of the Republic in 1857. (See INTRODUCTION, Sec. III, *supra*). The annexation was assented to by the people of Maryland in Liberia, and that State ceased to exist. By Act of the Legislature it was enacted that the State of Maryland in Liberia be admitted as a county. The citizens of Maryland in Liberia became citizens of the Republic whose laws were extended over the new county. *Statute Laws,* (1856 ed. 222-227; 1879 ed. 235-238).

We have noted above the provisions of an Act of the Commonwealth passed in 1841 (Com. Acts, 1841, 14) conferring full rights of citizenship on native Africans who had resided in Liberia for upwards of three years and who had abandoned all forms, customs and superstitions of heathenism, and adopted the customs and habits of civilized life.

Provisions for the collective naturalization of aboriginal tribes living within the Republic, and special provisions for the incorporation of the Sinoe tribe are contained in Revised Statutes, section 14:

> Any aboriginal tribes living within the Republic and desiring to become incorporated in and assimilated with the Government thereof shall be admitted into citizenship with all its rights, duties, privileges, and responsibilities, under such regulations as may be formulated by the Executive Government and approved by the Legislature. The aboriginal inhabitants residing in Sinoe County

and styled the Sinoe Tribe are hereby incorporated into the citizenship of the Republic of Liberia and are entitled to all the rights and privileges of citizens and are bound to perform all the duties and bear all the responsibilities thereof. The Superintendent of the County under the direction of the President, shall select a suitable site on the banks of the Sinoe River, in the neighborhood of the location now occupied by said tribe, commencing from Farley's Creek and running parallel with the River to Ashmun Settlement, and not extending up the River further than parallel with John Marshall's Landing on the opposite side of said River. Said Superintendent shall cause the Surveyor of Sinoe County to survey, plot and lay off town lots to accommodate the aboriginal citizens of said tribe herein mentioned reserving interior or back lands for plantations. Said Surveyor shall lay off and plot a corresponding number of streets not to exceed forty feet in width. The lots shall be fifty feet wide and two hundred and fifty feet long. Upon the completion of said survey, said aboriginal citizens may obtain grants of said lots under the provisions of law relating to the grant of city lots. Each citizen shall be entitled to one lot and twenty-five acres of farm land, for which he shall receive a certificate specifying the number of the lot, the number of the plot, and a description by metes and bounds of the farm lands granted him. The Government shall reserve four of said lots for school houses, and other public buildings. No such citizen shall be entitled to a deed in fee simple until he can exhibit proof that he has two hundred and fifty growing coffee trees under cultivation, and a substantial log or frame house erected on said lot, or farm land. The Superintendent of Education shall establish a school in said Settlement as soon as he is satisfied that the taxes due by said citizens are collected and paid into the Sub-Treasury, and a teacher or teachers shall be appointed therefor. Said Settlement shall be named Murraysville in honor of the late R. E. Murray, the only signer of the Declaration of Independence from the County of Sinoe.[9]

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[9] The State of Massachusetts, in 1868, passed an Act declaring all Indians living within the State to be citizens of that State. This did not, however, make them citizens of the United States, although probably all of them were born within the United States, but not subject to the jurisdiction thereof, within the rule laid down in *Elk* v. *Wilkins*, 112 U. S. 94 (1884). All Indians may now be citizens of the United States by birth or naturalization.

Naturalization of Nationals of Annexed Territory. Liberian nationality was acquired by the citizens of the State of Maryland upon its incorporation in the Republic as the County of Maryland in 1857. Under the Constitution of the State of Maryland in Liberia, of March 29, 1853, in force at the date of annexation, citizenship was restricted to persons of color, so only this class of persons acquired Liberian nationality under the annexation. (Const. of Maryland in Liberia of 1853, Miscellaneous Provisions, sec. 4). The holding of land was restricted to citizens (*Ibid.* sec. 9). The Ordinance for the Temporary Government of the Colony of Maryland in Liberia, 1837, sec. 36, provided that no person shall own land in the territory who did not reside therein.

Loss of Nationality. Expatriation is defined by Bouvier as "the voluntary abandoning of one's country and becoming the citizen or subject of another." The definition is not correct, as there are cases where a person loses his nationality against his will, *e.g.* as a punishment for certain crimes—in the United States for treason, desertion, and where he does not become subject to the allegiance of another State, *e.g.* under denationalization laws. The term is here used in its original sence of a severance of the political ties that bind a person to a particular State.

This right is denied by the common law, but is not admitted throughout the English-speaking world. If the first emigrants were citizens of the United States (which is doubtful) it is the very foundation of the right of the first immigrant to establish the independent Colony of Liberia. (See Chap. V, *supra*). It has always been recognized in Liberia. In the Colonial Period a settler, although he had taken the oath of allegiance, could sever his political connection with the Colony by the simple act of removing from its territory (Chap. II, *supra*), and in fact a number of settlers returned to the United States or went to Sierra Leone.

Modes of Expatriation. Naturalization in, or Oath of Allegiance to, a Foreign State. The right of expatriation by taking the oath of allegiance to a foreign government is recognized in an Act of the Colony, passed July 3, 1838 (Statute Laws of the Commonwealth of Liberia, 11), which provides:

> The committee to which was referred that part of the petition regarding persons leaving the Colony and becoming citizens of others, reported the following, which was enacted as law:
>
> Be it enacted, That any person or persons, citizens of the

Colony, who shall remove to another government or colony, and take the oath of allegiance, shall not be entitled to the privileges of citizens in this; and should such persons again return, they shall not be entitled to the elective franchise, until they have again taken the oath, and have remained in the Colony at least twelve months thereafter.

And be it further enacted, That should any person or persons who had left the Colony, again return, and refuse to take the oath, declaring that he or they had become citizens of any government, and should there be any doubt respecting the same, said person or persons shall be questioned to the truth of the same before some justice of the peace, and his or their answer in the negative shall be recorded by the Register; and should it be afterwards found that he or they had taken such an oath, all their real property in the Colony shall be confiscated, and they be debarred forever from citizenship in the Colony.

This is probably the first statutory recognition of the right of expatriation ever enacted in a common law State.

This Colonial law continued in force to the present time. The text, as it appears in *Statute Laws, Old Blue Book,* 1856 ed. 148; 1879 ed. 161, is as follows:

Sec. 1. Any person or persons, citizens of this Republic, who shall remove to another Government and take the oath of allegiance, shall not be entitled to the privileges of citizens in this—and should such persons again return, they shall not be entitled to the elective franchise until they have again taken the oath of allegiance to this government, and have remained in the Republic at least twelve months thereafter.

Sec. 2. Should any person or persons who had left the Republic, again return and refuse to take the oath of allegiance, declaring that he or they had not become citizens of any other Government and there should be any doubt respecting the fact, said person or persons shall be questioned as to the truth of the same before some Justice of the Peace and his or their answer in the negative shall be recorded by the Register:—And should it be afterwards found that he or they had taken an oath of allegiance to any foreign Government, all his or their real property in the Republic shall be confiscated, and he or they debarred forever from citizenship therein.

With slight editorial changes, the text has been incorporated in the Revised Statutes, sections 1185 and 1189 (6):

> Sec. 1185. Forfeiture of Citizenship and Property.—Any citizen of this Republic who shall remove into the jurisdiction of another Government and shall take the oath of allegiance to such Government, shall not be entitled to the privilege of citizenship in this Republic; and should such person return to this Republic he shall not be entitled to the elective franchise until he shall take the oath of allegiance to this Government and shall have remained in the Republic for at least twelve months thereafter. Should any such citizen on his return to the Republic refuse to take the oath of allegiance to this Government, in which he shall declare that he had not taken the oath of allegiance to any other Government, such person may be summoned before any Justice of the Peace and examined on oath with reference thereto, and the record of such examination, containing questions and answers and signed by the person interrogated shall be recorded in the office of the Registrar of the County in which the person is examined. Any false statement made by such party denying that he had taken such oath of allegiance, shall be deemed perjury; and, upon conviction, he shall be punished as in the case of perjury, and all his real property in the Republic shall be confiscated, and he shall be forever debarred from the privileges of citizenship in this Republic.
>
> Sec. 1189. (6) Retaking Oath of Allegiance.—Any person being a citizen of this Republic, who shall move to another country and take the oath of allegiance to the Government thereof, shall not be entitled to the privileges of citizenship in this Republic, without returning and taking the oath of allegiance to the Government of Liberia; and before being entitled so to do, he must reside in this Republic for a period of at least one year.

Section 73 of the Consular Regulations provides:

> A Liberian citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign State in conformity with its laws, or when he has taken an oath of allegiance to any foreign State. . . .

The case of expatriation by naturalization in a foreign State requires no discussion.

The provisions of Section 1185 have been discussed above (*sub*

Resumption of Nationality); the provision relating to "Confiscation" is dealt with below (*sub* Effect of Expatriation on Property Rights). We take up at this point only the meaning of "oath of allegiance to a foreign Government." This phrase has been the subject of numerous judicial and administrative decisions in the United States, especially since the Act of Congress of March 2, 1907, which contains a similar provision. In the absence of published Liberian cases on the point, the American cases may be of interest. For a review of these cases, see Moore, *Digest of International Law*, III, sec. 468; Hackworth, *l.c.* III, 217-228.

It has been held that the oath must be one "which is prescribed by law or by regulations having the force of law." It need not involve an appeal to the Deity. No particular formula is required. "Congress had in mind any solemn, formal and binding obligation to serve a foreign State." It need not contain an abjuration of the former allegiance. It must be taken before a competent authority of the government concerned.

The oath of allegiance must be taken outside the territory—foreign residence is a necessary condition to expatriation by taking the oath of allegiance. (8 Opinions of the Attorney General (U. S.), 139; 9 *Ibid.* 62). This is also a requirement under the Liberian Expatriation Act, section 1. But an alien woman who acquired Liberian nationality by marriage can renounce her acquired nationality while remaining within Liberia (See *infra*).

The Liberian Expatriation Act, like the American Act, does not require that the allegiance promised be a permanent one. An oath of temporary allegiance, as, for example, a military oath to faithfully serve the foreign State during a particular war, or during the person's incumbency of a particular government office, is sufficient. The person has sworn to support the foreign State, even if it requires him to perform duties violative of his obligations to his own country. When he takes the oath of allegiance he severs the political ties with his own country, and his expatriation is complete, regardless of whether the duties he has assumed are permanent or temporary, or whether he acquires the nationality of the foreign State, or does not acquire it.

The oath of allegiance must be to an existing State, not to one to be founded at a future date. The emigrants who sailed on the Ann in order to establish the Colony of Maryland in Liberia all subscribed to the Constitution, already prepared, of that Colony. The Colony did not yet exist, and for this reason as well as on the ground that

they signed the instrument within the United States, this was not an "oath of allegiance" within the meaning here employed.

The person taking the oath must have legal capacity to act. He must be of full age [Cp. *Perkins* v. *Elg*, 307 U. S. 325 (1939)], and have mental capacity [*McCampbell* v. *McCampbell*, 13 Fed. Supp. (U. S.) 847 (1936)]. He must not act under duress. *Case of Waldemar Doriani*, Hackworth, l.c. III, 210. But a law of the foreign State requiring him to swear allegiance as a condition of continued residence or the carrying on of his business is not a sufficient excuse.

Cases may arise where a foreign government exacts military service of resident aliens, and the alien takes service and the required military oath. If the alien has the right to leave the country or to claim exemption on any ground, and fails to avail himself of his rights, there is no duress.

The oath may be vitiated when given under a mistake of fact. But ignorance of his national status is an error of law, and cannot be set up. *Wormser's Case*, Hackworth, *l.c.* III, 208.

A declaration of intention to acquire a foreign nationality, not containing a preliminary oath of allegiance to the foreign State or an abjuration of the former allegiance (both required under the Liberian Naturalization Law of 1938, but not under the American Acts does not bring about expatriation, at least not when not followed by the exercise of political rights or the enjoyment of rights reserved to citizens. Thus a declaration of intention by a Liberian citizen to acquire American citizenship does not entail loss of Liberian citizenship.

Cases of this character arose in Liberia before the Naturalization Law of 1908 came into effect, and are referred to in a dispatch of November 6, 1908, from Hay, the Secretary of State, to Smith, the American Minister to Liberia:

> I have to acknowledge receipt of your No. 27, Diplomatic Series, of the 15th September inquiring as to your proper treatment of the cases of certain citizens who, having emigrated to Liberia and acquired the rights of citizenship in that Republic, still claim that they are citizens of the United States.
>
> From your statement it appears that the Liberian Government does not require colored persons going from the United States to that Republic to renounce their allegiance to the Government of the United States or to take out naturalization papers, as is required in the case of immigrants from other countries, but

that the fact of such a colored citizen of the United States taking out an allotment of land enables him to be regarded for all national purposes as a Liberian citizen.

Analogous questions have arisen in the past regarding the status of American citizens resorting to Hawaii, the Danish island of St. Thomas, and other localities where an alien taking up local residence was, under certain formalities, admitted to all rights of citizenship without requiring abjuration of the allegiance of origin. In the case of Hawaii the formal act of admission to citizenship and the oath taken by the applicant purported to preserve the original allegiance for all effects not connected with domicil in Hawaii. Mr. Secretary Gresham, and after him Secretaries Olney and Sherman, held that an American so naturalized in Hawaii effectively lost his United States citizenship.

In the case of an American in Liberia, which you report, the omission of an oath of allegiance or requirement of formal naturalization, constituting a peculiar exception in favor of American citizens, would at first sight appear to modify the principle involved in the Hawaiian decision. In fact, however, the principle involved is substantially the same. The Republic of Liberia is an independent sovereignty, in no wise bound to or dependent upon the United States, and, theoretically at least, it is within the range of possibilities that differences might arise between the two Governments leading even to rupture of relations. It is inconsistent for an individual to bear true allegiance at the same time to two different sovereigns, and the exercise of the rights of citizenship under any alien sovereignty must be regarded as a voluntary assumption of the obligations of allegiance to such sovereignty.

As a doctrine, therefore, it may be said that when a citizen of the United States acquires, by whatever process, the status of a Liberian citizen he performs an act incompatible with his allegiance to the United States and with his citizenship thereof.

Nevertheless, the facts are not before this Department with sufficient clearness to enable it to lay down a rule designed to cover every case of the character you suggest which may arise in Liberia. Should any case actually arise, the particular facts and circumstances attending it should be reported to the Department for its decision. (Moore, *l.c.* III, 729, 730).

This is one of the evils referred to in the Annual Message of President Arthur Barclay, of December 11, 1906. A similar situation may arise in the United States where under the laws of certain States aliens who have filed a declaration of intention to become citizens are given the right of suffrage and the right to own lands.

Renunciation. The Liberian law contains no general provision permitting a citizen *simpliciter* to divest himself of his nationality by a formal act of renunciation. The American Nationality Act, 1940, sec. 401(f) permits such renunciation, except while the United States is at war.

The cases of renunciation provided for under the Liberian law are the following:

An alien woman who acquired Liberian nationality by marriage to a Liberian may, after dissolution of the marriage by death or absolute divorce, formally renounce her Liberian nationality by a declaration to this effect before a court having jurisdiction to naturalize aliens. In the absence of such renunciation she is assumed to have retained her nationality after the termination of the marriage if she continues to reside in Liberia, or if abroad, she registers at a Liberian consulate within one year after the termination of the marital relations (Cons. Regs. sec. 70). From the language of the Regulations it seems clear that the alien woman cannot prevent Liberian nationality attaching to her at the time of marriage, nor can she renounce that nationality during the existence of the marital relation. And she cannot renounce her nationality while Liberia is at war nor can she, upon entering into a new marriage acquire, so far as Liberia is concerned, the nationality of the second husband until peace is restored, because during war she cannot expatriate herself. [Cons. Regs. sec. 73; see *In re Varat,* 1 Fed. Supp. (U. S.) 898 (1932)].

Not a true case of expatriation is that of a Liberian woman marrying an alien.

Section 71 of the Consular Regulations provides that a Liberian woman marrying a foreigner takes the nationality of her husband. This is similar to the provision of section 3 of the Act of Congress of March 2, 1907 (34 Stat. 1228), which was the first legislative formulation of a rule that marriage of an American woman to an alien constituted an act of voluntary expatriation, but Van Dyne (*Law of Naturalization in the United States,* 254, 255) states "that the decided weight of authority was to the effect that the marriage of an American woman to an alien conferred upon her the nationality of her

husband." This was also the rule in England (Cockburn, *Nationality*, 24) and is confirmed by the Act of Parliament of 1870.[10]

The American Department of State applying the Act of Congress of March 2, 1907 (before the Cable Act, September 22, 1922), assumed the position that a woman loses her American nationality even if she continues to reside in the United States.

In 1896, that is at a date before the Consular Regulations relating to nationality were adopted as a part of the statutory law of Liberia (Acts, 1921-1922, c. 4, p. 4, reprinted *supra*), the Supreme Court in the case of *Williams* v. *Young*, 1 Lib. L. R. 293 (1896) says:

> The next point to which this court's attention is called is as follows: That M. A. Johns, the testatrix, marrying an alien, a citizen of Holland, lost her citizenship of Liberia, under the law that the wife takes the nationality of her husband. To this the Court says, this foreign law conflicts with the Organic Law of the Republic. The Constitution, which throws its powerful and protecting arm to uphold her, speaks in the following language: "The property of which a woman may be in possession before or after marriage otherwise than through her husband, shall not be taken for the payment of his debts whether contracted before or after marriage. Nor shall the property thus intended to be secured to the woman be alienated otherwise than by her free and voluntary consent, and such alienation may be made by her either by sale, devise or otherwise."

The property involved in this case was land, which can be owned in fee simple only by a Liberian citizen, and the Court thereby held that M. A. Johns, the testatrix, did not forfeit it, because she did not lose her Liberian citizenship by marriage to a foreigner.

The point is also dealt with in an Opinion of the Attorney General, L. A. Grimes, 1 Opinions of Attorney General, 82, 83 (1922):

> I hereby acknowledge receipt of your 909/L covering copy of the 7/22/955 of His Britannic Majesty's *Chargé d'Affaires* inquiring, in substance, whether a Liberian woman who marries an alien becomes *ipso facto* denationalized; in other words you

[10] The Author, in an opinion submitted to the Belgian Government in 1921, took the position that an English woman who had married a German subject before the Act of 1870 and thereby, under German law, acquired the husband's nationality, did not lose her British nationality. This view was accepted by the Belgian authorities, and her property in Belgium, which had been sequestrated as enemy property, was released (*Case of Norden*, not reported)

are asking me to give an opinion on the converse of the proposition treated under the second of the three queries discussed in our 5/24/22.

I am of opinion that the wife of the British subject in question has not lost her nationality.

This was one of the points considered by our Supreme Court in the case *Williams* vs. *Young,* Contested Will; reported in 1, L.L.R. pp. 293 *et seq.* On p. 297 the court says:

"The next point to which this court's attention is called is as follows: That of M. A. John's, the testatrix, marrying an alien, a citizen of Holland, lost her citizenship of Liberia, under the law that the wife takes the nationality of her husband. To this the court says, this foreign law conflicts with the Organic Law of the Republic . . . We need not add that when foreign laws conflict with the provisions of the Constitution the latter must prevail."

Nor is our law unique on the subject. The principle in vogue in the United States is:

> An alien woman by marriage with a citizen of the United States becomes a citizen; but the converse, *that a citizen woman by marriage with an alien becomes an alien, is not law.* See 1 B.L.D. "Alien" p. 129 citing 56 Fed. Rep. 556.

With respect to the conflict between our law and that with which the British *Chargé d'Affaires* is familiar as referred to in the 2nd paragraph of his despatch now under consideration I beg to refer your Excellency to the citations of law quoted on the top of page 4 of our 5/24/22; and reiterated on p. 3 of our 5/25/22. (Unpublished).

The Liberian wife of an alien, who continues to reside in Liberia, or if resident abroad makes a declaration before a Liberian consul to the effect, may resume her Liberian nationality (Cons. Regs. sec 71 *supra*). The use of the word "resumes" indicates a presumption that the woman lost her Liberian nationality by marriage to an alien. This is not the law. (1 Opinions of the Attorney General, 82 (1922). The Attorney General does not refer to the Consular Regulations, sec. 71.)

Denationalization of naturalized citizens. The Consular Regulations, section 73, provide:

> . . . When any naturalized citizen shall have resided for two years in that foreign state from which he came, or for five years in any other foreign state, it shall be presumed that he has ceased to be a Liberian citizen, and his place of general abode shall be deemed his place of residence during the said years.
>
> Provided: That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the Republic of Liberia, under such rules and regulations as the Department of State may prescribe. . . .

These provisions have been in part repealed by the Naturalization Act, 1938 (*supra*) section 11 of which provides:

> Sec. 11. Cancellation of certificate for fraud or absence: If any naturalized alien shall have fraudulently secured a Certificate of Citizenship, or if any alien who after the issuance of a Certificate of Citizenship shall return to the country of his nativity, or go to any other foreign country, and take up permanent residence therein for seven consecutive years, and no account can be given of his absence, the Judge of the Circuit Court upon information of the Attorney General, County or District Attorney shall have authority to cancel the certificate of the said naturalized alien and the Clerk of the Court shall notify the Department of State of such cancellation. All lands held in the territory of the Republic by any person whose Certificate of Citizenship is so cancelled, shall be forfeited and they shall be escheated to the Government, unless said naturalized alien shall leave a wife or legitimate children in the Republic. Officials and employees of Government who may be engaged on Governmental duties abroad are however exceptions to the provisions of this paragraph.

The main change is the lengthening of the period during which the naturalized citizen may be absent from Liberia.

Denationalization under treaty provisions. Under the terms of a cession of territory by treaty or other governmental act the nationals of the ceding State may cease to be its nationals. Thus under treaties with Great Britain and France delimiting their respective frontiers with Liberia the Liberian nationals remaining in the ceded areas passed under the protection of the new sovereign, unless they chose to remove. If they remained they lost the right to protection and were absolved from their allegiance.

It has become customary in treaties of cession to give to the nationals of the ceding State the right to declare whether they retain their old nationality or accept the nationality of the new territorial sovereign. But the Government cannot simply declare by a treaty provision that all of its nationals resident in the ceded area cease to be nationals, nor, *a fortiori*, that they become nationals of the new territorial sovereign.

Under the laws of some countries a national who has acquired a foreign nationality by naturalization and who returns to the country of his *quondam* nationality and resides there a prescribed period of time, reacquires without formalities on his part his former nationality, and brings about the loss of the acquired nationality. Such renationalization is provided for in certain Naturalization treaties to which the United States is a party. The voluntary character of the expatriation is preserved by the fact of voluntary residence in the other country, with a knowledge of the attendant legal effects. Liberia has not entered into any treaties containing such provisions.

Denationalization by statute or decree. A sovereign State under its general power to determine what persons shall be its nationals has power to declare that certain persons or classes of persons shall cease to be nationals of the State. But the exercise of this power may be limited by constitutional provisions. Citizenship is of tangible worth; an arbitrary deprivation of citizenship would probably be a denial of due process of law. [Willoughby, *l.c.* I, sec. 352, citing *Mackenzie* v. *Hare*, 239 U. S. 290 (1915)]. No Liberian Legislative Act of this character has been traced.

Failure to Take Oath of Allegiance or to Register. Nationality may be lost by a failure to perform certain acts.

(1) A child born abroad of Liberian parents and resident abroad, in order to conserve his Liberian nationality, must upon attaining his majority take the oath of allegiance before a Liberian consul. (Cons. Regs. sec. 74).

(2) An alien woman who acquired Liberian nationality by her marriage to a citizen, if resident abroad at the time of the termination of the marital relation, must, in order to retain her citizenship, register before a Liberian consul within one year after the termination of the marital relation. (Cons. Regs. sec. 70).

Limitation on Right of Expatriation. There is one rule that affects all cases of voluntary expatriation, and that is that "No Liberian

citizen can expatriate himself while his country is at war. (Cons. Regs. sec. 73). This provision is identical with that contained in section 2 of the Act of Congress of March 2, 1907. Under the American Act it has been held that an American citizen who takes the oath of allegiance to a foreign State while the United States is at war does not lose his citizenship, as his act is a nullity. *In re Grant,* 289 Fed. (U. S.) 814 (1923); *In re Bishop,* 26 Fed. (2d) 148 (1927). (For further cases and rulings, see Hackworth, *l.c.* III, 267-269). But the country to which the person takes the oath of allegiance need not take cognizance of this prohibition imposed by the person's own law. (1 Opinions of the Attorney General, 73 (1922), quoted *supra*). The prohibition against expatriation in time of war applies even to cases where the person takes no oath of allegiance but where the transfer of nationality is by operation of law, *e.g.* by marriage. In *In re Varat,* 1 Fed. Supp. (U. S.) 898 (1932), the Court held that the petitioner, a naturalized citizen, who had married an alien while the United States was at war lost her citizenship on the date of the termination of the war. The Court says:

> From the provisions of the aforesaid act, section 3 (March 2, 1907), it was clearly the intention of Congress to make the marital state rather than the act of marriage a ground for expatriation, since the provisions of the act prior to the passage of the Act of September 22, 1922, automatically restores American citizenship to an expatriate by marriage at the termination of the marital relation if she is residing in the United States.
>
> The provisions of section 2 that no American citizen shall be allowed to expatriate himself while this country is at war ceased to apply at the formal termination of the war in 1921, and, since the petitioner continued as the wife of an alien husband subsequent to this date, the only logical conclusion to be drawn is that she lost her status as an American citizen with the termination of the war.

Legal Effects of Expatriation. Upon his expatriation a person loses all rights, political and civil, which he possessed by virtue of his status as a national. He becomes an alien, and entitled to such rights and subject to such restrictions as attach to alienage. Expatriation may also affect the political status and civil rights of his wife and minor children.

The topics will be dealt with in the following order:

(1) *Effect on National Status of the expatriate, of the wife, of minor children.*

(2) *Effect on Property Rights.*

Effect on National Status of the Expatriate. The Expatriation Act, section 1, 2 (*supra*) provides that citizens removing from the Republic and taking the oath of allegiance to a foreign Government "shall not be entitled to the privileges of citizens in this (Republic) . . . nor entitled to the elective franchise until they have again taken the oath of allegiance to this Government, and have remained in the Republic at least twelve months thereafter." (See also Cons. Regs. sec. 73).

The Expatriation Act further provides that a citizen who, having left Liberia, upon his return shall refuse to take the oath of allegiance to the Republic and declares that he never took a foreign oath of allegiance, and this declaration be untrue, he is guilty of perjury, and is forever barred from citizenship in Liberia.

On the Wife of the Expatriate. The law provides only that a Liberian woman marrying a foreigner takes the nationality of the husband (Cons. Regs. sec. 71). We have seen that this rule is no longer accepted. But where both husband and wife are Liberian nationals does the wife lose her nationality as a result of the husband's expatriation either by acquiring a new nationality or by taking the oath of allegiance to a foreign State? Is the old principle of the unity of husband and wife to apply, and attach to the wife, without any voluntary act on her part the new nationality of the husband, just as it imposes the domicile of the husband on the wife? The husband may lose his former nationality without acquiring a new one, thus leaving the wife, by an arbitrary act on the part of the husband, in the precarious position of a stateless person.

The American decisions and Departmental opinions and rulings are in hopeless conflict on this question.

The Colonial Expatriation Act of July 3, 1838, recognizes the right of expatriation by the voluntary act of taking the oath of allegiance to a foreign Government, and the resultant loss of Liberian citizenship.

The Attorney General has taken the view that a Liberian woman does not *eo ipso* by marriage to an alien lose her Liberian citizenship. If this is correct, her citizenship cannot be affected by any change in the nationality of her husband. (For a review of the precedents, see Hackworth, *l.c.* III, 246-264).

On the Minor Children of the Expatriate. There appear to be no published decisions or rulings on this point in Liberia. In the United States prior to the decision of the Supreme Court in the *Elg* case (*infra*) the Department of State consistently held that minor children lost their American nationality upon naturalization of the parents in a foreign State in conformity with its laws, provided that they took up residence abroad before attaining majority. (Hackworth, *l.c.* III, 235).

This view was repudiated by the Supreme Court in *Perkins* v. *Elg,* 307 U. S. 325 (1939). Chief Justice Hughes, delivering the opinion of the Court, says:

> The question is whether the plaintiff, Marie Elizabeth Elg, who was born in the United States of Swedish parents then naturalized here, has lost her citizenship and is subject to deportation because of her removal during minority to Sweden, it appearing that her parents resumed their citizenship in that country but that she returned here on attaining majority with intention to remain and to maintain her citizenship in the United States. . . . the court concluded that respondent has not lost her citizenship in the United States and is entitled to all the rights and privileges of that citizenship. . . . the grounds given in support of the conclusion of the court that Miss Elg had not lost her American citizenship were:
>
> "First. On her birth in New York, the plaintiff became a citizen of the United States. Civil Rights Act of 1866, 14 Stat. 27; Fourteenth Amendment, para. 1; *United States* v. *Wong Kim Ark,* 169 U. S. 649. . . . As at birth she became a citizen of the United States, that citizenship must be deemed to continue unless she has been deprived of it through the operation of a treaty or congressional enactment or by her voluntary action in conformity with applicable legal principles."
>
> "Second. It has long been a recognized principle in this country that if a child born here is taken during minority to the country of his parents' origin, where his parents resume their former allegiance, he does not thereby lose his citizenship in the United States provided that on attaining majority he elects to retain that citizenship and to return to the United States to assume its duties."
>
> "Third. Petitioners invoke our treaty with Sweden of 1869. . . . Article I of the treaty provides: 'Citizens of the United

States of America who have resided in Sweden or Norway for a continuous period of at least five years, and during such residence have become and are lawfully recognized as citizens of Sweden or Norway, shall be held by the government of the United States to be Swedish or Norwegian citizens, and shall be treated as such.' "

"We think that this provision in its direct application clearly implies a voluntary residence and it would thus apply in the instant case to the father of respondent. There is no specific mention of minor children who have obtained citizenship by birth in the country which their parents have left. And if it be assumed that a child born in the United States would be deemed to acquire the Swedish citizenship of his parents through their return to Sweden and resumption of citizenship there, still nothing is said in the treaty which in such a case would destroy the right of election which appropriately belongs to the child on attaining majority. If the abrogation of that right had been in contemplation, it would naturally have been the subject of a provision suitably explicit. Rights of citizenship are not to be destroyed by an ambiguity.

"Fourth. Petitioners contend that respondent's acquisition of derivative Swedish citizenship makes her a person who has been 'naturalized under Swedish law', and that therefore 'she has lost her American citizenship' through the operation of this statute (section 2, act of March 2, 1907). We are unable to accept that view. We think that the statute was aimed at a voluntary expatriation and we find no evidence in its terms that it was intended to destroy the right of a native citizen, removed from this country during minority, to elect to retain the citizenship acquired by birth and to return here for that purpose. If by virtue of a derivation from the citizenship of one's parents a child in that situation can be deemed to have been naturalized under the foreign law, still we think in the absence of any provision to the contrary that such naturalization would not destroy the right of election."

It must be noted that in the *Elg* case the father lost his American nationality by naturalization in a foreign State. The taking of an oath of allegiance to a foreign State divests the parent of his American nationality but is not the equivalent of a foreign naturalization,

and, consequently does not affect his minor children. *Cases of Maria Hric and Lincoln Mei* (1933), Hackworth, *l.c.* III, 245.

Effect on Property Rights. During the Colonial Period only residents could hold lands. Consequently a person removing from the Colony, whether he took an oath of allegiance to the Government of his new residence, or not, forfeited all of his real property. This property "reverted" to the Colony, unless he left heirs in the Colony. In the latter case these heirs took by descent as if he had died. Personal property remained unaffected.

Under the Colonial Act of July 3, 1838, still in force, (Rev. St. secs. 1185, 1189 (6)) a citizen removing to another jurisdiction and there taking an oath of allegiance to the foreign State, lost his elective franchise, unless he returned, took a new oath of allegiance to the Colony, and remained in the Colony at least one year. If he returned and refused to take the oath of allegiance to the Colony, alleging that he had not taken an oath of allegiance to the foreign Government, his status was unaffected, if his sworn allegation is true. If, upon a judicial investigation it is found that he did, in fact, take the foreign oath of allegiance all of his real property in the Colony is confiscated. It is to be noted that the old rule providing for the passing of his real property to his heirs, resident in the Colony, is not adopted.

This Colonial Act was subsequently amended so as to render him guilty of perjury, but leaving the confiscation provision unchanged, and further debarring him forever from the privileges of Liberian citizenship. [*Statute Laws* (*Old Blue Book*) 1856 ed. 148, 1879 ed. 161; Rev. St. sec. 1185; see texts, *supra.*]

The confiscation of real property is not by way of punishment for taking the foreign oath of allegiance nor a part of the punishment for the perjury committed by him in falsely stating under oath that he had not taken the foreign oath of allegiance, but is an application of the general rule that no foreigner can hold lands to a person who has voluntarily expatriated himself.

The penalty of perpetual exclusion from enjoying the privileges of Liberian citizenship is not a punishment for taking the foreign oath of allegiance, for under the Act of July 3, 1838, and its subsequent formulations, he can re-acquire all rights by returning to Liberia, taking the oath of allegiance, and remaining one year, but it is an additional penalty, for a particular kind of perjury (an infamous crime under Criminal Code, 1914, secs. 39, 40) which if committed renders a person unworthy of citizenship, regardless of the method by which

citizenship may be sought to be acquired—naturalization, marriage, etc.

As a person who is expatriated, regardless of the mode of expatriation, ceases to be a citizen, he loses his right to hold land. (Const. Art. V, sec. 12). But he can hold personal property on the same terms as any other alien.

Alienage

The legal status of aliens is admirably summarized by Willoughby:[11]

> As regards the status of aliens, that is, subjects of other States, who are temporarily or permanently domiciled in a State, it may be said that the fact that they are within its territorial limits makes them, in a broad constitutional sense, members of that State, and, therefore, subject to the authority of its laws, though they still remain the subjects or citizens of their native States. In fact, being under the protection of the State where they are, they owe an allegiance to it according to the maxim *protectio trahit subjectionem, et subjectio protectionem.* Webster, when Secretary of State, in his report on Thrasher's case in 1851, declared: "Independently of a residence with intention to continue such residence, independently of the taking of any oath of allegiance, or of renouncing any former allegiance, it is well known, that by the public law an alien, or a stranger born, for so long a time as he continues within the dominions of a foreign government, owes obedience to the laws of that government, and may be punished for treason or other crimes as a native-born subject might be, unless his case is varied by some treaty speculations."
>
> This principle thus stated by Webster has been several times quoted and approved by the Supreme Court. *United States* v. *Carlisle* (16 Wall. 147); *United States* v. *Wong Kim Ark* (169 U. S. 649).

This doctrine is also announced in the Liberian cases of *Ditchfield* v. *Dossen and Zeiser* v. *Montgomery* cited *infra.*

Rights and Disabilities of Aliens. An alien is a person not owing allegiance to the Republic of Liberia. Under the Alien Residence Act of February 18, 1928, (Laws, 1928) " 'Alien' includes any person not a native-born or naturalized citizen of Liberia." Liberia recognizes the possibility of a person owing allegiance to more than one country;

[11] *The Constitutional Law of the United States* (2d ed.) New York, 1929, I, sec. 178.

this double nationality does not make him an alien, if one of the countries of his allegiance is Liberia. The definition of alien is broad enough to include stateless persons.

Citizens and aliens are on an equal footing as regards fundamental right. In *Ditchfield* v. *Dossen*, 1 Lib. L.R. 492 (1907), the Supreme Court says:

> The Court desires to put upon record for the benefit of all concerned, citizens and aliens, that the organic and statutory laws of Liberia, in legal matters put every man on equal footing in securing to himself the rights that are guaranteed to him; rights guaranteed not only by the law of the land as such, but by international treaties with the nations of the world. And again, that the Supreme Court, in its integrity, representing the Republic in judicial matters, would not, in the least degree, act partially in any litigation between the citizens of the country and aliens residing in the country. Too much would be involved on the contrary for such a principle to be established in the country by the *dernier ressort* of justice.
>
> It is very painful, however, to the Court and country at large, that whenever there be a litigation between Liberians and aliens, the latter, suspecting the integrity of the third co-ordinate branch of the Government—the judiciary—begin at once to make representations to the representatives of their Governments. This has happened in many instances within the last decade; and in each instance Liberia has been exonerated by those very Governments and commended for its justice, equity and forensic knowledge. Aliens coming to Liberia to transact business, as it is supposed, under the laws of the country and treaty stipulations with other countries, conclude either that the governing forces are ignorant, and consequently wicked, or that they desire to bring about international complications affecting the independence of the State. These facts are glaring to the Court from previous experience.

The attitude of the courts is also well set out in the following excerpt from the opinion of the Court in *Zeiser, Agent for J. W. West* v. *Montgomery*, 1 Lib. L.R. 485 (1906):

> The Supreme Court, the last resort of judication of the country, recognizing its grave responsibilities and obligation to the law as well as to the people, keeps before its eyes, and in its heart, that there cannot be tolerated any partiality or favor to or for any

man, whether citizen or alien. The condition of men is never taken into account. In fine, the court knows only law and justice, and it will always, according to its legal lights, conscience and convictions, endeavor to deal justice to all. And just here it may be in place to enunciate that the Supreme Court, one of the co-ordinate branches of the Government, is awake to all the interests of the country, and will do no act to impair international amity by taking or allowing advantage to be taken of citizens and subjects of foreign nations, residing in Liberia, who may have business relations, or otherwise, with Liberia.

The Supreme Court, aside from its legal knowledge, has a knowledge of human nature; it knows that men are selfish and mercenary, to a certain extent, and will take advantage of other men when the opportunities for so doing present themselves. While this enunciation, to the mind of the court, is true, still, the court cannot lend its aid in giving an advantage to aliens over citizens of the country in legal matters, simply to satisfy the prevailing opinion that Liberians seek to rob aliens in their intercourse with them, nor will the court give its aid to Liberians in fraudulent transactions with aliens. The court recognizes that Liberia is a weak nation; but honor is honor, and the court will only move on lines of honor, integrity, law and justice.

The equality of the alien with the citizen is also dealt with in an opinion of Attorney General L. A. Grimes in the Liberian Rubber Corporation Controversy (Unpublished. Int. Dep. 5-23-'26, Ser. 106-9-'26):

In the Declaration of our Independence upon which recognition of our Sovereignty was given by the Government of Her late Majesty Queen Victoria we guaranteed that our courts of justice were "Open equally to the stranger and the citizen for the redress of grievances, for the remedy of injuries, and for the punishment of crime." To this declaration we have consistently adhered, improving and modernizing our judicial administration from time to time so as to fully measure up to our national and international responsibilities in this regard. To allow an alien to invoke in the first instance the diplomatic interposition of his government without recourse having been had to our courts would, as Calve points out, "constitute an unjustifiable privilege for the foreign members of the community since nationals could not, except by municipal law, claim the privilege. Finally, the mere fact of

questions of this nature being withdrawn from the cognizance of the ordinary courts would amount to a serious interference with the authority and dignity of the jurisdiction of the local courts."

The Attorney General quotes at length from the Declaration made at the Second Pan-American Congress, on this point.

The first Act, regulating Revenue and Commerce, approved January 28, 1848 (Constitution of the Republic of Liberia, with the Laws of the Republic enacted . . . 1848, p. 21, Art. II, sec. 1) provides "that the lawful commerce of all nations shall be on equal footing in this Republic, and shall be entitled to the same privileges and protection, and be subject to the same regulations; nevertheless, the same or any part thereof, may be at any time abrogated or modified by treaty or commercial arrangement."

A serious question regarding the rights of aliens arose in 1860 in the case of John Myers Harris, a British trader. Sir Charles MacCarthy, in 1817, and Sir Charles Turner, in 1825, Governors of Sierra Leone had made some attempts to extend British political influence along the coast eastward past Sherbro Island. On September 24, 1825 a convention with the kings and chiefs of Sherbro island and the adjoining islands and mainland was concluded which brought the British boundary to the vicinity of the Sherbro River. By proclamation, Sir Charles Turner claimed jurisdiction even beyond this line. No attempt was made to contest the rights of Liberia to the coast line up to the Sewa River, but there was no effective Liberian occupation to the West of Cape Mount, and Harris established himself between the Sulima River and the Mano River in 1860. The Liberian authorities notified him of the territorial sovereignty of Liberia over the area where Harris had established himself, and when he denied this authority President Benson sent a coast guard boat to seize two schooners belonging to Harris. The seizure took place in waters that were admittedly under Liberian jurisdiction. The seizure was made for violation of the Liberia Customs regulations, and the schooners were brought to Monrovia. On orders of the Sierra Leone authorities a British gunboat entered Monrovia harbor and took away by force the two schooners belonging to Harris. President Benson went to Sierra Leone to reach a settlement of the question, but was referred to London. In London, Benson conferred with Earl Russell and a somewhat vague recognition of the rights of Liberia was obtained. Harris succeeded in stirring up an agitation against the recognition of Liberian jurisdiction over the territory where his establishments were located,

and was supported by Governor Hall of Sierra Leone. The British Government did nothing. The two schooners belonging to Harris were again seized. This time the schooners were flagrantly evading the Customs regulations off the coast of Cape Mount.

Sir Harry Johnston[12] from whose work the above account is taken, continues:

> The frontier still remained undetermined on the part of the Colonial Government of Sierra Leone. Harris, rendered bold by his repeated flouting of Liberian authority, in which he was secretly supported by the Sierra Leone Government, began at last to act almost as an independent chief in the Gallinhas country, and his exactions and disputes aroused the adjoining Vai tribe to reprisals. Harris met these reprisals by organizing an attack on the Vai country by the Gallinhas people. The Liberian Government dispatched a body of its militia to defend the Vai. The Gallinhas natives took to flight and avenged their defeat by turning on Harris and destroying one of his factories. A demand for an indemnity of £6,000 was put in by Harris and apparently supported by the Sierra Leone Government. Another joint Anglo-Liberian commission was sent to inquire into the matter and ascertain the circumstances under which Harris's property had been destroyed and the real monetary value of the damage. It is doubtful whether at this time the Governor of Sierra Leone would not have carried matters with a higher hand had not Liberia made some kind of appeal to the United States, or at any rate to the commander of the United States battleship which happened to be in those waters (Commodore Shufeldt) This naval officer was chosen as arbitrator. The monetary claim of Harris was reduced to the sum of £300.[13] But at the sitting of this conference the senior British representative claimed for the Colony of Sierra Leone a protectorate over the coast east of Sherbro as far as the mouth of the Mano River, on the ground that the Liberian forces were unable to maintain order west of the last-named stream. Undoubtedly they were unable to fight British traders, since every time they used force, maritime or military, the said traders were able to command the armed interference of the Sierra Leone Government.
>
> The question was once more referred to London, and was met

[12] *Liberia*, 242-236

[13] Twenty-five years later, in a treaty, Great Britain acknowledged that the claims of Harris were "inadmissible" so far as Great Britain was concerned

> at first by a very vague dispatch from Lord Clarendon, which settled nothing. In 1870 President Roye went to England to see Lord Granville, who proposed that the British frontier should be carried eastwards to the banks of the Sulima River. A joint commission was to be established at the mouth of the Sulima to inquire into the validity of Liberian rights west of that stream; but by consenting to this somewhat curious proposal President Roye had no doubt gravely compromised the right of his Government to an extension west of the Sulima. As a matter of fact, no steps were taken to carry Lord Granville's proposals into effect, owing to the disaster which led to the death of President Roye in 1871. The question, therefore, of this northwest frontier continued to remain open until closed by the Anglo-Liberian Treaty of 1885.[14]

Harris not only contended that Liberia had no territorial jurisdiction, but also that the laws applied in his case were unknown to him. The matter came before the Supreme Court in *John M. Harris (an Englishman)* v. *Republic of Liberia,* 1 Lib. L.R. 39 (1867). The opinion of the Court is of interest not alone as reaffirming the doctrine that all persons, including aliens, must obey the laws of the territorial sovereign, but also for its views on the binding force of international law. The Court says:

> It is the duty of the depositories of the law to acquaint themselves with these grand leading principles. These leading principles have attained to as great perfection, so far as their cultivation has gone, in international law, or the law of nations, as in common law. The distinctive titles of laws have been made to point out those several departments in the great laboratory of laws, to show their office and special design, while at the same time, as stated above, they are based on principles as grand and sublime as perfection itself. It is therefore the office of the law of nations to set forth in a clear light the duties of one nation to another, as well as the respective rights of each. It therefore descends into every minutia that can possibly have any bearing upon nations. Sovereignty is the first grand constituent of a nation, and whenever this appears international law is enthroned and its provisions and influences are as fully in force with reference to nations as a statute is in a nation.

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[14] See also Azikiwe, *Liberia in World Politics,* 101-103

Let it be remembered that there is one prominent principle in the law of nations which gives it efficacy and effect in every nation, and that is, that the subjects or citizens of one are bound to obey the laws of the other as soon as he enters its territory, and the nation into whose territory he enters is bound for his protection, unless the sovereign orders him to leave. Here the duties of nations and subjects or citizens are reciprocal. Here, then, is a principle. It is also a conceded right that a citizen or subject of one nation may be tried and punished for violating the laws of another nation, on condition that complete justice is awarded; no other condition is required. This being done, no dissatisfaction ought to or can be expressed by the nation whose subject or citizen has been punished.

This being a fact and a principle as pure as truth itself, it shows that the citizen or subject of any other nation should be very particular to acquaint himself with the local laws of the nation into which he goes, lest he might fall under the influences of these powerful principles,—an influence from which his own nation cannot extricate him, except by using might for right; in which case, that nation which seeks to avenge itself arrays all other nations against it. But when the plea of ignorance is urged, that is, that the subject or citizen did not know the law, the law cannot admit such plea, neither by its own citizens or subjects, nor by foreigners. For if such pleas are allowed by law, who would be tried?

Having made the above brief allusions, the court proceeds to accommodate the various features in this case to those ruling principles, before going to the merits. The court announces that it will use equitable provisions where it appears necessary, and affirm or reverse the decree of the court below where it is needed.

The navigation, commerce and revenue laws of the Republic of Liberia are plain and intelligible. They have long since been published to the world. Added to this, it may be said that the body politic is regularly organized; no department is without a representative. The territorial boundaries of the country have been clearly defined, published and acknowledged. Therefore, so far as respecting these points, all nations must be satisfied, and whoever violates said laws by mistake or ignorance is liable to its penalties.

Subject to treaty stipulations, a State may prohibit aliens from engaging in certain commercial or professional activities, or subject them to certain restrictions or licenses not applicable to citizens. For example, it may prohibit aliens from engaging in the trade of firearms, intoxicating liquor, drugs, and the like for reasons of public safety, or acting as teachers, ministers or publishers or distributors of printed books or papers, or trading with the natives. Or acting as common carriers (Acts, 1927-1928, c.8, p. 10), or operating telegraph and telephone lines, or wireless stations (Acts, 1923, c.3, p. 3). Foreign medical practitioners are required in addition to ordinary qualifications, to present a certificate that they possess a diploma from an accredited school of tropical medicine (Acts, 1941-1942, c. 15, p. 14).

An Alien Artisan License must be procured by aliens following certain occupations such as that of carpenters, masons, cooks, laundry men, fishermen, photographers, etc. (Rev. St. sec. 1178), and under the Internal Revenue Code (Acts, 1938, c. 10, p. 11), Art. 3, sec. 1, "Aliens engaged in the practicing of any profession, trade or occupation enumerated in the Schedule shall be assessed twice the sum charged against the native citizens in the above Schedule." Under Art. 6 of the same Code the cost of Letters Patent to citizens is fixed at twenty five dollars, while the cost to aliens is fifty dollars.

The *droit d'aubaine* never existed in Liberia. The personal property of the deceased passes to citizens and aliens on equal terms. The succession to real estate is subject to the law relating to alien ownership of land (*infra*).

Aliens, even non-resident aliens can be the incorporators and act as directors of a Liberian corporation. No alien can be the owner or part-owner of a vessel under Liberian registry, or, semble, act as master of such a vessel. Attorney General L. A. Grimes in 4 Opinions of the Attorney General 16 (1925) says:

> The Statute laws of Liberia, old 'Blue Book' provide that: "No vessel shall be entitled to registry, or if registered to the benefits thereof, if owned in whole, or in part by any foreigner, or by any citizen usually residing in any foreign country, unless he be a consul or agent for this government." See page 89, section 2.
>
> "In order to the registry of a vessel, the owner or one of the owners, shall take and subscribe before the registering office an oath, declaring to the best of his knowledge and belief, her name and burthen, the time when, and the place where she was built if

in Liberia; . . . and that he is the sole or joint owner of such vessel, naming the other owners if any, and their place of abode, and that he or they so swearing are citizens of Liberia." See page 89, section 3.

According to section 5 of said act it would seem as though the MASTER of the vessel should be a citizen of Liberia.

The Consular Convention between Liberia and the United States, of October 7, 1938, provides on this point (Art. VIII) as follows:

> In case of the death of a national of either of the High Contracting Parties without will or testament whereby he has appointed testamentary executors, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.
>
> Whenever a consular officer accepts the office of administrator the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

The rights of foreigners to trade with the natives was a source of some of the most acrimonious controversy with foreign Governments. These difficulties, in so far as they arose in the Colonial and Commonwealth periods, have been dealt with in preceding Chapters. These difficulties continued during the Republic. The position of aliens to trade with the native was gradually ameliorated, but the protests of foreign Governments continued. Finally, in the first year of the administration of President Edwin Barclay the Legislature passed an Act, approved December 18, 1930 (Acts, 1930-1931, c. 5, p. 10) removing all restrictions on trade in the Hinterland, and placing citizens and aliens on an equal footing in this trade. The complete text of the Act is as follows:

An Act Permitting Unrestricted Trade in the Hinterland of Liberia, Both to Citizens and Aliens.

Whereas representations have been made to the Government of Liberia that Chapter III. of the Acts of 1923 entitled an "Act authorizing the opening of trading areas interiorward beyond ports of entry, and regulating the trade of foreign individuals, corporations, associations, and companies within such areas" does not provide sufficient facilities to merchants to open factories in the Hinterland, and

Whereas the present slump in the trade of the Republic is partly attributed to the restrictions placed by our Statute laws on free and unrestricted trade in the Hinterland, and

Whereas it is the desire of the Government to open the entire interior to trade and commerce subject to the provisions hereinafter specially mentioned:

Therefore it is enacted, etc.:

Section 1. That from and immediately after the passage of this Act, any individual, firm or Corporation, Liberian or alien, having an established place of business in any of the ports of entry of the Republic, shall be permitted to trade at any place in the Hinterland without any other restrictions save those hereinafter mentioned.

Section 2. Upon application to the Secretary of the Interior for and in behalf of the Republic of any merchant or mercantile firm established as provided in section 1 hereof said Secretary of the Interior shall be privileged to lease at a reasonable rental to such individuals, firm or corporation a plot of land not exceeding one (1) acre from the public domain as a place for establishing his business and erecting suitable buildings in the Hinterland, which lease shall run for a period not exceeding twenty-one years with the privilege of renewal for a further period of twenty-one years upon terms and conditions to be agreed upon at the expiration of the first term, provided, however, that should any Citizen possess land in fee in the vicinity required, nothing in this Act, or in any previous Act, shall prevent him from leasing any portion of his land to such individual, firm or corporation should it be mutually desirable.

Section 3. Should the said individual, firm or trader (1) violate any of the previsions contained in Section 6 infra or (2) abandon the site for a period of two (2) consecutive years, then

the said land with the buildings thereon shall revert to the Government with all the improvements thereon and without any liability to the Government whatever, provided that before the expiration of the period of the two years aforesaid said lessee shall be privileged to sub-lease the remainder of the term thus demised to any other person firm, or corporation upon the approval of the Secretary of the Interior first had and asserted to in writing.

Section 4. In every deed or lease issued by the Secretary of the Interior, there shall be expressly granted to every individual, firm or corporation the privilege of transporting his own goods, produce and merchandise by land or water; provided however, that under no circumstances shall said privilege be construed into that of serving as a common carrier, which privilege is hereby withheld from any such person carrying on mercantile business under the provisions of this Act.

Section 5. In the employments of agents, factors, clerks or other employees in any business thus established preference shall be in all cases given to Liberian Citizens.

Section 6. The head, and every officer or employee of any individual, firm or company established under the provisions of this Act shall (1) refrain from any act, or speech or propaganda of a treasonable or rebellious character; (2) From interfering with any of the customs of the tribe among which they are carrying on business or from molesting the natives in any way or manner whatever; (3) Any alien in the service shall abstain from taking any part in any political discussion, or political propaganda; (4) From selling any arms, ammunition or munitions save upon a permit issued by the War Department, and any person trading in arms or munition shall keep a record of his sales, open at any time to inspection and comparison with the permits issued by the War Department; (5) And shall not sell any distilled or spirituous liquor, nor the apparatus for making them to any person except upon a permit from the Secretary of the Interior or his representative in the Hinterland.

Section 7. This Act shall repeal the Act of 1923 above cited and all previous Acts inconsistent with the provisions hereof. This Act shall take effect immediately and be published in hand bills.

Any law to the contrary notwithstanding.

Approved December 18, 1930.

Control over the admission of aliens is a sovereign right, subject to no limitation except such as may be imposed by the constitution or by treaty stipulations.

The Constitution (Art. V, sec. 16) contains certain provisions regarding the admission of immigrants:

> The existing regulations of the American Colonization Society in the Commonwealth relative to immigrants shall remain the same in the Republic until regulated by compact between the Society and the Republic; nevertheless the Legislature shall make no law prohibiting immigration. And it shall be among the first duties of the Legislature to take measures to arrange the future relations between the American Colonization Society and this Republic.

This provision was incorporated to enable the colonization societies to continue their work of colonizing free Negroes, and the prohibition of laws restricting immigration, in the light of the historical antecedents should be confined to Negro immigrants, leaving unimpaired the right of the Government to exclude non-Negroes, and also alien Negroes whose presence in the country, whether temporary or permanent, is deemed dangerous to the Republic. (Garvey Plan, *supra*).

It has been the settled policy of the Republic, as it had been in the earlier periods to encourage Negro immigration, especially from the United States and the West Indies, where the immigrants had lived under democratic governmental regimes similar to those of Liberia, by land grants out of the Public Domain and assisted transportation, in order to develop the agricultural resources and increase the educated population of the country and serve as a counter-weight to the native elements of the community. Provision for this immigration was made in the Article of the Constitution above quoted, concluded July 20, 1848. (For text of this Agreement, see INTRODUCTION, sec. III, *supra.*)

AN ACT REGULATING THE RESIDENCE OF ALIENS AND IMMIGRANTS WITHIN THE REPUBLIC OF LIBERIA.

Whereas there is an increasing number of aliens entering the Republic, and it has consequently become necessary to regulate by law their ingress into, and residence in, the Republic; and

Whereas it has been discovered that certain class of persons admitted into Liberia as immigrants under the immigration laws of the Republic, have declared their intention to naturalize them-

selves as citizens of Liberia in order to fraudulently evade the financial requirement which must be met by Alien Residents, and thereby taken up residence in the Republic for an indefinite period without either becoming citizens or taking out permits of residence,

It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

Section 1. This Act shall be cited for all purposes as Alien Residence Act.

Section 2. "Alien" includes any person not a native born or naturalized citizen of Liberia.

"Immigrants" means any alien departing from any place outside of, and destined for, Liberia, except:

(a) A diplomat official, his family, attendants, servants, and employees.

(b) Consular representatives of foreign countries.

(c) An alien, official in the employ of the Government under written contract, provided, however, that this exemption is not construed to include employees who may immigrate or be imported into Liberia for service under alien officials.

(d) An alien or immigrant visiting Liberia as a tourist or for business or for pleasure.

(e) An alien in continuous transit through Liberia.

(f) An alien or immigrant entering Liberia for the express purpose of carrying on trade or legitimate business of any kind.

"Permit of Residence" means a written or printed Official Authorization issued to any alien under the hand and seal of the Secretary of the Interior, or a County Superintendent, or District Commissioner, by which such alien is granted privilege of residence within the Republic of Liberia.

"Authorities" means any public official, or Department charged with the execution of the provisions of this Act, or any special provisions thereof.

"Resident" means an alien or immigrant living in Liberia under Permit.

"Labourers" means skilled citizens and commercial clerks imported by a resident citizen for a definite employment.

Section 3. It shall be unlawful for any alien to take up residence within the Republic of Liberia or to remain therein for a period of more than five days without obtaining from the Authorities a Permit of Residence.

Any alien violating the provision of this section, and any person whether an alien or citizen who shall connive, encourage, advise, suggest, or in any wise promote any evasion or violation of the said section, shall be, in the discretion of the Court, summarily punished by a fine not exceeding $250.

Section 4. Every alien who, after the going into force of this Act, may come into the Republic of Liberia, either by sea or overland, without intent to reside or sojourn herein for a period exceeding five days, shall immediately present himself:

(1) At Monrovia, the Secretary of the Interior, or such official as by regulations the Secretary of the Interior may designate;

(2) At any County, Territory or littoral District, the Superintendent or District Commissioner;

(3) At any District in the Hinterland, the District Commissioner; and

Exhibit his passport and prove that he is possessed of the sum of $100. in gold, and such further evidence as may be required by the said Authorities under a penalty of being declared undesirable alien, and immediately deported from the Republic; and any master of a ship, conductor of guard of a Railway Train, or other persons who shall be responsible for, or who shall be concerned in, or shall have in any manner assisted in the introduction of such undesirable alien into the Republic, shall be responsible for his transportation to his place of origin; nor shall any responsibility be in any wise attached to the Government of Liberia.

Section 5. Any immigrant who, upon entry into the Republic, declares his intention to become a citizen of Liberia, under the Naturalization Laws shall, nevertheless, procure a Permit of Residence to be held until such time as the full preliminaries of naturalization have been completed.

Section 6. The provision of Section 4 of this Act in so far as they relate to the pecuniary qualifications therein prescribed shall not apply to labourers within the meaning of this Act who have been imported into Liberia by any resident hereof.

Section 7. A resident or citizen importing labourers into the Republic shall file with or deposit in the Interior Department with such officials as the Secretary of the Interior may by regulation designate, a guarantee in such form as the Secretary of the Interior may require and prescribe, that such labourers shall not become chargeable to the public during residence in the Republic. Any labourer imported into this Republic in violation of the prescriptions of this section shall immediately be deported as an undersirable alien; and the resident so importing him shall be guilty of misdemeanour and upon conviction shall be fined in the sum of $250.

Section 8. Every alien or immigrant who having complied with the provisions of section 4 of this Act, shall have satisfied the Authorities in respect of his character, profession, calling or occupation and upon such other matters as may be deemed necessary for the complete identification of the alien or immigrant shall be entitled to a Permit of Residence which shall be issued to him by the Authorities, provided, nevertheless, the said Authorities shall at all times possess the right of revoking such Permit of Residence, legal cause being assigned; and provided further that notice of such revocation shall be given to the holder of the Permit of Residence.

Section 9. No alien or immigrant whose Permit of Residence shall have been revoked by the Authorities shall be permitted to remain within the Territories of Liberia for a period longer than forty-eight hours thereafter or by first available opportunity. Should any alien or immigrant after the revocation of his Permit of Residence, remain within the Territories of Liberia for a period exceeding the time above mentioned thereafter, he shall summarily be arrested and deported.

Section 10. The President of Liberia is hereby invested with authority to deport or cause to be deported from the Republic any alien or immigrant permanently or temporarily residing therein whose presence would by Authorities be deemed a menace to public security, or who is otherwise or in anywise undesirable as a resident within the borders of the Republic.

Section 11. Any person whether a citizen or alien or immigrant who shall assist, encourage, connive at, counsel, hide, secrete, advise, aid, abet, harbour or promote any evasion of the provisions of this Act, shall be guilty of misdemeanor, and upon conviction shall be imprisoned at hard labour for a period not exceeding five years.

Section 12. All proceedings having for their object the deportation of undesirable aliens or immigrants shall, in the littoral District of the Republic, be brought in the Circuit Court at a special session held for the purpose upon information of the Interior Department. All trials shall be summary and without a jury. In the Hinterland District, the District Commissioner shall have jurisdiction to arrest, investigate and forward to the Circuit Court of the nearest County for trial any violator or violators of this Act.

Section 13. Authorities charged with the enforcement and execution of the provisions of this Act shall keep a register of all aliens or immigrants to whom Permits may be granted.

Such register shall show the names, age and distinctive physical mark, height, Nationality, place of origin, profession or trade, place of residence in Liberia, occupation in Liberia, in whose employ, the number of his Permit of Residence, date when issued, date when revoked, causes of revocation, whether the holder has subsequently become naturalized.

Every Permit of Residence shall be numbered consecutively and shall bear $5 Internal Revenue Stamp which shall be attached by the officer issuing Permit and paid by the alien or immigrant to whom it is issued.

Section 14. The following classes of aliens or immigrants are hereby declared "undesirables" and are therefore excluded from admission into Liberia:

(a) Foreigners and aliens under contract or agreement made previous to their departure from their foreign country to perform labour or service of any kind in the Republic of Liberia except as specified in this Alien Residence Act.

(b) All idiots and insane persons.

(c) Paupers or persons likely to become a public charge.

(d) Persons who have been convicted of felony or other infamous crime or misdemeanor involving turpitude. This

does not apply to persons convicted of a political offence, but does include those whose sentence has been remitted upon condition of emigration.

(e) Persons suffering from loathsome or dangerous contagious diseases.

(f) Any person whose ticket or passage is paid for with the money of another or who is assisted by others to come, unless it is affirmatively and satisfactorily shown on special enquiry that such person does not belong to one of the foregoing excluded classes.

(g) Women imported for purposes of prostitution.

(h) Aliens who are anarchists.

(i) Aliens who advise, advocate, or teach, or who are members of or affiliated with any organization, association, society or group, that advises, advocates, or teaches opposition to organized governments.

(j) Aliens who believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society or group, that believes in, advises, advocates, or teaches the overthrow by force or violence of the Government of the Republic of Liberia.

(k) Aliens who write, publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or who knowingly cause to be circulated, distributed, printed, published or displayed or who knowingly have in their possession for the purpose of circulation, distribution, publication or display, any written or printed matter, advising, advocating, or teaching, opposition to organized Governments, or advising, advocating or teaching the overthrow by force or violence of the Government of the Republic of Liberia.

Section 15. Any alien or immigrant who, after entering Liberia may be found to have been at the time of entry, or become thereafter a member of any of the excluded classes shall be subject to deportation.

Section 16. The supervision of the execution of this Act shall be invested in the Secretary of the Interior who shall have authority

to make all rules, regulations, and ordinances which may be necessary for the proper enforcement of this Act, all such rules, regulations and ordinances in so far as they do not conflict with the provisions of this Act or are otherwise contrary to law, shall have the force of law.

Any law or parts of laws conflicting with the provisions of this Act be, and the same is hereby repealed.

Approved February 18, 1928.

The right to expel aliens is also a sovereign power. Expulsion is not a punishment in the sense of the criminal law, and, therefore, may be applied against an alien for acts done prior to the date of the law prescribing the deportation of the persons committing the act. Such a provision is not an *ex post facto* law within the meaning of the Constitution. [Cp. *Mahler* v. *Eby,* 264 U. S. 32 (1924). A case in point is sec. 16 of the Alien Residents Act, 1928]. Orders of expulsion were given during the Commonwealth Period. Best known are the various orders issued by the Governor against Theodore Canot, the notorious slave dealer, who always obeyed the orders, only to turn up again in Monrovia, where he had many friends, when he thought that public feeling had turned in his favor.

A well known late case is the deportation of the emissaries of the Universal Negro Improvement Association, who arrived in Monrovia on July 30, 1924, and were deported the following day. It was the plan of this Association to establish a great Negro Empire, with one Marcus Garvey as President General, and which with Liberia as a centre was to extend over the entire Continent, to which were to be brought Negroes from all parts of the world. The act of the President in deporting these persons was approved by the Legislature (Acts, 1924-1925, c. 9, p. 22). This incident was one of the reasons for the enactment of the Alien Residents Act (*supra*).

General provisions regarding the classes of aliens liable to deportation are contained in the Alien Residents Act, reprinted *supra.* Other acts of aliens for which deportation may be ordered are contained in the Labor Code (Acts, 1924-1943, c. 17, p. 16), reprinted *infra.* The control and expulsion of enemy aliens is dealt with below.

Enemy Aliens. Liberia has never been at war with any Power, except the First World War where it was one of the Associated Powers and the present World War, where Liberia is one of the United Nations.

During the First World War the property of German firms was sequestrated and liquidated, and under the Treaty of Versailles the proceeds were applied on Reparation Account. The balance was returned to the owners.

There are no published Liberian decisions on the effect of war on contracts, and resort must therefore be had to the English and American common law on this topic.

Attorney General L. A. Grimes in an opinion, dated August 25, 1926 (unpublished, Int. Dept. 6-26-'26, ser. 106-11-'26), critically considers the position of enemy aliens as regards their property rights under international law; after a review of the authorities, he states that while in ancient times the State was permitted to confiscate the property of enemy aliens yet since the beginning of the nineteenth century this privilege became obsolete until the restoration of peace an enemy alien can make no claim for the possession of his property, but when peace is restored, he is entitled thereto with any fruit that it may have borne in the meantime. The Attorney General quotes with approval the following extract from an article by Professor E. M. Borchard published in the American Journal of International Law (Vol. XVIII, 523):

> Probably no rule of international law was regarded in 1914 as more firmly established than the rule that private property within the jurisdiction belonging to citizens of the enemy state is inviolable. The rule was not adopted in any sudden burst of humanitarian sentiment, but was the result of an evolution of centuries. It rests upon a sound development in political and legal theory which was deemed natural and incidental to the evolution of modern civilization, namely, a conviction as to the essential distinction between private property and public property in one's own jurisdiction and in enemy territory, and between non-combatants and combatants, accompanied by the growing realization that the practice of confiscation was reciprocally unwisely destructive and inconsistent with economic common sense. Possibly also the natural law school of jurists in the eighteenth century were not without their influence in emphasizing the conviction, of mutual advantage, that those surviving the devastating effects of unmitigated war should have something left with which to take up again the thread of life.
>
> At all events by the nineteenth century, the ancient practice of confiscation had become obsolete, and though occasional judicial dicta may be found to the effect that it was a "strict right" of

belligerents Kent as far back as 1825 had characterized it as a "naked and impolitic right, condemned by the enlightened conscience and judgment of modern times." Marshall in 1814 had said that "the mitigations of this rigid rule, which the humane and wise policy of modern times had introduced into practice, will more or less affect the exercise of the right, but cannot impair the right itself." But whatever doubt Marshall had left as to his views in 1814, by asserting ambiguously that the "exercise" of the right had been "affected" without impairing the "right" itself, was removed in 1833 by his flat denial of the privilege of the conqueror to confiscate private property, on the ground that it would violate "the modern usage of nations which has become law".

The Attorney General further gives quotations from the works of Alexander Hamilton and Latifi's *Effect of War on Property.*

Speaking of the provisions regarding the use of the proceeds of liquidation of enemy property for the Reparation Fund (which he considers deplorable), the Attorney General continues:

> Whatever may be the justice or injustice of the provisions of the Treaty of Versailles herein quoted, same has been ratified by our Government, and will of course be adhered to in this country so long as it remains in force. But apart from the fact that it does not affect the rights of Liberian citizens and their *bona fide* property, the criticisms thereon above cited are incorporated here to show how unwarranted is the act of depriving our own citizens of their property contrary to the express provisions of the Constitution, when such eminent authority as those referred to *supra* have denied the right of even conquering nations to confiscate or even forcibly expropriate the property of vanquished alien enemies.
>
> Even our own Legislature before the making of said treaty apparently recognized the justice of protecting the rights of the Germans against the time when peace should have been restored by ordering that their property be not confiscated but *sequestered* and *liquidated.*
>
> The Government's right then to dispose of the property having been limited by the terms of the Act above cited, it now becomes necessary to examine same and see to what extent was the Government permitted to exercise dominion over same. They were empowered merely to "sequester and liquidate". *Sequestration* has been defined in its relation to the subject matter as "applied

to the act of a belligerent power which seizes the debts due from its own subject to the enemy power"; and Liquidation as the act of settling debts, or ascertaining their amounts or balance due; the settlement or adjustment of an unsettled account" (25 *Cyc.* p. 1445); and according to those principles the Government was expected to convert all choses in action into possession, and then to preserve and account for all amounts received to the persons entitled to the proceeds when peace had been restored. That the Treaty of Peace signed at Versailles on the 28th of June A. D. 1919, section IV. Article 297 sub-section (b) on page 146 quoted *supra* and sub-section (h) 2 on page 147 would seem to warrant our Government, in common with others, in applying the amounts realized from the liquidation of German property to the credit of the amount awarded us by the Reparation Commission (Cf. our unprinted Opinions 106-1-'23 dated January 26th, 1923) and would seem to relieve this and other Governments of the Allied and Associated Powers from such accountability to quondam alien enemies, does not, in my opinion, enable the Government of this Republic to retain the property of any of its citizens one day longer than was necessary to liquidate any amount due by said citizen to said German nationals as an advance payment for which the leasehold was pledged as collateral security.

It is of interest to note that the first treaty between Liberia and France [April 17, 1852 (Art. XI)] contains a provision that "In case of a misunderstanding between the two contracting parties, the citizens of either, residing in the territories of the other, shall be allowed to remain there for the arrangement of their business and prosecution of trade; provided they demean themselves peaceably and obediently to laws."[15]

By a Law (Acts, 1941-1942, c. 26 p. 23), "aliens of states not in

[15] There are other examples of similar provisions in treaties between other Powers. For the provisions of the treaty between the United States and Prussia, of July 11, 1799, revived in 1810, and their interpretation, see Huberich, *The Law Relating to Trading with the Enemy Together with a Consideration of the Civil Rights and Disabilities of Alien Enemies and of the Effect of War on Contracts with Alien Enemies* (New York, 1918) 38-40 Provisions like that contained in the Franco-Liberian treaty of 1852 are not abrogated by the outbreak of war between the contracting parties Cp. *Levine* v. *Taylor*, 12 Mars 8 (1875); *Karnuth* v. *United States*, 279 U S. 231 (1929); Hackworth, *Digest of International Law*, V, sec. 513

treaty relations with the Republic of Liberia"[16] are restricted during the present European conflict, only to port of entry within the Republic of Liberia for residential purposes. The President is empowered to designate other places outside of ports of entry where such persons may be allowed to carry on their mercantile operations within the Republic.[17]

Alien Land Law. By the common law, an alien cannot take lands by operation of law but he can take by act of the parties, and hold the same as against anyone but the Crown or the State.

From the very beginnings of its existence Liberia has clung steadfastly to two principles, that the ownership of land is restricted to citizens, and that none but persons of the Negro race can be citizens. (See Chap. II, *supra*).

The Instructions of June 26, 1820, provide that no person shall hold land or lots unless he actually resides in the Settlement (sec. 6), and that "no white person . . . shall ever hold land in the Colony" (sec. 11). The American Colonization Society during the whole period that it exercised control consistently adhered to these principles. In 1836 the Society refused to approve a Colonial enactment granting to Anson G. Phelps, of New York, a white person, a ninety-nine year lease of a tract of land for the purpose of raising sugar cane and the erection of a sugar mill. (*Vide,* Chap. XIII, *supra*). Ezekiel Skinner, the Society's Agent (white) in fact purchased some lands as an investment, but no action was taken. The results in Sierra Leone, where no restrictions prevailed, was that large tracts of land were purchased by white British subjects not resident in the Colony, which resulted in the creation of the evils of absentee landlordism.

Such is the historical background of Article V, sec. 12, of the Constitution, which provides:

> No person shall be entitled to hold real estate in this Republic unless he be a citizen of the same. Nevertheless this article shall not be construed to apply to colonization, missionary, education, or other benevolent institutions so long as the property or estate is applied to its legitimate purpose.

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[16] This phraseology is unfortunate. It had in view the countries with which Liberia had concluded treaties which come within the rule of international law that the outbreak of war between the contracting Powers abrogates existing treaties. But there are a number of States that have remained neutral or belong to the United Nations, with which Liberia never had treaty relations.

[17] For a summary of American practice and views, see *The Historical Policy of Non-Confiscation of Enemy Private Property,* in *American Bar Association Reports,* LXVIII, 454-460 (1943).

In *Cowenhoven* v. *Green,* decided April 24, 1918 (unpublished, Judgment Book, p. 238), the Supreme Court had before it the question of the validity of a lease to a foreign corporation giving to the lessee a right to hold the land for an indefinite number of terms, and provided further, that in the event that the Constitution of Liberia ever becomes open for foreigners to hold real estate in fee, the lessee shall hold in fee. The Court held both provisions to be illegal and against public policy. Justice Johnson, delivering the opinion of the Court, says:

> We are of the opinion that the lease deed from Toliver to the appellant, containing as it does a clause giving appellee a right to hold the land for an indefinite number of terms at the appellant's option, falls within the rule laid down in the above decision (*Bingham* v. *Oliver,* 1 Lib. L. R. 57) and is therefore illegal. We are of the opinion that the clause in the deed of lease which provided that in the event that the Constitution ever becomes open to foreigners to hold real estate in fee, appellant should hold the land in fee is an immoral contract and one which is against public policy. One of the cherished objects of the framers of this Constitution was to provide a home for persons of negro descent on these shores where, unmolested by the interference of aliens, they might enjoy the lands provided for them and undisturbed work out their own destiny. To allow these deeds to be made, containing such objectionable features as are contained in the deed of lease in the case at bar, would result in placing in the hands of foreigners an instrument for the overturning of the Constitution and the subversion of the Government. Becoming the possessors of large tracts of land they would soon claim that the right to hold real property carries with it the right to the franchise and to representation, as did the Outlanders in the Transvaal in the Eighties. The deed of lands in question should not therefore be allowed to stand.

The leading case is *Bingham* v. *Oliver,* cited above. The Court says:

> In this case the plaintiff in errors has drawn a town lot in the City of Greenville, Sinoe County, and before he made the necessary improvements required by law to entitle him to a deed in fee simple, he contracted with the defendant in error to lease to him, the defendant in error, in consideration of forty-five dollars paid to the said plaintiff in error for the lease of the said lot of land

No. 1202, for the term of ninety-nine years; and in order that the said plaintiff in error should be made competent to transfer the said lot of land to him, the said defendant in error, he, the said defendant in error, promised and did make the improvements required by the statute respecting the improvements of the land, by which the said plaintiff in error obtained a deed in fee simple from the Government. This being done, the plaintiff in error (as alleged) having refused to comply with his part of the contract, the defendant in error brought this action of ejectment in the court below, to which the plaintiff in error pleaded in defense the statute prohibiting all bargains, transfers, deeds or leases, before a legal and complete deed in fee simple had been obtained. . . .

The next point to which the plaintiff in error resorted for his defense, is that an alien cannot hold real estate either by lease or otherwise under the Constitution of the Republic of Liberia. To hold real estate under the authority of the Constitution of Liberia means to be absolutely possessed of lands in Liberia; hence, to have the exclusive right to it, and to disposing of the same. A lease held under the Constitution with respect to aliens in treaty stipulations with Liberia extends to mere chattel right; that is, the lessee can only hold the right of the use of the land and tenement. But he cannot bring an action of ejectment for lands, although he may be ejected any time after a year's notice had been given him to move off any land rented or leased by him. Notwithstanding an alien cannot bring an action of ejectment for lands, yet he may recover damages for any injury sustained by reason of the violation of any contract for the use of the land.

A lease of land to an alien for ninety-nine years is an evasion of the prohibition of the Constitution, and it is therefore unconstitutional. To constitute a good lease the term should not exceed twenty years, and the rent should accrue to the lessor annually. The lease of land to an alien for more than twenty years is against the Constitution and public policy, and therefore is void. For the Constitution prohibits an alien from even an imaginary claim to land, and therefore the law will not give aid to it, however much it may be disguised.

According to *Bingham* v. *Oliver,* the following principles were established: (1) that a lease of land to an alien for ninety-nine years is violative of the Constitution; (2) that the term should not exceed

twenty years, the rent to accrue annually; (3) that such a lease for more than twenty years is void; (4) that an alien can acquire only a right to use the land, and cannot bring an action in ejectment; (5) that an alien lessee can be ejected, but is entitled to recover damages for any injury sustained by reason of the violation of the contract for the use of the land.

The Court, while saying that the term should not be for more than twenty years, did not say that a provision for renewal after the expiration of the term was void. This point came up in *East Africa Company* v. *Dunbar,* 1 Lib. L. R. 279 (1895):

> . . . A lease may be for any term not exceeding that which may put the estate out of market, or in perpetuity. This term is limited by the decision of this Court to twenty years, which this Court in this present decision does not feel authorized to overthrow or to disturb. However, as the decision referred to does not annunciate the doctrine that a lease would be illegal if it contained a term of years, subject to a renewal of said term after the expiration of the first, this court is of the opinion that the lease in question for twenty years, to be renewed after the expiration of the first term, is not against the Constitution of Liberia nor the decision of this Court referred to, and such leases may be made by the owners of lands to suit their own convenience; otherwise owners would not have absolute rights to property in their own hands, but would be merely trustees of the same.
>
> We shall now briefly consider the facts in this case. In the record it appears that one Mrs. E. M. Morris, the owner of lots numbered 59 and 110, in the City of Greenville, Sinoe County, by deed, leased said lots to one Jose B. Oliver, his heirs, administrators, executors or assigns, for a term of twenty years, for five hundred dollars, being the lease money. Said lease was to be renewed at the will or desire of the said Oliver after the expiration of twenty years, he paying all the taxes and giving one dollar, and further delivering up all improvements at the end of the second term, to the lessor. That this covenant not only bound the parties to the transaction, but all claiming under them, is the opinion of this Court.
>
> It appears that soon after the transaction referred to, the said Mrs. E. M. Morris sold to plaintiff below her fee titles to the said lots numbered 59 and 110, but in her deed to the plaintiff points out the lease of the said Oliver, so as to convey to her a *future estate.* This in the first instance constitutes a bar to an

entry, and also admits the right of entry of the said Oliver, upon the terms and recitals in both his and her deed. And it further appears, that shortly afterwards both Mrs. Morris and Oliver died, and this event placed Mrs. Dunbar, the plaintiff below, in a dual position, first as assignee of Mrs. Morris, and secondly, Oliver leaving her executrix of his will, which appointment she accepted, thereby representing Oliver also.

And it further appears that the said Mrs. Dunbar and her co-executor sold unto one N. J. A. Maarschalk, agent of H. Muller & Company, his heirs and assigns, all the rights, titles and interests of the said Oliver in the lots now in dispute, one term having nearly expired, before which, it appears, those holding under the claim of Oliver tried by all means to secure an express renewal of the lease for the second term. But those claiming under Mrs. Morris' right failed to do as provided in the covenant, by remaining dormant and allowing over five years of the second term to expire. This silence on the part of the plaintiff is, in the opinion of this Court, equal to an implied ratification of the second term, the assent being equal to a consent.

This case, therefore, holds that while the *dictum* in *Bingham* v. *Oliver,* that a lease should not be for more than twenty years, a provision giving the lessee a right to a renewal for a further like period is valid.

In *West* v. *Dunbar,* 1 Lib. L. R. 313 (1897), the term of the lease was fifty years, with a provision for renewal. In the state of the pleadings, the question of the validity of the lease, though argued, as one of the points, was not decided, the Court basing its decision on estoppel. The following excerpts from the opinion may suffice:

This case comes up from the Court of Quarter Sessions and Common Pleas, Sinoe County, upon a bill of exceptions, under the statutes regulating appeals. The appellee sets up claim as owner and the right of possession to three fourths of lot No. 109, in the City of Greenville, alleging that the same is wrongfully withheld from her by the appellant, and by this action she seeks to eject the appellant from said lot.

The appellant in defence of his possession to the said three fourths of said lot No. 109, sets up the plea of estoppel, and declares that the appellee having during the year 1876, for the consideration of the sum of seven hundred dollars, under written contract, leased said three fourths lot to C. F. Bertrams, agent

for A. Woerman of Hamburg, his heirs and assigns, and the said C. Woerman during the year 1892 having assigned to J. W. West, the appellant, all legal rights possessed by said C. Woerman, lessee, for the unexpired time therein, she is thereby estopped from impeaching her own dead; and appellant prayed judgment by estoppel.

The lease being for fifty years with the privilege of renewal on payment of fifty dollars, after the expiration of the first term, the appellee replied and declared that said deed of lease was in violation of the Organic Law of the State, as well as the ruling of this Court in the case of Bingham against Oliver, determined at its January term, A. D. 1869, and hence not binding. . . .

The general principles of law when applied to this case must lead this Court and every unselfish mind to such conclusions as are founded in law and justice. In no respect is the plea of estoppel, raised in this case, different from that determined by this court at its January term, 1895, in the action of ejectment in the case of East Africa Company, late Hendrik Muller & Co., against H. F. Dunbar. Upon the plea of estoppel raised in the case, this court then said, and which doctrine it will here again reiterate, enunciate and declare, that the plea of estoppel is among the pleas calculated to prevent one from denying his own acts or deeds, and when founded in truth, must receive the sanction of the courts of law.

Nothing would work greater injustice and give greater encouragement to fraud, than for a man to execute a deed or note in favor of another, and afterwards to be allowed to invoke the aid of the law to prove its unlawfulness. In law he is estopped or hindered from doing so. . . .

During the traverse of this case, repeated reference has been made to the ruling and opinion of this court as pronounced in the case of Richard Bingham against J. Oliver. The court sees no reason for disturbing that judgment, or any other opinion previously expressed by this Court, and will not, unless bound by duty to do so, when it will be in either upholding or overthrowing such judgments as are not in keeping with law and the Constitution. This Court feels bound only by the law, the Constitution, and well-founded precedents.

In this case the issue is not joined upon the point of legal or illegal contract, constitutional or unconstitutional agreement, but it is presented in this wise: The appellant in his answer sets up

the plea of estoppel, insisting that the appellee is concluded by her own deed. To this the appellee replies, denying the legality of her deed of lease. Hence the issue rests in the plea of estoppel, which plea was prominently before the court below and which plea this Court is bound to consider; and we here say all opinions given by courts not in conformity to the issues submitted to them may be considered *obiter dictum.*

The rule laid down in *East Africa Company* v. *Dunbar, supra,* was approved in *Cowenhaven* v. *Beck,* decided February 3, 1920 (unpublished, Judgment Book, p. 278).

The objection was made in this case, in which plaintiff questioned the right of the defendant, as lessee, to the possession of land held by his principal under a leasehold, that as defendant was a foreign corporation in the action of ejectment should have been brought against the lessor. The Supreme Court said:

"While it is true that under our Constitution foreigners are prohibited from holding freehold estates in Liberia, still the Constitution imposes no inhibition to them holding leaseholds, which fact has been recognized by the custom of the country and upheld by decisions of this Court during the whole period of our independent intercourse. In *Dunbar* v. *East Africa Co.,* 1 Lib. L. R. 277, this Court held that a freehold differs from a leasehold estate and that while under the Constitution only citizens could hold the former species of property the latter was open to the enjoyment of anyone 'without respect to race or nationality'. Ejectment being a possessory action it lies against the person in overt possession of property in dispute, whether he be the owner or the lessee, and whether a citizen or a foreigner. Ejectment may properly be brought against one who holds no shadow of title but is in possession as a mere trespasser. . . ."

Finally, in *Bavans, Agent of Elder Dempster & Co.,* v. *Kirs. Agent for Lafranz Co.,* decided February 3, 1928 (unpublished, Judgment Book, p. 498) the Supreme Court overruled *Bingham* v. *Oliver,* on the point that an alien lessee cannot sue in ejectment. The Court says:

This is a case brought before this Court by writ of error from the Circuit Court of the second Judicial Circuit in Grand Bassa County by the plaintiff-in-error on the ground that it is unconstitutional for a tenant who is a foreigner to bring an action of

> ejectment to recover possession of his Leasehold; he cites the case of Richard Bingham versus Joseph B. Oliver, Ejectment, Decided at the January Term 1870, in support of his contention. It is admitted that an alien cannot hold land in this Republic in fee; he may lease property from the Government or a citizen of Liberia but such lease extends to mere chattel rights. However, a tenant having a possessory title has the right to bring an action of ejectment although an alien; and when such action is brought it is not unconstitutional. To hold a contrary view would be to place check upon the economic development of this country. Large capitals (*sic*) are readily being invested by aliens in this Republic; the interest of investors must be safeguarded and their investment secured. The case of Bingham versus Oliver is hereby recalled.

The prohibition does not extend to foreign colonization, missionary, educational or other benevolent institutions so long as the property or estate is applied to its legitimate purpose. The Attorney General has expressed the opinion that a missionary institution, in order to come within the exception, must be incorporated. 2 Opinions of the Attorney General, 29, (1923).

Such was the state of the law in Liberia at the close of the first quarter of the present century. It was in conformity with the law of England and of the States of the American Union, where aliens are incapacitated from owning land.

Originally, in England, an alien could not acquire a leasehold interest by deed from the lessor (St. 32 Hen. VII, c. 16, sec. 13), but it seems an assignment of an existing lease was valid. *Wootton* v. *Steffenoni*, 13 L. J. Exch. 72 (1843). At common law a lease for ninety-nine years is void, because it is for an unreasonable term.[18]

In some of the American States the ownership of land by aliens is prohibited by constitutional provisions. Where the State constitution prohibits ownership of land by aliens, a lease for ninety-nine years is held to be for such an unreasonable term as to fall within the constitutional prohibition. *State* v. *Morrison*, 18 Wash. 664 (1898). The Court said that if a lease for ninety-nine years can be sustained "then why not one for nine hundred and ninety-nine" and the constitutional prohibition would become meaningless.

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[18] When Lord Leverhulme attempted to obtain palm oil concessions in West Africa for ninety-nine years they were refused on account of their long term. (Azikiwe, *Liberia in World Politics*, 155, 156, citing authorities)

Precisely this question of the validity of a lease for ninety-nine years is presented in the grant by the Government of Liberia to the Firestone Plantations Company, a corporation organized under the laws of the State of Delaware, with its principal office at Akron, Ohio. This contract was confirmed by the Legislature by an Act approved November 18, 1926 (*Acts, 1926, c. 4, p. 3*). Three preliminary agreements with Harvey S. Firestone, were approved, January 13, 1925 (*Acts, 1924-1925, c. 12, p. 24*). These included a ninety-nine year lease of the Mount Barclay Rubber Plantation, formerly owned by the Liberia Rubber Plantation.

The main provisions of the lease are as follows:

Article I stipulates that the Government of Liberia "doth agree to grant, demise and to farmlet unto the Lessee for the period of ninety-nine years from this date an area of land within the boundaries of the Republic of Liberia of 1,000,000 acres or any lesser area that may be selected by the Lessee from time to time within the said ninety-nine years; such land to be suitable for the production of rubber or other agricultural products."

Article II provides that "all products of Lessee's plantations and all machinery, tools, supplies and buildings established, constructed or placed upon the leased land or elsewhere for the operation and development of the Lessee's landholdings and all leasehold interests, improvements and other property, franchises, rights and incomes shall be free of and exempt from any internal revenue or other tax, charge or impost except the revenue tax provided for in Article II, paragraph (d)."

Article III exempts from customs dues and other import duties, on machinery, tools and supplies of all kinds purchased and imported by the lessee for the operation and development of the lands held by it. The lessee is granted the right to construct highways, railways and waterways for the operation and development of its project with the proviso, however, that trails across the lands used immemorially by the population shall be free to the use of the public. The lessee furthermore has the right to construct highways outside the lands selected under the agreement, such routes to become public property, and the right to construct telegraphic and telephonic lines and wireless stations, to cut and use timber. An important provision is that the Government agrees that it would encourage, support and assist the Company to secure and maintain an adequate labor supply.

Article III obligates the company to pay, six years after the acceptance of the agreement, a revenue tax equivalent to one per centum

of the value of all rubber and other commercial products exported from the plantations subject to the current market prices on the arrival of the shipment in New York.

By Article IV, the lessee agrees not to import unskilled foreign labor for the carrying out of any operations or development, except in the event that the local labor supply proves inadequate to the lessee's need. In the event that the local labor supply proves inadequate, the lessee undertakes to import only such foreign unskilled labor as shall be acceptable to the Government, and in any event shall not employ in Liberia more than 1500 white employees at any one time.

In case the Government grants to any other person any rights in connection with the production of rubber in Liberia upon more favorable terms and conditions than those granted in this agreement such more favorable terms shall inure to the benefit of the lessee.

Tribal reserves of lands set aside for the communal use of any tribe within Liberia are excluded from the operation of the agreement.

The lessee agrees to pay a rental at the rate of six cents per acre yearly in advance on all areas selected and taken possession of by the lessee.[19]

All questions in dispute arising out of the agreement which cannot be harmonized or adjusted by the parties are to be referred to the Liberian Supreme Court or any one of the Justices thereof for arbitration and said court shall appoint three arbitrators, one nominated by the President of Liberia, a second by the lessee and a third (being the Court's selection) without nomination. The decision of the arbitrators is conclusive except that either party feeling aggrieved at the decision of the arbitrators, the Government agrees to arrange with the United States Department of State for a further arbitration of the questions submitted by either or both parties.

It is outside the scope of this Work, which deals primarily with the political and legislative history of the pre-Republican Liberia, to take up the international and national political and economic questions involved in the Firestone Concession.[20] The grant is here quoted as an Executive and Legislative interpretation of the clause in the Constitution relating to holding of land by aliens. Grave doubts as to the constitutionality of the Act were expressed at the time, not alone

[19] Under the Agreement of October, 1935, the Firestone Plantations Company paid $400,000 in bonds, as rental for the approximately 110,000 acres then in cultivation, to cover the period beginning October 2, 1935, and ending October 2, 2025.

[20] Information on these points is contained in Azikiwe, *Liberia in World Politics, passim,* and authorities there cited

as a violation of the alien land law clause of the Constitution, but also because the arbitration clause ousts the jurisdiction of the courts and the tax exemptions and limitation restrict the power of the Legislature to levy taxes . The then Attorney General, L. A. Grimes, gave an opinion (unpublished) in 1925, that the lease contract was unconstitutional.[21] The lease was subsequently modified by agreements of March 20, 1935, March 3, 1936 and November 10, 1937, and December 28, 1939.[22]

Where an alien holding land dies, or a citizen dies leaving only alien heirs the land instantly escheats to the State, without any inquest of office. *McKinney* v. *Saviego*, 18 How. (U. S.) 235 (1855). Free Negroes or persons of color, residing in Ohio, whose ancestors were slaves, were not citizens of the United States and were incapable of acquiring residence or citizenship in Alabama, and consequently, could not take land in that State by descent. *Donovan* v. *Pitcher*, 53 Ala. 411, 25 Am. R. 634 (1875). Consequently land in Alabama which would pass to them by descent if they were citizens, escheats to the State.

By its own terms, the constitutional provision "shall not be construed to apply to colonization, missionary, education, or other benevolent institutions so long as the property or estate is applied to its legitimate purpose."

This proviso applied chiefly to the properties of the American Colonization Society. The Society ceded all its public lands to the Republic under the Articles of Agreement of July 20, 1848, subject to certain conditions, including a reservation of one hundred acres for the use of the Government of the United States for use for the purposes of its Agency for Recaptured Africans. The text of this Agreement is reprinted in INTRODUCTION, Section IV, *supra*.

Semble. Lands acquired for benevolent purposes are alienable, but escheat to the Republic if diverted to other uses, even though the grantee is a citizen.

By treaty the rights of the nationals of the contracting Parties may be granted a specified time within which they may hold and dispose

[21] By 1940 the Firestone Plantation Company had under cultivation approximately two hundred thousand acres producing over ten thousand tons of rubber annually and employing more than eighteen thousand people. The value of rubber exported is in excess of one million dollars, and constitutes about one half of the total exports, in value. A part of the exports is produced on native plantations. *Handbook of Liberia* (1940), 17, 19, 43.

[22] For a comparison of the provisions of the Agreements of 1926 and 1935, see Brown, *Economic History of Liberia*, 270-276.

of real property to which they have succeeded by devise or descent. Thus, in the Treaty of August 8, 1938, between Liberia and the United States (U. S. Treaty Series, No. 956) it is provided in Article IV:

> Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary and withdraw the proceeds thereof, without restraint or interference and exempt from any estate succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

CHAPTER XXV

Organs of Government, Special Topics

The present Chapter is devoted to a discussion of the Organs of Government—Legislative, Executive and Judicial,—and of certain special topics—War and Neutrality, the Laws in force in the Republic—both general laws and native laws,—the Liberian Hinterland, the Legal Position of Women, and certain Social Legislation of the past two decades.

Organs of Government

Carrying out the provision of the Declaration of Rights (Art. I, sec. 14, *supra*) regarding the division of the powers of government, the Constitution deals with: the Legislative Power (Art. II), the Executive Power (Art. III), and the Judicial Department (Art. IV).

The Legislative Power

The Legislative power is vested in a bi-cameral Legislature consisting of the Senate and the House of Representatives. Article II, section 1, provides:

> The Legislative power shall be vested in a Legislature of Liberia, and shall consist of two separate branches. A House of Representatives and a Senate, to be styled the Legislature of Liberia; each of which shall have a negative on the other, and the enacting style of these acts and laws, shall be, "It is enacted by the Senate and House of Representatives of the Republic of Liberia, in Legislature Assembled."

The Legislature is the sole repository of Legislative power. Its powers are general, not enumerated like those of the Congress of the United States. Within its sphere it is supreme; it is subject only to the express limitations imposed by the Constitution, and the implied limitations arising under the doctrine of the division of powers, inhibiting it from exercising functions which the Constitution has assigned to the Executive or Judicial organs of Government.

The power to enact laws is vested in the Legislature and may be exercised only by that body. Says Cooley (*Constitutional Limitations*):

> One of the settled maxims in constitutional law is that the power conferred upon the legislature to make laws cannot be delegated by that department to any other body or authority. Where the sovereign power of the State has located the authority, there it must remain, and by that constitutional agency alone the laws must be made until the Constitution itself is changed. The power to whose judgment, wisdom and patriotism this high prerogative has been intrusted cannot relieve itself of the responsibility by choosing other agencies upon which the power shall be devolved, nor can it substitute the judgment, wisdom and patriotism of any other body for those to which alone the people have seen fit to confide this sovereign trust.

It follows that the Legislature cannot submit to a popular vote the question whether a certain proposed measure shall or shall not become law. Unless the Constitution specially permits it, a referendum is unconstitutional. But there is no constitutional prohibition against the Legislature submitting to a popular vote the question whether a proposed measure meets the views of the electors. The Legislature remains free to adopt the measure, to amend it or to reject it, regardless of the wishes of the electorate.

An exception to the rule regarding delegation of legislative power, is the authorization given to local administrative subdivisions—cities, towns, etc.—to enact ordinances and regulations concerning local matters, within the scope of the powers specifically conferred by a general law or by a special charter. This has its historical origin in the Anglo-Saxon policy of local self-government, and was well established in Liberia at the time of the adoption of the Constitution.[1]

The Legislature may provide that a certain law shall become operative, or be suspended upon the happening of a certain contingency, and that contingency may be an act of the President or other Executive officer declaring the law to be in effect, or vest in the Executive the power to suspend its operation.

"The true distinction, therefore, is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done, to the latter no valid objection can be made."[2]

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[1] Cp. *State* v *Noyes*, 30 N. H. 279 (1855)

[2] Per Ranney, J., in *Cincinnati, W & Z R Co.* v. *Commissioners of Clinton County*, 1 Ohio St. 77 (1852), cited with approval in *Marshall Field & Co* v. *Clark*, 143 U S 649 (1892).

Such discretionary powers are frequently vested in the President in connection with legislation affecting foreign affairs, thus giving him an additional power in conducting negotiations with foreign Powers.[8]

There appear to be no Liberian judicial opinions on the point, but the Legislature has at times given to the President a discretionary power to fix the date when an Act shall come into operation. Thus, the Civil Service Act (Acts, 1934, c. 14, p. 17), section 13, provides that the Act "shall become effective on January 1, 1937, or prior to that date, at the pleasure of the President."

More intricate questions arise where the Legislature confers powers on the officers of the Executive department to make rules and regulations in order to carry out the provisions of a law. Here in turn a distinction must be drawn between regulations affecting purely internal administrative matters, such as the powers and duties of subordinate officers, and those affecting the rights of the public. The former are clearly within the class where the power can be delegated.

There is a tendency in all countries to vest in the Chief Executive wide powers of a legislative character, especially in matters relating to foreign affairs. Thus, the President may be given power by agreement with a foreign country to reduce custom tariff rates on articles imported from the foreign country, in derogation of the rates fixed by general law, *United States* v. *Curtiss-Wright Export Corporation, supra.* Examples from the Liberian practice are Acts, 1839-1940, c. 9, granting emergency powers in respect of foreign trade, and Acts, 1941-1942, c. 23, granting special emergency powers during the present war.

In addition to its functions as a law-making body, the Legislature, or each of the two chambers have certain other duties. The Senate sits as a court of impeachment (Const. Art. II, sec. 6), confirms presidential appointments to office, and ratifies treaties (Const. Art. III, sec. 1). The House of Representatives has the sole power of bringing charges on impeachment proceedings (Const. Art. II, sec. 4) and of sorting, counting and declaring the votes cast in an election of the President (Const. Art. V, sec. 5).

The two houses sitting together in convention choose from among the candidates the person who is to be President when no candidate has received a majority of all votes cast (Const. Art. V, sec. 5).

Not strictly legislative in character is the function of the Legisla-

[8] Cp. *United States* v. *Curtiss-Wright Export Co.*, 299 U. S. 304 (1936)

ture to propose amendments to the Constitution. (Const. Art. V, sec. 17).

The two branches of the Legislature have equal powers, each has "a negative on the other". (Const. Art. II, sec. 1). Neither branch has any prerogative over the other. The Liberian Constitution contains no provision similar to that of the United States Constitution (Art. I, sec. 7) which requires bills for raising revenue to originate in the House of Representatives. Nor does the Liberian Constitution limit the term for which appropriations for the support of the army may be made. (The Constitution of the United States (Art. I, sec. 8) limits the term to two years).

Members of the Two Branches. The members of the Senate and House of Representatives represent the counties from which they are elected.

Composition of the Senate. Qualifications, Election and Tenure of Office of Senators. The Constitution, Article II, section 5, as amended in 1907 and 1927, provides:

> The Senate shall consist of two members from Montserrado County, two from Bassa County, two from Sinoe County, and two from each county which may be hereafter incorporated into this Republic. The senators shall serve for six years and shall be elected quadrennially, and those elected May, A. D. 1905, shall retain their seals for six years, from the time of their election, and all who are afterwards elected, six years. No person shall be senator who shall not have resided three whole years immediately previous to his election in the Republic of Liberia, and who shall not when elected be an inhabitant of the county which he represents and who shall not have attained the age of twenty five years, and who does not own real and unencumbered estate of not less than one thousand two hundred dollars in the county in which he resides.

In addition to the three counties named, the Counties of Maryland and Grand Cape Mount, by virtue of the constitutional provision, are each entitled to two senators, making the total number of senators, at the present time, ten.

The term of office is six years. Under the original Constitution the term was four years. This was extended to six years in 1907. The property qualification originally was two hundred dollars. This remained unchanged until 1927, when it was increased to one thousand two hundred dollars.

Composition of the House of Representatives. Qualifications, Election and Tenure of Office Representatives. The Constitution, *Article II, section 2, as amended in 1849, 1861, 1907 and 1927, provides:*

> The representatives shall be elected by and for the inhabitants of the several counties of Liberia, and shall be apportioned among the several counties of Liberia as follows: the County of Montserrado shall have four representatives, the County of Grand Bassa shall have three, the County of Sinoe shall have three, and the County of Maryland shall have three representatives, and all counties thereafter which shall be admitted into the Republic shall have one representative, and for every ten thousand inhabitants one representative shall be added. No person shall be a representative who has not resided in the county two whole years immediately previous to his election, and does not own real and unincumbered estate of not less value than one thousand dollars in the county in which he resides and who shall not when elected be an inhabitant of the county, and who shall not have attained the age of twenty three years. The representatives shall be elected quadrennially and shall serve for four years from the time of their election.

By Legislative Acts the County of Grand Cape Mount has been admitted and accorded three representatives. The representation of Montserrado County has been increased to five, and that of Grand Bassa, Sinoe and Maryland increased to four each. The Territory of Marshall has been granted one representative, making the total number of representatives twenty-one.

Representation is on the basis of population, and the Constitution provides for the taking of a census once at least every ten years (Art. II, sec. 7):

> Sec. 7th. It shall be the duty of the Legislature, as soon as conveniently may be, after the adoption of this Constitution, and once at least in every ten years afterwards, to cause a true census to be taken of each town, and county of the Republic of Liberia, and a representative shall be allowed every town, having a population of ten thousand inhabitants, and for every additional ten thousand in the counties after the first census, one representative shall be added to that county, until the number of representa-

tives shall amount to thirty; afterwards one representative shall be added for every thirty thousand.[4]

The native tribes are entitled to send delegates to the Legislature, who have the right to discuss matters relating to native interests and vote upon the same. The matter is dealt with in Revised Statutes sections 11 and 1135:

> Sec. 11. All tribes complying with the provisions of law contained in Chapter VI shall be represented in the Legislature by their Chief.
>
> Sec. 1135. Native Representation.—Every tribe paying one hundred dollars per annum in taxes, and desiring to become incorporated as citizens in the body politic shall be entitled to one delegate in the House of Representatives who shall be allowed to discuss all matters before the House affecting Native interests, and vote upon the same . . There shall be only one delegate from each tribe.

The delegates are not members of the House of Representatives. Undoubtedly each branch of the Legislature may give permission to non-members to address the House and participate in debates. But to grant to non-members the right to vote on measures is clearly unconstitutional. The Constitution fixes the qualifications and the method of ascertaining the number of Representatives, and envisages that the votes shall be cast by Representatives elected in the several counties by duly qualified electors. The delegates chosen by the tribes need not possess the constitutional qualifications of members of the House, are chosen in accordance with tribal laws, represent an ethnographic unit, the tribe, not an administrative unit, the county, and give to the County where the tribe is settled additional votes in matters affecting native interests, which may be the deciding votes on matters of national concern.

It is not to be denied that the policy of giving to the native tribes the right to send delegates to participate in discussions relating to native affairs is an excellent one, tending toward a better understanding between the Government and the natives, and of great value in permitting their leaders to observe at close range the workings of a constitutional democratic Government. All this can be accomplished

[4] The taking of a census in 1933 was authorized (Acts 1932-1933, c 19, p. 25).

without granting to the delegates the right to vote—which should not, and, constitutionally, cannot be done.

The term of office was originally two years. Several attempts were made to extend the period to four years, notably by the Law of January 29, 1869 (Acts, 1868-1869 p. 9). The proposed Amendments failed of adoption, although President Roye insisted that they had been adopted (See *infra,* sub Impeachment). By a constitutional Amendment adopted in 1907 the term was fixed at four years.

Election. The election of members of the Legislature is by a plurality of the votes (Const. Art. V, sec. 8; Rev. St. sec. 1052). If two candidates for either branch of the Legislature shall receive an equal number of votes, the Legislature at its first session after the election, shall choose one of the two candidates by ballot. (Rev. St. sec. 1052).

The Constitution, Article V, section 5, provides:

> The returns of votes shall be made to the Secretary of State, who shall open the same and forthwith issue notices of the election to the persons apparently so elected, Senators and Representatives; and all such returns shall be by him laid before the Legislature at its next ensuing session, together with a list of the names of the persons who appear by such returns to have been duly elected Senators and Representatives; and the persons appearing by said returns to be duly elected shall proceed to organize themselves accordingly as the Senate and House of Representatives.
>
> Each branch of the Legislature shall be judge of the election returns and qualifications of its own members. (Const. Art. II, sec. 8).

The Revised Statutes, section 700, adopt the foregoing clause, and add: "and shall have the exclusive right to try and determine all contested seats, according to law, and shall be judge of both the law and the facts in such cases."

The contestant for a seat, who claims to be entitled thereto, files a bill of exception in court stating the grounds of his exceptions. A copy is sent to the opposing party and to the Secretary of State. (Rev. St. sec. 702).

The branch of the Legislature involved then tries the contested election case, sitting as a judicial body, with all the powers of a court to summon witnesses and order the production of documents. A false statement made under oath before a notary public taking testimony in a contested election case is punishable as perjury. Cp. *In re Coney,*

134 U. S. 372 (1890). The decision of this body is final. (Rev. St. sec. 701). No court has power to interfere in the proceedings. Neither party can claim the right to a trial by jury.

Vacancies. Vacancies in either branch of the Legislature are filled by new elections. The Constitution, Article II, section 3, provides:

> When a vacancy occurs in the representation of any county by death, resignation, or otherwise, it shall be filled by a new election.

Organization. The House of Representatives chooses its own presiding officer, the Speaker. (Const. Art. II, sec 4). The Senate is presided over by the Vice President who is virtute officii President of the Senate, and who gives the casting vote when the house is equally divided on any subject. (Const. Art. III, sec. 2). Where the Senate sits as a Court of Impeachment, when either the President or Vice President is to be tried, the Chief Justice presides. (Const. Art. II, sec. 6). Each branch of the Legislature chooses its own employes.

Rules of Proceedings—Expulsion. "Each house may adopt its own rules of proceedings, enforce order, and with the concurrence of two thirds may expel a member." (Const. Art. II, sec. 8).

Regarding the power to adopt rules of proceedings the United States Supreme Court in interpreting the corresponding provision of the American Constitution (Art. I, sec. 5) in *United States* v. *Ballin, supra,* says:

> The Constitution empowers each House to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. . . . The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the House, and within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

The house may enforce order, and for this purpose may in proper cases order the imprisonment of a member. Cp. *Kilbourn* v. *Thompson,* 103 U. S. 168 (1881).

The power to expel has been sparingly used in all countries, but it exists in all cases where the offense is such as, in the opinion of the house, to be inconsistent with the trust and dignity of a member, such as treason Cp. *In re Chapman,* 166 U. S. 661 (1897), or conspiracy against the Government.

Quorum. "A majority of each (branch of the Legislature) shall be necessary to transact business, but a less number may adjourn from day to day, and compel the attendance of absent members." (Const. Art. II, sec. 8).

Each branch may determine the mode of ascertaining the presence of a quorum. An entry in the Journal that a quorum was present is conclusive. Cp. *United States* v. *Ballin,* 144 U. S. 1 (1892).

Freedom of Speech and Debate. There is no express provision in the Constitution, as there is in the American Constitution (Art. I, sec. 8) providing that members may not be "questioned in any other place" for their utterances in a speech or debate in the Legislature. Nevertheless, the privilege exists because the utterances of the members in the Legislative halls are made in the performance of their duties as members of the Legislative department, and therefore cannot be questioned by a co-ordinate branch of the Government. For his utterances a member is responsible only to the house to which he belongs.

Each house keeps a Journal of its proceedings, which are public records, but have never been published.[5] The journals of the Colonial Council and of the Council of the Commonwealth (1820-1847), are contained in the Colonial Journal. Under the Constitution (Art. III, sec. 3) all the records and papers of the Legislature are placed in the custody of the Secretary of State.[6]

Regarding the custody and publication of the laws and treaties, the Revised Statutes, sections 1200 and 1201, provide:

> Sec. 1200. Publication of Laws.—All Acts and Joint Resolutions shall be published strictly in the form and sense in which

[5] The United States Constitution (Art. I, sec 5) requires the publication of the Journals of Congress.

[6] Some years ago a part of the building containing the records was destroyed in a storm, and the records widely scattered and many were lost or destroyed by the rains that followed the storm. Among the materials destroyed were the printed copies of the laws of the Commonwealth. The texts of these laws here reprinted in an Appendix, have been collected from libraries in England and the United States and from private sources in Liberia. The great libraries have only very fragmentary sets of these laws.

they were originally passed without any material alteration, amendment, or abridgement whatsoever; and it is hereby made and declared to be the duty of the Secretary of State to publish all such Acts and Joint Resolutions. After a bill has been duly passed into law, it shall be the duty of the enrolling committee to deposit the same with the Secretary of State, who shall safely keep it in the archives of the Department. The Secretary of State shall be personally responsible for any alteration, amendment, or abridgement, which may be made to, or in any Act or Joint Resolution deposited in his Department, and shall be liable to impeachment, or criminal prosecution for official malfeasance on failure to strictly observe the provisions of this section; and if found guilty upon criminal prosecution, he shall be sentenced to pay a fine of not less than two hundred or more than five hundred dollars, and be imprisoned for not less than six or more than twelve months in the County Jail of Montserado County.

Sec. 1201. Publication of Treaties and other Documents.—All treaties (except secret treaties) shall be published immediately after ratification and exchange thereof. All agreements relating to concessions and loans and all other agreements, upon which there has been direct or indirect legislation, shall be published by the Department of State immediately after their execution.

Urgent laws are published by handbills. The Acts and Joint Resolutions are published by authority of the Secretary of State shortly after the adjournment of the Legislature. The statute provides for the publication of all laws, but does not state when such publication shall take place. It is constitutionally possible for the Legislature to pass a law in a secret session, and for the Secretary of State to delay publication indefinitely.[7]

Oath of Office. Before entering upon the duties of his office every member of the Legislature must take and subscribe a solemn oath or affirmation to support the Constitution of the Republic and faithfully

[7] Early in the nineteenth century the American Congress at secret sessions passed some Acts empowering the President to take certain measures against Spain The Acts were approved by the President and deposited with the Secretary of State They were never inserted in the published collections of Statutes, but were printed in 1918 in a "Confidential" pamphlet for use by the American delegation to the Peace Conference. (See Willoughby, *Constitutional Law of the United States*, 2d ed. p. 660). The American law on the duties of the Secretary of State regarding the publication of laws is substantially the same as the Liberian law.

and impartially discharge the duties of his office. The oath is administered by the President, or in his absence by the Chief Justice. (Const. Art. V, sec. 7).

Compensation and Privileges. The Constitution, Article II, section 11, provides:

> Sec. 11th. The Senators and Representatives shall receive from the Republic a compensation for their services to be ascertained by law; and shall be privileged from arrest except for treason, felony or breach of the peace, while attending at, going to, or returning from the session of the Legislature.

The compensation of the members of the Legislature and delegates is fixed from time to time. At present it is a *per diem* of five dollars, and each member in addition is entitled to a fixed allowance for expenses in coming to the session and returning.

The constitutional immunity from arrest is further safeguarded by statute. Any judge or other officer entrusted with the administration of the law acting in contravention thereof is declared guilty of a contempt of the Legislature, and shall be liable to removal from office. (Rev. St. sec. 1134).

Time and Place of Meeting. The Constitution, Article V, section 6, provides:

> Sec. 6. The Legislature shall assemble once at least in every year, and such meeting shall be on the first Monday in January unless a different day shall be appointed by law.

The time of meeting was subsequently changed to the first Monday in December, and now to the second Monday in October, by a Law of February 12, 1926 (Acts, 1925-1926, c. 13, p. 29):

> Section 2. That the National Legislature of the Republic shall meet once each year in the City of Monrovia on the Second Monday in October, except the month of October succeeding each Quadrennial Election; when it shall meet on the second Monday in December but nothing in this Act shall be construed to prevent special sessions of the Legislature from being called by the President under the Constitution of the Republic.

Sessions usually last about two months, sometimes longer. Call or Extraordinary Sessions are convened from time to time by the President.

The Legislature fixes the date of its own adjournment, and if the two branches cannot agree upon such date, the President may fix the same (Const. Art. III, sec. 1). The Constitution, Article II, section 9, provides:

> Sec. 9th. Neither house shall adjourn for more than two days without the consent of the other; and both houses shall always sit in the same town.

Presidential Participation in Legislation. The Constitution, Article II, section 10, provides:

> Sec. 10th. Every bill or resolution which shall have passed both branches of the Legislature, shall before it becomes a law, be laid before the President for his approval, if he approves, he shall sign it, if not, he shall return it to the Legislature with his objections—if the Legislature shall afterwards pass the bill or resolution by a vote of two thirds in each branch, it shall become a law. If the President shall neglect to return such bill or resolution to the Legislature with his objections for five days after the same shall have been so laid before him—the Legislature remaining in session during that time, such neglect shall be equivalent to his signature.

The provision follows closely that of the United States Constitution (Art. I, sec. 7), and, therefore, American precedents are directly in point.

The section applies to all bills or resolutions of a legislative character, as appears from the use of the words "before it becomes a law." The bill or resolution must have been adopted by each of the two branches of the Legislature, and must be duly authenticated by an officer of each branch in a single instrument, and so laid before the President.

The provision applies to all bills and all resolutions, whether joint or concurrent, designed to become laws. According to the American practice joint resolutions are laid before the President, while concurrent resolutions, dealing as they do with matters peculiarly within the province of Congress alone, are not laid before the President (Willoughby, 2d ed. II, 659). The resolutions of the Legislature to submit proposed constitutional Amendments to the electors are not "bills or resolutions" within the meaning of this section and do not require Presidential approval as they are not legislative measures. (See Chap. XXIII, sub "Amendments to the Constitution," *supra*).

For the same reason resolutions of thanks, of approval of Executive action (except approval of Executive Orders) are not within the purview of the section. Obviously resolutions passed by one of the houses are not presented to the President.

The United States Constitution specifically provides that bills or resolutions regarding the adjournment of Congress are excepted from the rule regarding presentation to the President. There is no corresponding provision in the Liberian Constitution, and the bill or resolution is laid before the President, who usually allows it to become effective by limitation. The President of Liberia therefore has the power to veto a resolution to adjourn, a power which the American President does not possess.

When a bill or resolution is laid before the President he may do one of three things; he may approve it, he may veto it, or he may allow it to become effective by limitation.

If the President approves a bill or resolution it goes into effect on the day it is signed, unless by its own terms it fixes a different date. As fractions of a day are ordinarily not counted, it goes into effect as of the first minute of the day of signature, subject, however, to exceptions when the exact time is important, as, for example, a declaration of war, a penal statute and the like. There is no general provision that laws shall become effective upon or at a certain period after promulgation.

The approval of the President is given by signing his name to the measure presented to him. He need not write the word "approved", nor affix a date. If no date appears, the courts may resort to other evidence in order to fix the date. Cp. *Gardiner* v. *Barney,* 6 Wall. (U. S.) 499 (1868).

If the President desires to exercise his veto power, he must return the bill or resolution to the Legislature with his objections. The President may veto a bill on any grounds that he thinks proper—inexpediency of the proposed measure, or its failure to represent the views of the people, or its unconstitutionality. (Willoughby, *l.c.* 757-759).

The veto must extend to the entire bill or resolution. The President cannot veto a part and approve the remainder.

When the vetoed measure is returned to the Legislature, it may be passed over the veto by a two-thirds vote in each branch, of the members present. The measure then becomes law without further action by the Legislature or the President. Its effective date is the date of its adoption by the house in which it is last voted upon.

If the President does not sign the measure or does not veto it, but retains it for five days after the same has been laid before him, the Legislature remaining in session during that time, the measure becomes law. If the President retains the bill and the Legislature adjourns before the expiration of the five-day period, the measure does not become law; this is the so-called "pocket veto". Such laws are now usually published with the notation "Passed by limitation". Their effective date is the beginning of the day following the five-day period.

A moot question in American law is whether the President may sign a bill after the adjournment, final or intermediate, of Congress. The practice has varied. President Monroe, in 1824, presented the question to his Cabinet, and, as there was a difference of opinion, refrained from signing a bill after the adjournment of Congress. President Lincoln, however, signed a bill after the adjournment of Congress. In 1920 the Attorney General gave an opinion that the President could sign, and on the strength of this opinion President Wilson, in 1920, signed a number of bills after the adjournment. (The question is fully discussed by Willoughby in *Constitutional Law of the United States,* 2d ed. II, 660-662).

The Executive Power

Transitory Provisions. The Constitution contains certain transitory provisions. Article V, section 1, provides for the continuance in force of the laws of the Commonwealth. (*Infra,* Laws in Force).

Article V, section 2, provides for the continuance in office of the judicial and executive officers of the Commonwealth.

> Sec. 2nd. All judges, magistrates, and other officers now concerned in the administration of justice, in the Commonwealth of Liberia, and all other existing civil and military officers therein, shall continue to hold and discharge the duties of their respective offices, in the name and authority of the Republic, until others shall be appointed and commissioned in their stead, pursuant to this Constitution.

Article V, section 3, provides that municipal corporations existing under Commonwealth laws shall retain their existing organization:

> Sec. 3rd. All towns and municipal corporations within the Republic, constituted under the laws of the Commonwealth of Liberia, shall retain their existing organizations and privileges,

> and the respective officers thereof shall remain in office and act under the authority of this Republic, in the same manner and with the like powers as they now possess under the laws of said Commonwealth.

Finally, it is provided that offices created under the Constitution need not be filled until the Legislature deems it necessary. Article V, section 9, provides:

> Sec. 9th. Offices created by this Constitution which the present circumstances of the Republic do not require that they shall be filled, shall not be filled until the Legislature shall deem it necessary.

Executive Officers. The Constitution names certain Executive officers, the mode of their election or appointment, qualifications, tenure, powers and duties, oath of office and salary. Other Executive offices are the creature of statute laws.

The chief executive officer is the President, who is assisted in his administration by the heads of the various departments (some designated by the Constitutions, others by statute) collectively called the Cabinet.

The heads of departments are appointed by the President, subject to confirmation by the Senate. (Const. Art. III, sec. 5). At present these heads of departments are the Secretary of State, the Secretary of the Treasury, the Attorney General, the Postmaster General, the Secretary of State for War, the Secretary of State for the Navy, the Secretary of State for the Interior, and the Secretary of Public Instruction and Common Schools. There is nothing in the law preventing a person from being the head of more than one department.

The President chooses the members of his Cabinet without necessarily consulting the Legislature. The Constitution prescribes no qualifications for the appointment of heads of departments, nor other restriction. By Revised Statutes, section 1209A it is, however, provided that "In the selection of cabinet officers, the President shall, as far as practicable, extend his appointments to all the counties of the Republic, in order that all parts of the Republic may be represented in the Executive Department of the Government as well as in the other two coordinate branches."

It is to be noted that the President shall make the appointments "as far as practicable" in the manner indicated. It is the expression of a Legislative wish, not a rule of law. Otherwise, the provision would be unconstitutonal as regards the President's power of appointing the

Secretaries of State, War, Navy and Treasury, and of the Attorney General. (Const. Art. III, sec. 1). All hold office "during the pleasure of the President." (Const. Art. III, sec. 5). Like other officers, all must take the oath of office "to support the Constitution of this Republic, and faithfully and impartially discharge the duties of such office." (Const. Art. V, sec. 7).

The heads of departments are his advisers and assistants in the performance of his duties. He is free to accept or reject their recommendations, and he alone is responsible; subject only to the right of the Legislature to impeach or to request the removal from office. (Const. Art. III, sec. 6).

The members of the Cabinet are not politically responsible to the Legislature as are the members of the English Cabinet. They are not, and, under the rule regarding the division of governmental powers, cannot be at the same time members of the Legislative or Judicial branches of the Government. This is one of the essential differences between a presidential (Liberia, United States) and a parliamentary (England, France) form of government.

The Constitution prescribes the duties of the Secretary of State in Article III, section 3:

> Sec. 3rd. The Secretary of State shall keep the records of the State, and all the records and papers of the Legislative body, and all other public records and documents, not belonging to any other department, and shall lay the same when required, before the President or Legislature. He shall attend upon them when required and perform such other duties as may be enjoined by law.

Other powers and duties are the subject of various statutes.

The duties of the Secretary of the Treasury are prescribed by Article III, section 4:

> Sec. 4th. The Secretary of the Treasury or other persons who may by law, be charged with the custody of the public monies, shall before he receive such monies, give bonds to the State with sufficient sureties, to the acceptance of the Legislature, for the faithful discharge of his trust. He shall exhibit a true account of such monies when required by the President or Legislature, and no monies shall be drawn from the Treasury, but by warrant from the President, in consequence of appropriation made by law.

In addition to the duties prescribed by the Constitution the Secretary of the Treasury has a multiplicity of powers and duties under a

series of statutory enactments. Among these are the preparation of the budget, the execution of the Customs and Revenue laws, reports on foreign commerce, and, generally the financial operations of the Government.

The administrative powers and duties of other heads of departments are defined by statute.

The President. The Constitution, Article III, section 1, provides that "the Supreme Executive Power shall be vested in a President..."

Interpreting the corresponding provision in the United States Constitution, the Supreme Court in *Myers* v. *United States,* 272 U. S. 52 (1926), after citing the argument of Daniel Webster in 1835, wherein he denied that the vesting of the executive power in the President was a grant of power, but amounted to no more than merely naming the department, says: "that Article II (of the United States Constitution) grants to the President the executive power of the Government, *i.e.* the general administrative control of those executing the laws . . ."

Qualifications of President. Article III, section 7, as amended in 1927, provides:

> No person shall be eligible to the office of President who has not been a citizen of this Republic at least fifteen years and who is not possessed of unencumbered real estate of the value of two thousand and five hundred dollars.

The original Article provided for a minimum residence of five years, and possession of unencumbered real estate of the value of six hundred dollars.

A pending constitutional Amendment, to be voted on at the election of 1951, declares that the President must be a citizen by birth or a naturalized citizen of over twenty-five years' residence.[8]

Election of President and Term of Office. Article III, as amended 1935, provides:

> The Supreme Executive Power shall be vested in a President, who shall be elected by the people and shall hold his office for

[8] The proposed Amendment requires that the President must be a citizen by birth but not necessarily by birth within the Republic. Birth abroad of Liberian parents suffices. As to persons who are not citizens by birth, there is no requirement as to length of residence in Liberia. The United States Constitution (Art II, sec. 1) requires a minimum residence of fourteen years in the United States in addition to being a natural born citizen. There are no property qualifications.

the term of eight years. No president shall be elected for two consecutive terms.

The original Article provided for a biennial election of the President. In May, 1869, a proposed constitutional Amendment extending the term to four years was voted on by the electors. There was a dispute as to whether the required two-thirds vote had been cast in favor of the change. President Roye contended that it had been adopted, and that consequently his term of office had been extended to 1874, and proceeded to maintain himself in office, which led to the *coup d'état* of October, 1871. (See *infra,* sub Impeachment). The tenure was altered in 1907 to provide for a quadrennial term. Finally, in 1935, the Article was further amended to provide for a term of eight years, with the proviso that no President shall be elected for two successive terms.

Re-elections have been the order of the day in Liberia. The first President, Joseph Jenkins Roberts served for four successive terms (1848-1856) and later again for two terms (1872-1876). His successor, Stephen Allan Benson, served four terms (1856-1864). Hilary Richard Wright Johnson served eight years (1884-1892), Arthur Barclay served eight years (1904-1912), Daniel Edward Howard served eight years (1912-1920), Charles Dunbar Burgess King, served from January 1, 1920, to December 2, 1930, when he resigned. Edwin Barclay, who, as Secretary of State succeeded King, as Acting President, occupied the presidential office as Acting President and as elected President until January 1, 1944. William V. S. Tubman was elected President for a term of 8 years beginning January 1, 1944.

In proposing the constitutional Amendment extending the term to eight years, the Legislature in the preamble to the Act refers to the desirability of this change "in order to promote efficiency and to insure continuity in the policy in the administration of Government."[9] The Amendment, however, provides against re-election for two successive terms.

The election is by direct vote, by an electoral college, of the qualified electors, by a majority, not a plurality, of the votes cast. (Const. Art. V, sec. 8).

The Constitution provides (Art. V, sec. 5) that after the first election

[9] President Arthur Barclay in his First Annual Message, 1904 (*Liberia Bulletin,* XXVII, 20) emphasized the necessity of longer terms for the President and the members of the Legislature. See also the article "The Constitutional Amendment," in *African Repository,* XLVII, 116.

> . . . all other elections of President, Vice President Senator and Representatives, shall be held in the respective towns on the first Tuesday in May in every two years to be held and regulated in such manner as the Legislature may by law prescribe. The returns of votes shall be made to the Secretary of State, who shall open the same, and forthwith issue notices of the election to the persons apparently so elected, Senators and Representatives: and all such returns shall be by him laid before the Legislature at its next ensuing session, together with a list of the names of the persons who appear by such returns to have been duly elected Senators and Representatives; and the persons appearing by said returns to be duly elected, shall proceed to organize themselves accordingly as the Senate and House of Representatives. The votes for President shall be sorted, counted and declared by the House of Representatives. And if no person shall appear to have a majority of such votes the Senators and Representatives present, shall in Convention by joint ballot, elect from among the persons having the three highest number of votes, a person to act as President for the ensuing term.

This was impliedly amended in 1907 to provide for quadrennial elections and in 1935 to provide for octennial elections of a President and Vice President.

The only instance in which the necessity for the exercise of this function of the Legislature appears to have arisen was in the year 1859 when S. A. Benson, Joseph J. Roberts, H. R. W. Johnson, James B. Dennis, Daniel A. Coker and Thomas Fuller were candidates for the Presidency obtaining votes as follows: Benson 760; Roberts 86; Johnson 16; Dennis 1; Coker 6; Fuller 2.

The Legislature being dissatisfied with the returns then elected from the above six persons S. A. Benson as President by a majority of five. (See Records in the Department of State—House Records from 1848-'69).[10]

Oath of Office and Salary of the President. Article III, section 8, provides:

> Sec. 8th. The President shall at stated times receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected: and before he enters on the execution of his office, he shall take the following oath or affirmation:

[10] Rev. St. I, p 134, note 1.

"I do solemnly swear, (or affirm) that I will faithfully execute the office of President of the Republic of Liberia, and will to the best of my ability preserve, protect and defend the Constitution, and enforce the laws of the Republic of Liberia."

The compensation of the President is fixed from time to time by the Legislature. The present salary of the President is $15,000. (Acts, 1927-1928, c. 2, p. 3).

There is no constitutional provision regarding the compensation of the Vice President, but by statute (Rev. St. sec. 1259) a similar rule is adopted. (For an application of this rule, see Acts, 1936, c. 16, p. 30).

The President and Vice President retiring honorably from office and not in the employ of the Government, receive a pension for life. (Rev. St. sec. 1259).

Powers and Duties of the President. We have noted above the participation of the President in legislation. (Const. Art. II, sec. 10). The other functions of the President are set forth in Article III, section 1:

> . . . He shall be Commander-in-Chief of the army and navy. He shall in the recess of the Legislature, have power to call out the Militia or any portion thereof, into actual service in defence of the Republic. He shall have power to make treaties, provided the Senate concur therein, by a vote of two thirds of the senators present. He shall nominate, and with the advice and consent of the senate, appoint and commission all Ambassadors, and other public Ministers and Consuls, Secretaries of State, of War, of the Navy, and of the Treasury, Attorney General, all Judges of Courts, Sheriffs, Coroners, Marshalls, Justices of the Peace, Clerks of Courts, Registers, Notaries Public, and all other officers of State civil and military, whose appointment may not be otherwise provided for by the Constitution, or by standing laws. And in the recess of the senate, he may fill any vacancies in those offices, until the next session of the senate. He shall receive all ambassadors and other public ministers. He shall take care that the laws be faithfully executed:—he shall inform the Legislature from time to time, of the condition of the Republic, and recommend any public measures for their adoption which he may think expedient. He may after conviction, remit any public forfeitures and penalties, and grant reprieves and pardons for public offences, except in cases of impeachment. He may require information

and advice from any public officer, touching matters pertaining to his office. He may on extraordinary occasions, convene the Legislature, and may adjourn the two houses whenever they cannot agree as to the time of adjournment.

The President is invested with the following powers under the Constitution (Art. III, sec. 1):

Armed Forces. The President is commander in chief of the Army and Navy. He is vested with the supreme and undivided command over all military forces of the Republic. Cp. *United States* v. *Sweeny,* 157 U. S. 281 (1895). When a state of war exists, whether by actual declaration or as a fact, the President in the exercise of his powers directs the compaign and employs such military measures as he deems proper, and the Legislature is without power to direct the campaign or to interfere with the President's power to command. The President may in the course of a campaign invade and occupy enemy territory and govern it under martial law, but such occupied territory does not thereby become a part of the territory of the Republic. Cp *Fleming* v. *Page,* 9 How. (U. S.) 615 (1850).

In the recess of the Legislature the President has power to call out the militia or any portion thereof into actual service in the defense of the Republic.

The armed forces of the Republic consist of the militia. All able bodied male citizens are liable to service and are classified as follows: (a) Frontier Force—voluntary enlistment for four years, ages 18 to 35. (b) Class 1, militia, ages 18-25, no time limit, class 2, militia, ages 26 to 45, no time limit, class 3 reserves, 26 to 45, no time limit. Exemptions: if physically fit, upon application of employer and payment of $5.00, for one year; if physically unfit and gainfully employed, $3.00 per year. The following are exempted from military service: members and ex-members of the President's Cabinet, members and ex-members of the Legislature, members of the Supreme Court and Circuit Courts, ordained ministers of the Gospel, instructors in schools where cadet corps are organized. The law prescribes annual compulsory registration of all male citizens of the age of 16 years. The Service Act provides for the organization training, equipment, and hospitalization. (Act of February 20, 1940, Acts, 1939-1940, c. 19, p. 35).

Executive Orders of the President are submitted to the Legislature who then have power to enact them into laws or disapprove.

Duties of the President

Execution of Laws. The President "shall take care that the laws be faithfully executed." (Art. II, sec. 1).

The power to execute the laws does not imply a power to forbid their execution, and a public officer cannot justify his failure to perform a duty imposed on him by law on the ground that the President has forbidden him to act. Cp. *Kendall* v. *United States,* 12 Pet. (U. S.) 527 (1838).

The power conferred does not authorize the President to execute the laws himself, but to take care that they are faithfully executed. Cp. *Ex parte Merryman,* 17 Fed. Cas. (U. S.) No. 9487 (1861). It is his duty to come to the aid of the judicial power, if it be resisted by a force too strong to be overcome without the assistance of the Executive. In cases like this the President acts in subordination to the Judicial authority, assisting it to execute its process and enforce its judgment. Cp. *Ex parte Merryman,* 17 Fed. Cas. (U. S.) No. 9487 (1861).

The laws whose enforcement the President is to take care of include not alone the Statute Laws, but also the rights, duties and obligations growing out of the Constitution itself, or out of the international relations of the Republic and all the protection implied by the nature of the Government under the Constitution. Cp. *In re Neagle,* 135 U. S. 1 (1890). Even without specific authorization of the Legislature, the President has power, and is under the duty to suppress inter-tribal wars of the natives.

As Chief of State, representing the Government in external affairs, in the event of war between foreign states whose sovereignty is recognized by Liberia, the President is under the duty to see that the Neutrality Laws are enforced, and the President may, at his discretion, issue a formal Proclamation of Neutrality. (See War and Neutrality *infra*).

The duties imposed are executive, not ministerial, and, therefore, an injunction or mandamus will not lie to restrain or compel the performance of such duties. Cp. *Mississippi* v. *Johnson,* 4 Wall. (U. S.) 475 (1867), distinguishing this case from *Marbury* v. *Madison,* 1 Cr. (U. S.) 137 (1803) and *Kendall* v. *U. S.* 12 Pet. 527 (1838).

Information to Legislature. The President "shall inform the Legislature from time to time of the condition of the Republic, and recommend any public measures for their adoption, which he may

think expedient." These usually take the form of a Message addressed to the Senate and House of Representatives.[11]

Vacancy in the Office of President. The office of President becomes vacant only in case of his removal, death, resignation, or inability to discharge the powers and duties of said office. (Art. III, sec. 2). Of these only the cases of removal or inability require elucidation.

There is no constitutional definition of "inability". The provision in the United States Constitution (Art. II, sec. 1) regarding the "inability" of the President and Vice-President, is almost identical with that of the Liberian Constitution. The observations of Willoughby (*l.c.* I, sec. 949) on the American Constitutional provision are of interest:

> In the absence of a definition, who is to determine, and what conditions are to be held to create an inability on the part of the President to perform his official duties? What is to be done in case the President is temporarily disabled by sickness or accident, or insanity? Who is to decide, and by what criteria when this disablement is so serious and so prolonged as to require the appointment of an acting President? For the two months preceding the death of President Garfield the country had no President able to perform the duties of the Chief Executive, and the same was substantially true during the long period of President Wilson's sickness prior to March 4, 1921.
>
> The Constitution furnishes no direct answer to these questions. To the author it would seem that, under ordinary circumstances, the President himself may be trusted to recognize his own inability when it exists, and that, when he does declare this to be a fact, the Vice-President will therefore be justified in acting as President. If, however, it should happen that a President, though obviously unable to exercise the duties of his office, should refuse to recognize and declare this, or should be mentally unable to appreciate and declare his own inability, then the Vice-President should feel himself obligated to assume the office. . . . Having taken this step, its constitutionality could be tested in the courts by bringing before them the validity of his official acts, or of the acts of lower executive officials committed in reliance upon his orders. . . . Similarly, should it happen that the disability of the President should prove to be temporary, and he should again claim the right to exercise the powers of his office, and the acting

[11] These Messages are published, but no collection of the Messages has been issued. A number of them are reprinted in the *Liberia Bulletin.*

President should refuse, upon any ground, to yield to this claim, the question as to who is to be recognized as legally entitled to exercise the powers of the President could be determined by the courts in cases involving the validity of the acts of either or both of the two claimants to the office.

These points are in part covered by the Law of January 6, 1921 (Acts, 1920-1921, c. i, p. 1):

> Sec. 2. It is further enacted that in any case when the President by authority and with the consent of the Legislature of the Republic shall proceed beyond the limits of the Republic in his official character and on official business, the Government of the Republic shall be conducted by the Cabinet under the direction of any member thereof whom the President shall by Letters Patent designate.
>
> Sec. 3. It is further enacted that whenever in consequence of any physical, moral or mental inability the President of the Republic shall be unable to perform the duties of said office of President, such fact being ascertained and certified by a Committee of Experts authorized by the Legislature, the Vice-President in conformity with the Constitution shall thereupon discharge all presidential duties and functions until the disability be removed either by death, resignation or removal from office of the President.

Where a President goes abroad on official business, it is customary for the Legislature to pass an Act or Resolution permitting him to do so, usually stating the purposes of the journey.[12]

A President, or Vice-President, may be removed from office only after impeachment in conformity with Article II, section 6. A "removal" such as was done in the case of President Roye by a convention composed of all members of the Legislature by the "Manifesto" of October 26, 1871, is constitutionally a nullity, and, *de jure* Roye was President until the moment of his death His arrest was illegal, and the court was without jurisdiction to try him for his acts done while he was President until he had been tried and convicted under impeachment proceedings. It would be a strained construction of Article III, section 2, to say that the Vice-President could act as

[12] For an enactment of this character, with far-reaching powers see Acts, 1942-1943, c. 32, p. 33, authorizing the President "to visit any foreign country during the present international crisis, if in his judgment the interests of the Republic required (*sic*) such visit"

President owing to the "disability" of President Roye. There was no *interregnum*. The acts of the Executive Committee performed by virtue of the "Manifesto" of October 26, 1871, are nullities.

The only constitutional method of removing a President or Vice-President from office is by impeachment and conviction. We shall first deal with impeachments in general and under the Constitution of Liberia, and then take up the case of the deposition of President Roye.

Impeachment. Impeachment first made its appearance in England in 1376, in the reign of Edward III, and was intended for application to Ministers of State in cases of high misdemeanors. It almost ceased to be employed under the Tudors, only to be revived under the Stuart kings. During the 18th and 19th centuries it was seldom used; the cases of Warren Hastings (1788) and Lord Melville (1806) are among the last. In England the accusation was brought by the House of Commons and the trial was by the House of Lords.

The institution was adopted in the Constitution of the United States (Art. II, sec. 4), and the provisions of the American Constitution were taken over in Liberia almost without change.

The Liberian Constitution provides that the House of Representatives shall have the sole power of impeachment. The accusation must be approved by the House. A majority vote suffices though the Constitution does not say so. (Art. II, sec. 4).

The power to impeach is limited to cases of official misconduct, without defining that term, but extends to all civil officers. (Art. III, sec. 6). The term "civil officer" includes the President, the Vice President, and all other officers of the Executive, and all persons of the Judiciary. It does not include military officers, nor does it extend to private citizens. The members of the Senate or House of Representatives cannot be impeached. Cp. 17 Op. Atty. Gen. (U. S.), 420; Rawle, *Constitution of the United States*, 213; Story, *Constitution*, sec. 791. Resignation of the officer does not give immunity from impeachment for acts done while in office. (Cp. *Belknap* Case, Hinds' *Precedents*, III, sec. 2445). "Official misconduct" is not limited to political crimes. It is for the Senate to determine whether the acts charged against the defendant constitute such a grave official misconduct as to warrant the imposition of the penalties prescribed. It has been said (Trial of Andrew Johnson, 175): "Impeachment was not intended to be used as an engine to gratify private malice, to avenge disappointed expectations, to forward schemes of personal ambition, to strengthen the measures or continue the power of a party, to punish

partisan infidelity, to repress and crush its dissensions, to build up or put down opposing factions."

The trial on impeachment is by the Senate. When the President or Vice President is to be tried the Chief Justice presides; in other cases the presiding officer of the Senate acts.

The procedure is the subject of an advisory opinion of the Supreme Court, rendered January 26, 1876 [Opinion of the Court on the Interpretation of Section 6, Article II of the Constitution, 1 Lib. L. R. 509 (1876)], where Chief Justice Parsons rendered the opinion:

> In compliance with the resolution of the House of Representatives of the Republic of Liberia, requesting this Court to give its interpretation of the sixth section of the second article of the Constitution of the Republic of Liberia, which reads thus:—"The Senate shall try all impeachments, the Senators being first sworn or solemnly affirmed to try the same impartially and according to law; and no person shall be convicted but by the concurrence of two thirds of the Senators present. Judgment in such cases shall not extend beyond removal from office and disqualification to hold an office in the Republic, but the party may be tried at law for the same offence."
>
> Having considered the position as stated, we proceed to give the interpretation of the same. It is requisite, from the literal words of the Constitution, to the organization of a competent court of impeachment, and to enable it to proceed as such, that the Senators be first sworn or solemnly affirmed, as the Constitution directs. However, the Senator (*sic.*) has no right or power whatever, outside of the constitutional bounds, to exercise legal authority without jurisdiction. To give the Senate jurisdiction over cases of impeachment, it is absolutely necessary that the accused be, at the immediate time of the impeachment and at the trial of the same, an officer of the Republic of Liberia, otherwise the Senate would have no jurisdiction over him whatever.
>
> In order to insure the administration of justice, the trial of impeachment must be conducted according to law, and the judgment in such cases must, as in all other cases, express the sentence of the law.
>
> The Constitution declares that *judgments shall not extend beyond removal from office and disqualification to hold an office in the Republic, but the party may be tried at law for the same offence.*
>
> The word "but", in this connection, means *further,* or *besides.* Hence we say, after conviction of the accused upon articles of

impeachment, he may be further tried or held to answer at law, for the same offence.

The Senate when trying impeachments has power to compel the attendance of witnesses. Cp. *Kilbourn* v. *Thompson,* 103 U. S. 168 (1881). The accused does not have the right of trial by jury. (Const. Art. I, sec. 6). He has a right to be heard, but the trial may go on even though the accused is not present.

Some questions of the law of impeachment are discussed in *In the Matter of the Petition of C. D. B. King,* former President of Liberia, Lawyer, for a Writ of Prohibition, decided May 6, 1932, (unpublished, Judgment Book, p. 623). This case was the aftermath of the investigation by the League of Nations, and the interesting and learned opinion of Chief Justice Johnson relates the proceedings in the House of Representatives terminating in the resignation of President King, its acceptance, and the cessation of the efforts to impeach him.

The opinion states the facts. The Court says:

> This was a petition to the Supreme Court in the exercise of its original jurisdiction to issue a writ of prohibition to restrain the judge of the Circuit Court of Sinoe County and the Attorney General from attempting to prosecute petitioner upon an indictment found against him by the Grand Jury of Sinoe County charging him with the offense of slave trading as an accessory before the fact.
>
> In its recital of the facts concerning the case the Supreme Court (Chief Justice Johnson writing the unanimous opinion of the Justices) states that during President King's incumbency of the office of President of Liberia, which lasted more than eleven years, an investigation was held under the auspices of the League of Nations into the alleged existence in Liberia of slavery and forced labour approximating slavery. The Commission appointed by the League of Nations reported that such conditions did in fact exist here. This report having been made public it caused much agitation and a widespread popular demand that President King and all other officers who were charged in the report as being guilty of acts constituting slavery and forced labour should retire and should be prosecuted. The report of the International Commission was transmitted to the Liberian House of Representatives and by that body referred to a special committee for consideration

and report. The House Committee, after investigation, rendered its report in which it was stated *inter alia* that the Committee had not "taken into considerations the recommendations and suggestions as contained in the report of the International Commission of Enquiry nor are they reporting on any of the present rumours or informations (*sic*) that are as yet underdeveloped as concerning them; but rather their whole attention has been given only to the report itself as far as it concerns the country internally."

The Committee stated that it considered it to be its bounden duty to "emphasize that the continuous restiveness of the people at this time, the differentiation (*sic*) of ambitious political subtility of presidential aspirants from genuine patriotism and unfeigned loyalty, the leveling of unwarranted criticism and rebuke have contributed not little to mar the good feelings and the calm deliberations that should have characterized the body upon whose decision hangs the perpetuity of the nation, the blasting of characters of renown and even to destruction of property and life. . . . Lastly the Committee took into consideration the name of His Excellency C. D. B. King, President of the Republic, and they recommend the resignation of President King and his retirement from Office, particularly upon the repeated request of the people of all political parties which if not in words in substance have availed themselves of their constitutional privileges and have asked the Legislature to retire the President. The Committee feels that to deny them of this right would be a breach of the Constitution and very likely result disastrously to the perpetuity of the nation. In connection with the President's retiring, the committee recommends that sufficient protection be given him by the Government until such time as public sentiment would have subsided."

This recommendation was adopted by the Legislature, the Court states, the result being that President King resigned his office on December 3, 1930.

The report of the committee of the House of Representatives, the Court then said, contained *inter alia* the following recommendations: "In consequence of the committee having found sufficient magnitude (*sic*) in the report of the International Commission of Inquiry to recommend that articles of impeachment

be preferred against the Honourable Allen N. Yancy and that the resignation of His Excellency President King be not accepted until arrangements shall have been concluded for carrying on the Government in the interim."

The President's resignation was accepted, the court relates, and for some time thereafter, in accordance with the recommendations of the House Committee, a detachment of soldiers of the Frontier Force was provided to give him protection at his "country seat" and to accompany him whenever he came into Monrovia.

Some time after the resignation of President King, the Court states, the Grand Jury of Sinoe County brought in a bill of indictment charging certain persons therein named with the crime of slave trading and charging President King with guilt as an accessory to the same crime before the fact, by the commission of acts performed while he was President of Liberia. Thereupon President King applied to the Supreme Court for a writ of prohibition to restrain the judge of the Circuit Court of Sinoe County from proceeding under the indictment. The theory of the petition was that all the acts charged in the indictment had been done by the petitioner in his official capacity while serving as President of the Republic; that he had not been impeached by the Legislature for such acts that in the absence of such impeachment by the lower House of Legislature and a conviction thereon by the Senate he could not be held for trial before the ordinary courts upon charges based upon official acts performed by him during his incumbency of the office of President of the Republic.

The Attorney General opposed the granting of the writ of prohibition upon the ground that the petitioner had another "plain, speedy and adequate remedy" by appeal in the event of a conviction upon the indictment. The court however citing Burns v. Supreme Court (Calif. Reports, p. 28) and vol. 22, R. C. L. Article on "Prohibition" held that the remedy appeal was not "plain, speedy and adequate."

The court proceeded to consider the question of the jurisdiction of the Sinoe County court to try the petititioner for the offense charged against him in the indictment. Citing Cooley on Constitutional Limitations, the court held that the President, after his retirement from office, could not be called to account by any judicial body for any of his actions alleged to have created either

civil or criminal liability, committed during his incumbency, "impeachment alone excepted"; the court also cited Bouvier (Law Dictionary) to the effect that the President "is not responsible to the courts civil or criminal." But it was contended by the Attorney General, the court observes that after the President had retired from office, or after he had been impeached, the courts have jurisdiction to try him upon any and all matters. The court, however, disagreed with this view. It was held that under the Constitution of Liberia the power to try impeachment is vested exclusively in the Senate; and that it is provided in the Constitution that "Judgment in such cases shall not extend beyond removal from office and disqualification to hold an office in the Republic; but the party may be tried at law for the same offense."

The court held that this means that the *only* offenses for which a former President may be tried in the courts are those upon which he has been tried and convicted by the Senate, upon impeachment. The court then cited the early decision rendered in 1876, reprinted above.

In that case the court said: "The Constitution declares that judgment shall not extend beyond removal from the office and disqualification to hold an office in the Republic, but the party may be tried at law for the same offense. The word *but* in this connection means *further* or *besides;* hence we say that after the conviction of the accused upon articles of impeachment he may be further tried or held to answer at law for the same offense."

Applying this citation as a precedent, the court expressed the conclusion that: "It follows from the above reasoning that to give the court jurisdiction over the President he must first be impeached and convicted by the court or impeachment and if the offense is an indictable one he may be further tried at law for such offense; hence there are two things prerequisite to the judicial prosecution of a President; viz: *impeachment* and *conviction.* In view of the foregoing we are of the opinion that the Circuit Court of the Third Judicial Circuit for Sinoe County has no jurisdiction under the circumstances of this case to inquire into the administration of the petitioner or to hold him at law for orders alleged to have been given by him while performing the duties of President.

"We are therefore of the opinion that a writ of prohibition should issue commanding the judge of the Circuit Court of the Third Judicial District and Attorney General to desist from further proceedings in the matter, and it is so ordered."[13]

While in the United States there have been a number of Federal and State cases of impeachment, in Liberia the proceeding is of little practical importance as all civil executive officers, with the exception of the President, and possibly the Vice President, can be removed by the President upon the address of both branches of the Legislature, and, in the cases of judicial officers, by the President upon an address of two-thirds of both Houses. (Const. Art. III, sec. 6; Art. IV, sec. 1). Frequent use has been made of this procedure.

The pardoning power of the President does not extend to cases of impeachment (Art. III, sec. 3).

There has been no case of impeachment of a President or Vice President in Liberia, although there have been threats of such proceedings on two or three occasions, one of which resulted in the deposing of the President, E. J. Roye (1871),[14] and the second in forcing the resignations of President King and Vice President Yancy (1930)

The Roye affair grew partly out of a controversy whether a proposed amendment to the Constitution had been adopted by the voters, partly out of the feelings aroused against Roye for his participations in the negotiation of the Loan of 1871.

A proposed Amendment to the Constitution, extending the term of office of the President and of the members of the House of Representatives from two to four years, and that of Senators from four to eight years, had been twice voted on by the electors. The result was in doubt; frauds in the election were charged by both sides.

Roye was chosen President at the 1869 elections, and assumed office on January 1, 1870. Under the provisions of the Constitution, Roye's term of office would end on January 1, 1872, but he and his supporters contended that the constitutional Amendments had been adopted, and that consequently his term would not expire until January, 1874. Roye issued a proclamation forbidding the holding of the regular biennial

[13] In the case of President Roye the court took jurisdiction in a case of misappropriation of public funds by him while President At the time of his trial Roye had been deposed under a Manifesto (October 26, 1871), but there was no impeachment trial. His term of office expired on January 1, 1872. The point whether he could be tried for such acts was not raised The jury brought in a verdict of guilty on February 11, 1872. Roye escaped from his prison and was drowned.

[14] See end of chapter.

elections in May, 1871. A strong party raised violent opposition, declared that the Amendment had not been carried, and that in any event it could not be construed to apply to the present incumbent. Despite the proclamation the elections were held and Joseph Jenkins Roberts was elected by an overwhelming majority. Roye declared the election illegal. For months the opposing parties continued the constitutional controversy. But Roye appeared to be determined to continue in office after January 1, 1872, and issued a proclamation to this effect. Insurrection broke out in Monrovia; some of his supporters attempted to seize a bank. The President himself participated in the fray, throwing hand-grenades at the crowd. The populace retorted by sending a cannon ball through the President's house. The crowd caught and imprisoned Roye.

Impeachment was regarded as too slow a process, and on October 26, 1871, a convention of the members of the Legislature was held in Monrovia, at which a "Manifesto" was adopted. This "Manifesto" declared in part:

> President Roye has, contrary to the Constitution, proclaimed himself President for four years, although elected for only two years.
>
> He has distributed arms and munitions of war, and has not ceased his efforts to procure armed men to crush the liberties of the people.
>
> He has contracted a foreign loan contrary to the law made and provided; and without an act of appropriation by the Legislature he has with his officers been receiving the proceeds of that loan.
>
> Every effort to induce him to desist from his unconstitutional course has been unavailing. Threats and entreaties have been alike lost upon him. He has turned a deaf ear to the remonstrances from all the counties of the Republic:
>
> Therefore, on the 26th day of October in the year of our Lord, 1871, and in the twenty-fifth year of the Independence of the Republic, the sovereign people of Liberia did by their resolutions in the City of Monrovia, joined to the resolutions from the other counties of the Republic, depose President E. J. Roye from his high office of President of Liberia; and did decree that the Government shall be provisionally conducted by a Chief Executive Committee of three members, and by the chiefs of Departments until the arrival of the constitutional officer at the seat of Government.

The Vice-President, James S. Smith, was not in Monrovia, and a Special Executive Committee composed of Charles B. Dunbar, R. A. Sherman and Amos Herring was appointed to carry on the Government. When the Vice President returned to Monrovia he assumed the duties of the Presidential Office, and filled out the unexpired term. The action of the convention in deposing Roye, was extra-legal, but was never questioned, and the death of Roye shortly thereafter solved the question.

President Roye had been in England where he participated in the negotiations with London bankers for a loan of £100,000. The loan was made, but on unconscionable conditions. The bankers retained out of the capital sum £30,000 by way of discount and advance interest. The loan was for fifteen years at seven per cent interest, the whole secured by the Customs revenues. Ten thousand pounds were used in the purchase of merchandise. This left a balance of £60,000 for Liberia. When Roye returned from London and made known the terms of the loan, a storm of protest arose. Worse than this, of this sum about one half was dissipated by mismanagement and misappropriations so that all that Liberia actually received was a sum variously estimated at between twenty thousand and twenty-seven thousand pounds.

The House of Representatives brought charges in impeachment but the Senate refused to take up the proceedings owing to formal defects in the proceeding in the House. Roye was charged with misappropriation of public funds. The jury brought in a verdict of guilty February 11, 1872. Roye was in prison, but during the night either through the negligence or connivance of his guards he made his escape. An English steamer was in the harbor of Monrovia and it is said that Roye removed nearly all his clothing in order to be taken as a native or Kru boy seeking employment on the vessel, and that in a belt around his waist he carried a quantity of English sovereigns, a part of the Loan. The native canoe in which he was making his escape capsized and Roye was drowned. So ended the only *coup d'état* in the history of Liberia.[15]

The deposition of President Roye, and the events leading up to it, raise difficult questions of constitutional law. Roye's successor in office, Vice President James S. Smith in his Message to the Legisla-

[15] McPherson and others say that Roye died in prison For accounts of the Roye affair, see Johnston, *Liberia*, I, 258-262; McPherson, *History of Liberia*, 45-48; A. C. S *Ann Reports*, LV, 18, 19; Sibley and Westermann, *Liberia Old and New*, 91; Brown, *Economic History of Liberia*, 143, 144; Azikiwe, *Liberia in World Politics*, 112, 113. *African Repository*, XLIV, 44-46; XLVIII, 220

ture, of December 4, 1871,[16] makes the following statements, which may be regarded as the official view of the Government.

> Fortunately for us, though President Roye was deposed on the 26th of October by the uprising of the sovereign people of this Republic, notwithstanding fire-arms and munitions of war were scattered broadcast to keep him in, his deposition was accomplished without the shedding of blood. The people felt aggrieved at the acts of President Roye to maintain the position that he had assumed, contrary to the declaration of the Legislature, which was in accordance with their will and pleasure, as expressed at the ballot-box at the special election in May, 1870, and reiterated at the ballot-box at the biennial election in May, 1871.
>
> Remonstrance after remonstrance, and the entreaties of friends, proved equally unavailing until forbearance was regarded no longer a virtue, and the sovereign people of the Republic rose in their might, resumed the delegated powers granted the President and deposed their Chief Magistrate, Edward James Roye, and in a peaceable yet decisive manner declared that he should no longer discharge the duties of said office. This solemn act was not unadvisedly and precipitately entered upon. The existence of causes, and setting forth the expediency and the necessity of such a course were communicated to all parts of the Republic, and an expression of the people solicited; and each county held a convention to consider and deliberate on the subject. And though the announcement of President Roye's deposition fell like a thunderbolt from heaven at noonday on the sensitive minds of our countrymen in the various communities, and produced a shock to the national honor, yet it had been considered and determined if President Roye persisted in his course and refused to hear the warning voice of the people, that notwithstanding they deeply deprecated the act, and were solemnly impressed with its momentous responsibilities, yet in their extremity they decreed that it should be done, and invoked the blessing of heaven on this *dernier resort* to save their country from destruction.
>
> It is not disreputable to the people of Liberia that they indulged the hope to the last moment that President Roye would discontinue those acts, against which they used every persuasion and proceeded to protest in tones of thunder, or that he would, for the maintenance of public peace and the preservation of our

[16] *African Repository*, XVIII, 130-138

Republican institutions, have peaceably and quietly resigned his position. But in this they were sadly disappointed, and the last and direful resort was forced upon them, and they spoke, and it was done.

Though I deplore this sad event, and would have rejoiced had a beneficent Providence seen fit to have averted it, yet I cannot charge my countrymen with a disposition to disregard rule and order. I admire their patience, fortitude and discretion. It is, nevertheless, my candid conviction that if the same moderation and discretion had been exercised by the Legislature, this lamentable event might have been avoided by the seasonable intervention of the Judiciary.

We hope that this lesson will not be lost on the present and succeeding statesmen of our country. And it is sincerely to be hoped that the surprise and agitation the act produced on the public mind, notwithstanding the subject had been thoroughly considered, weighed and determined, will teach us that we cannot be too cautious and deliberate as regards the preservation and protection of our national existence.

There is nothing, fellow-citizens, in the nature of a Republic, and certainly nothing in the character of the negro, that should give us any uneasiness in connection with our late difficulties. Nay, on the contrary, we should take courage and march on. But it may be supposed there may be some peculiar circumstances connected with our difficulties that may be ruinous, let the general issue with republics and the negro race be what it may. Then let us go over the history of the case from its commencement to the deposition of President Roye, and see if we, as a nation, committed an unpardonable sin, and plunged ourselves into an inextricable dilemma, as some persons would have us believe.

It is a certain and established fact that there was no alternative left the people of Liberia save the one they adopted; and they felt convinced that they had of necessity to depose President Roye, or allow the Constitution, the sacred palladium of their liberties, to be trampled under foot.

The case of President Roye and the people is substantially as follows: President Roye proclaimed in November, 1870, that the constitutional amendment to prolong the presidential term of office from two to four years, the senatorial term from four to eight years, and the term of the members of the House of

Representatives from two to four years, was adopted by the votes cast at the special election of May, 1870.

The proclamation electrified the people, and evident marks of dissatisfaction were instantly manifested throughout the country. The Legislature expressed great indignation at the act, and pronounced it as an unconstitutional assumption of the President to exercise the prerogative of the Legislature, as they recognized that the Department of State was constituted by the Constitution as a depository of safe-keeping for the sealed ballot-boxes of the election, to be kept inviolate and transmitted at the meeting of the Legislature to the House of Representatives.

The President assumed the position that the law authorizing him to re-submit the proposed constitutional amendment to the people for their vote in May, 1870, conferred upon him the right and imposed on him the duty of declaring the result of the said election.

The Legislature contended that no such power had been conferred by such act, and as the Constitution had expressly provided and laid down the course of procedure, that it was an unwarrantable assumption of the Executive Department. The Legislature demanded the ballots, declared the proposed amendment lost, and made a full statement of the votes cast in the several election precincts, showing that a majority had voted against them.

It appears that the State Department had rejected all of the votes cast, save one from Maryland county, as the tickets had more words on them than the law expressly provided for, (the additional words were explanatory and copied from the law,) nevertheless, they so vitiated the tickets, according to the view of the Secretary of State, that he rejected them, as laws must be literally obeyed.

This explanation did not allay the excitement, and the House of Representatives preferred articles of impeachment against the honorable Secretary of State for interfering with the ballot-boxes. The Senate acknowledged the correctness of the position assumed by the House of Representatives, and supposing that by a strange freak of mind, some mental hallucination, the Secretary of State possibly may have considered it his duty to act as he did, and the Senate being favorably impressed with the past services rendered by him and his devotion to the interest of the country, allowed him the advantage of an informality in

the proceedings of the House, and dismissed the impeachment with a reprimand.

The declaration on the proposed constitutional amendment which was passed by the House of Representatives, in which the Senate concurred, according to the custom in such cases, was entitled: "A resolution declaring the constitutional amendment not carried."

No sooner did the President discover the word "Resolution" in the caption of the declaration, than he conceived that he had a clear right and the authority to veto the said declaratory resolution, and it was accordingly done, in which he stated that the amendment had been legally submitted and adopted at the biennial election in 1869, and that the vote in 1870 had not annulled it.

The Legislature then passed a declaration, protecting against President Roye's proclamation, and announcing that the proposed constitutional amendment was not adopted by the people.

President Roye issued another proclamation, denouncing the action of the Legislature, and declaring that, according to the vote taken at the special election, the Presidential term of office had been lengthened from two to four years, the Senatorial term from four to eight, and that of the members of the House of Representatives from two to four years. Consequently he decreed that no election should be held, and all who attempted anything of the kind should be treated as rebels.

Among the questions which arose in connection with these unpleasant proceedings were these: Has the President the right to veto a constitutional question? Does the Constitution give the President any power to control an amendment to the Constitution? Have not the people reserved this right to themselves?

While it is true that he may lay any proposed amendment of the Constitution before the Legislature in his recommendations to them, if two-thirds of each branch indorse it and submit it to the people, it becomes their duty to decide by ballot the amendment submitted. Two-thirds of both branches of the Legislature must submit the question, and a two-third vote of the people must decide it. Now, all that is left after the election is to declare the result, and upon whom does this devolve? The Constitution confers on the House of Representatives the power to declare the result of the ballots cast in the case of a Presidential election, and as it is not expressly stated in the Constitution how the declaration is to be made in cases of amendment of the Con-

stitution, by implication it was considered that the same procedure should be adopted as in the other case provided in the Constitution; nevertheless, for the sake of a perfect understanding on a matter touching the bulwarks of the nation, it has invariably been the practice to pass a joint declaratory resolution that the proposed and submitted amendment or amendments have been duly adopted and declared to be a part and parcel of the Constitution, or that the question was lost

But just here the President and the Legislature disagreed, and the disagreement ended in the deposition of the President. It appears to me that our Constitution never contemplated that a misunderstanding occurring between two departments of the Government, and especially between the Legislative and Executive departments, should be submitted to the people for decision, when there is a third department that can settle it, especially a constitutional question, involving the powers conferred by the Constitution on such departments, which legitimately belong to the Judiciary.

In our humble opinion, if the President felt ever so confident of the correctness of his opinion, and the Legislature questioned it, he should, in courtesy to the Legislature, submit the question to the Supreme Court or yield the point; and so, on the contrary, if the Legislature felt assured of the constitutionality of their position, if they observed a disposition on the part of the President to persist, to avoid difficulty they should also refer it to the final interpreter of the Constitution, because a contrary course must, in our judgment, be hazardous to the public peace and tranquility.

Treaty-making Power. The treaty-making power is vested in the President, but subject to the ratification of two-thirds of the senators present at the session of the Senate to which the treaty is submitted for ratification.

The power of the Senate is limited to a ratification of the treaty as submitted to it. It may refuse its ratification or make it conditional upon the adoption of amendments to the treaty. If a treaty requires legislation in order to carry out its provisions, it is for the Legislature, at its discretion, to pass the necessary laws. But, although there may be a moral, there is no legal, obligation on the Legislature to pass such legislation.

The question as to the application of the Constitution to the provisions of a treaty has been discussed *supra*.

Beginning with the Treaty of Commerce with Great Britain, concluded between President Roberts and Lord Palmerston, November 1, 1848, the Republic of Liberia has concluded a number of treaties with European and American countries—the first treaty with the United States was concluded on October 22, 1862.

The Republic of Liberia is a signatory Power or has given notice of adherence to most of the international treaties and conventions. It became a member of the Universal Postal Union April 1, 1879; it was one of the Allied and Associated Powers that ratified the Treaty of Versailles, and is one of the original members of the League of Nations.[17]

Liberia has concluded treaties with the native Kings and Chiefs relating to cession of territory, commerce, extradition, etc., from the very beginning, commencing with the Treaty of Mesurado (December 15, 1821), ceding the original territory of the Colony.[18]

As to the binding force of treaties under municipal law the Colony by an Act of October 25, 1827,[19] declared that "treaties from the date of their publication become law in the Colony," and this law has remained in force until the present time.[20]

A more complete provision regarding treaties is an Act, still in force, reprinted, without date, in the *Old Blue Book*,[21] which also deals with treaties with the native tribes:[22]

> Section 1. That in all cases of treaties to be made, of which this Government shall be a party, the President may appoint Commissioners, who may be clothed with the necessary power, and held bound to depart in no wise from their instruction. And all treaties, whereof the Republic is one of the contracting parties, shall, from the date of their publication, become laws; and offenders against their provisions shall be punished in pursuance of judicial sentence.

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[17] The early treaties concluded by the Republic are published in *The Statute Laws of the Republic of Liberia . . also the Several Treaties . concluded by the Republic* (Monrovia, 1856) The treaties are not contained in the 1879 reprint A later compilation is *Treaties and Conventions Concluded by the Republic of Liberia and Foreign Powers, 1848-1892* (Monrovia, 1907)

[18] The texts of the principal treaties of the Colonial and Commonwealth Periods are reprinted in foregoing Chapters of this Work

[19] Ms. *Code of 1828*, text in Chap V, *supra*

[20] *Revised Statutes of the Republic of Liberia*, I, 147.

[21] *Statute Laws of the Republic of Liberia* (1856 ed) 130; (1879 ed.) 143 This is a Commonwealth Act, *Constitution and Laws of the Commonwealth of Liberia* (1843) 27, 28.

[22] For the Colonial Acts regarding the enforcement of some of these treaties, see Chap V, *supra*.

Section 2. That in all treaties and negotiations with the surrounding Headmen or Chiefs of native tribes for land, the settling of questions of boundary, or for the extension of territory, a fair and complete understanding shall be had and obtained, and proper instruments of writing shall be had and made, fully expressing the whole subject matter of agreement or arrangements made and entered into—the full amount paid as the consideration of any bargain, or for any purchase made together with the real signatures of all concerned in the transaction; and no Chiefs or Headmen, the proprietors of any lands shall by either force or fraud, be brought to accede to measures—nor shall any construction by implication be given to words, or action be employed to deprive them of their rights in any respect, and more especially with regard to lands when they signify an unwillingness to deal in the way of pacific negotiation.

The treaties concluded by the Colony of Liberia and by the Commonwealth of Liberia enure to the benefit of, and are binding upon, the Republic of Liberia as the successor Government, *The Sapphire*, 11 Wall. (U. S.) 168 (1871).

International agreements may be entered into in other ways than by treaties If the treaty method is employed the advice and consent of the Senate is required. The treaty method was the usual form at the time of the adoption of the Constitution of 1847. Thus we find that the Postal Convention of January 20, 1858, between Liberia and Great Britain was in form a treaty. Such conventions would today be made by the President, or the Postmaster General without submission to the Senate for ratification. More important are the Executive Agreements with foreign Powers made by the President either under Legislative authorization, or under the general powers vested in him as the representative of the Republic in foreign affairs or as commander in chief of the army and navy.

It is interesting to note that in the United States in the period 1789-1929, about 900 treaties were proclaimed, while about 1200 agreements with foreign Powers were entered into in other forms—executive agreements, compacts, etc. Such executive agreements may affect private rights, but this is no ground for declaring them unconstitutional, *United States* v. *Belmont*, 301 U. S. 324 (1937).

As to executive agreements, see Moore, *Treaties and Executive Agreements*, in *Political Science Quarterly* XX, 385; McClure, *International Executive Agreements* (New York, 1941); Fraser, *Treaties*

and Executive Agreements (Washington, 1944); Cathcart, *The Proposed Successor to the League of Nations and the United States Constitution,* in Journal of the State Bar of California, XX, 37-48.

Appointing and Removal of Officers. The Constitution (Art. III, sec. 2) provides that the President "shall nominate and with the advice and consent of the Senate appoint and commission all Ambassadors and other public Ministers and Consuls, Secretaries of State, of War, of the Navy, and of the Treasury, Attorney General, all Judges of Courts, Sheriffs, Coroners, Marshals, Justices of the Peace, Clerks of Courts, Registrars, Notaries Public, and all other officers of State, civil and military, whose appointment may not be otherwise provided for by the Constitution, or by standing law; and in the recess of the Senate he may fill any vacancies in those offices until the next session of the Senate."

The appointing power is more extensive than that of the President of the United States, because the President of Liberia is the head of a unitary State, and thus combines the functions of the Chief Executive of the Nation with those of a Governor of a State of the American Union.

Nominating and appointing are acts distinct from commissioning. The commission is only evidence of the appointee's title and is not necessary to its vestiture. Cp. *Marbury* v. *Madison,* 1 Cr. (U. S.) 137 (1803). The action of the Senate is confined to advice and consent; it cannot originate an appointment, nor impose conditions on the appointment. Cp. 3 Opinions of the Attorney General (U. S.), 188 (1837).

The fitness of the appointee must be determined by the appointing power; the courts have no general supervisory power. Cp. *Keim* v. *United States,* 177 U. S. 290 (1900).

The power of the President to be the sole judge of the fitness of an appointee is considered by the Attorney General in an opinion on the draft of the Agreement with the Finance Corporation of America. Attorney General L. A. Grimes, 4 *Opinions of the Attorney General,* 60 *et seq.* (1925) says:

> Taking Arts. VIII. & IX. together provision is made for the appointment by the President of Liberia, and removal, of the Financial Adviser and the special assistants provided for in the contract. But as adroitly worded as said paragraphs are very serious violations of the Constitutional rights of the Chief Executive of the nation seem to be indicated when (1) the President of the Republic of Liberia is denied the right of requiring before

appointment satisfactory proof of the qualifications of such person as may be designated as Financial Adviser under the said Loan Agreement. (2) The apparent limitation upon the right of removing such official except upon the request of the President of the United States. And (3) The inability of the President to remove the other Financial Assistants until so requested by the Financial Adviser.

According to the spirit and intent of our Constitution the President is a Trustee directly responsible to the sovereign people of his country to be satisfied of the fitness and qualification of every appointed public servant. The letter patent which is his warrant for the discharge by every such official of the duties of his office has, in Liberia, from time immemorial read *inter alia*: "reposing special trust and confidence in the integrity and ability" of the appointee to discharge the duties of that office. In my opinion no matter who may be satisfied of the qualifications of anyone for an appointed position, unless the President is himself also thoroughly convinced of that fitness I do not believe that he can legally or morally make said appointment, no matter by whom recommended.

Nor is that all, for no matter how careful any Chief Executive may be in his selection of public servants, ever and anon he will be disappointed, and persons apparently fully qualified may, upon trial, prove abject failures. To guard against such a state of affairs most civil officers hold their offices at the pleasure of the President, and even those who are given more definite tenures are removable for cause either by the President in the recess of the Legislature or upon the impeachment or joint address of that Branch of Government.

These powers of appointment and removal are among the delegated powers of the President of which he cannot divest himself during his term of office, and for the judicious exercise of which he is held responsible to his constituents To endorse by legislation the principle that he shall appoint an official without having first satisfied HIMSELF of his fitness, and then to be prevented from removing him except upon the request of someone else not a citizen of the Republic are in the opinion of the undersigned his people when he swore and subscribed to the oath to defend breaches of the contract entered into between the President and the Constitution and enforce the laws of the Republic.

Other objectionable features to the above mentioned paragraphs will, I am sure, be dealt with by my colleague of the Treasury who has been charged by your Excellency with the responsibility of preparing a memorandum on the financial aspect of the proposition.

The objections hereinbefore noted to Article VIII. & IX. are greatly intensified by a careful study of Art. XVI. which moreover makes a very invidious distinction between the procedure to be followed in the treatment of the foreign and Liberian employees of the revenue service. With regard to the latter the Liberian Government, by the terms of the contract is to "pledge itself to inflict "PROMPT and adequate punishment upon any Liberian civil or military official." But in dealing with foreign employees the Government only "reserves the right "to demand his dismissal in case of malfeasance in office, neglect of duty or in-"efficiency." Silence on the question of punishment for the malfeasance in office charged would seem to suggest that his dismissal would end the matter save for the payment of his travelling expenses back to the United States. But the more serious objection comes in that even in case of "malfeasance, neglect of duty or "inefficiency" it is contemplated that a demand made by the Liberian Government for such a person's dismissal need not necessarily be concurred in by the Financial Adviser, in which event said official would continue to function while an arbitration is arranged for to pass upon the justice of the President's demand for said dismissal; and in the event the arbitrators so chosen by the President and Financial Adviser respectively disagree, then the discredited or accused official would continue to render inefficient or dishonest service to the Republic pending a reference to the Secretary of State of the United States of America, and his appointment of a third arbitrator to give the casting vote. What a series of humiliations for the Government of the Republic of Liberia may thus be laid up in store for us during the next forty years! What irreparable harm may not be done both materially and to the prestige of the nation, and the Constitutional prerogatives of our Chief Executive!

In considering Art. XX. two things have struck me, viz: (1) According to sub-paragraph (a) the Government is to be concluded by an opinion given the Fiscal Agents by an attorney they may retain to give them advice without any reference whatever to whether or not the Liberian Government may or may not approve

of the qualifications and integrity of said solicitor. It doesn't appear to be in consonance with the dignity of a Government to submit to such a stipulation, especially when there is a foregone conclusion that the lawyer that said corporation will consult will be an alien, and not improbable that he will consciously or unconsciously be blind, perhaps inimical, to the Liberian point of view. (2) The Government is by sub-paragraph (c) irrevocably committed to the appointment of the National City Bank of New York as its fiscal agents, except for good and sufficient cause shown to the contrary. But without considering how far there should or should not be mutuality in the stipulations of the contracting parties is there sufficient consideration for the disparity which would permit the Fiscal Agents at any time, after having given us four months notice without cause assigned, to resign their connection with the Liberian Government?

In Art. XXII. it is stipulated that:

> "The Fiscal Agent shall not be answerable for the default or misconduct of any agent or attorney appointed by it in pursuance hereof if such agent or attorney shall have been selected with reasonable care."

Who is to be the judge of the reasonableness of the care used in the selection of such agent or attorney, and what will become of the universally accepted principle of the law of contracts that

> "A principle is generally bound by the contracts made for him by his agent and acts of the agent in connection therewith, while acting in the course of his employment and within the scope of his actual or apparent authority." See 31 Cyc. page 1566, "E."

In the recess of the Senate, the President may fill any vacancy until the next session of the Senate. This means the period after adjournment, not mere temporary adjournments, such as over holidays. Cp. 23 *Opinions of the Attorney General* (U. S.) 599 (1901). The appointment may extend to the end of the next session of the Senate.

A comprehensive Civil Service Act was adopted in 1934. (Acts 1934, c. XIV, p. 17 and slightly amended by later Acts).

The tenure of office of the appointive executive officers is fixed by the Constitution, Article III, sec. 5:

> All Ambassadors and other public Ministers and Consuls, the Secretary of State, of War, of the Treasury, and of the Navy,

> the Attorney General, and Postmaster General shall hold their office during the pleasure of the President. All Justices of the Peace, Sheriffs, Coroners, Marshals, Clerks of Courts, Registrars, and Notaries Public shall hold their offices for the term of two years from the date of their respective commissions, but may be removed from office within that time by the President at his pleasure; and all other officers whose term of office may not be otherwise limited by law shall hold their offices during the pleasure of the President.

The power to remove Executive as well as Judicial officers by the President on the address of the two Houses of the Legislature is frequently employed, and avoids the protracted proceedings of an impeachment.

Members of the Senate and House of Representatives are not "public officers" within the meaning of this section, though, semble, the Vice President is subject thereto.

The appointment and removal of officers of the Judiciary is considered below.

Pardoning Powers. The President has power after conviction "to remit any public forfeitures and penalties, and grant reprieves and pardons for public offences, except in cases of impeachment."

The power to pardon, etc., is vested solely in the President. Says the Attorney General, 1 Opinion of the Attorney General, 32 (1922): "I do not believe that even the Legislature of the land can constitutionally delegate such power to any other official. In the State Constitutions of some of the States in the United States of America, the pardoning power is in the Governor, in some in the Governor and Legislature jointly, and in others in a Board; but in each case it is just where the Constitution of the State places it and nowhere else. See 29 Cyc. of Law, pp. 1562/3 B. 'Authority to Pardon', sub-section 2."

This precludes the creation of any Board of Pardons, with power to act, but such a Board may be given advisory powers.

The procedure is prescribed by Revised Statutes, sections 792-795. There is a special provision regarding foreigners:

> Sec. 795. The President may grant a pardon to any foreigner convicted of any offense on condition that he leave the Republic, and remain out of it forever. In the event of his return, the pardon shall be deemed forfeited, and he shall be liable to arrest and re-imprisonment by the Sheriff without any process of law.

An interesting late case, *Bell* v. *Republic of Liberia,* 3 New Ann. Ser. 13 (1936), where the Supreme Court (per Russell, J.) says:

> Inasmuch as in the constitutional division of the powers of this Government we are charged with the administration of justice, and the power to grant Mercy is delegated to the Chief Executive, except apparently in the case of infants, or first offenders, when the trial court, having all the facts before it may mitigate the punishment, or suspend sentence as the circumstances may seem to warrant; we can only take note of appellant's plea. But inasmuch as the privilege of reviewing the facts has been withdrawn from us by the waiver of his bill of exceptions, we feel that we have no longer the power to reverse, modify or affirm the judgment as would have been the case had we been privileged to review the records, but can only affirm the judgment of the lower court upon his voluntary admission made in open court. Nevertheless, in view of the peculiar circumstances of this case, the earnestness of the appellant's plea for Mercy, and the note of sincerity which seems to us to have rung through his statement, and the apparent contrition of his application, we most strongly join our appeal to his for such executive clemency as His Excellency, having all the facts before him, might feel that the appellant should in mercy receive.

A pardon is an act of grace exempting the person on whom it is bestowed from punishment, or further punishment, for a crime he has committed. Cp. *United States* v. *Wilson,* 7 Pet. (U. S.) 150 (1833); *Knote* v. *United States,* 95 U. S. 149 (1877). It usually includes an amnesty (a term ordinarily employed to cover classes of individuals) and is usually granted before there has been a trial and conviction. The Constitution of Liberia makes no provision for this class of amnesties as it specifically contains the words "after conviction" (which the United States Constitution (Art. II, sec. 2) does not).

A pardon may be granted subject to conditions, which may be even more objectionable than the punishment inflicted by the sentence itself. Rev. Stat. sec. 794; cp. *United States* v. *Wilson,* 7 Pet. (U. S.) 150 (1833). A pardon becomes effective upon delivery to and acceptance by the person in whose favor it is granted. A pardon may be declined by such person and there is no power in a court to force him to accept. Cp. *United States* v. *Wilson,* 7 Pet. (U. S.) 150 (1833). But the com-

mutation of a death sentence to one of life imprisonment is effective without the prisoner's consent. Cp. *Biddle* v. *Perovich,* 274 U. S. 480 (1927).

Contempt is a wilful disregard or disobedience of a public authority (Bouvier, *Law Dictionary* sub "Contempt"). The power of the Legislature to punish for contempt has been considered above, sub "Legislature". The power of courts to punish for contempt is dealt with below, sub "Judiciary". The point to be considered here is the extent of the power of the President's to pardon, in contempt cases. It must be noted that under the Liberian Constitution the pardoning power of the President does not come into operation until after conviction of the offender. It extends to public offences. An offence is "the doing that which a penal law forbids to be done, or omitting to do what it commands. (Bonvier, *Law Dictionary,* sub "Offence"). It does not extend to penalties or imprisonment imposed by a coordinate branch of the Government for contempt of its authority. *Semple,* such action would be in violation of the doctrine of the separation of governmental powers. It has been held, in the United States, that the President's power extends to "criminal contempts." Cp. *Ex parte Grossman,* 267 U. S. 87 (1925); *United States* v. *Goldman,* 277 U. S. 229 (1928). The point is in doubt in Liberia. (See *In re Moore*) Semi-Ann. Ser. 20 (1913).

Power to Require Information and Advice From Public Officers. The President has power to require information and advice from any public officer touching matters pertaining to his office. The corresponding provision in the United States Constitution (Art. II, sec. 2) provides that the President may require the opinion, in writing, of the principal officer in each of the Executive departments.

Power to Receive All Ambassadors and Other Public Ministers. The corresponding words in the appointing clause of the United States Constitution have been interpreted to include all diplomatic agents which any foreign Power may accredit to the Government, 7 Opinions of the Attorney General (U. S.) 209 (1855). The power is an important one as it involves the power to recognize the existence of the foreign State and of a particular Government therein. The ceremonial attending the reception of foreign diplomatic representatives is set out in Regulations as to Precedence and Etiquette for Diplomatic and Consular Officers. (Department of State, Monrovia, 1908; see also *Rev. Statutes,* II, 608, 609).

Other Powers. In Liberia, as elsewhere, there has been a constant growth of the power of the Chief Executive. Weak at first, owing

partly to the shortness of the tenure of office and the simplicity of the problems of a small agricultural community permitting the slower deliberation of the Legislature, with the increase of commercial activities and complications in international affairs, finally leading to Liberia's participation in two World Wars necessitated the concentration of more power in the hands of the Executive to secure greater continuity of policy and more speedy action by a lengthening of the tenure of office and delegation of powers to the Executive.

An example of a sweeping delegation of power is contained in the Joint Resolution passed at the outbreak of the present World War (Acts, 1939-1940, c. 3, p. 20). After referring to the Proclamation of Neutrality of September 19, 1939, the Resolution continues:

> Section 2. That the President of the Republic of Liberia be and is hereby empowered to take any and all further proper and adequate measures which in his judgment will effectively insure the internal economy and external interests of the Republic during the said Conflict.

Even before Liberia's entry into the War, the Legislature passed an Act, approved June 30, 1942. (Acts, 1941-1942, c. 23, p. 20) as follows:

> An Act Granting to the President of Liberia Special Emergency Powers for the Duration of the Prevailing World War and Six (6) Months Thereafter.
>
> Whereas conditions now existing in the world are so unsettled that the safety and perpetuity of the State demands that emergency powers be granted to His Excellency the President, Therefore:
>
> It is enacted, etc.:
>
> Section 1. That from and immediately after the passage of this Act, the following special Emergency powers be and are hereby delegated to the President of Liberia for the duration of the prevailing World War and for six (6) months after the cessation of hostilities;
>
> (a) To increase the Liberian Frontier Force to a number not to exceed, for the present, 5,000 enlisted officers and men.
>
> To establish, declare and maintain recruiting centers, military areas, barracks, camps and compounds; to declare any area

deemed necessary to be a defense area and may therein suspend the benefit of the Writ of *Habeas Corpus* for a period not exceeding one (1) year at the time.

To mobilize by age groups all able bodied male citizens of the Republic of Liberia the ages of 16 to 45 for military service except those exempt by law or who shall fail to pass the test for physical fitness.

To mobilize all able bodied members (male and female) of the civil population for social, industrial and military work necessary for the defense of the Republic.

In case of an unprovoked attack or aggression by any foreign power, or of an insurrection, to call out the armed forces of the Republic into actual service in defense of the State and in that respect to take all offensive and defensive measures necessary to the protection of the Republic.

(b) To exercise the following administrative powers when deemed necessary: (1) All and any administrative and political measures conducive to the safety of the State and the welfare and protection of the citizens thereof.

(2) To cause the Seat of Government in any emergency to be removed to any area deemed safe, and therefrom to direct the affairs of Government.

(3) To establish and fully equip hospitals, clinics, and other sanitary centers in areas deemed suitable. To take over the political administration of any territory, district, city, township or other civil establishment for defense purposes.

(c) To mobilize and conscript all labor, manual, mechanical or otherwise, for economic, social and industrial services for defense purposes; to utilize all vehicular transport services, all means of communications with their necessary installations and equipments and apply same to the public welfare, just compensation to be given in case of the use of private property.

(d) To increase the Police constabulary of the Republic to such proportion and strength as to adequately police all areas within the Republic deemed necessary.

(e) To exercise the power of sequestering or removing aliens to areas deemed less dangerous to the safety of the State; to

evacuate or remove whole or part populations to areas of safety in case of danger.

(f) To exercise without the intermediary of the courts of law, the power of search and seizure over any article, paper or thing suspected to be concealed in any area declared to be a defense zone and the possession of which article, paper or thing shall be deemed dangerous or pernicious to the welfare or safety of the State.

Section 2. To appoint and commission such officials as he may deem necessary with authority to effectively carry out the intent and spirit of this Act, within the scope of the special Emergency Powers herein granted.

Section 3. To make any and all such monetary arrangement for and on behalf of the Republic as he shall deem necessary for said defense purposes, and for such capital sums as may be needed and not available in the public Treasury.

Any law to the contrary notwithstanding.

Vacancy in Office of President. The Constitution (Art. III, sec. 2) provides that "the Legislature may by law provide for the cases of removal, death, resignation or inability both of the President and Vice President, declaring what officer shall then act as President and such officer shall act accordingly until the disability be removed, or a President shall be elected."

The Legislature at its first session passed a Law, following closely the language of the Act of Congress of March 1, 1792, approved January 20, 1848 (*Constitution of the Republic of Liberia, with the Laws of the Republic Enacted, 1848*, p. 28; *Stat. Laws*, 1856 ed. 144; 1879 ed. 156), which provides that "in the event of the death, resignation or other disability of both the President and Vice-President of the Republic, the Speaker of the House of Representatives shall act as President until the disability be removed." It is to be noted that the Act does not in terms provide for the cases of removal, unless the word "disability" covers this situation. No case ever arose under this Law. By Revised Statutes, sec. 1260, it is provided that "a vacancy in the office of President shall be filled by the Vice-President (as already provided in the Constitution) and a vacancy in the office of Vice President shall be filled by special election."

The Liberian Act is subject to the same constitutional objection. Both the Liberian and the United States Constitutions provide that the Legislature may by law designate the *officer* who shall act in case of disability of both the President and the Vice President. The first question is whether the Speaker of the House of Representatives is an "officer." A second point is whether, if he assumes to carry out the duties of the Presidential office he ceases to be Speaker or ceases to be a member of the Legislature. And in case he retains his membership in the House, is this not in violation of the constitutional doctrine of the separation of powers?[23] Both the American Act of 1792 and the Liberian Act of 1848 provide that the person acting as President shall continue in office until the disability be removed. The American Act adds: "or a President shall be elected "

Quaere, whether the Act of 1848 is repealed by Revised Statutes, sec. 1202, or by sec. 971, which provides: "In the event of the death or disability of both the President and Vice President, the Secretary of State shall act as President until the removal of the disability, or an election is held." The latter section incorporates the provision of an Act of 1900 (Acts, 1900-1901, p. 7).

On two occasions the Secretary of State was called upon to act as President. The first was when Garretson Wilmot Gibson, the Secretary of State, became Acting President on December 11, 1900, upon the death of President William David Coleman, and served until January 1, 1902, when he was elected President. The second occasion was when Edwin Barclay, the Secretary of State, became Acting President upon the resignation of both President Charles Dunbar Burgess King and Vice President Allan N. Yancy, on December 3, 1930, and served as such until 1932, when he was elected President.

One criticism may be made regarding the existing Law. No provision is made for the event that at the moment there is a vacancy in the office of Secretary of State, a vacancy that a retiring President may constitutionally create by the dismissal of the incumbent, and there is no Vice President, the office of President becomes vacant, and a new election must be held.[24] Any law relating to the succession to the President should also contain a provision that the person designated to act

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[23] See the interesting discussion of this question in its application to the Act of Congress of 1792, *supra,* in Willoughby, *l c* I, sec 947

[24] In the United States, under an Act of Congress of January 19, 1886, the Presidency devolves successively to the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Attorney General, the Postmaster General, the Secretary of the Navy, and the Secretary of the Interior—the all then members of the Cabinet No occasion for the application of this Law has arisen.

as President should possess the qualifications necessary to election to that office—under the Constitution not even citizenship is a necessary qualification for appointment as Secretary of State.

Expiration of Tenure. It is fundamental that the President cannot act officially after the expiration of his term of office. Similarly, the authority of his delegated official ceases, unless the law otherwise provides. Thus, a registrar may not fill in a blank deed to which the President's signature is affixed, in accordance with the Statute, after the expiration of the term. This point came up in *Harris* v. *Locket*, 1 Lib. L.R. 79 (1875), where the Supreme Court says:

> This Court says the opinion of the court below is correct as to the non-effect of a blank deed bearing the signature of a President and filled up by the registrar after that President's term of office had expired. For it would be a gross violation of the law of agency and a strong inducement for fraud for a court of justice to encourage a doctrine so annoying in its tendency, and absurd in its principles, as urged by appellant's counsel.
>
> This Court maintains that the official signature of a President to a blank deed deposited in the registrar's office, agreeable to the direction of the statute and filled up by the registrar with a description of a certain lot or parcel of land granted by virtue and authority of the office of the President whose signature is thereunto affixed, while at the same time the said President's term of office had expired, is void and of no effect. Because to give legal effect to a deed, both parties must be competent to contract at the time the contract was entered into, otherwise the contract is illegal.

The Vice President. The Constitution, Article III, section 2, provides:

> There shall be a Vice President who shall be elected in the same manner, and for the same term as that of the President, and whose qualifications shall be the same: He shall be President of the Senate, and give the casting vote when the house is equally divided on any subject. And in case of the removal of the President from office, or his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President. . . .

By an Amendment adopted in 1907 it is provided that "when a vacancy occurs in the office of Vice President by death, resignation

or otherwise, after the regular election of the President and Vice President, the President shall immediately order a special election to fill the vacancy."

Three Vice Presidents of Liberia have become Presidents: James S. Smith (1871-1872), if we admit that the deposition of President Roye was constitutional; Alfred F. Russell (1883-1884); William David Coleman (1896-1898). It seems that when President King resigned, in December, 1930, his resignation was followed immediately thereafter by the resignation of the Vice President Allan N. Yancy. During this interval of less than a day the duties of the office devolved upon Yancy, who, however, appears not to have taken the oath of office.

Under the Law of January 6, 1921 (Acts, 1920-1921, c.l., p. 3, reprinted *supra*) the Vice President in the cases there indicated discharges the duties of the President.

An interesting academic question is whether upon succeeding a President the Vice President becomes President or is merely entitled to act as such.

Professor Willoughby in his *Constitutional Law of the United States* (3d ed. III, sec. 750) commenting on the corresponding section of the American Constitution, says:

"The language of the Constitution, strictly followed, would seem to point out, or at least, the construction that upon the death, removal, resignation or inability of the President, the Vice President does not become the President, but simply that the powers and duties of the office 'devolve' upon him."

In the United States the uniform practice is to regard the Vice President when he assumes the duties of the presidential office as becoming President. And this seems to be the rule in Liberia.

Another interesting question arises in connection with the function of the Vice President to preside at the sessions of the Senate. Professor Willoughby put the question:

"Does the Vice President cease for the time being (when exercising the duties of President) to be Vice President, or does he hold both offices?"

Willoughby attempts no reply. To allow the Vice President to hold both offices is clearly contrary to the doctrine of the separation of governmental powers, but this does not give the answer as to which office he retains.

The Judicial Power

The Constitution of 1820 provides (Art. III) that "the Society's Agents shall constitute a Board, . . .", which "shall decide all disputes between individuals, and exercise all judicial powers, except such as they shall delegate to justices of the peace."

Under the Plan for the Civil Government of Liberia, adopted by the Settlers, August 19, 1824, and later confirmed by the Board of Managers of the Society, Article V provides:

> V. The Judiciary shall consist of the Agent and two Justices of the Peace, created by his appointment. The Justices shall have cognizance of all cases affecting the peace, and criminal cases within the definition of petit larceny; and all actions of debt not exceeding twenty dollars. In the Court of Monthly Sessions the Agent shall preside, and the Justices be his associates. The Court of Monthly Sessions shall have original jurisdiction in all actions of debt where the amount in litigation shall exceed twenty dollars, and in criminal causes above the degree of petit larceny, and shall have appellate jurisdiction in all cases whatsoever.
>
> Two Constables shall be annually appointed by the Agent, whose duty it shall be to execute all processes, and levy distresses pursuant to writs issued by the Justices, and the Court of Monthly Sessions, and to aid in preserving the public peace.
>
> The Clerk of the Court of Monthly Sessions shall be appointed annually by the Court. . . .

The Constitution (Art. VI) provides for the adoption of the common law of England, and the Digest of Laws (August 19, 1824) (sec. 14) provides that the common law of England and the United States shall regulate all judicial proceedings, and (sec. 13) that parties to judicial trials may demand a trial by jury.

Under the Commonwealth Constitution (1839) Article 15, it is provided:

> The judicial power of the Commonwealth of Liberia shall be vested in one Supreme Court, and in such inferior courts as the Governor and Council may from time to time ordain and establish. The Governor shall be ex officio Chief Justice of Liberia, and as such shall preside in the Supreme Court, which shall have only appellate jurisdiction. The judges, both of the Supreme and inferior courts, except the Chief Justice, shall hold their office during good behaviour.

There was much complaint both by citizens and aliens against the merger of the office of Governor and Chief Justice, but this was not changed until the Constitution of 1847 was adopted.

In the first session of the Legislative Council in 1839 a Judiciary Act was passed (Acts, 1839, p. 3) which provided for the establishment of courts of justices of the peace, and of a court of common pleas and quarter sessions, and a superior court in each of the two counties.

The Act further provided (sec. 4) for one Supreme with original and appellate jurisdiction:

> That there shall be one Supreme Court for the Commonwealth of Liberia, over which shall preside His Excellency, the Governor, or his successor in office, to be held by him at such times, and in such manner, and in such places as he may appoint according to the circumstances as connected with his general administration of the affairs of the Colony. To it shall belong original jurisdiction in all maritime cases, and all cases of suits between citizens and aliens, and of all cases without or beyond the limits of the Colony, and the returns on precepts issued therefrom, shall be made to such courts as they may be directed. The Colonial Secretary shall act as the clerk in this Court, and shall keep such record of the matters and things connected with the business thereof, as shall seem meet and right to the presiding judge thereof to have done and made, and this Court shall also have appellate jurisdiction in all cases originating in the superior court or carried up by appeal from the Court of Pleas and Quarter Sessions, or on the cases originating in actions before magistrates that have travelled up to it by a regular course of appeals, and the judgments and decisions of this tribunal, whether betwixt man and man, or the Government and its citizens or aliens, or otherwise, in all manner of cases its decisions shall be final.

The Judiciary Act was amended at almost every session of the Council. The Board of Managers, in spite of the above provision of section 4 always retained its power to act as a court of last resort.

Under the Constitution of 1847, the judicial power is vested in one Supreme Court, established under the Constitution and in a number of subordinate courts established under Acts of the Legislature. The Constitution, Art. IV, section 1, provides:

> Sec. 1st. The Judicial power of this Republic shall be vested in one Supreme Court, and such subordinate courts as the Legis-

lature may from time to time establish. The Judges of the Supreme Court, and all other Judges of Courts, shall hold their office during good behaviour; but may be removed by the President on the address of two thirds of both houses for that purpose, or by impeachment and conviction thereon. The Judges shall have salaries established by law, which may be increased, but not diminished during their continuance in office. They shall not receive any other perquisits or emoluments whatever from parties or others, on account of any duty required of them.

The Judiciary is an independent coordinate branch of the Government. Even in times of political stress, the chief tribunal of the Republic, the Supreme Court has successfully maintained its constitutional position, and prevented encroachments on the Judicial power by the Legislative and Executive branches of the Government. The principal cases on this question have been considered above, especially in the sections on Division of Governmental powers.

The Supreme Court is the only constitutional court. All other courts are the creatures of statute, with their jurisdiction, original and appellate, defined from time to time by the Legislature, but with judges whose tenure of office and salaries protected by the Constitution.

Referring to one class of these statutory courts, Chief Justice Dossen, in *Green* v. *Brumskine*, 5 Semi-Ann. Ser. 43 (1915), says:

> The Circuit Courts of Liberia are statutory courts. They derive their being from the statutes creating them and are limited in their jurisdictions to the powers conferred upon them by statutes. They cannot lawfully exercise any judicial powers, nor, in the adjudication of questions before them, extend their judgments or decrees over matters which are manifestly beyond their purview. And where in the adjudication of a cause properly within their jurisdiction, they go beyond that jurisdiction, and embrace in their findings questions which do not fall within their lawful scope, such assumption the appellate court will regard as manifest and reversible error.

The organization and jurisdiction of the statutory courts are outside the scope of the present Work.

Composition of the Supreme Court.—The Constitution originally provided only for a Chief Justice, leaving the further composition of

the Supreme Court to statutory enactments. Until 1878 the Court was composed of the Chief Justice and two Associate Judges chosen alternately from among the judges of the County Superior Courts. Provision was then made for the appointment of two Associate Justices to hold office during good behavior. There was nothing to prevent the Legislature at any time from changing the number of Justices.

In May, 1907, a constitutional Amendment was adopted providing that "the judges of the Supreme Court shall be the chief and two associate justices." The number of justices was thus fixed by the Constitution. But doubts arose as to whether the Court could sit if the Chief Justice was absent. Difficulties of travel often delayed the arrival of the Justices, and consequently, a further Amendment to the Constitution was adopted in May, 1927, increasing the number of Associate Justices to four, and providing for the manner of ascertaining the presence of a quorum. The Amendment reads as follows:

> The number of justices of the Supreme Court of the Republic of Liberia shall be limited to one chief justice and four associate justices, and a majority of whom shall be deemed competent to transact the business of the Supreme Court and from whose judgment there shall be no appeal.

Commenting on this Amendment Chief Justice Grimes, in *Cavalla River Company Ltd.* v. *Prince Pepple,* 1 New Ann. Ser. 41 (1934), says:

> This constitutional Amendment was not only intended to add two additional Associate Justices to the personnel of the Supreme Court; but also to set at rest the moot question whether or not the quorum of the Court established by Act of 1874-75 page 13, sec. 3, was or was not altered by the constitutional Amendment of 1907-8 which made the Associate Justices constitutional, rather than statutory, officials, and leaving it now definitely settled that the Chief Justice need not be of the quorum.

The matter of the quorum is also dealt with by an Act approved December 17, 1940 (Acts, 1940, c. 7, p. 9):

> Sec. 1. That the Act of the Legislature of 1926 which relates to a quorum of the Supreme Court be so amended as to read that should a majority of the Justices of said Court be unable to arrive at the seat of the Court in time for the opening of same on the day set down by law for it to convene, the minority present shall meet

at such intervals as the Justice or Justices present may deem necessary from day to day or intermittently until the twentieth day of the session, when should a majority of the Justices not have then arrived, those Justices present may adjourn the Term sine die.

The constitutional Amendment of 1927 provides that the number of Associate Justices "shall be limited" to four. This number may be reduced but not increased, thus preventing the Legislature, acting in concert with the Executive, from "packing" the Supreme Court in order to force through a particular viewpoint on the constitutionality of an Act of the Legislature.

The Supreme Court holds its session twice annually, in April and November, and adjourns when its business is completed. By custom at the opening of each term the Chief Justice delivers a formal address, which is responded to by a member of the bar—now usually by the Attorney General as official Leader of the Bar. There are usually about fifty cases and motions before the Court in each term, lasting two or three months.

Appointment and Removal of Justices of the Supreme Court. Qualifications. Personal Liability of Judges.—The Justices of the Supreme Court, like all other judges, are appointed by the President with the advice and consent of the Senate (Const. Art. III, sec. 1), and hold office during good behavior (Const. Art. IV, sec. 1).

The Justices of the Supreme Court may be removed by the President upon an address of two thirds of both houses of the Legislature, or by impeachment and conviction. It is to be noted that removal upon an address to the President must be by a two thirds of both branches of the Legislature. This means two thirds of the total number of members, not two thirds of those present when the vote is taken. But, *semble*, the address to the President need not state the particular reason for removal, as is the case in regard to civil affairs under Article III, section 6. On the other hand the request for removal of civil officers may be adopted by a simple majority vote of those present.

On the question of the removal of Justices of the Supreme Court there is a decision of the Supreme Court, interesting both from the constitutional and political point of view, but which was decided on questions of procedure. The case is *Re Notice from the President of Removal of Associate Justice McCants-Stewart* (5 Semi-Ann. Ser. 4 (1915). Chief Justice Dossen and Justice Johnson composed the

Court, Associate Justice Witherspoon not participating in the proceedings. Justice Johnson delivered the opinion of the Court.

The following is a brief statement of the facts, and the conclusions of the Court.

The Senate and House of Representatives passed a Joint Resolution, approved October 28, 1914, authorizing and directing the President to remove Associate Justice McCants-Stewart of the Supreme Court, and to appoint another person in his stead. The Joint Resolution recites that it was passed by a two-thirds majority of both Houses, though the complainant alleged that it passed the House by a vote according to the House Journal, of eight out of fourteen members and that the Senate Journal does not disclose the vote taken. The text of the Joint Resolution constituted the entire record filed by the complainant. No copies of extracts from the Journals of the two Houses were submitted.

The Complainant had acted as Associate Justice, *de jure et de facto* from the date of his appointment in January 1911 to October 29, 1914, when he was served with a formal notice of removal, signed by the President. Complainant alleged that the Joint Resolution was violative of the Constitution in that it failed to state the particular reason for removal (Const. Art. III, sec. 6), and furthermore was contrary to the provision relating to the separation of powers (Const. Art. I, sec. 14) and made the tenure of Justices of the Supreme Court subject to the will and pleasure of the Legislature and Executive.

The complainant further alleged that there was no remedy for the unconstitutional proceedings outside of the Supreme Court because the validity of an appointment and removal of a member of the Supreme Court could not be the subject of inquiry by an inferior court nor be left to the determination of a coordinate branch of the Government.

The complaint was not brought on any specific form of remedy prescribed by statute or by the common law, nor supported by affidavits. The Court stated that the only possible remedy was a proceeding in the nature of *quo warranto* by the Government acting through the proper officer, either directly or on the relation of a private person. When the complaint was filed a successor to the complainant's office had been appointed and commissioned, and had taken his seat on the Bench. There had been no proceedings to oust him from that office.

The Court said:

> In settling constitutional questions the Court does not go to meet the question; it waits for the question to come to it, and it

only acts at the instance of a party who invokes its aid for the enforcement of a right.

We must here observe, however, that in invoking its aid for the recovery of constitutional or legal rights, parties must conform to recognized forms and legal principles; and we would also remark that in cases between parties, this Court cannot give aid and assistance to either party without laying itself open to a charge of unfairness and partiality.

In view of the foregoing facts, we are of the opinion that the matter before the Court is irregular and informal, and is not brought under any form of remedy recognized by the laws of Liberia. And further that even supposing the matter had been properly and legally brought under consideration the facts constituting the violation of the constitutional provision upon which this case hangs has not in any of the forms governing evidence, been established or even attempted to be established. "It shall be the duty of every party alleging the existence of a fact to prove it. The burden of proof rest on the party who maintains the affirmative." (Lib. Stat. pp. 51-2, sec 1). We would here remark, that although the Court would like to hand down an opinion on the constitutional question involved in this matter a question which is to a certain extent novel and at the same time of National importance, affecting as it does the prerogatives and rights of the judicial officers of the country, upon whose wisdom, stability and integrity, personal security and private property rests, we find ourselves unable to do so under the circumstances; as courts will not draw into consideration, constitutional questions collaterally, unless the consideration is necessary to the determination of the point in controversy (Bouvier L.D. Vol. I under Constitutional Interpretation).

This case must be distinguished from the question which this Court decided at its April Term, 1914, relative to the "Constitutionality of the Statute making it part of a committee to prepare rules of practice for the Circuit Courts, etc." There the Court as such was required to do an act repugnant to the Constitution and was, therefore, competent to declare the Act unconstitutional without waiting for any action to be brought thereupon; the case at Bar is obviously not analogous and therefore the opinion of the Court in the said matter of said circuit court rules has been unsuccessfully cited in support of this cause.

> In view of the foregoing this case must crumble and should be dismissed; and it is hereby so ordered.

The salaries of justices of the Supreme Court may be increased but not diminished during their term of office. The salaries are fixed from time to time by the Legislature.

The Constitution does not prescribe the qualifications of Justices of the Supreme Court, though by statute qualifications as to residence in the Republic and possession of property are imposed. (See Acts, 1913-1914, p. 8). The laws fix no qualifications as to age, sex, citizenship or legal attainments. Judges are required to take the oath of office. (Const. Art. V, sec. 7).

As to the personal liability of a judge for his judicial acts, Attorney General L. A. Grimes, 3 *Opinions of the Attorney General* 41 (1924) says:

> Several unsuccessful efforts have been made both in Liberia and in other countries to collect damages from a judge who, in the discharge of his judicial functions, had in the opinion of the plaintiff, committed an error. Such suits should, it would seem, be defended by the judge attacked, not by the Government which appointed him.
>
> Nevertheless, in accordance with the principles of the common law as administered in England and the United States, as well as upon the provisions of an express statute in our own country, every such action must eventually fail as, no matter how grave the error, unless he has acted corruptly or maliciously, no judge should be held personally liable for his judicial acts, provided he acted within his jurisdiction.

Judgments and Opinions of the Court. The primary duty of the courts is to render judgment in the cases brought before them, and to do so as expeditiously as possible. The judgment need not set out the reasons for the judgment.

Speaking of the duty of the Supreme Court, Attorney General Grimes, 2 *Opinions of the Attorney General* 14 (1923) says:

> Neither the Constitution nor any Statute Law of Liberia provides that our Supreme Court shall, together with its judgment, give its Opinion; hence it is not a dereliction of duty on the part of said Court to give a judgment without an Opinion.

Foreign Governments have from time to time lodged protests against judgments rendered against their nationals when the judg-

ment was not accompanied by an opinion but the Liberian Government always maintained its position that no opinion need be given.

The question was dealt with in *Van Heusden, Head Agent of the Oost Afrikaansche Compagnie* v. *Walker* (Decision of January 1, 1924, unpublished, Judgment Book, p. 328), where Dossen, C. J., says:

> At the November term of this Court 1922, the arguments pro et con upon the contested points in said bill of exceptions were heard by the Court, at which time judgment was entered affirming without reserve the judgment of the trial court, and reserving its opinion until such time as it might see fit to hand down the same.
>
> This action of the Court has been made the subject of much adverse comment, and indeed a basis for diplomatic protest. This Court resents with indignation the implication and assertion that in reserving its opinion in the premises it committed a breach of duty or was chargeable with dereliction thereof. It must be remembered that the opinion of an appellate jurisdiction in no sense is a part of its judgment, and does not settle the controversy between litigants.
>
> It is the Court's exposition and constructions of the law involved It is a considered view of the Court upon some statute or other parts of the law which may have arisen for interpretation. Unless where it is mandatory either by constitutional provision, or statutory enactment, such courts are not bound to hand down opinions in all cases adjudicated by them. The Constitution and the statutes of Liberia no where impose the duty upon the supreme Court to render opinions in cases adjudicated by it.
>
> It is the judgment which settles the controversy between litigants and which this Court is commanded to render in causes tried before it without unnecessary delay.
>
> It follows therefore that the contention that the Court should have simultaneously with the rendition of its judgment at the last November term handed down its opinion in the premises is unsound and without legal merit.

The distinction between a judgment and an opinion is thus stated in *Tubman* v. *Simpson, In re Proceedings on a Writ of Execution, etc.*, 2 New Ann. Ser. 5 (1934):

> As the Attorney General of Liberia in an opinion printed on page 18 of his second annual series (1923) pointed out:

> "The opinion is the authorized exposition and interpretation of the law binding upon all the citizens. They declare the unwritten law, and construe and declare the meaning of statutes, citing 34 Cyc. p. 1614 Note 47."

On the other hand it is the judgment, the Attorney General then pointed out, "which settles the rights of suitors, and they have such a right to have same pronounced as speedily as possible, that for any unnecessary delay an interested party may obtain a mandamus against the defaulting judge to compel him to perform said duty, or if it is wilful and corrupt he may be impeached.

Jurisdiction of the Supreme Court. The jurisdiction of the Supreme Court is defined as follows in the Constitution, Article IV, section 2:

> Sec. 2nd. The Supreme Court shall have original jurisdiction in all cases affecting ambassadors, or other public ministers and consuls, and those to which a County shall be a party. In all other cases the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Legislature shall from time to time make.

The original jurisdiction of the Supreme Court cannot be extended or limited. In *Ex parte Williams*, 2 New Ann. Ser. 19 (1934) Justice Dixon says:

> There is no Legislative enactment existing whereby this Court can exercise original jurisdiction in settling questions in which property is involved, nor can the Legislature legally make any such enactment as it would be contrary to the express provisions of the Constitution. This Court can be applied to to review the judgment of subordinate courts, and of such courts only; but not decisions already given by itself except in another trial where the principle enunciated can be found not to be tenable in law, and therefore a necessity should arise for overruling the former opinion.

By the Act of 1875 for reorganizing the Supreme Court it is provided that the Supreme Court shall have all the powers of the Supreme Court of the United States "with respect to the issuance of remedial writs." The Act expressly authorizes the Court during vacation to issue any of the ordinary remedial writs known to the common law, and

any Justice may issue such a writ, *In re Bassil and Hansford,* Decision of February 3, 1920, Unpublished. Judgment Book, p. 270.

By Revised Statutes, section 1408, it is provided that the Chief Justice or any of the Associate Justices of the Supreme Court, may during the recess of the Court, issue writs in any special proceeding provided by Statute or by the common law, except a writ of habeas corpus.

A case involving the latter point arose in 1920. One Lucy R. A. Harvey had been charged with murder and committed to prison to abide her trial at the May Term, A.D. 1920, of the Circuit Court of the First Judicial Circuit for Montserrado County. At said Term the facts were placed before the Grand Jury who ignored the bill and she was consequently on the 19th day of May discharged from further custody.

Thereafter on the 20th day of May the County Attorney for Montserrado County had another writ of arrest sworn out against her before one R. D. King, City Magistrate, charging her with the same matter upon which she was apprehended and again incarcerated. His Honor R. E. Dixon who was presiding over the Circuit Court at said Term, was appealed to but refused to order her discharged from the second arrest; whereupon a petition was presented to, and a writ of Habeas Corpus ordered by, Justice Johnson upon which writ the body of Mrs. Harvey was brought before the said Justice in his Chambers when the question of his jurisdiction as a Justice of the Supreme Court to issue said writ was argued and considered. After hearing arguments the Court followed the rule laid down in the cases *Ex parte Bollman* and *Ex parte Swartwout,* 4 Cranch, 100 *et seq.,* 2 Law Edition, pp. 554 *et seq.,* and *Ex parte Yerger,* 8 Wallace, 85-106, 19 Law Edition, pp. 332 *et seq.*, in which cases the Supreme Court of the United States in confirming their position in the case *Marbury* v. *Madison,* held *inter alia* that they "would not exercise original jurisdiction except so far as that jurisdiction was given by the Constitution." "But," continued the Court, "in so far as that case has distinguished between original and appellate jurisdiction, that which the Court is now asked to exercise is clearly appellate. It is the revision of the decision of the inferior court by which a citizen has been committed to jail."

Mrs. Harvey was, by the decision of the said Justice, upon said writ of Habeas Corpus, discharged from further custody. (2 Rev. St., 269, Note).

In an earlier case, Proceedings upon a Writ of Habeas Corpus, 1 Lib. L. R. 190 (1885), Chief Justice Parsons ruled that it was within

the judicial powers of justices of the Supreme Court to issue writs of habeas corpus, and that proceedings on review of the return of such writs are in the nature of appellate and not original jurisdiction.

On the same point the Supreme Court, in *Farrow* v. *Decorsey*, 1 Lib. L. R. 243 (1893) says:

> The Legislature of the State has the undoubted right to repeal or suspend its laws, but not Constitutional provisions except in manner provided in the Constitution, because all laws should be in harmonious keeping with the spirit and intention of the Constitution. Neither have they the right to restrain judges in the exercise of Constitutional rights. The issue of a writ of habeas corpus is an inherent right of the judges of the Supreme Court and other courts of law of this State, agreeable to the genius of the Constitution of the Republic of Liberia, and its issue and hearing is in the exercise of appellate as well as original jurisdiction.
>
> The question whether the individual shall be imprisoned is always distinct from the question whether he shall be convicted or acquitted of the charge on which he is to be tried, and these questions may be decided in different courts. The decision that the individual shall be imprisoned must always precede the application for the writ of habeas corpus. . . . The Supreme Court, says the Constitution, shall exercise original jurisdiction in cases affecting Ambassadors or other public ministers and counsels and those cases in which a County is a part. In all other cases it shall exercise appellate jurisdiction.
>
> From the foregoing, it is clear to the mind of this Court that judges, in hearing the cause of imprisonment of an individual committed to jail or otherwise restrained of his liberty, act solely in the exercise of the appellate jurisdiction conferred by the Constitution; and those of the Supreme Court especially. Therefore any act of the Legislature which tends to withhold from any of the courts of this Republic or any judge thereof the exercise of his inherent right, is in conflict with the fundamental and paramount law of the State and is therefore of no binding effect.

The original jurisdiction of the Supreme Court is not an exclusive one, and the Legislature may, therefore, confer a concurrent original jurisdiction on subordinate courts. Cp. *Börs* v. *Preston*, 111 U. S. 252 (1884); *Ames* v. *Johnston, ex rel.* 111 U. S. 440 (1884).

The Constitution (Art. IV, sec. 2) provides that in all cases where the Supreme Court does not have original jurisdiction it shall have "appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Legislature shall from time to time make." There are also cases where the Supreme Court has appellate jurisdiction under the Constitution, for example the constitutional right of the defendant to appeal under the Article VII, section 1, discussed *supra* under Article I, section 10—Right of Appeal.

Regarding the right to appeal, where given by the Constitution the Supreme Court, in *Watson* v. *Bacamil,* 4 New Ann. Ser. 3 (1936), says:

"Where the right to appeal is expressly given by the Constitution in specific cases or classes of cases it cannot be abolished or impaired by statute; and where no mode of appeal is provided by the Legislature, in such cases the appellate court may frame proper rules of procedure to bring the case before it . . ."

It is within the power of the Legislature to provide that in specified cases the decisions of a subordinate court shall be final and conclusive, thus depriving the Supreme Court of its appellate jurisdiction in such cases.

When the Supreme Court has jurisdiction its decision is final and binding on all parties. (Const. Art. IV, sec. 3, as amended 1927).

The Supreme Court and the statutory courts have power to punish for contempt. In *In re Moore,* 1 Semi-Ann. Ser. 15 (1913), the Court says:

> Contempt of court in a general sense may be said to be a disregard of, or disobedience to, a court, or a judge acting in his judicial capacity, by conduct or language in or out of its or his presence, which disturbs or tends to disturb the administration of justice, or impairs or tends to impair the respect due the court or judge.
>
> It should be borne in mind that there is a radical difference between a constitutional and a statutory court. This court is established by direct constitutional provision, and the Legislature is limited in its right to make laws concerning it. But the Legislature has full power over the statutory courts, as they are its creatures, the exercise of such power being reviewable by this Court as to its constitutionality. It has been settled by many authorities, that when the court is created by the Legislature, its powers and duties are dependent upon the act calling it into existence, and by that Act, or by subsequent Acts of the Legislature,

what constitutes contempt of it may be defined, and how it may punish therefore may be prescribed.

But this is not the case with a constitutional court. The power to punish for contempt, as well as to determine whether a contempt has been committed, is inherent in all constitutional courts; and cannot be limited by statute. In *Ex Parte Robinson,* 19 Wall, 505, Mr. Justice Field in delivering the opinion of the Supreme Court of the United States, intimated that an Act of Congress limiting the power to punish for contempt could not limit the authority of the Supreme Court. Blackstone declares that this power and authority have been exercised by the supreme courts of justice as early as the annals of our law extends. 4 Black. Com. 286. It seems clear, therefore, that the first objection raised by respondent's counsel is unsound. We do not have to examine the statute to discover whether or not respondent has committed a contempt of this court, and the claim that he should not be punished because he was not guilty of a statutory contempt falls to the ground. . . .

There is no doubt as the right of a justice in chambers, to protect the orders of the court and preserve the administration of justice from any who would assail them by direction or indirection, subject to an appeal to the court in banc upon such terms as he may fix. But a justice may waive the exercise of this right and send the matter to the court as proceedings for contempt involve the very existence of the court. Blackstone says: "Laws without a competent authority to secure their administration from disobedience and contempt would be in vain and nugatory." 4 Black Com. 286. It is for this reason, namely, the preservation of the integrity of the courts and the orderly administration of justice, that there have been so few attempts on the part of executives to exercise the pardoning power in cases of contempt; and an issue has never arisen here as to whether the pardoning power given the Executive applies to matters of contempt, or is limited to remission of forfeitures and penalties and the granting of reprieves and pardons resulting after convictions for criminal offenses.

Depositions and Letters Rogatory.—By comity the courts of Liberia will examine witnesses on letters rogatory received through the usual diplomatic channels and return them in the same manner to the country transmitting them. On the other hand the taking of depositions

before a commissioner appointed by a foreign court to take the same is not permitted. Says Attorney General L. A. Grimes (*Unpublished Opinions of the Attorney General,* Ser. 106-10-25):

> The Government and people of the Republic of Liberia are very jealous of their autonomy, and carefully guard against any infringement thereof. Hence with respect to paragraph II, Secs. a, b, and c of the American Minister's despatch of February 5th ultimo, the Department says that judicial functions cannot be exercised in Liberia except by a judicial officer appointed under our Constitution and laws. In view of the above should the Government of the United States desire the testimony of any person resident within our territorial jurisdiction interrogatories accompanied by Letters Rogatory must be presented to our Government in which event our Government will most readily render the appropriate assistance.

On the other hand, under the Liberian practice, if a witness is abroad, his testimony may be taken on deposition by commissioners appointed for the purpose, or if by the laws of the country where the testimony is to be taken, execution of commissions is not allowed, letters rogatory addressed to the proper foreign authority to take the testimony of the witnesses (Rev. St. secs. 963, 964).

Duties of the Chief Justice. The Attorney General. In addition to his duties as one of the Justices of the Supreme Court, the Chief Justice has certain other functions under the Constitution. He presides in the Senate when that body is sitting as a court of impeachment for the trial of the President or Vice President, (Const. Art. II, sec. 6) and may, under certain circumstances, administer the oath of office to the President and Legislators, (Const. Art. V, sec. 7).

The Attorney General is an Executive, not a Judicial, officer. He is a member of the President's Cabinet and one of his duties is to advise Heads of Departments on legal questions, touching the duties of their several offices.[25] The Attorney General represents the Republic in cases before the Supreme Court. The Reports of the Attorney General published together with his Opinions, contain valuable judicial statistics and comments on the workings of the Judicial Administration.

[25] Some of the opinions of the Attorney General, covering the years 1922 to 1925, have been published and contain a rich store of legal material, some of which, together with later unpublished opinions has been cited in this Work

Opinions of the Supreme Court.—Authentic copies of the decisions of the Supreme Court must be transmitted within ten days after the adjournment of each term of the Court to the Secretary of State. The law requires that they be published annually under the supervision of the Secretary of State (Rev. St. sec. 1199).

The opinions rendered by Samuel Benedict, the first Chief Justice and by his successor, Chief Justice John Day, have never been published. The first published Liberian Law Report covering the period, January 1, 1861 to January 1, 1907, was issued in 1908. For the later published Reports, see Bibliography. The Opinions rendered in the period 1916 to 1933 have not as yet been published.[26]

The Liberia Bar.—Parties to a proceeding before the Supreme Court or any other court in the Republic have the right to represent themselves and their minor dependents. In other cases parties must in the Supreme Court be represented by a counsellor at law admitted to the bar of that Court after at least five years' practice as an attorney at law. In subordinate courts they may be represented by a duly admitted attorney at law.[27] On this point Justice Dixon, in *Momulu Dukuly* v. *Kuter,* 2 New Ann. Ser. 67 (1935), says:

> The Constitution has vouchsafed to every inhabitant of the country a right to appear before the courts in person, or by counsel, and this constitutional privilege cannot be denied by any of the courts within the Republic to a person who is also a party. But if one not a party desires to appear as the legal representative of another, then this Court should as far as possible have a guarantee of his qualifications so to appear. Hence the Bar of the Supreme Court was organized as a security to the public for entrusting their interests into the hands of the lawyers practicing before this tribunal, and as such, it must be satisfied from the result of an examination of members of this Bar as to the preparedness of the lawyers appearing before it as such (See Rules of the Supreme Court, Number 16).
>
> "Counsellor-at-law is an officer in the Supreme Court of the United States of America," says Judge Bouvier, and in some other courts, who is employed by a party in a cause to conduct the

[26] The Author has had at his disposal in the preparation of this Work, official copies of the Opinions of 1916 to 1927, and unofficial copies of the Judgment Book for the period 1916 to 1933.

[27] For an interesting account of the early bench and bar, see Henry W. Johnson, Jr., *Bench and Bar of Liberia,* in *African Repository,* XLIII, 13.

same on its trial in his behalf. He differs from an Attorney-at-law (See B.L.D. under 'Counselor-at-law').

In consequence of the principle laid down by Judge Bouvier, and the rule of this Court, an attorney-at-law is not permitted to represent the interests of a third party before this Court. He can appear before this Court to represent his own interests, or the interests of his immediate dependents who are minors.

By an Act approved November 30, 1928 (Acts, 1928, Extraord. Sess. c. 3, p. 5) the Liberian Bar Committee was created to pass upon the moral and intellectual fitness of candidates for admission to the bar. There are at present about seventy-five legal practitioners in Liberia.

Counsellors as well as attorneys are officers of the court and are subject to the disciplinary measures of the court, including disbarment.

In 1907 the Liberian National Bar Association was formed,[28] which has held meetings since that date, but the publication of the proceedings is irregular.

The objects of the Association are similar to those of American bar associations. One of the declared objects of the Association is affiliation with the National Law Societies in other countries.

In 1907 the bar of Montserrado County formed a local association.[29]

War and Neutrality

War. The Constitution of Liberia contains no provision regarding the declaration of war, nor is it necessary because the National Government is one of general and not of enumerated powers. The Republic is not restricted in its powers under any treaties of alliance, neutrality or protectorate. It is, however, a party to the Covenant of the League of Nations and the Second Hague Treaty of 1907 (Use of force to collect debts), and to numerous bilateral and multilateral treaties of arbitration.

The power to declare war is exercised by the Legislature. It may be a direct, formal declaration or take the form of empowering the President to mobilize the armed forces to repel unprovoked aggression by any foreign Power.

[28] *Inaugural Meeting of the Liberian National Bar Association in the Senate Chamber, Monrovia, January 2, 1907, being the Proceedings and Addresses* (Monrovia, 1907)

[29] *Proceedings, Montserrado Bar Association—Discussion: Should the Evidence of Parties to an Action be Excluded? Attorney George W. Ellis, Monday, June 24, 1907* (Monrovia, 1907).

Neutrality. Prior to the First World War the duties of the Republic and its citizens were governed by the provision of the Law of Nations relating to the rights and duties of neutrals.

During the Spanish-American War, President William David Coleman, "by and with the advice and consent of the Cabinet," issued the following Proclamation, dated June 20, 1898:[30]

> Whereas we are happily at peace with all nations, states, and powers; and
>
> Whereas a state of war now exists between his Majesty the King of Spain, represented during his minority by Her Majesty the Queen Regent of the Kingdom, and the United States of America, and between their respective subjects and citizens; and
>
> Whereas the Republic of Liberia is on terms of friendship and in treaty stipulations with each of these nations aforesaid; and
>
> Whereas we are desirous of preserving these peaceful relations.
>
> Therefore, it is our firm purpose and determination to maintain a strict neutrality in and during the said state of war now unhappily existing between the aforesaid nations.
>
> We recognize as binding upon us as a state that system of national justice known as the law of nations, as it is now generally accepted, and we do hereby enjoin all citizens of Liberia to abstain from committing any of the following acts:
>
> (1) The fitting out, arming, or equipping or aiding in the same, within this jurisdiction, of any vessel or vessels intended, or reasonably believed to be intended, to cruise or carry on war with or against either of the aforesaid belligerents.
>
> (2) The supplying or aiding to furnish any guns, ammunitions, or other munitions of war.
>
> (3) The illegal enlisting in the army or navy of either of the aforesaid belligerents.
>
> All citizens of the Republic of Liberia are warned against committing any of the above acts or in any way contravening the laws of neutrality as above defined.

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[30] Text in *Foreign Relations U. S.*, 1898, 882; Deak and Jessup, *Neutrality Laws, Regulations and Treaties* (Washington, 1939), 749, 750; French translation in *Archives diplomatiques* (2nd Ser.), CXXIX, 331.

And our public officers (both civil, naval, and military) are hereby commanded and directed to exercise due diligence to see that our ports or waters are not used as a base of operations by either of the aforesaid belligerents against the other or for the purpose of repairing, renewal, or increase of military supplies or arms or vessels or enlisting of men.

Now, therefore, I, William David Coleman, by virtue of the authority vested in me as President of the Republic of Liberia, by and with the advice of the cabinet, do issue this proclamation.

And I strictly charge and command all citizens of Liberia, under the stern displeasure of the laws, to take notice and govern themselves accordingly in observing a strict and impartial neutrality in and during the state of war now waging and going on aforesaid, and to abstain from violating or contravening our Liberian statutes or the law of nations relating thereto.

At the outbreak of the First World War, President Daniel Edward Howard issued a Neutrality Proclamation, dated August 10, 1914:[31]

Whereas the Government of the Republic of Liberia has been informed that a state of war exists in Europe in which the following powers are belligerents: Austria, Belgium, France, Germany, Great Britain, Russia, and Servia; and,

Whereas the duty and interests of the Republic of Liberia require that it shall in all sincerity and good faith, adopt and maintain a neutral and impartial conduct toward the belligerent powers;

Now, therefore, I, Daniel Edward Howard, President of the Republic of Liberia, have seen fit to declare and by these presents do declare, the strict neutrality of the Republic of Liberia toward the aforesaid powers respectively, and I do hereby exhort and warn all citizens of the Republic of Liberia to carefully avoid all acts and proceedings whatever which may in any manner violate the neutrality above declared.

And I do hereby further make known that any citizen or resident whosoever within the jurisdiction of the Republic of Liberia shall render himself liable to punishment or forfeiture under the laws of nations by:

[31] Text in *Liberia Official Gazette*, II, No. 16, p 10; Deak and Jessup, *l.c.* 751, 752; Naval War College, *International Law Documents*, 1917, 177.

1. Committing, aiding, or abetting hostilities against any of the said powers or by carrying to any of them articles which are deemed contraband by the laws of nations;

2. Engaging or by aiding or abetting in the engagement of men on board the armed craft of any of such powers in Liberian waters;

3. Enlisting or entering upon any service whatsoever upon the armed craft of any such belligerent powers while in Liberian waters;

4. Retaining or assisting in retaining any person, or in contributing means, for procuring assistance to any of such belligerent powers;

Or by committing any act whatsoever which under the laws of nations would be deemed a violation of the neutrality herein proclaimed.

And I do further declare and order, in keeping with the laws of nations, that no person within the territory and jurisdiction of the Republic of Liberia shall take any part directly or indirectly in said war, but shall remain in peace with each of the subjects or citizens of said belligerent States, and shall observe a strict neutrality toward each and several of the subjects or citizens of said States and shall accord no privileges whatsoever to the one of such belligerents within the Republic of Liberia which in like manner may not be accorded to the other.

And I do further warn all citizens of the Republic of Liberia and all persons residing within our territory or jurisdiction that the violation of any of the above provisions will subject them to peril; and they can in no wise obtain any protection from the Government of the Republic of Liberia against the consequences of their actions.

Liberia severed diplomatic relations with the German Empire on May 8, 1917, and President Howard, on June 1, 1917, published the following statement:[82]

FELLOW CITIZENS:

Moved by considerations which consulted the highest and permanent interests of the Republic, the Government of Liberia,

[82] Text in Deak and Jessup, *l.c.* 752, 753. For the negotiations between Liberia and the United States, and the Allies, as well as between Liberia and the German authorities, see *Foreign Relations U. S.*, 1917, *passim*.

on the eighth day of May severed official relations with the Government of the German Empire, thus abandoning its attitude of strict neutrality with respect to the stupendous conflict now raging in Europe, Asia and Africa, and declaring its sympathetic cooperation with the Government of the United States, of France, and of Great Britain in their present fight for the maintenances of the principles of civilisation and of national morality.

Such a step, serious in ordinary circumstances, is all the more solemn and momentous in the present posture of international affairs when the ordinary restraints and sanctions which have hitherto been considered as of binding effect upon the nations of the world in their intercourse and inter-relations seem to have been ruthlessly set aside and repudiated.

The People of this Country are therefore entitled to be informed of the causes which have induced their Government to make this departure from, and to abandon its attitude of neutrality, and the reasons upon which this action is predicated.

At the outbreak of the European War in 1914, the Government of Liberia considered it obligatory upon this Republic to assume an attitude of strict neutrality, as the cause and objects for which the belligerents were then contending seemed to have been of purely European concern. You, Fellow Citizens, know at what risks, at what loss and at what inconvenience we have consistently maintained that attitude. The course of events, however, caused the Government to view with misgiving, apprehension and increasing alarm the progressive destruction of that system of rules which has for centuries given security to international relations and established upon what were hoped to be enduring foundations, the limits of the rights of peoples and states. The Government of this Republic in view of the submarine blockade and other illegal practices of the Imperial German Government could not long remain indifferent to the sinister import which its course of conduct would have in the future for the nations of the world generally, and for small states in particular. These latter cannot maintain their essential rights of independence, self-preservation and progressive development if the sanctions of settled international law be removed and the action of untrammelled force made to supersede the doctrine of Right.

A just conception of our interests and of our right to national life naturally led the Government to consider whether these were best conserved by acquiescence in a state of affairs which ir-

resistably leads to the negation of all national and international rights, or whether we should not raise our voice in protest against such violence to the usages and conscience of Christendom.

The Government of the German Empire have put themselves on record as upholding the rule of Force as against the rule of Right. They have repudiated the obligation of solemn international engagements. They have denied to neutrals the right freely to travel the ocean highways of the earth. In their attitude towards Serbia and Belgium they have denied to small states the right to independent national life. In their attitude towards the Negro Race in Africa they have denied to their African subjects that beneficent treatment dictated by enlightened conceptions of humanity. They have in the present conflict consistently disregarded accepted rules of civilized warfare. They have in breach of solemn engagements with this Government forced Liberian citizens recruited as laborers and found in their colonies during the course of this war, to serve in their colonial military forces, and, despite their protests, to assist in war against friendly peoples with whom this Government have always desired to be at peace. All these acts lead to international anarchy and insecurity.

The success of the German Empire and its Allies in the present conflict will mean the extinguishment of all the smaller states and the denial to the weaker peoples of the world of their right to a national life in accordance with racial conceptions.

The Government of this Republic were therefore bound in the interest of self-preservation to denounce such lawlessness, and, as an evidence of the view they take upon the broad question of international right, to align themselves with those powers which are upholding and vindicating to the utmost of their resources those principles which in international life underlie the democratic ideals of Liberty, Happiness, Personal security, and Public Right.

Liberia's neutrality has caused her the loss of commerce; has made her a suspect amongst those nations with whom her friendship is traditional; has not secured to her peaceful citizens travelling upon the high seas, immunity from slaughter. It therefore consorts no longer with her paramount interests, her perpetuity as a nation, nor with her character as a law-abiding member of the community of nations to be indifferent to the efforts and sacrifices of those peoples in whose success she will have a

moral guaranty of her right to independent life and to a continuous and successful national growth and development.

On June 20, 1916, President Howard issued a second Proclamation:[88]

Whereas by Proclamation dated August 10, A. D. 1914,[2] the Government of Liberia did proclaim its neutrality in the great European war and did therein enumerate certain acts which being committed would constitute a breach of neutrality; and

Whereas the Government of this Republic has endeavored by every means consistent with its honor and its international obligations to preserve inviolate and to observe strictly its said public declaration of neutrality; and

Whereas the course of events during the said war as they affect the Republic of Liberia has rendered necessary an addition to the list of acts prohibited to citizens and residents within the Republic during the present European conflict, the commission of which shall constitute a breach of neutrality.

Therefore I, Daniel Edward Howard, President of the Republic of Liberia, by virtue of constitutional authority in me vested, do hereby notify to all persons interested in the premises that from and after the date of these presents—

(*a*) It is prohibited to any citizen of Liberia for the duration of the European war to import or cause to be imported, export or cause to be exported, either directly or indirectly, personally or by another, any article or articles of commerce or merchandise whatever, for and in behalf of any citizen or subject of either of the belligerent States, or to authorize or permit the use of his name for the purpose and in the behalf of hereinbefore mentioned.

(*b*) It is further declared prohibited to any citizen of Liberia for the period aforesaid to act as the commercial agent of any subject, firm, or business house of the nationality of any of the belligerent States.

(*c*) It is also prohibited to any citizen, subject, firm, or business house of any of the belligerent States, or to any agent of such firms or business houses resident in Liberia, for the said period, to import or cause to be imported, to export or cause to be ex-

[88] Text in Naval War College, *International Law Documents*, 1917, 179; Deak and Jessup, *l.c.* 753, 754.

ported, either directly or indirectly, personally or by another, any merchandise or article of commerce in the name of or under cover of the name of a Liberian citizen.

And I do enjoin upon all citizens of the Republic of Liberia, and upon all other persons resident within the borders of the same, a strict observance of the provisions of this proclamation. Any person violating the provisions hereof shall be deemed guilty of a breach of neutrality and shall be subject to imprisonment for a period not exceeding two years or to a fine not exceeding $5,000 and to confiscation of the goods so imported or sought to be exported.

The bona fides of every claimant, shipper, importer or exporter, consignee or consigner, shall be established by affidavit, and no delivery order or shipping permit shall be issued by the customs officials until they have been fully satisfied by the oath or affidavit of a shipper, consignee, or claimant that goods claimed have not been imported nor attempted to be shipped in violation of provisions of this proclamation.

Every false declaration in the premises shall subject the affiant to the penalty prescribed by this proclamation and in addition thereto to prosecution for perjury.

Germany protested vigorously against the measures of deportation and sequestration, invoking the provision of Article II of the treaty of October 31, 1867, between Liberia and the North German Confederacy. This Article provides for the reciprocal freedom of intercourse, and equal rights of residence and trade. Germany contended that this was a clause not abrogated by the outbreak of war. This contention is manifestly wrong, and Liberia's position is clearly stated in a communication of the Liberian Secretary of State. (For text see United States Foreign Relations, 1917.)

On June 28, 1917, the President issued a Proclamation dealing with the property of German nationals.[34] The Proclamation reads as follows:

WHEREAS, in pursuance of engagements growing out of the definite alignment of the Republic of Liberia with the Allied Powers now at war with the Government of the German Empire, it has become necessary to notify German subjects, within the borders of the Republic, that their continued residence herein

[34] Text transmitted with letter from the American Consulate General, Monrovia, dated September 25, 1919, addressed to the author. Not in Deak and Jessup

is embarrassing to the Government and undesirable, and that therefore this Government has decided upon the deportation of said German subjects; and,

Whereas, in consequence of the notification, this day made to German subjects, they were advised to settle their affairs and be prepared to depart from the Republic at the shortest possible notice: and,

WHEREAS, the consequences following upon this decision of the Government of Liberia impose upon it certain legal obligations in respect of German property;

It is therefore notified to the Citizens of Liberia and to all other persons resident within the borders of the same: that from the date of these Presents it is prohibited to any citizen of Liberia and to any alien resident within the Republic, except under an appointment by the Government of Liberia, to act as the trustee, agent, assignee, or nominee of any German firm or individual, nor to assume the care, custody or control of the property of such German firms or individuals: and that no private responsibility for such German property, assumed from and subsequent to the 8th day of May 1917, will be recognized as valid by the Government.

The Government of Liberia hereby assumes responsibility for all German property in Liberia and will administer the same through its own agents.

The penalty for any violation or evasion, direct or indirect of the prohibitions herein contained shall be five hundred dollars for each offense. Every separate and distinct violation or act of evasion shall constitute a distinct offense.

The action of the President was confirmed by the Legislature by an Act of August 14, 1917 (Acts, 1917, Call Sess. p. 11):

Whereas on the 8th day of May, 1917, the Government of the Republic of Liberia found it necessary in the interest of the Republic to sever official relations with the Government of the German Empire for reasons set forth in the despatch of the Secretary of State to the Representative of the Imperial German Government at Monrovia, and in the Manifesto of the President of the Republic to the people of Liberia dated June 1, 1917; and

Whereas the essential interests of Liberia demand that this Republic should align itself with those powers who, in the world

conflict now going on are upholding principles of Humanity, of Public Right and International Conduct, upon which the security of International Society is found, Therefore,

It is resolved by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled;

SEC. 1. That the action of the President in severing official relations with the Government of the German Empire and all steps in relation thereto already taken by the Executive Department of this Government be and the same are hereby unanimously approved.

SEC. 2. That the President be and he is hereby authorized to deport from the Republic all and every German subject resident within the borders thereof and to sequester and liquidate all German commercial property within the Republic and to denounce all commercial and political understandings heretofore had with the Government of the German Empire.

SEC. 3. That the Legislature of Liberia recognizing the duty of this Republic to humanity, to civilization and to assist in the maintenance of the principles of Public Right; and appreciating the necessity for such a Resolution in the interest of the Republic do hereby authorize and approve of the alignment of the Republic with those States who are maintaining the conflict against the German Empire, and in pursuance of said Resolution do declare that a state of war exists between the Republic of Liberia and the Government of the German Empire.

SEC. 4. That the President of the Republic be and he is hereby authorized and fully empowered to take all and every precaution to ensure, and to make every and any necessary provision to maintain the security of the State and its essential interests which the present international condition in his discretion justifies.

Any law to the contrary notwithstanding.

Approved August 4th, 1917.

The President delegated to the American General Receiver then in charge of the International Customs Receivership the authority given him by the Legislature to liquidate all German property in the Republic. The proceeds of liquidation were deposited in the Monrovia branch of the Bank of British West Africa, Ltd.

There were no laws passed or decrees issued with reference to prizes or the seizure of enemy vessels.[35]

By an Act approved February 15, 1920 (Acts, 1919-1920, c. 15, p. 12) the state of war between Liberia and the German Empire was declared to be ended.

The Treaty of Versailles was ratified by the Senate, and by a Resolution passed by both Houses of the Legislature, and approved this ratification was confirmed (Acts, 1920-1921, c. 4, p. 4). The Resolution also provides that the Republic of Liberia "will not apply Section Three, Part Ten, and the Annex thereto, concerning clearing offices with respect to debts."

The Legislature has power to terminate an existing state of war, thereby repealing the prior declaration of war, if such was made, or simply declaring the existing fact of the final termination of hostilities. A treaty of peace is not necessary, and in fact could not be concluded in case of complete conquest and incorporation of the enemy country.[36]

Not strictly a proclamation of neutrality is the Proclamation of November 18, 1935, concerning sanctions against Italy in the Italo-Ethiopian War:[37]

> Whereas a state of war now unhappily exists between the Kingdom of Italy and the Ethiopian Empire, which war, in accordance with the decision of the Council of the League of Nations, was resorted to by the Italian Government in disregard of the covenants under Article 12 of the Covenant of the League of Nations; and
>
> Whereas the Governments of the Members of the League of Nations are required to execute their obligations under Article 16 of the Covenant of the League of Nations, which duties cannot be neglected without a breach of their obligations under the Covenant; and

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[35] For an account of Germano-Liberian relations, see Azikiwe, *l.c.* 84-89

[36] The United States Congress passed a Resolution (July 2, 1921) declaring the termination of the state of war with the German and Austrian Empire, but it has been contended that the Resolution was an invasion of the treaty-making power (Thomas, *The Power of Congress to Establish Peace,* American Law Review, LV, 86-104; but see Corwin, *The Power of Congress to Declare Peace,* Michigan Law Review, XVIII, 669-675).

[37] Text in Deak and Jessup, *l.c.* 745, 755. The Proclamation of November 18, 1935, was repealed by the Proclamation of August 1, 1936. *Liberia Official Gazette,* XX, Nos. 8-10, p. 5.

Whereas the League of Nations Co-ordination Committee has proposed to the Governments of Member States of the League of Nations that certain measures be taken forthwith in application of Article 16 of the Covenant;

Now, therefore, I, Edwin Barclay, President of the Republic of Liberia, acting under and by virtue of the authority vested in me by the Acts approved January 19th, 1916, and January 5th, 1920, do hereby order all citizens of this Republic, and all persons residing within our jurisdiction, to abstain from participation in the following undertaking:

1. The exportation of arms, munitions and implements of war to Italy or Italian territory.

2. The exportation of (*a*) iron-ore; (*b*) iron and steel scrap and waste; (*c*) aluminum; (*d*) chromium; (*e*) manganese; (*f*) nickel; (*g*) piassava; (*h*) rubber (raw), including crêpe; rubber latex; (*i*) waste, scrap and reclaimed rubber; (*j*) horses, mules, donkeys, and all other transport animals.

3. On and after the date of the publication of this Proclamation, no goods produced or manufactured in Italy or Italian possessions, from whatever place arriving, shall be imported into Liberian territory.

4. It is also forbidden for any loans or credits to be made in manner following:

(*a*) Loans to or for the Italian Government and subscriptions to loans issued in Italy or elsewhere by or for the Italian Government;

(*b*) Banking or other credits to or for the Italian Government and any further execution by advance, overdraft or otherwise of existing contracts to lend directly or indirectly to the Italian Government;

(*c*) Loans to or for any public authority, person or corporation in Italian territory and all subscriptions to such loans issued in Italy or elsewhere;

(*d*) Banking or other credits to or for any public authority, person or corporation in Italian territory and any further execution by advance, overdraft or otherwise of existing contracts to lend directly or indirectly to such authority, person or corporation;

(*e*) Issue of shares or other capital flotations for any public authority, person or corporation in Italian territory and all subscriptions to such issue of shares of capital flotations in Italy or elsewhere.

The term "Italian territory" referred to in this Proclamation, means the Kingdom of Italy and the colonies and dependencies thereof and any territory in the effective military occupation thereof.

Any violation of this Proclamation by any person, firm or corporation shall be deemed a misdemeanour, and any defaulter shall be liable to be proceeded against before any of the circuit courts of this Republic, and, upon conviction, shall be punished according to the gravity of the offence.

In his Annual Message of December 19, 1935, to the Legislature, President Edwin Barclay says:[38]

The chief event of international importance which has focused world attention is the Italo-Ethiopian Conflict. The significance of the facts leading to the conflict should not be lost upon Liberia. Both Italy and Ethiopia being members of the League of Nations and Signatories to the Briand-Kellog Pact, a rupture between them challenge the efficacy and effectiveness of international agreements designed to check aggressions and to outlaw war as an instrument of national policy. The League of Nations took cognizance of the dispute insofar as to consider whether or not a breach of the Covenant had been committed by either State. It was practically unanimously decided that Italy was the aggressor in the dispute. Efforts at conciliation were made without avail with the result that a policy of sanctions against Italy was invoked, which received the adherence of nearly every member State of the League. As a member of the League of Nations having obligations under the Covenant, this Government associated itself with its policy. On the surface, it would appear that the matters in dispute between Ethiopia and Italy could have only academic interests for Liberia. But a more profound consideration of the implications inherent in the facts surrounding the dispute would convince the most unthinking mind that the situation is of the highest significance to a State situated as is Liberia. Should the League of Nations be unable to assert its moral influence in the

[38] Annual Message, December 19, 1935, 14, 15.

maintenance of international decency, decorum and security, then the smaller States in the World will become, as in fact they have always been, the prey of imperialistic Adventurers. In consequence of these considerations, your Executive thought it imperative that it should take up the attitude indicated herein, and request from you full powers to deal with any situation which might arise in consequence of the development of League Policy.

The Legislature passed a Joint Resolution, approved February 17, 1936, (Acts, 1935-1936, c. 14, p. 17) approving the action of the President, and investing him with emergency power. The text of the Joint Resolution is as follows:

Whereas, during the interim of the National Legislature of Liberia a state of war existed and still exists between the Kingdom of Italy and the Ethiopian Empire; and

Whereas, it was practically unanimously decided by the League of Nations, of which the Republic of Liberia is a member, that Italy was the aggressor, in utter violation of Article 12 of the Covenant of the League, which invoked a policy of sanctions against Italy by the League; and

Whereas, His Excellency the President of Liberia, in consideration of this Government's obligation under the Covenant of the League did, on the 18th day of November A. D. 1935, as also by Executive Interpretative Order No. 4. of December 2, 1935, proclaim the sanctions covered by the League's decision; therefore

It is resolved, etc.

Section 1. That the action of the President in this emergency, be and the same is hereby approved.

Section 2. That in consequence of any situation that might arise in the development of the League's policy mentioned herein; His Excellency the President of Liberia be, and he is hereby authorized and given full powers to take steps in the name of the Republic, in manner compatible with international decency, decorum and security.

By a Proclamation of August 1, 1936[39] the application of sanctions Order was revoked.

[39] *Liberia Official Gazette*, August-October, 1936, Nos 8-10, p. 5.

In his first Message to the Legislature after the outbreak of the Second World War, President Edwin Barclay says:[40]

> Most tragic in these circumstances is the situation of those nations who, because of the narrowness of their territorial limits, the smallness of their population and the undeveloped state of their industries, have neither sufficient material potency nor moral prestige effectively to influence the course of events. For them the probabilities of the conflict and its ultimate influence upon their future are imponderable. If the history of the last world war has demonstrated anything at all it has conclusively shown that initial declarations of war aims bear no relation to the eventual war settlement. Declarations of objectives by powerful rival empires at the beginning of a conflict, are invariably posed on a high level of idealism. The settlement, when it arrives, is grossly materialistic, becomes global in scope and, more often than never, adversely affects the life and rights of others who had no direct concern in the merits of the dispute. An enlightened caution therefore requires them, in their corporate character, to stand strictly aloof so long as their vital interests and rights do not appear likely to be involved.
>
> Moved by this consideration and with a view to avoiding misunderstanding and misinterpretations of our position and attitude, which had in fact begun to plague us, I proclaimed the neutrality of the Government in respect of the present European conflict, and enjoined upon the people of this country a strict adherence to an attitude of impartiality and indifference in their relations with nationals of the warring states.
>
> It is most unlikely that any action of ours can have important effect upon current events. There can, however, be no doubt that these events are likely profoundly to influence our future. We cannot suppress our sympathies, but we can be circumspect in deed and fully appreciative of realities.
>
> Proposals for legislation relating to the present situation as it affects our internal economy and external interests will be laid before you. I invite your concurrence in these proposals.

A Proclamation of Neutrality was issued by President Edwin Barclay on September 19, 1939.[41] This was followed by a break of diplo-

[40] Annual Message, December 18, 1939, 1

[41] The action of the President was approved by a Joint Resolution (Acts, 1939-1940, c. 3, p. 20).

matic relations, and by the formal declaration of war. The President was vested with large emergency powers (See *infra* "Powers of the President.")

Liberia has enacted comprehensive Laws to enforce neutrality. In addition to these the rules of the Law of Nations and the Common Law can be invoked.

The Criminal Code of 1914, Chapter XIII, contains the following provisions:

Offences Against Neutrality.

Section 138. Accepting a foreign commission. Every citizen of Liberia, who, within the territory jurisdiction thereof, accepts or exercises a commission to serve a foreign Prince, State, Colony, District or People, in war, by land or by sea, against any Prince, State, Colony, District or People, with whom the Republic of Liberia is at peace, shall be deemed guilty of a high, misdemeanor and shall upon conviction be fined not more than two thousand dollars or imprisoned not more than two years.

Section 139. Enlisting in foreign service. Whoever within the territory or jurisdiction of Liberia, enlists or enters himself, or hires or retains another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the Republic of Liberia, with intent to be enlisted or entered in the service of any foreign Prince, State, Colony, District or People, as a soldier, or as a marine or seaman, on board of any vessel of war, letter of marque, or privateer, shall be fined not more than one thousand dollars or imprisoned for a period not exceeding two years.

Section 140. Arming vessels against people at peace with the Republic. Whoever within the territory or jurisdiction of the Republic of Liberia, fits out and arms, or attempts to fit out and arm, or procures to be fitted out and armed, or knowingly is concerned, in the furnishing, fitting out, or arming of any vessel, with intent that such vessel shall be employed in the service of any foreign prince, state, colony, district or people, to cause or commit hostilities against the subjects, citizens or property of any foreign prince or state, or of any colony, district or people, with whom the Republic of Liberia is at peace; or whoever issues or delivers a commission, within the territory or jurisdiction of the Republic of Liberia for any vessel that she may be so employed shall be fined not more than five thousand dollars, and imprisoned for not more than three years. And every such vessel, her tackle, apparel and

furniture together with all materials, arms, ammunition and stores which may have been procured for the building and equipment thereof shall be forfeited; one-half to the use of the informer and the other half to the use of the Republic of Liberia.

Section 141. Augmenting force of foreign vessel of war. Whoever within the territory or jurisdiction of the Republic of Liberia, increases or augments or procures to be increased or augmented, or knowingly is concerned in increasing or augmenting the force of any ship of war, cruiser or other armed vessel, which at the time of her arrival in the Republic of Liberia, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district or people, or belonging to the subjects or citizens of any such prince or state, or of any colony, district or people, with whom the Republic of Liberia is at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger calibre, or by adding thereto any equipment, solely applicable to war, shall be fined not more than five thousand dollars, and imprisoned for not more than six months.

Section 142. Military expeditions against people at peace with the Republic of Liberia. Whoever within the territory or jurisdiction of the Republic of Liberia, begins or sets on foot or provides or prepares the means for any military expedition or enterprise, to be carried on from thence against the territory or dominion of any foreign prince or state, or of any colony, district or people, with whom the Republic of Liberia is at peace, shall be fined not more than two thousand dollars and imprisoned not for more than two years.

Section 143. Enforcement of above provisions. The Admiralty Division of the Circuit Court shall take cognizance of all complaints, by whomsoever instituted, in cases of captures made within the waters of Liberia, or within a marine league of the coasts or shores thereof. In every case provided for in Sections 140 and 141 and in every case of the capture of a vessel within the jurisdiction or protection of Liberia; and in every case in which any process issuing out of any court of the Republic of Liberia is disobeyed or resisted, by any person having the custody of any vessel of war, cruiser or other armed vessel of any foreign Prince or State, or of any colony, district or people, or of any subjects or citizens of any foreign Prince or State, or of any colony, district

or people, it shall be lawful for the President, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of Liberia, or of the militia thereof, for the purpose of taking possession of or detaining such vessel, with her prizes, if any, in order to enforce the execution of the prohibitions and penalties of this chapter and also for the purpose of preventing the carrying on of any such expedition or enterprise from the territory or jurisdiction of the Republic of Liberia, against the territory or dominion of any foreign prince or state, or of any colony, district or people with whom the Republic of Liberia is at peace.

Section 144. Compelling foreign vessels to depart. It shall be lawful for the President or such person as he shall empower, to employ such part of the land or naval forces of Liberia or the militia thereof, as shall be necessary to compel any foreign vessel to depart from Liberia, in all cases in which by the laws of nations or the treaties of the Republic of Liberia, she ought not to remain within Liberia.

Section 145. Armed vessel to give bond on clearance. The owners or consignees of every armed vessel sailing out of the ports of, or under the jurisdiction of the Republic of Liberia belonging wholly or in part to citizens thereof, shall, before clearing out the same, give bond to the Republic of Liberia, with sufficient security, in double the value of the vessel and cargo on board, including her armament, conditioned that the vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district or people, with whom the Republic of Liberia is at peace.

Section 146. Detention by Collector of Customs. The several Collectors of Customs shall detain any vessel manifestly built for warlike purposes, and about to depart from Liberia, the cargo of which principally consists of arms and munitions of war, when the number of men shipped on board, or other circumstances, render it probable that such vessel is intended to be employed by the owners to cruise or commit hostilities, upon the subjects, citizens or property, of any foreign prince or people, with whom the Republic of Liberia is at peace, until the decision of the President is had thereon, or until the owner give such bond or security as is required of the owners of armed vessels by the preceding section.

Section 147. Construction of this Chapter. The provisions of this Chapter shall not be construed to extend to the subject or citizen of any foreign Prince, State, colony, district or people who is transiently within Liberia, and enlists or enters himself upon any vessel of war, letter of marque, or privateer, which at the time of its arrival within Liberia, was fitted and equipped as such, or hires or retains another subject or citizen, of the same foreign Prince, State, colony, district or people, who is transiently within Liberia, to enlist or enter himself, to serve such foreign Prince, State, colony, district or people on board such vessel of war, letter of marque or privateer, if the Republic of Liberia shall then be at peace with such foreign Prince, State, colony, district or people; nor shall they be construed to prevent the protection or punishment of treason or of any piracy denounced by the laws of Liberia.

Approved October 14, 1914.

In 1916 (Acts 1915-1916, p. 11) an Act was approved January 19, 1916, imposing a fine of not exceeding $1,000, and imprisonment for not more than two years, on persons spreading or circulating false news or rumors, by whatever means, by which discord may grow between Liberia and any foreign Government.

On the same day another Act was approved (Acts, 1915-1916, p. 10), providing as follows:

> That during the course of any war between States friendly to the Republic, in which the Government of Liberia shall have proclaimed its neutrality, any person or persons, firm, company or corporation, who shall commit or cause to be committed within the Republic, any act which by the Law of Nations, the Common Law, or Statute of Liberia may be construed as a breach of, and an offence against neutrality, or which would subject the Republic to reprisals according to the rule of war, shall be guilty of a misdemeanor, and upon trial and conviction therefore, before any court of competent jurisdiction shall be imprisoned in the common jail for a period not exceeding two years, or pay a fine not exceeding five thousand (5,000.00) dollars according to the magnitude of the offence which shall be determined by the trial judge in his discretion.

Laws of Commonwealth Continue in Force

Article V, section 1, provides that "all laws now in force in the Commonwealth of Liberia and not repugnant to the Constitution shall

be in force as the laws of the Republic of Liberia until they shall be repealed by the Legislature."

This would have been the case even in the absence of this provision. The establishment of the Republic was only a change in the form of government in an existing State. The provision is only a restatement of a legal principle, not the re-enactment of the body of laws in force under the Commonwealth.

Included among the laws in force in the Commonwealth was the body of Colonial laws adopted by the Commonwealth under Article 17 of the Commonwealth Constitution. Thus, the right to dispose of property by will is founded on a Colonial enactment of 1824. In *Roberts* v. *Roberts,* 1 Lib. L. R. 107 (1878), the Supreme Court says:

> In the year 1824 the Colonial Government of Liberia passed an act in these words: "All persons are permitted to dispose of property by will." When the statute (which is an act or resolution of the Legislature) allows certain actions without commanding them, it is a permissive one. Here, then, in the early days of the Colony, we have a permissive act of the law-makers for the disposal of property by will, *i.e.,* by a legal declaration of a man's intention of what he wills to be done with his property after his death; and as property is the lawful right which a man has in lands or chattels, the permission extended equally to the devising of real estate as to the bequeathing of personal property.
>
> This permission thus granted, exercised and enjoyed by the people during the Colonial days was renewed on the formation of the Republic, in these words: (quoting Constitution, Art. V, sec. 1). By virtue of this, the people of this country continued to make wills and to devise real property, the Legislature not repealing the act giving its tacit consent and authority for the continuation of the permission.[42]

The common law was adopted as the civil and criminal law of the Colony at its very beginning. The Constitution of 1820, Art. VI, provides that "the common law, as in force and modified in the United States, and applicable to the situation of the people, shall be in force in the Settlement."

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[42] The Court might have relied on an even earlier law of the Colony The Instructions to the Agents, of June 26, 1820, (reprinted in Chap. I, *supra*) in their Article 4, provide· "Every settler may dispose of his lands and property by will." Power to make wills recognized in the Commonwealth. Cp. Acts, 1839, p. 23, Art. 3.

In the Digest of Laws of August 19, 1824, Art. 14, this provision was modified to read: "The common law, and usages of the courts of Great Britain and the United States, to regulate all judicial proceedings."[43]

This provision is re-enacted in the Code of 1828.[44] Jehudi Ashmun in his commentary on this Article says:

> The enumeration of authorities in this Article comprehends the whole body of general judicial principles and usages which are common to Great Britain and Ireland and all the United States and not manifestly inapplicable to this Colony. The whole system of criminal law common to those two countries which (the measure of punishments amended by the laws of those different countries is not, and, therefore, is not the same in this Colony) is, by this Article, clearly transferred to and made the law of Liberia. And in my opinion, the chief intention of this Article originally was to give to those judiciary and criminal laws principles (and perhaps a few others) force in the Colony. This provision was no doubt necessary in the infancy of the Colony when the Managers had not leisure to frame, nor the colonists to learn a better code. But I pray that the time may come, when the principles of the civil law alone shall be law in every civilized country in the Eastern Continent. I believe this code infinitely more favourable to moral justice, and to the virtue of a civil community than the clashing principles and shifting forms of the common law of England. See Constitution, Article 6th.

Ashmun's criticism is correct; endless confusion arose and loud demands for a change by the adoption of a Code of Laws were made in the closing years of the Colonial Period.

The Constitution of the Commonwealth, 1839, Article 17, provided that the then existing criminal laws in force in the Colonies should constitute the Criminal Code of the Commonwealth, and "such parts of the common law as set forth in Blackstone's Commentaries as may be applicable to the situation of the people," except as changed by statute, were to constitute the Civil Code. This provision clarified the position somewhat as regards the civil law, but still left the criminal law a chaotic mass of applicatory American and English common law. Some

[43] The Instructions of June 26, 1820, Art. 3, provide that "the rules of evidence and judicial proceedings to be according to the laws and usages of the United States."

[44] Ms. *Code of 1828*, Digest, Art. XIV.

provisions of the law were modified by Commonwealth legislation, and many provisions of the civil law were rendered more precise by the adoption of the Code of 1840, which is still in force and constitutes a part of the Old Blue Book.

This was the heritage of law to which the Republic succeeded under the Article of the Constitution now under discussion.

The situation was not improved by the enactments of 1859 and 1904 discussed below.

The text of the Acts of 1859 and 1904 is given below in the extracts from the opinion in *Pritchard* v. *Parker*. As to the effect of the Act of 1859, the Supreme Court in the case of *Roberts* v. *Roberts*, 1 Lib. L. R. 107 at 112 (1878), says:

> Here is an adoption not only of the common law as set forth in Blackstone's Commentaries as in the previous act amended by this, but of the whole of those Commentaries as revised and modified by the writers named in the act. The statutes embraced in those commentaries, where they remain unchanged by laws now in force, have thus been adopted as laws of this Republic, and among these are the Statute of Wills and the Statute of Uses, which Blackstone says made a great alteration as to property, the former by allowing the devise of real estate by will, etc. (Chitty's *Blackstone*, Vol. 12, p. 430).
>
> Kent in his Commentaries, Vol. 1, in giving an account of the sources of the common law to the American people, makes this statement: "It is also the established doctrine that English statutes passed before the emigration of our ancestors, and applicable to our situation, and in amendment of the law, constitute a part of the common law of this country." (See page 473).
>
> These statutes, being one of the sources of the common law referred to by him, have been incorporated by that act of the Legislature within our laws. As to the wisdom, policy or expediency of adopting these statutes as a whole, or of the works referred to in Kent, as sources both of the municipal and common law, and incorporating them as laws of the Republic, the court has nothing to do; these are matters of legislative deliberation and cognizance."

As regards the criminal law the situation was clarified by the adoption of the Criminal Code of 1914, abolishing common law crimes. The adoption of code pleading by the Statute of 1893-4, did not abolish the

common law distinction between actions *ex contractu* and actions *ex delicto*. *Cavalla River Co.* v. *Pepple*, Ann. Series No. 1, 41 (1934).

The Law Merchant as part of the common law, is in force. *Ross* v. *Gussefeld*, 1 Lib. L. R. 199 (1866). The English statute, 1 Vict. c. 26, relating to the mode of execution of wills is in force. *Brown* v. *Brown*, 1 Lib. L. R. 14 (1861).

Finally, according to the Revised Statutes:[45]

"Where there are no constitutional or statutory provisions, the principles of the common law prevail."

No description of the sources of the common law is given, and resort must be had to the terms of the Act of 1859, for this purpose.

A discussion of the application of the common law is contained in the opinion of Justice Johnson, in *Pritchard* v. *Parker*, Ms. Decision, November Term, 1923:

> . . . We will now proceed to discuss the subject of "Tenancy by the courtesy of England" and consider whether it forms a part of the common law adopted by the Legislature of Liberia.
>
> An Act was passed by the National Legislature in the early days of the Republic entitled an "Act defining certain crimes, and relating to the punishment of crimes", which reads as follows:
>
> > "Such parts of the common law set forth in Blackstone's Commentaries, as may be applicable to the situation of the people, except as changed by the laws now in force and such as may hereafter be enacted, shall be the civil code of laws of the Republic."
> >
> > See Statute of Liberia (Old Blue Book) under Judiciary, Art. VI, p. 126, sec. 7.
>
> Subsequently this Act was so altered and amended to read as follows:
>
> > "Blackstone's Commentaries as revised and modified by Chitty or Wendell, and the works referred to as the sources of the municipal or common law, in Kent's Commentaries on American Law, volume I, shall be the Civil and Criminal Code of Laws for the Republic of Liberia, except such parts as may be changed by the laws now in force, and such as may hereafter be enacted."
> >
> > See Acts of 1857-61, pp. 72-3.

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[45] *Revised Statutes of the Republic of Liberia*, II, 52

The great body of the common law of England became therefore, as far as applicable to our condition, the basis of our jurisprudence, it being understood that wherever these existed, or should afterwards be enacted, Statutes in derogation of the common law, the provisions of the statute should prevail over those of the common law. In discussing the question whether or not that portion of the common law which relates to tenancy by the courtesy has been embodied in our system of laws, three things are to be taken into consideration:

1. The condition of women, under the common law of England, prior to the Declaration of our Independence.

2. Rights which the husband acquires under the common law, in the property of his wife; and

3. The growth of a more liberal policy with respect to property acquired by the wife, independent of the husband.

Formerly the civil existence of the wife was completely merged in that of her husband, she could not carry on business without the consent of her husband no matter what wealth or property she possessed; she could make no contract with respect to her separate property, because the husband acquired an interest in that property which entitled him to alienate same, or in case of his bankruptcy, it would vest in his assignee for the benefit of his creditors, in many cases leaving her and her children entirely destitute. Gradually a more liberal sentiment in favour of the wife grew up in England and in a majority of the United States of America. Statutes were enacted giving to married women certain rights in respect to their separate property and enabling them to carry on business. The framers of our Constitution shared these advanced views, and embodied in said Constitution the following provision:

"The property of which a woman may be possessed at the time of her marriage, and also that of which she may afterwards become possessed, otherwise than by her husband, shall not be held responsible for his debts; whether contracted before or after marriage.

"Nor shall the property thus intended to be secured to the woman be alienated otherwise than by her free and voluntary consent, and such alienation may be made by her either by sale, devise or otherwise."

In the year 1904, an Act entitled an Act amending the law on descent was passed by the National Legislature, which reads as follows:

"That after the passage of this Act, any citizen of Liberia dying intestate, and without heirs or collaterals and leaving property real or personal or both, said property shall go to parents of deceased in equal proportion, and from them to the heirs of the heirs of the parents from whom the owner of the property descended, and in case of death of the parents, before the death of the intestate, the said property shall vest in the heirs of the parents in his or her stead."

Now it is obvious that were we to admit that the common principle relating to tenancy by courtesy, formed a part of the laws of Liberia, both the Constitutional provision above cited and the Act of 1904, so far as it relates to the estate of married women would be defeated, and rendered of no effect.

Sedgwick in his notes on the subject of Statutes in derogation of the common law makes the following observation:

"There has been great conflict as to the rule of construction which should be applied to the Statutes altering the legal status of married women, and giving them additional power over their property, some courts, because these statutes change the common law, have said that they should be construed strictly, and not extended beyond the letter."

Thus in a case heard and determined before the Supreme Court of New York, that Court held that the Acts "Authorizing married women to contract in relation to their separate estate, and to sue and be sued are to be construed strictly, and to refer to and recognize such form of contracts only, and such kinds of remedy as were in existence and legal in respect to such persons and their property, at the time the statutes were passed". It is very plain that this decision nullified the statutes, for it virtually said that after all its labour, and not withstanding the strong expressions it had enacted, the Legislature had simply left the law as to married women's contracts and the remedies to enforce them exactly where it was when the statute was passed. On appeal the Court of Appeal held that the statutes were to be construed liberally, as remedial statutes according to their fair intent.

The decision of the Supreme Court of New York is cited, be-

cause it illustrates in a striking manner how an application of the rule that statutes in derogation of the common law are to be construed strictly, may over-ride positive mandates of the Legislature and destroy a highly remedial measure, the intent and general object of which were as clear as could be made by appropriate language.

Pritchard v. *Parker,* was decided after the passage of the Act of 1904 regarding Descent and Distribution. In an older case decided in 1861 (*Brown* v. *Payne*, 1 Lib. L. R. 9) the right of the surviving husband to take by the courtesy of England is recognized: it would be well to treat a little upon the right of the husband in the property of his wife, which she was possessed of at the time of her marriage, as well as also to speak of the law governing descent in such actions, when occurring under the circumstances. There is a way by which the husband can come in possession of the property of his wife of which she was in possession at the time of her marriage. But that possession is only temporary in some cases by the principle of courtesy, a term used to explain this particular mode of proceeding. It is thus defined: "An estate to which a man is by law entitled on the death of his wife"—the lands of which she was possessed during marriage in fee simple, provided he had issue by her during marriage, and capable of inheriting her estate. (1st Steph. 246.) It is a species of freehold estate, not of inheritance, equally known to English, Scotch and American law (4th Kent's Comm. 27-28),—courtesy as understood in its ordinary sense of favor.

The estate being enjoyed rather by favor of law, *e gratia legis,* than as a matter of right, this special favor accrues from the existence of the fact of his having issue by her, and holding his right and possession for the legal title to be given at the proper time, and the next heir of kin to the wife can claim a right, which would be the same if she had two or more relatives. It is given as authority that the husband acquires a right to the use of all the lands or real estate of the wife during her life, but not to sell, and also during his own life, if he has a child by her as a tenant of the courtesy. (1st Swift, Dig. 26.)

The common law of crimes was in force until the adoption of the Criminal Code of 1914. Prior to that the common law applied by virtue of the Act of 1859. Text *supra,* in extracts from the opinion of the Supreme Court in *Pritchard* v. *Parker.* See *Flowers* v. *Republic*

of Liberia, 1 Lib. L. R. 334 (1899); *Coleman* v. *Republic of Liberia*, 1 Lib. L. R. 220 (1898).

Regarding the Criminal Codes of 1900 and 1914, the Court in *Jeffries Adorkor* v. *Republic of Liberia*, January 8, 1926, Judgment Book, p. 403 (unpublished), per Justice Witherspoon, says:

(After giving the texts of the older Acts.)

In A. D. 1900, the Legislature enacted a statute entitled Criminal Code of Liberia; on page one of this Code the following appears:

> "It is the sole intent of this Act to name or define, or both name and define the various crimes and misdemeanours and prescribe their appropriate punishment."

Nothing in this Act shall be construed so as to deprive any person of the rights and privileges guaranteed to him by the laws of the land, common or statute, unless a difference shall appear between the sentence and punishment in said law and this Act, when and where in all cases the provisions of this Act shall be the law of the land.

In this Act or Code the rights guaranteed persons under the common law were secured in all its parts except where any provision of the Code conflicted with said common law right.

In 1914, the Legislature passed another Code, in section 1, page 2 of this Code the intention of the Code is defined in simple words thus:—

> "This Act shall be known as the Criminal Code of the Republic of Liberia, and is intended to abolish all common law offences."

On Page 43, section 148, reads thus: Code of 1900 repealed.

> "The Criminal Code of 1900 is hereby repealed."

It cannot be legally contended that the courts of Liberia under the simple definition set forth in section 1 of the Code of 1914 may apply itself to the common law for its definitions and other legal conclusions in matters of criminal proceedings. That section abolished all common law offences, the definition of offences heretofore followed by the courts of Liberia as set forth in the common law with all the technical terms and qualifications no more apply to the courts of Liberia.

Native Laws and Customs

By the side of the statutory and common law governing the non-native inhabitants of the Republic there is a vast body of native laws and customs applicable to the natives in their relations with each other, and, in some cases, regulating the legal relations with non-natives, administered by Native Courts as well as the courts of the Republic. These native legal systems vary widely and frequently present great difficulties in the ascertainment of their provisions and their proper application. Each tribe has its own body of laws and customs, and their application is based on membership in a particular tribe; it is a system of the personal, not territorial application of law. In this respect Liberia has followed the policy of the United States respecting the Indians, and of Great Britain in regard to the natives in her dominions and colonies, and in the Empire of India—in the latter, however, based on adherence to particular religious faiths.

These native laws, whether they are the enactments of the legislative power within the tribe or are pure customary law have their analogy in the local and particular customs recognized by the English common law, such as, for example, gavelkind and borough English.

In so far as these native laws and customs are not violative of the Constitution or of express provisions of statutory law, they will be applied by the courts. A number of cases that have come before the regular courts are discussed below in the section on the Liberian Hinterland.

The subject is discussed in *New York Krp eh* v. *Harding* [Printed but unpublished Opinions, 1935-1936, 107 (1936)], where Chief Justice Grimes says:

> Commenting upon these submissions, this court desires first of all to observe that going back to Blackstone's Commentaries, the first written authority from which has sprung the common law of most, if not all, English speaking countries, he states that the *lex non scripta,* or unwritten law "includes not only general customs, or the common law properly so called; but also the particular customs of certain parts of the kingdom; and likewise those particular laws, that are by custom observed only in certain courts and jurisdictions."

See 1, Blackstone's Commentaries page 63, sec. 75 of the 1915 edition.

He then pointed out that with the exception of the customs

of gavelkind and borough English, "All other private customs must be particularly pleaded, and as well the existence of such customs must be shown, as that the thing in dispute is within the custom."

See Blackstone's Commentaries page 76, sec. 91 and Cf. I, Stephen's Commentaries pages 58 to 61.

Our own Legislature, in providing for the Government of aboriginal districts, prescribed that the Court shall take notice of and administer the Customary Native Law of the particular tribe or tribes interested in the dispute; but realizing that such customary law had not been embodied in any written treatise, proceeded to prescribe, that: "The court shall have the power to call in any Chief or prominent member of the tribe not interested in the thing in dispute, who, having been sworn in the native manner if not a Christian, shall give evidence of what the law is." See Acts of the Legislature of Liberia for 1904-5 (for the Government of Aboriginal Districts) page 26, latter part of section 5.

As has been shown, here was a case in which two persons on opposite sides, each claiming to be a member of the Kroo tribe and to have expert knowledge of the particular customs thereof, differed radically as to what the custom was upon certain points; and yet the statute was not complied with for obtaining an authoritative exposition what the custom was in each such instance for the guidance of the court. A splendid opportunity was thereby lost for this court to have obtained the desired information upon each of the points upon which differences had arisen, and of making record thereof for the guidance of the courts in the future. Nevertheless, even had that been done, the court would not have been bound to give effect to a custom which is in express violation of the law either common or statutory. For, although according to the best authority available, long established customs in opposition to the general rules of law are not always void, the same authorities most unequivocally declare that: "A custom or usage repugnant to the express provisions of a statute is void, and whenever there is a conflict between a custom or usage and a statutory regulation the statutory regulation must control."

The principal question in the above case was whether the manager of an incorporated mutual benefit society could by virtue of his office

be made personally responsible for the debts of the society, where he was not the manager at the time the obligation was incurred, and was not a party to the proceedings brought against the society.

To quote from the opinion of the Court:

> Counsellor Wolo, arguing the case at this Bar in behalf of appellant, contended that all the parties interested were members of the Kroo tribe, and that as such the Kroo customs should be allowed to control; that according to said customs (1) The "Socobar"[46] having been sent for the Vice Manager, and he found to have been the wrong person, it was not necessary to send the "Socobar" for any other defendant, provided he was also a member of the company; (2) That the Vice Manager was correctly sued in the absence of the Manager, as according to the customs of the Kroos the Mangeress, being a woman, could not preside over a body of men, and this in spite of the plain provision of the printed by-laws; (3) That upon the appearance in court of Manning, the Manager of the company, whether summoned or not, and in view of his first submission, he "swallowed" the Vice Manager and all his liabilities, and therefore it was not necessary that the case should have been implied in the orders of the judge of the Native Court of Appeal, and had been contended by Manning when he was first apprised of the fact that he had been sent for by the "Court" to assume the obligations of the judgment that had been rendered against Toe Barrow, the Vice Manager; (4) That the Governor did not act contrary to law in imprisoning Manning for the obligations of the corporation of which he was representative, as, according to the customs of the Kroos, he was the "big man," and in every matter tried according to the customs of the Kroos, and other aboriginal tribes, the head of a corporation should be held in detention, confinement and custody for the obligations of the society as it is the most expeditious manner of stimulating the organization to raise the money to discharge the obligation incurred.
>
> Mr. Manning, in the very interesting argument which he made at this Bar in his own behalf, conceded that in "book" knowledge Counsellor Wolo was by far his superior, but that, when it came to the knowledge of the laws and customs of the Kroo people, Counsellor Wolo was infinitely his inferior, as all of the time that Mr. Wolo had been studying in the colleges at Monrovia, and in

[46] Oxtail—a form of summons according to Kroo law.

> the United States, he, Manning, had been living among and studying the laws and customs of his own people (the Kroos). He then advanced sundry reasons why he contended that Counsellor Wolo's exposition of the native customary law was erroneous and that even when correctly stated, his exposée was inapplicable, submitting *inter alia* that: (1) The fact that the company had been incorporated by Joint Resolution of the Legislature, and had had their by-laws reduced to writing, and printed, was evidence of their intention no longer to adhere strictly to the original customs of the Kroos; (2) That the whole trend of the Constitution and laws of the Republic was to gradually eradicate tribal differences, and bring the entire population under one single system of law and practice.

The particular customs of the Kroos were eliminated for the reasons given in the Opinion, *supra*. The manager, it was held, whether properly summoned or not, could not be held personally liable for the debt of the society, and that the Kroo customs on this point were not to be applied.

In *Peehn, et al.* v. *Republic of Liberia* [Printed but unpublished Opinions, 1935-1936, 128 (1936)] the Court refers to certain native customs regarding adultery:

> Before going any further into this case, we want to observe that it is considered a disgrace, and a great scandal according to the native customs, for a head-wife of a responsible man, or of a master of a town, to commit adultery with a servant boy of her husband's, and it is also reprehensible and strictly forbidden for a brother-in-law to cohabit with his sister-in-law.

A case involving the right under native law of a husband to punish his wives for infidelity is *James* v. *Republic of Liberia*, decided by the Supreme Court, April 20, 1926 (Unpublished) in which Justice Witherspoon delivered the opinion of the Court:

> This case was tried at the May term of the Circuit Court Second-Judicial Circuit Law Division, Grand Bassa County, A.D. 1925, and the petit jury returned a verdict finding the appellant defendant below guilty of common assault and battery with no intent to do grievous bodily harm. The Judge rendered judgment upon the verdict of the jury sentencing the defendant to pay the sum of one hundred and fifty dollars immediately. To this judg-

ment and other rulings in the case the prisoner excepted and upon a bill of exceptions duly taken this case is before this Court of last resort for review.

The contention of the appellant, as argued by his counsel is found in count five of the bill of exceptions, and it is necessary that this Court consider count five only, the interpretation of which will put at rest the rights of the parties concerned. It reads as follows:—

> "And also because on the said first day of June A. D. 1925 Your Honor rendered final judgment against said defendant to the effect that said defendant pay a fine of one hundred and fifty dollars to be paid immediately which judgment the defendant contends is incompatible to the verdict of the petit jury rendered in said case, as also prescribed for by the Criminal Code and laws of the Republic in cases of common assault and battery; this judgment not being supported by the verdict of the jury and the laws of this Republic the defendant excepts to same."

The records in this case further show that for the flogging of each of the three women claimed to be the wives of defendant under the Act of the Legislature of 1905, section eight, a separate indictment was found, and at the trial these indictments were blended into one trial whereupon the Judge entered judgment covering the highest fine allowed by the Criminal Code against defendant for the offence of common assault and battery for each of the three indictments so blended.

The Act of the Legislature allowing civilized persons to take native women as wives above cited no more exist; the Act reads thus: "All persons taking native girls to wife after the native manner, must pay the dowry in accordance with the native customary law, to the family or to the last husband of the woman thus taken to wife. It shall be unlawful for any person to take a native girl or woman to wife who is already the wife of a native man, provided, however that should the said native husband give his consent and require the usual dowry to be paid he may be allowed to marry after said payment.

"In no case shall any native girl or woman be forced to marry any man against her consent even after the dowry shall have been paid. In case however a native woman shall refuse to remain with a civilized man the said man being already married to a civilized

woman, the dowry shall not be recoverable from subsequent husband." Act of 1905, page 25, section 8.

This Act was repealed by the Legislature February 2, 1918: "An Act repealing and annulling a certain portion of an act providing for the Government of Districts in the Republic inhabited by Aborigines approved January 25th, 1905. Sec. I. That from and immediately after the passage of this Act, Section eight of the above recited act be and the same is hereby repealed and annulled. Any law to the contrary notwithstanding. Approved February 2, 1918."

The contention of the defendant below as set forth in his defence that the flogging grew out of the infidelity of the three women who he claimed to be his wives, he having paid the legal customary dowry and which was moderately done, is therefore groundless.

Exception 5th of bill of exceptions is in our opinion well taken. The blending of two or more indictments in one trial is a practice which this court is a stranger to; it carries with it confusion and should not be allowed.

The defendant below admitted that he flogged the three women as aforesaid. It was further contended by the Counsel for the State that for each assault and battery the law provides a distinct offence. This may be true, but the law frowns upon a multiplicity of actions. The better plan would have been to charge the offence in separate counts in one indictment.

The judgment requiring the defendant below to pay fifty dollars for each woman battered is not in keeping with the intention of the law; we therefore feel it our duty to reverse the judgment of the lower Court and render such judgment as the lower Court should have rendered.

The judgment of the Court below is hereby reversed, annulled and declared of no effect.

This Court adjudges that the Republic of Liberia recover from appellant defendant below the sum of fifty dollars ($50.00) and it is so ordered.

An interesting case involving the effect under native law of the non-payment of the dowry on the legitimacy of children born to the woman, is *Tee Maney and Kamar* v. *Cash Money*, decided by the Supreme Court, January 19, 1927 (Unpublished, Judgment Book, p. 458). Chief Justice Johnson delivered the opinion of the Court:

This was a writ of *habeas corpus* sued out in the Circuit Court of the 3rd Judicial Circuit, Sinoe County, by Plaintiff-in-Error, petitioners in the Court below, to obtain the custody of four children, alleged to have been illegally detained by the said defendant-in-Error, the reputed father of said children.

On the hearing of the matter Judge McCarthy who presided at the trial gave the following judgment, "The matter has consumed considerable time, not because it is unparalleled as suggested in the argument, but because the Court was determined to allow the parties concerned every facility needed and to exhaust every means at their command. The brief statement of facts are these. The petitioners sued out this writ to obtain release of four children alleged to be illegally detained by the defendant-in-error, the admitted father of the children. The ground of contention is that the dowry money for the mother of the children was never paid to the father's side of her family, and according to the native customs, the defendant forfeits both mother and children.

Following the evidence, it does not appear satisfactory that the legal dower has been paid, and under the admitted native customs both mother and children should be forfeited.

"It is to be observed that unless contrary to plain rules of equity and justice, the native custom will be supported in our courts when the proper proceedings are instituted. But the query arises, can a writ of habeas corpus be used to set aside a judgment or decree of any court, having competent jurisdiction over the matter in dispute?

The majority of opinions answers to the contrary. It is a well settled rule that a writ of habeas corpus cannot be used to correct errors except it can be shown that the trial court had no jurisdiction over the matter under consideration. The matter has had two judgments in favour of defendant, and unless set aside by a court of error and appeal the alleged prisoners must remain in custody of the father, Cash Money, defendant until the judgment is set aside."

The plaintiffs-in-error being dissatisfied with the said judgment, have brought the case up to this court for review and correction, by a writ of error. The errors assigned are stated as follows:

1. The *habeas corpus* proceedings brought by plaintiff-in-error was not brought for the correction of any errors committed by the superintendent of Sinoe County, but for the purpose of

inquiring as to the legality of the custody of the children by Cash Money, a retired soldier, defendant-in-error, and the Court below manifestly erred when it sustained the judgment of the Superintendent of Sinoe County, and ruled that the children in question should remain in the custody of the father, Cash Money, defendant-in-error, as no legal marriage existed between the said Cash Money and the mother of said children.

2. Because in sustaining the ruling of the Superintendent of Sinoe County the Court below manifestly erred in that it overlooked the Constitutional provisions prohibiting executive officers exercising judicial functions.

Now it is undoubtedly true that by the Constitution of Liberia the power is vested in the Legislature to establish such subordinate courts as they may deem necessary; but in exercising this power, if any of their acts are not in harmony with any of the provisions of the Constitution, such acts are null and void. This Court has held in a number of cases that the Legislature cannot authorize executive officers to exercise judicial functions because it is expressly inhibited by the Constitution. See Constitution of Liberia, Art. I, sec. 14, where it is provided that the powers of the Government shall be divided into three distinct departments and that no person belonging to one of these departments shall exercise any of the powers belonging to either of the other.

In the case *Ballah Karman et al v. John L. Morris Secretary of the interior and John H. Anderson, officer commanding the Liberian Frontier Force* tried and determined by this Court, Chief Justice Dossen in handing down the decision of the Court said, *inter alia*:

"The doctrine that none but the courts can exercise judicial functions in this Republic and that a statute is void which attempts to confer judicial power upon any but the courts and which infringes in the lowest degree the Constitution which is the highest law, was exhaustively treated in that case, Jedah Boyer v. Jeffrey B. Horace traveling commissioner Grand Bassa County and in re the constitutionality of the Act, providing for promulgation of uniform rules of practice.

"After careful examination of the Act of the Legislature approved October 13, 1914, under the provision of which the prosecution against appellants was founded, we have arrived at the definite conclusion that the Act is in certain respects in conflict

with this doctrine of the Constitution in that it attempts to confer judicial powers upon the Secretary of the Interior who is an officer belonging to the executive department of Government."

It is obvious from the above reasoning that the action of the Superintendent of Sinoe County, in exercising judicial functions, was unconstitutional, and that the proceeding instituted by him, in the premises, had no legal effect.

While it is true that the writ of habeas corpus cannot be used to correct errors or to set aside the judgment or decree of a court having jurisdiction in the case, yet, it having been shown that the Superintendent of Sinoe County had no jurisdiction to try and determine the case, the habeas corpus proceedings was the proper action to decide the legal custody of the children.

Coming to the merits of the case, we must here observe that according to the customary native law, the payment of dowry is essential to constitute a marriage, and in the absence of proof of such payment, the children resulting from such a union are illegitimate and belong legally to the mother. As there appears nothing in the records to show that a dower was paid by defendant-in-error we are of the opinion (1) that the union between Cash Money and Karmah was not a marriage; (2) that the children claimed by Cash Money were illegitimate and therefore legally belong to the mother, and (3), that the judgment of the Court below should be reversed, the defendant-in-error paying all the costs of the action.

Other provisions of native customary law relating to marriage, dowry and other matters are contained in the Hinterland Regulations of 1923 and 1936, reprinted *infra,* in the section regarding the Hinterland.

The Liberian Hinterland

The boundaries of Liberia in 1848 were fixed by an Act of the Legislature (For text, see *supra*). The boundaries of Maryland in Liberia were fixed by various treaties of cession with the native rulers, and the entire territory of Maryland in Liberia was incorporated in the Republic as a county, and the Constitution and laws of the Republic were extended over it.

In the territories contiguous to this area Liberia gradually acquired from the native chiefs by cession of territories or by other agreements rights to exercise political jurisdiction, and the question presented itself whether the Constitution and laws of the Republic are applica-

tory without a formal extension of their provisions to these areas, which came to be known as the Liberian Hinterland, thus presenting constitutional questions such as arose in the United States regarding the non-contiguous territories (Alaska, Hawaii, the Philippines and Puerto Rico). The Hinterland is part of the territory of Liberia.

The question of the legal status of the native inhabitants was dealt with in an early case, *Davis* v. *Republic of Liberia,* 1 Lib. L.R. 17 (1862) noted *supra.*

The leading case on the constitutional position of the Hinterland is *Ballah Karman* v. *John L. Morris, Secretary of the Interior and Major John H. Anderson, Commanding the Liberian Frontier Force,* decided by the Supreme Court, May 2, 1920, (Judgment Book, p. 247, Unpublished).

Chief Justice Dossen delivered the opinion of the Court:

> This case is before us upon an appeal from the judgment of the Circuit Court of the first judicial circuit, upon a petition in Habeas Corpus, adjudicated before said court in November A. D. 1918.
>
> The following is a synopsis of the facts disclosed by the records as constituting the grounds of the action:
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> On the 26th day of November, A. D. 1918, appellants who are native chiefs of the Todee and Ding sections of the Golah country, were by verbal orders emanating from the Interior Department of the Republic of Liberia, of which Department John L. Morris, one of the appellees in this case was head, taken into custody of Major John H. Anderson, Officer Commanding the Liberian Frontier Force, the other appellee in the suit, and imprisoned in the guard room of the Interior Department.
>
> The ground for this proceeding was alleged to have been founded upon a theft committed in the settlement of White Plains by tribesmen of the said appellants, and, the stolen goods carried into the country of which they are chiefs. The record discloses no facts leading up to their complicity in the theft, but by force of what was termed "a policy established by the said Interior Department", said chiefs were held responsible to hand over to the Department the culprits and stolen property, or the value thereof, it having been ascertained that the culprits were members of their tribe and that the stolen property had been carried into their country. It was alleged by appellees in their return that when the matter was first taken up before the Secretary of the In-

terior, appellants submitted to the rule of the Department with respect to holding chiefs responsible for the acts of this character of their tribesmen, and executed a bond in favour of the Department to pay the penalty for the theft charged. The said bond matured and upon appellants being required to fulfill its conditions they demurred to the legality of the procedure which had fixed the responsibility of the act charged upon their shoulders and refused to comply therewith. This information was conveyed to the Secretary of the Interior, and, by force of a verbal order emanating from said official, appellants were arrested and taken into custody by the said Major John H. Anderson, one of the appellees, and imprisoned as aforesaid. A Writ of Habeas Corpus was sued out against appellees in behalf of the said appellants, which directed that appellees should have the persons of the appellants before the Court below on the day named in the said writ. Appellees failed to produce the appellants in court, as they were commanded to do and returned as their reason for such failure, that appellants were not "in their custody or control at the time of the service upon them of the said writ of Habeas Corpus, and, that they were unable to produce them in court as the writ commanded." Appellees made no denial of the fact of having actually held appellants in their custody and confinement, but sought to justify the imprisonment of one of the prisoners upon the ground that he acted contemptuously before the court, "the court of the Secretary of the Interior," when called before it.

On the review of the writ of Habeas Corpus before the Judge of the Court below the constitutionality of the Act of the Legislature approved Otcober 13th, 1914, which, it was contended, conferred judicial powers upon the Secretary of the Interior, who is a member of the Executive Department of Government, was questioned and the entire proceedings of that officer in the premises had under colour, and by force of, said Act,—including the arrest of appellants, the taking of bail, the adjudication of the alleged contempt towards the so-called court of the Secretary of the Interior, and the punishment therefor, were attacked by the learned counsel for appellants on the ground that the acts partook in their nature of judicial functions which the Legislature could not confer upon an official of the Executive Government, because of the constitutional inhibition which separates the Government into three distinct co-ordinate branches, with functions separate and distinct from each other. The judge of the lower court was asked to

recognize this fundamental principle in the Constitution, and to declare the proceedings and the Statute upon which they were founded, in conflict with the Organic Law. The judge of the court below, in his decree, went fully into the subject and in the first part of same appears to have had no doubt as to the correctness of the principle, as insisted upon by the counsel for the appellants with respect to the constitutional prohibition to the exercise of judicial functions by an officer of the Executive Government; but in his conclusions he upheld the Act in question which conferred such powers upon the Secretary of the Interior, who is a member of the said Executive Department of the Government, and held the proceedings in the premises to be legal, and ordered the writ abated with costs for appellees. . . .

To the decree and opinion of the judge of the Court below, appellants excepted and have brought the cause before this Judicature upon appeal for review. (Here follows text of the Bill of Exceptions.)

In support of these contentions an exceedingly learned and comprehensive brief was submitted by counsel for appellants, which was combated by an equally learned and comprehensive brief filed by the Attorney General, who appeared for appellees, which have brought to our consideration questions vital not only to the validity of the aforesaid Act and the legal merits of the decree predicated thereupon, but to the jurisdiction and the authority of the courts in certain parts of the Republic, and the force and effect of the Constitution which created them over those parts.

The question of efficacy and effect of the evidence adduced at the trial, the return, so far as it relates to the facts, having been settled by the judgment handed down by this Court at its last term, we shall in this opinion notice those points in the bill of exceptions and briefs filed on both sides as affect the validity of the said Act of 1914, and the constitutionality of the powers conferred by said Act upon the Secretary of the Interior, so far as they relate to the exercise of judicial functions by that official.

Counsel for appellants in the second point of his brief submits: "That the whole matter for which the chiefs were called down to Monrovia and which subsequently led to their imprisonment was one properly cognizable only before a court of justice."

"The object of the inquiry," he contended, "was to settle whether or not any responsibility could legally attach to them

as rulers of their respective districts, for the discovery and delivery up of persons charged and thieves, who, as appellees alleged, had carried the fruits of the crime into the territory governed by those chiefs." . . . Appellants submitted: "That a proceeding to arrest and punish for a contempt is the highest exercise of judicial power, and belongs to judges of courts of record or of superior courts," and cited the case *Langenburg* v. *Decker*, 16 L. R. A., in support of his contention. "It is true," the counsel submitted, "that the Act of the Legislature of Liberia, approved October 13, 1914, attempted to confer upon the Secretary of the Interior and other officers of his Department the functions of a court of justice, but inasmuch as he is an official of the Executive branch of the Government, he contended, that every provision of said Act tending to confer such power, should be declared inoperative, illegal, and void because of its conflict with the Constitution. In support of this contention section 14 of Article I of the Constitution of Liberia was cited

In the third point of the brief submitted on the part of appellants the distinctive and exclusive character of the Judiciary as a co-ordinate branch of the Government is insisted upon, and we are asked to reaffirm the opinions handed down by this Court in the cases of *Blame* v. *Ware*, 3 Liberian Annual, *Jedah, Boyah et al* v. *Jeffrey B. Horace, Travelling Commissioner, Grand Bassa County*, decided April 1916, and the matter In re the Constitutionality of the Act of the Legislature, providing for Uniform Rules, etc., 4 Liberian Semi-Annual, in which brief it is contended that the principles laid down in said decisions support the case for the appellants.

In the fourth point of the brief the learned counsel for the appellants submitted: "That if it be true as is set up in the return of appellees, that the persons held as prisoners in this case did not give bond for the payment of the value of the goods alleged to have been stolen by the persons charged, and said bond subsequently became forfeited, an enforcement of the compliance with same could only have been legally done by suit brought in a court of justice," etc.

These contentions on behalf of the appellants were resisted by the learned Attorney General (Mr. L. A. Grimes), for the appellees, who, in the copious brief handed up presented for our consideration, as against the contentions of the appellants, the following points:

1. The jurisdiction conferred upon the Secretary of the Interior in relation to matters of administration and justice in causes arising in the Hinterland Districts is not unconstitutional.

(a) Because the rules of the Liberian Constitution apply only to territory defined in the Municipal law of the Republic of Liberia and to such other territories appurtenant to Liberia over which the Laws and Constitution of Liberia have been extended.

(b) The territories acquired by the Republic outside the forty-mile zone fixed in the statutes as the boundaries of the Republic are governed only by such regulations as the Legislature may prescribe, which regulations furnish the character of their rights and government.

2. That the native territories outside the forty-mile zone not belonging to constitutional Government, no action of the Secretary of the Interior in relation to matters arising in the Hinterland can be tested by constitutional rules, etc. The Statutes of Liberia, the Franco-Liberian Treaties of 1892 and 1907 and numerous citations from Taylor's International Law are cited in support of this position.

We propose to consider, firstly, the grave, momentous questions raised by the Attorney General, which attack the sovereignty of the Republic beyond the limits of forty-miles from the Liberian Littoral, and the limitation of the Constitution and the Judicial Power created thereunder to the territories embraced within the said zone of forty-miles. It would follow by analogy that if the powers of the Republic created by the Constitution did not extend over the territories contemplated by the Act conferring judicial powers upon the Secretary of the Interior, the provisions of which Act, as far as they assume to confer such powers upon said official, are contested upon the ground of being void on account of their conflict with the Constitution, then the case for the appellants in this suit must break down.

We propose in this connection to discuss the method and policy pursued by the several colonizing Powers of Europe in the acquisition of territory from the natives of Africa, and, the founding and establishment of sovereignty and civilized government over such native territories by the said civilizing Powers of Europe.

Treating the question historically, we shall confine our research neither to the date of the founding of this Republic nor to methods pursued in the acquisition of territory by us, for it

must be recognized that with regard to the latter, namely the manner of acquiring African territory and of extending civilized government over the undeveloped tribes of this Continent, we are bound as an African state to recognize as paramount, and to give adherence to, the principles laid down by international conferences and by international treaties and precedents with respect to what act or acts are essential to establish political and governmental jurisdictions over African tribes.

Originally it was the Pope who claimed the right to grant to individuals or corporations of European descent, the right to acquire, hold and govern African territories; and this authority was exercisable independently of the assent of the natives over whom such powers were granted. 1, Westlake, International Law, page 92. The Papal Bull of Nicholas V, issued in 1454, granted to King Alfonso V of Portugal, the discoveries made and to be made on the West Coast of Africa; and by the Papal Bull of 1493, Alexander VI granted to Ferdinand and Isabella, and to their successors, Kings of Castile and Leon, all lands west of the Azores on the African Coast of which no Christian Power had taken possession before Christmas day, 1493. In 1494, Spain and Portugal, by treaty, divided between themselves the African Coast down to a line drawn 370 leagues off the Cape de Verde Islands. Here we have the earliest record of a foreign state acquiring and governing territory on the West African Coast, the basis of which right was founded in discovery and Papal sanction It is superfluous to remark that as soon as Protestant States arose the right of the Pope to confer such rights was ignored; but the right to acquire by discovery was adhered to and followed by all the Powers which subsequently acquired territory in Africa, and furnished the occasion for much dispute and in some instances conflict of arms between rival Powers.

(Note 1. In the Revised Statutes of Liberia, I, p. 198 the treaty referred to is dated September 18th, 1909; but reference to the original shows that it was really dated September 18th, 1907.)

In support of the right to acquire territory by discovery and of extending over the tribes embraced in any such new territory civilized government, we need quote no higher authority than Chief Justice John Marshall of the United States Supreme Court, who in the celebrated case *Johnson* v. *McIntosh,* decided 1823, held: "That the potentates of the old world found no difficulty

in convincing themselves that they made ample compensation to the inhabitants of the new by bestowing on them civilization and Christianity in exchange for unlimited independence". . . It was a right, he held, which all asserted for themselves and in the assertion of which by others all assented. . . . Those relations which were to exist between the discoverer and the natives were to be regulated by themselves. . . . In the establishment of these relations the rights of the original inhabitants were in no instance entirely disregarded, but were necessarily to a considerable extent impaired. They were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it and to use it according to their own discretion; but, he declared, "their rights to complete sovereignty as independent nations, were necessarily diminished." . . . 8 Wheaton (U. S. Supreme Court Reports) pp. 573-4; 5 L. Ed. p. 688.

The theory upon which a civilized state may extend its sovereignty and laws over civilized tribes who may not have previously come under the political and governmental control of some other civilized country, was developed and carried further at the African Conference of Berlin. When that Conference was laying down conditions for the appropriation by the signatory powers of territory on the coast of the African Continent, the plenipotentiary of the United States declared that: "his Government would gladly adhere to a more extended rule, to be based on a principle which should aim at the voluntary consent of the natives whose country is taken possession of in all cases where they had not provoked the aggression." Protocol of 31 January, 1885. But the Conference took no action on this invitation of the United States' plenipotentiary. It was merely recorded that in the unanimous opinion of the Conference its Act did not limit the right which the Powers possessed of causing the recognition of the occupations which might be notified to them to be preceded by such an examination as they might consider necessary. . . . It has been settled by International Canons that whether the ideas of a native tribe permit soil occupied or claimed by them to be ceded or not, and by what tribal authorities the cession ought to be made if permitted at all, are obscure and immaterial questions. So also are the questions whether a proposed cession has been fully explained to the tribe and fair value given for it. Westlake, *International Law*, I, p. 93. The same author in his treatise on International Law declares: That "the rules which the African

Conference of Berlin laid down in Articles 34 and 35 of the General Act, though limited in their expression to the acquisition of territory on the Coast of Africa, embody the shape which the law as to the original acquisition of the title has taken under the influence of these views." Now let us inquire into the text of the Articles of the Berlin Conference referred to.

Article 34 declares that: "Any Power which henceforth takes possession of a tract of land on the Coast of the African Continent outside of the present possessions, or which being hitherto without such possessions shall acquire them; as well as a Power which assumes a protectorate there shall accompany the respective act with a notification thereof addressed to the other signatory Powers of the present Act, in order to enable them if need be to make good any claims of their own."

Article 35 of the General Act states that: "The signatory Powers of the present Act recognize the obligation to insure the establishment of authority in the regions occupied by them on the Coast of the African Continent, sufficient to protect existing rights, and, as the case may be, freedom of trade and of transit under the conditions agreed upon."

Liberia must be presumed to give adherence to these articles, she being within their purview.

Commenting upon Article 35 above cited, Mr. Westlake in his treatise makes this observation that: "the establishment of an authority which may protect the natives with whom contact has become inevitable and under which the civil rights essential to European and American life may be enjoyed in tranquility is the objective of this Article."

Says he, "The exercising of the rights here mentioned cannot include less than this."

No one will seriously contend that such a state of affairs as insures tranquility and the enjoyment of those civil rights which are guaranteed in civilized society, would be possible in any other part of the Hinterland of the African Continent not brought under the influence of civilization.

Our duty, therefore, to ensure the protection of such rights and to promote such tranquility in the Hinterland, by the extension and enforcement of our laws and the policy of our Government, is an obligation which we are under as a member of the Family of Nations, having intercourse and relations with subjects and citizens

of civilized communities, which obligation cannot be ignored by ourselves, nor destroyed by any failure of formal assent thereto by the native tribes inhabiting those interior parts.

Our citations of the modern international rules and precedents relative to the acquisition of territory in West Africa, and the rights to extend civilized government over the uncivilized native inhabitants whose countries have been taken under control, in our opinion completely dispose of the contention raised by the learned counsel for appellees to the effect that such acts are dependent upon the will and assent of the tribes over whom sovereignty is sought to be extended, which assent must be expressed in the form of written treaties and compacts between the two parties. It is true that in the original method of acquiring territory, the Agents of Liberia treated the tribes whose territory was subsequently made a part of the Republic's domain as possessing sovereign rights over the territories they occupied, and our title thereto was conveyed by deeds of cession and treaties. By this method our rights were established over a radius of about forty miles from the Atlantic littoral. This was regarded as the limit of our territory interiorward when the Republic was erected in 1847. But subsequent to this date, we have in one or the other forms recognized by modern international practice extended political influence, and with it the right of sovereignty and of governmental supervision, over territories beyond and which have been recognized to the Republic by conventions between this State and the neighbouring countries the boundary of whose territories marches with our frontiers. These conventions, we hold, are not only evidence of the highest character, as to the recognized territorial status quo of the Republic by the States with whom they have been made; but they also by force of modern international rules and precedents noticed above, impose upon the inhabitants comprised within those prescribed limits the obligation of submitting to the sovereignty of the Republic of Liberia and the consequential right and duty on the part of the Government of extending its laws and policy over those parts and bringing the inhabitants under the influence of civilization. Upon the authority of these modern rules and precedents, we feel no hesitancy in declaring that our sovereignty over what is called the *Hinterland* of Liberia, is perfect, complete and absolute, and that the Constitution which created the Government and under which all political and governmental authority is derived, applies with equal

force and effect over that section as it does over any part of the Liberian Republic.

If further evidence of the Republic's rights over what has been termed the Hinterland is demanded, this can be supplied by the explorations made in those parts under the auspices of the Government, dating from those made by Governor Russworm in the 'forties (see Latrobe's *Maryland in Liberia*) and extending into the 'sixties and early 'seventies, where the Hinterland as far back as the Mandingo plateau (now French) was scientifically explored by Anderson, the Liberian explorer and cartographer, and, political and trade relations opened up between the tribes of the Interior and the Government. (See Anderson's *Journey to Musardu*). Although the relations established at the time did not in every case ripen into the form of written treaties, they nevertheless were sufficient for the purpose of laying the foundation of title to those districts which have since been acknowledged by the tribes themselves and confirmed by conventions between this Government and the Governments of France and Great Britain, as already mentioned.

These explorations have been followed from time to time by political missions, and the planting of the flag in the Hinterland; by repressive military measures against refractory tribes; by the suppression of the slave trade and inter-tribal feuds; by the appointment and commissioning of paramount and sub-chiefs through whom the Government has for nearly a century set some form of government in these parts, and who in a greater or less degree derived their authority from the Government of the Republic, and were amenable to it for the supervision of their respective tribes. And, finally, by the establishment of police authority and of agencies under its patronage and protection for the moral and educational betterment of the inhabitants. Such acts, we solemnly declare, partake of duties and responsibilities growing out of sovereignty, and, we hold, destroy every vestige of the proposition with regard to the limitation of the Constitution, or the jurisdiction of the three great Departments of the Government or any of them, set up and ordained by that instrument over the inhabitants of the Liberian Hinterland.

It was contended by the learned Attorney General in his Arguments at the bar, that the natives of what is called the Hinterland of Liberia which stretches from a zone forty miles from the coast to the Anglo-Liberian and Franco-Liberian boundaries, not having

by formal act in the form of treaties placed their territory under the political and governmental jurisdiction of the Republic of Liberia, that, therefore, while admitting this section of the Republic to be under the legislative and executive jurisdictions, in that the Act passed by the former and attempted to be executed by the latter was regarded proper; yet when it comes to the third great jurisdiction—namely the Courts—the power of this department of government, he insisted, is restricted to the forty mile zone from the Atlantic littoral. That such a contention is unsound, we feel no hesitancy in declaring. The sovereign people of Liberia in their majesty set up and established by One Act, which is called the Constitution, the three great Departments of Government, which were called into being by the same instrument, and at the same time, and by the same method. Their powers, therefore, are not only co-ordinate, but co-extensive each with the other, so that the legislative powers do not run beyond those of the executive; nor, do the executive powers go beyond those of the judicial department, so far as relate to the territorial jurisdiction of those three separate and co-ordinate branches of the Government, nor vice versa "The powers of this Government shall be divided into three distinct departments" declares the Constitution . . . "And no person belonging to one of these departments shall exercise any of the powers belonging to either of the others." See Constitution of Liberia, Art. I, sec. 14.

To hold, therefore, that the Executive can exercise jurisdiction in any part of Liberia in which the functions of the judiciary is prohibited, is to lay down a proposition distinctly in conflict with the letter of the Constitution and with its obvious spirit and intent. But let us see if this proposition is unequivocally supported by the Liberian Constitution. Article IV of this instrument declares: that "the Judicial Power of the Government shall be vested in *One Supreme Court* and such subordinate courts as the Legislature shall from time to time establish." The query naturally arises—has the Legislature any discretion where to lodge this power? If the Legislature possessed any discretionary power on this subject it is obvious that the Judiciary, as a co-ordinate department of the Government, may at the will and pleasure of the Legislature be annihilated or stripped of all its important jurisdictions, for, if the discretion exists, no one can say in what manner, or at what time or under what circumstances, it may, or ought to be exercised. The language of the said fourth article of

the Constitution is manifestly designed to be mandatory upon the Legislature. Its obligatory force is so imperative, that the Legislature could not, without violation of its duty, withhold any part of the judicial power from the courts, or, confer it upon any other department or official. The object of the Constitution, we hold, was to establish three great departments of Government, the Legislative, Executive and the Judicial. The first was to pass laws, the second to approve and execute them, and the third is to expound and enforce them. Without the courts it would be impossible to carry into effect some of the express provisions of the Constitution. What other provision is there in the Organic Law for the punishment of crime (if we except those arising in the army and navy, and for impeachment)? Neither of the other two departments is vested with this power. It is utterly inadmissible that the Legislature can confer judicial power upon any but the courts; and whenever it is attempted to transcend the limitations fixed by the Constitution, as the statute under construction contemplates, such statute must be declared as being not only voidable—but, *void ab initio*—because of its conflict with the Constitution which is, and must always be held, as the highest law.

Under the provisions of the Constitution the Supreme Court can have original jurisdiction in three classes of cases only, viz: cases affecting Ambassadors or other Public Ministers and Consuls and those to which a county shall be a party. See Constitution of Liberia, Art. IV. We have already remarked that the Legislature cannot vest any portion of the Judicial Power of the Republic of Liberia in any except the courts ordained and established. If, however, in any of the cases of crimes and misdemeanors arising within the territorial jurisdiction of the Republic and punishable under our laws, the Circuit Courts are, as was contended, without jurisdiction, the appellate jurisdiction of the Supreme Court could not reach those cases; and consequently the injunction of the Constitution that the Judicial Power shall be vested in the courts would be disobeyed.

"A close and careful study of the Act of October 13, 1914, under consideration will, we think, overturn the proposition set forth in the brief for the appellees with respect to the limitation of this department to a zone forty miles from the littoral. The object of this Act is obviously to provide for the administration of affairs in what is called the Hinterland by the Executive department of the Government through the Secretary of the Interior and

his subordinates in that department, and so far as its provisions relate to matters belonging properly to the Executive department they may be recognized as valid. But quite apart from the executive administration functions set up in this Act, it will be observed from a careful study, that its provisions extend beyond those functions and expressly recognize the jurisdiction of the courts over offenses arising in the Hinterland districts. The latter clause of section 21 of said Act reads: "Cases leading to capital punishment shall be reported to the Secretary of the Interior and the Superintendent in the leeward counties and the territories, who shall transfer same to the judiciary." If the Constitution did not extend over those districts, and if the judicial power established by that instrument was intended to have no force in those parts, what then is the meaning, we ask, of the clause of the Act just cited? It cannot be contended with any degree of logic that two of the coordinate departments set up by the Constitution could exercise functions to the exclusion of the third in any part of the territories of the Republic; nor, that the courts could have jurisdiction over one class of offenses arising in the Hinterland, while as to others this power could be lodged in some other department. It is the *whole* judicial power of the Republic which the Legislature must, under the Constitution, vest in the courts. Its duty in this connection is mandatory and not discretionary. It has only to be ascertained whether a question or a function partakes of a judicial character to decide whether such question or function appertains solely to the jurisdiction of the courts.

Section 28 of said Act further fortifies our opinion to the effect that it was not the intention of the Legislature as expressed in the language of said Act to exclude the jurisdiction of the courts over offences occurring in what is called the Hinterland. The language of this section is as follows: "Appeals shall be granted to litigants in each of the courts of the districts to the next higher court, and such cases shall be transferred to such courts of appeal with all costs; but, any person or persons dissatisfied with the decision of the Commissioner, or the decision of the Council of Chiefs may appeal to the Secretary of the Interior, or to the Circuit Court, who shall hear the case upon the merits, and from the decision of either the Secretary of the Interior or the Judge of the Circuit Court, an appeal may be granted to the Supreme Court of the Republic of Liberia." etc. The only sensible construction which, to our minds, can be placed upon the foregoing section of

the Act under construction is, that in express language the Legislature has extended the jurisdiction of the Statutory Courts whose jurisdiction is derived from that source, over offenses committed in the Hinterland districts of the Republic. It was superfluous for the Act to have mentioned the appellate jurisdiction of the Supreme Court, since its appellate jurisdiction is inherent and cannot be abridged or annulled by any means whatsoever except by amendment to the Organic Law.

"We have already remarked that under the Constitution it is the *whole* Judicial Power of the Republic that is vested in our courts. That the Constitution in this respect, is *mandatory* and not merely discretionary. That the Judicial Power created thereunder is not only co-ordinate but co-extensive in its application with the jurisdiction of either that of the Legislature or Executive departments. It follows therefore that the Legislature cannot confer any part of the Judicial Power of the country upon any other department of the Government without disobeying the injunction of the Constitution, and that whenever that has been attempted as is the case in the Act under construction, such an attempt becomes void because of its repugnance with the Organic Law.

The actions of the Secretary of the Interior in *arresting, taking bail, imprisoning* and *holding in contempt* the appellants, were acts which in their character partook of judicial functions, and, which no official of the Executive department could legally exercise, because of the constitutional inhibition which declares that: "no person belonging to one of these great departments of the Government shall exercise any of the powers belonging to either of the other." Constitution of Liberia, Article I, sec. 14. It has been held that: "to arrest and punish for contempt is the highest exercise of judicial power and belongs to the judges of courts of record or superior courts." *Langenberg vs. Decker*, 16, L. R. A., p. 115. No official belonging to the Executive department of Government can legally arrest and punish any person for a contempt. The actions of the Secretary of the Interior in this regard, was a grave violation of law, in that the personal liberty of all classes of citizens and inhabitants of this Republic, whether civilized or uncivilized, have been zealously protected by the Constitution.

The doctrine that none but the courts can exercise judicial functions in the Republic and that a statute is void which attempts

to confer judicial power upon any but the courts and which infringes in the lowest degree the Constitution which is the highest law, was exhaustively treated in the cases *Jedah, Boyah vs. Jeffery B. Horace, Travelling Commissioner, Grand Bassa County* (Semi-Annual Series not heretofore printed), *supra,* and *In re the Constitutionality of the Act providing for Uniform Rules of Practice,* 4 Lib. Semi-Annual Series, pages 4 *et seq.*

These decisions were successfully cited by counsel for the appellants in this case. We reaffirm the doctrine which they enunciated and uphold the principles upon which they rest.

After a very careful investigation of the said Act of the Legislature approved October 13th, 1914, we have arrived at the deliberate conclusion that the Act in certain respects is in conflict with this doctrine of the Constitution in that it attempts to confer judicial powers upon the Secretary of the Interior, who is an official belonging to the Executive department of Government. So much therefore of said Act which attempts to confer such powers upon said officer is repugnant to the provisions of the Constitution and should be declared void and inoperative; and it is hereby so held.

From the very beginning there were laws and treaties regarding relations with the natives within and outside the limits of Liberia with the accessions of territory and consequent extension of jurisdiction far beyond the narrow coast line of the settlements, the problem of governing the huge aboriginal population became increasingly difficult, and a partial solution was sought in the creation of the Department of the Interior in 1869 (Acts, 1868/69, p. 9) one of the chief functions of which was to take charge of native affairs. This Act was followed by others in 1905 and 1914; the chief provisions are referred to in the opinions of the Supreme Court in the case of *Jedah, Boyah et al* v. *Horace infra,* and *Ballah Korman* v. *Morris, Secretary of the Interior, supra.* The decisions in these cases declared some of the most important provisions in the Act of 1914 as unconstitutional, and necessitated further changes in the Regulation in 1923. In 1936 the Legislature passed an Act, December 17, 1936 (Acts, 1936, c. 13, p. 28) approving new Regulations by the President.

In the above-mentioned case of *Jedah, Boyah et al* v. *Jeffery B. Horace,* decided May 6, 1916 [Judgment Book, p. 209; reprinted in full

in the opinion of the Court in *Posum* v. *Pardee*, 3 New Ann. Series, 139, at 140-143 (1935)] Justice Johnson delivered the opinion of the Court:

> This case originated in the Circuit Court of the second judicial circuit, Grand Bassa County, and is brought up to this court for review by the plaintiffs in the court below, now appellants, against whom judgment was entered in said court.
>
> On inspecting the records of the case, we find the following facts established:
>
> (1) Jedah, Boyah, Gearh and Gofar and others alleged to be members of the society, called the Negees, in the County of Grand Bassa, appellants in this case, were arrested, presumably at the instance of Jeffery B. Horace, Travelling Commissioner of said county, appellee, at the suggestion of a native medicine man or doctor and were ordered by said appellee to drink sassywood.
>
> Before it could be administered, the prisoners procured a writ of Injunction, from the judge of said circuit court, enjoining the said Commissioner from administering said poison.
>
> At the hearing of the case, by the judge of said court in Chambers, said judge dissolved the injunction, to which prisoners excepted and appealed to this Court.
>
> The appellants in their Bill of exceptions challenged the jurisdiction of the Travelling Commissioner, and questioned his right to administer sassywood under the circumstances surrounding the case at bar, and this contention we will proceed to consider.
>
> In deciding this question, it is necessary to enable us to arrive at a legal conclusion to consider the several Acts passed by the National Legislature for the Government of the native tribes within the Republic, and to apply them to the case at bar; and this we will now proceed to do. The Legislature passed at its January Session A.D. 1905, an Act entitled "An Act providing for the Government of Districts within the Republic, inhabited by Aborigines," which provided *inter alia* that every district inhabited exclusively by an aboriginal tribe, shall be regarded as a Township and shall be governed on the same lines under the supervision of a District Commissioner appointed by the President.
>
> The Act further provided for native courts in said districts, appeals from which were to be made to the District Commissioner and conferred upon the District Commissioner, associated with the principal native chief or chiefs of the district, the power of the

court to settle disturbances between the chiefs of the tribes, or between strangers and the residents of the district, stopping robberies on the highway, or other matters which might lead to intertribal wars. Appeals from the District Commissioner being taken to the quarterly court. It being expressly provided that such crimes as murder, manslaughter, rape and the like, were, when possible, to be dealt with by the court of quarter sessions, subsequently, to wit, in the year 1914, an Act entitled "An Act making Regulations, governing the Interior Department of the Republic of Liberia" was passed. The principal provisions of this Act are as follows: The Territories of the Republic were divided for administration convenience into two grand divisions—(a) County Jurisdiction (b) Hinterland.

The County Jurisdiction included all the territories on the seaboard from the Mano to the Cavalla Rivers, and extended forty miles towards the Hinterland. The Hinterland commences from the limit of the County jurisdiction interiorward.

Five mediatory officers between the Secretary of the Interior and the District Commissioner were provided for, called Travelling Commissioners, who are to adjust any disorder in the Hinterland.

The Travelling Commissioners are to exercise an inspectory supervision over the Hinterland under the direction of the Secretary of the Interior.

This Act provided, *inter alia,* that cases leading to capital punishment shall be reported to the Secretary of the Interior and the Superintendents in the leeward counties, and the Territories, who shall transfer same to the Judiciary. Now it is obvious that the Travelling Commissioners have been given no power to examine into cases arising in the County Jurisdiction, but that his duties are mainly confined to the Hinterland. It is also obvious from the plain and unequivocal language of the Act, that all cases of murder are exclusively within the jurisdiction of the judicial powers.

A very important question, which presents itself for consideration, is, whether the Secretary of the Interior or the Commissioners can exercise judicial functions or try cases of a judicial character within the limits of the County Jurisdiction. Sedgwick, in his work on the Construction of Statutory and Constitutional Law, makes use of the following language: "We have already called attention to the subject of public officers created

by statute. *And although the general disposition of the judiciary* seems to be to treat such agents with liberal confidence so long as they appear to be enacting in good faith with due discretion, and within the limits of their conceded power, and although in the exercise of mere discretionary authority, the courts are unwilling to interfere, yet where public officers overstep the bounds of their authority, and the courts are appealed to as matter of strict right, the action of these agents are vigilantly watched and their infringement on private rights unhesitatingly repressed."

The Constitution of Liberia expressly declares that, the powers of this Government shall be divided into three distinct departments; Legislature, Executive and Judicial, and no person belonging to one of these departments shall exercise any of the functions belonging to either of the others. Con. Lib. Art. 1, Sec. 14.

The Superintendent being an Executive officer cannot exercise judicial functions.

In the case *Gray* v. *Beverly, Habeas Corpus*, 1 Lib. L. R. p. 500, this Court used the following language, in discussing the question whether or not the Secretary of the Interior had any legal authority to issue a certain order, which the defendant relied upon to excuse the production of the prisoner.

The Act of the Legislature of Liberia, approved January 23rd, 1869, creating an Interior Department, and providing for the appointment of an officer at its head styled the Secretary of the Interior, undoubtedly confers upon that officer very large duties and authority in relation to matters affecting the aborigines of the country. It would seem from the provisions of this Act and subsequent enactment relating thereto that the intention of the law makers was to create in this officer a sort of arbiter in all purely native matters arising between themselves and referred to the Chief of this Department for settlement, which he must settle with due regard to native customary laws and native institutions, where not repugnant to the Organic Law of the State.

In the matter with regard to the constitutionality of the Act of the Legislature of Liberia, approved January 20th, 1914, entitled "An Act providing for Uniform Rules of Practice in all the Circuit Courts of this Republic, Opinions and Decisions of this Court, Series 4", it was held that no department can exercise Judicial functions but the court itself. Legislation is there-

fore unconstitutional, which seeks to have other branches of Government to participate in judicial work.

It cannot be seriously deputed that if the Secretary of the Interior or other Executive officer were given concurrent jurisdiction in matters of a judicial character especially such as crimes and misdemeanors, within the jurisdiction of the courts of the country and within the County Jurisdiction, there would arise endless confusion.

With regard to the administration of Sassy-wood, which is in some cases an ordeal dangerous to life, we are of the opinion that while it is provided that the Native and District Courts shall administer the native customary law, we cannot admit the legality of a proceeding which is evidently intended to extort a confession from the accused, and which is in conflict with the Organic Law of the state, which declares that no one shall be compelled to give evidence against himself.

Mr. Bouvier defines an ordeal to be an ancient superstitious mode of trial, II B. L. D. (Ordeal); any custom which ponders to the superstition of the natives of the country is, in our opinion, contrary to the genius of our institution and should therefore be discouraged.

On the whole we are of the opinion that the Travelling Commissioner had no jurisdiction over the persons of appellants or the crime with which they were charged; that the administration of sassy-wood in any case is illegal, and that the judgment of the court below should be reversed and the injunction perpetuated, and it is so ordered.

The *Jedah* case was cited with approval in *Posum* v. *Pardee*, 2 New Ann. Ser. 139 (1935), in which Justice Dossen, after incorporating the full text of the opinion in the *Jedah* case, says:

> With regard to the judicial power the Constitution provides: "The Judicial power of the Republic shall be vested in one Supreme Court and such subordinate courts as the Legislature may from time to time establish." Const. of Lib. Art. IV, sec. 1.

Under a similar constitutional provision it has been repeatedly held in the Supreme Court of the United States of America, and in our own Supreme Court, as has just been seen, that all legislation is unconstitutional which seeks to have other branches of

Government participate in judicial work. See 16 L. R. A. "Langenberg versus Decker", p. 108. See 103 U. S. "Kilbourn versus Thompson", p. 164, 26 Law Edition, p. 377.

We have now to reiterate, therefore, the opinion so often expressed by our predecessors that all Executive officers who attempt to exercise judicial functions are committing usurpations on the constitutional powers of the courts; and any recognition or cognizance given to such officials in the exercise of judicial functions by judges of the courts of this Republic, or members of the legal profession, is in violation of their constitutional oath.

In addition to the prohibition against the practice of administering sassy-wood, and adopting other ordeals for the extorting of truth, we desire here to record a further objection as the practice involves the obsolete trial by wager.

According to the writings of such ancient authors as Blackstone there were two methods of trial by wager, namely wager of law and wager of battle. Wager is defined as:

> "A bet, a contract by which two parties or more agree that a certain sum of money, or other thing, shall be paid or delivered to one of them on the happening or not happening of an uncertain event. . . . A contract upon a contingency by which one may lose but cannot gain, or the other can gain but cannot lose, is a wager; . . . but there must be a risk by both parties: 'a wager is something hazarded on the issue of some uncertain event; a bet is a wager, though a wager is not necessarily a bet.' " See B. L. D. "Wager", p. 3414.

"There is a significant resemblance between the declaration made by the parties immediately before a trial by ordeal as practiced among the uncivilized inhabitants of our country, and that in vogue in Europe before this species of trial was abolished. According to Stephen, an oath against sorcery and enchantment was taken by both parties in a form substantially as follows:

> "Hear this, ye justices, that I have this day neither ate, drank, nor have upon me neither bones, stones or grass, nor any enchantment, sorcery, or witchcraft whereby the law of God may be abased, or the law of the devil exalted. So help me God and his saints." See IV Stephen's Commentaries p. 370.

In all systems of modern jurisprudence such archaic methods of trial have been abolished, and our judges are now sworn to

determine all issues according to the law and the evidence. Our own statute provides:

> (Here is quoted the text of the law regarding bets and wagers, Statute Laws (Old Blue Book) 24, sec. 16; Rev. St. art. 250, subsec. 2, 3).

This court will not, therefore, lend its countenance to such obsolete and speculative modes of proof, relying upon supernatural means. It is our opinion, therefore, that the judgment of the Court below should be reversed, and the cause remanded for trial according to law; and that each party pay his own costs; and the costs of the officers of this court be divided between the two parties and it is so ordered.

In the *Jedah* case the administration of sassywood to the defendant in criminal cases was declared to be in violation of the constitutional provision against compelling the accused to give evidence against himself. For the *Posum* case the sassywood ordeal was declared to be illegal in civil cases on the ground that it was violative of the law relating to wagers.[47]

Constitutional Position of the Hinterland and its Inhabitants. The Hinterland of Liberia is not, like the Hinterland of some of the British Colonies in West Africa, a protectorate. The Hinterland forms an integral part of the territory of the Republic, and the jurisdiction of the Republic is unrestricted by any reserved rights of the tribal Chiefs. Complete sovereignty over the areas was acquired by the Republic or its predecessor Governments. The native Chiefs exercise their governmental powers by delegation or at sufferance, not in their own right.

Liberian nationals, whether civilized or uncivilized, and whether inhabiting the Littoral or the Hinterland, are citizens of the Republic, bound by the same ties of allegiance and entitled to the same protection. They are not subject races, nor "domestic dependent nations", nor are they the "wards of the Nation." Where in possession of the necessary qualifications of age, sex and property, they are entitled to the elective franchise.

The Constitution in all of its provisions is operative throughout the Republic, and of its own force immediately extends over all ter-

[47] For an interesting account of trial by the ordeal of sassywood, see Harley, *Native African Medicine* (Cambridge, 1941), pp 153-161, *et passim*.

ritory subject to the political jurisdiction of the Republic, regardless of the mode of acquisition, without any Executive or Legislative action. It would not be constitutionally possible for Liberia to acquire political jurisdiction over territory, whether contiguous or non-contiguous, under a proviso that the Constitution, in whole or in part, shall not be applicable thereto.

The Constitution contains only two provisions regarding natives. One relates to the appointment of commissioners for improvement of native tribes (Art. V, sec. 15):

> Sec. 15. The improvement of the native tribes and their advancement in the arts of agriculture and husbandry, being a cherished object of this government, it shall be the duty of the President to appoint in each county some discreet person whose duty it shall be to make regular and periodical tours through the country for the purpose of calling the attention of the natives to these wholesome branches of industry, and of instructing them in the same, and the Legislature shall, as soon as it can conveniently be done, make provisions for these purposes by the appropriation of money.

This provision is similar to the declarations of policy announced by the American Colonization Society from the earliest days of the Colony, but the Society, from lack of interest or lack of funds did little to carry out this policy. (See Chap. I, *supra*).

The second provision is one prohibiting citizens of Liberia from acquiring lands in fee simple from the aborigines (Art. V, sec. 14):

> Sec. 14. The purchase of any land by any citizen or citizens from the aborigines of this country for his or their own use, or for the benefit of others, or estate or estates in fee simple, shall be considered null and void to all intents and purpose.

This prohibition has come down from Colonial times. Such purchases were prohibited by the Instructions of June 26, 1820, and by the Digest of Laws, 1824. The Code of 1828 thus formulates the rule (Digest Art. XXIII):

> No Colonist shall deal with the natives of the [Country for lands.] (Words in brackets not in the original text.—Ed.)

Ashmun, in his commentary on this Article, says:

This prohibition is demanded by several important considerations:

1. It secures an invaluable right to the Society: the right of disposing of its own acquisition for the advancement of its own ends. Even the power of holding the lands which individuals acting contrary to the prohibition might possess is wholly derived from the original purchase of the territory and the protesting can still exercise over it by the Society (*sic*). The ends for which this acquisition has been made are very diverse from the aggrandizement, and enriching a few rapacious individuals at the expense of a whole race of people—the certain and direct effect of suffering individual speculations with the natives of Africa, for their lands. Were the Society to allow this practice, it would by implication suffer individuals to withdraw the territory of the Colony from their Government and jurisdiction and gradually create a new Government of their own. For the Jurisdiction which the Government of the Colony claims over its soil, is chiefly sustained by the act of acquiring that soil originally from the natives and granting the property of it only to individuals, who by accepting it, as well as before they can accept, by their own act recognize the authority of the Colonial Government or in other words, the Society's jurisdiction over the soil of the Colony Conflicting title would inevitably follow the practice here prohibited—as it would not be possible to avoid a plurality of purchases of the same tract—nor prevent repeated sales of the same lands by the same and different native claimants to different purchases. The certain consequences of such a state of property would be civil strife, and open hostilities with the native land merchants.

A strict interpretation of the constitutional provision produces some curious results. A native, a member of a tribe of the Hinterland, and therefore a citizen, may freely purchase land not owned by an aborigine. He thereby becomes entitled to the electoral franchise, though he retains membership in his tribe, unless his tribal law otherwise provides. The statutes do not define "aborigine". He may find himself in the position of a citizen who can legally purchase real estate, except from an aborigine, but cannot sell because of the purchaser's incapacity to acquire. Such a result was clearly not intended by the framers of the Constitution. No judicial decision interpreting this section has been

traced. The prohibition is directed against Liberian citizens; aliens cannot acquire land in fee simple from any person (Art. V, sec. 12).

By an Act approved January 25, 1924 (Acts, 1923-1924, c. 11, p. 10) it is provided:

> Sec. 1. It shall be unlawful for any chief or chiefs including the Paramount Chief, of any tribe within the limits of this Republic to grant, bargain, sell or otherwise to alienate to any person whomsoever not a member of his or their tribes, any communnal lands legally recognized as such except as provided for in this Act.
>
> Sec. 2 The expression "Tribal Authority" and "Aboriginal Settlers", when used in this Act shall, if not inconsistent with the context, mean (a) Paramount Chiefs and their Councillors composed of recognized Sub-chiefs and men of note. Recognized Sub-chief shall mean any chief not Paramount Chief, commissioned by the Government or temporarily appointed as such by the Paramount Chief, pending Government endorsement Men of note shall mean the experienced and influential elderly men of the tribe who are usually called by their people "Owners of Fathers of the land." Where land has been known and recognized as belonging to a Confederacy of tribes, then the expression "Tribal Authority" shall mean the Paramount Chiefs of all the tribes with their Councillors and men of note acting jointly.
>
> (b) Aboriginal Settler or Settlers shall mean any immigrant or immigrants into tribal territory other than that of his own tribes, with intent permanently to reside therein or to make farms therein.
>
> Sec. 3. No Aboriginal Settler or Settlers shall occupy or cut farms on any land without first applying for and obtaining the usual tribal permission from the Tribal Authority in whose territory they wish to reside and farm. Violations of any or all of the provisions of this section shall subject each offender to a fine of fifty dollars ($50.00) for each offence.

Government of the Hinterland. It is a serious defect in the Constitution that no provision was made regarding the government of the native tribes, leaving all questions to be determined by general legislation subject to the limitations imposed by a Constitution framed for the government of an entirely different population.

Entirely different problems of administration and law necessarily

arise in the two grand Administrative Subdivisions into which the country is divided. The area of County Jurisdiction is inhabited by a small population that has grown up in surroundings of a Christian Western civilization, in large part descended from emigrants from the United States and the British West Indies, with a common language and common system of laws and customs, and governmental institutions and a political philosophy based on American traditions, with a just pride in their political and cultural achievements in the century and a quarter of the existence of their State.

The vast Hinterland[48] has a population variously estimated at between 1,500,000 and 2,500,000, comprising about twenty eight distinct tribes of widely divergent physical types and cultural development, ranging from barbarism to the refinements of the Vai and Mandingo civilizations, speaking a number of unrelated languages, of which the Vai language is the only one possessing its own alphabet. Each tribe has its own laws and customs, and these laws are applied by the native and national courts in cases where natives are involved, unless they contravene the Constitution or the statute law applicable to natives. Except for the natives who have adopted the Mohammedan faith, and the relatively few who have become Christians, the large mass of Pagan natives have widely different superstitions and beliefs and powerful political and religious secret societies.

Of the natives President Johnson said in an Oration delivered in Monrovia, July 26, 1882:[49]

"We have a population numerous, hardy, and industrious, devoted to agriculture and manufactures, when not seduced by the demon of war. I mean our aboriginal brothers. Where are we to get such muscle, such bone and sinew, to practice the arts of peace, and for defensive war? Where such intellects? Where such shrewdness in trade? And yet we are neglecting them. Had we discharged our duty to them, today the fruitful fields would be smiling with golden harvests

[48] For descriptions of the Hinterland, see Sir Alfred Sharpe, *The Hinterland of Liberia*, in Geographical Journal (London) LV, 289-305, Donner, *Hinterland Liberia* (London, 1939); Johnston, *Liberia*, Chap. XXVII *et passim*. McCants Stewart, *The Americo-African Republic* (New York, 1886), Chap XIII; Buttikofer, *A Few Observations on the Native Tribes of Liberia, in Liberia, Liberia Bulletin*, No. 10, 57-66 (excerpts from an article in Internationales Archiv für Ethnographie, Vol. 1). Seton, *The Hinterlands of Cape Palmas*, in *Liberia Bulletin*, No. 15, 58-63. See also Azikiwe, *Liberia in World Politics* (1934) and the excellent work of Raymond Leslie Buell, *The Native Problem in Africa* (1928). Valuable comments of the laws and customs of the Kroos and Grebos in Gurley's *Report* (1850) 31 Cong 1st Sess, Sen. Ex. Doc No 75.

[49] Quoted in McCants Stewart, *The Americo-African Republic*, 82.

all over the land; our seas would be whitened with the sails of commerce. . . . Even in the science of government they excell us. . . . In spite of our neglect of them, these chiefs and these tribes feel that they are one with us, and prefer living under the Liberian Government to being ruled by a foreign Government and an alien race."

The great problem is to devise an administrative organization that will uphold law and order in the Hinterland and maintain the general authority of the National Government, adjust inter-tribal disputes, and repress alien agitators, a problem that will become more difficult since the Hinterland has been opened to foreign traders.

The entire area of Liberia over which the territorial sovereignty of the Republic extends is divided into two grand Subdivisions. The first Subdivision is that known as County Jurisdiction comprising all territories on the sea-board from the Libero-Sierra Leone boundary to the Libero-French boundary and extending interiorward for a distance of forty miles. The County Jurisdiction is administered by the County Superintendents under the direction of the Secretary of the Interior. The second Subdivision, the Hinterland, comprises the territory commencing at the interiorward boundary of the County Jurisdiction and extends to the Libero-Sierra Leone boundary and the Libero-French boundary; in other words all the territory of the Republic not contained in the County Jurisdiction, except that now areas within the organized Counties and wholly inhabited by uncivilized natives are subject to the same Regulations as if these areas were within the Hinterland districts.

General interest in the Hinterland was awakened in Liberia when the results of the journey of exploration undertaken in 1864 by a young Liberian surveyor, Benjamin J. K. Anderson became known.[50]

In his Annual Message in December, 1866,[51] President Warner, speaking of the native tribes, said:

> I have for a long time thought that the native tribes residing within the near jurisdiction of the Republic could be brought into closer relationship with us, by being required to contribute to the support of the Government, and by being allowed such a repre-

[50] Johnston, *Liberia*, I, 250. The best edition of Anderson's Journals, *Narrative of the Expedition Despatched to Musahdu by the Liberian Government under Benjamin J. K. Anderson* (Monrovia, 1912). Edited by Frederick Starr. The first publication bears the title: *Narrative of a Journey to Masardu*, the Capital of the Western Mandingoes, by B. K. Anderson(New York, 1870).

[51] Reprinted in *Memorial of the Semi-Centennial Anniversary of the American Colonization Society*, 162-176.

sentation in our National Council as will easily commend itself to their comprehension. Such a measure inaugurated among these, will induce those tribes more remote to seek to sustain similar relations to us. No desire to exterminate these people and aggrandize their territory brought us here. They are our brethen, deluded though they often appear; and our Constitution expressly declares that their improvement is a cherished object of this Government. The Government, then, being for mutual advantage, is one that calls for mutual support. The aborigines should assist in the great work we have to perform. Like the civilized population, they should give something in return for the protection and redress which our courts always, and our armies often, are required to render them. And I doubt not that many of them are now willing to assist; and when they shall have been convinced that the civilization of which the Republic is the nucleus must spread far and wide over this continent, enlightening and refining its inhabitants, and raising them in the scale of being; that it is a work designed by the Almighty himself, and cannot be stayed,—I am sure they will become willing coadjutors. . . .

There are in these forests men of royal blood, and of minds susceptible of the most exalted ideas of systematic and well-balanced government; and, by a proper appreciation of them, they could be made to sustain to us a much nearer and dearer relation than that of being mere contributors to our treasury.

Before the organization of the Interior Department in 1892 there was no attempt to regulate affairs in the Hinterland. For many years prior to that date, G. Moore, father of H. J. Moore, the first Secretary of the Interior, had acted as the Agent of the Republic in the native townships near the Americo-Liberian townships in the Hinterland of Montsurado. Moore rendered valuable services in adjusting difficulties in the area.[52]

The Legislature has passed a number of Acts relating to the government of the Hinterland: (1) The Act of January 14, 1869, creating the Department of the Interior (Acts, 1868-1869, p. 9); (2) the Act of January 25, 1905 (Acts, 1904-1905, p. 25, amended by Act of February 2, 1918, Acts, 1917-1918, p. 38); (3) the Act of October 13, 1914, (Acts, 1914, p. 16); and (4) the Act of December 19, 1936 (Acts, 1936, c. 13, p. 26, approving the Hinterland Regulations). Some of the prin-

[52] *Message of President Arthur Barclay*, December, 1904. *Liberia Bulletin*, No. 27, 20.

cipal provisions of these Acts of 1869, 1905 and 1914 are discussed in the opinions quoted *supra*. In addition the President promulgated the Hinterland Regulations of March 29, 1923, *infra*.

Certain acts of the Secretary of the Interior performed under authority of the Act of 1869 were held void because violative of the provision of the Constitution regarding the writ of habeas corpus. *Gray* v. *Ghibasely Beverly*, 1 Lib. L. R. 500 (1907).

The Act of 1914 was held unconstitutional in so far as it conferred judicial powers on Executive officers, as violative of the constitutional provision relating to the separation of governmental powers, and the provision protecting persons accused of crime from being compelled to give self-incriminating evidence. *Jedah, Boyah et al.* v. *Horace, supra; Korman* v. *Morris, supra.*

The validity of the Regulations of 1923 does not appear to have come before the Supreme Court. They are now superseded by the Regulations of 1936.

In March, 1923, a conference was held at Suehn, in the Teh-Gevek District of the Interior of Montserado County. President King presided, assisted by the Secretary of the Interior and the Secretary of Public Instruction. There were in attendance all of the Principal Chiefs and Sub-chiefs of the first three districts of the Hinterland, as well as those of the districts within the limits of Montserado County. The conference was in daily sessions for almost a month and was the largest gathering of its kind recorded in the history of the Republic. The Chiefs and their attendants number from five to six hundred persons. The Chiefs presented the grievances, complaints were investigated. The Chiefs collaborated with the Government in the formulation of laws and regulations. One of the results of these conferences was the formulation of rules of native laws and customs for the government of the native districts, which were approved by President King on March 29, 1923[53], and published by the Government.[54]

At the same Conference a number of Regulations relating to criminal and civil law were adopted, which may be regarded as representing the views of the Chiefs as to existing customs and the changes to be made therein.

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[53] *Annual Message of the President*, 1923, 21, 22.

[54] *Departmental Regulations, Supplementing and Revisory Existing Regulations Governing the Administration of the Interior of the Republic of Liberia; Including General Circulars One and Two* (Monrovia, August, 1923). Reprinted, January, 1929.

Although, in part at least, superseded by the Regulations of 1936, a reprint may be of interest. The following are excerpts:[55]

Dowry 36. When a woman leaves her husband it is usually because she wants another man. A woman leaving her husband has become a habit in the interior, and is doing a serious damage to the organization of Towns.

(a) It is suggested that the man who estrange the affections of another's wife and wants to refund the dowry should be required to pay the fine of £5. 0. 0. together with the actual amount of money spent on her account by her husband.
The dowry can be ascertained by evidence of the Parents.

(b) Dowry may be returned by the parents or original owner of a woman if it is shown that she is illtreated by her husband.

(c) The parents of a woman in such cases are understood to be not only her actual father and mother, but the oldest brother, sister, uncle, aunt, or the like in the absence of the father or mother.

(d) Parents or original owners of a woman is entitled to the privilege of refunding her dowry in case of the woman being sworn by her husband on some unusual matter.

(e) A woman redeemed for such cause should be purged of the medicine which her husband required her to take in connection with such oaths. The ceremony requires one cow to be given.

WOMAN PALAVA.

37. The amount to be paid for cohabiting with one's wife is fixed at £3. 0. 0.

38. If a man is enticed by a woman however great a flirt she may be known to be, he is nevertheless to be held responsible for the payment of £3. 0. 0. to the husband or to her parents.

SPECIAL CASES.

39. For violation as named below we suggest the payment by the guilty party as follows:

(a) Cohabitation with a young girl without the knowledge of her Parents £12.

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[55] *Ibid.* 1923, 9-11.

[b] Cohabitation during the period of pregnancy £12.

[c] Swearing a woman to estrange her affections from her husband or not to expose your cohabitation with her £12. 0. 0.

40. When dowry is refunded, the husband is entitled to return all unused cloths, cloth, all the domestic utensils and in fact all property of whatever nature acquired singly or jointly while they were united in marriage. The only things she is entitled to are clothes and cloth which she has worn.

ADDITIONAL COMMENTS.

41. Cohabitating with a woman during the period she is nursing her child, however long the period of nursing may be, no connection should be sought with a woman before she is taken to bed by her husband £12. 0. 0.

42. Cohabiting with a girl who has not reach the age of puberty £20. 0. 0.

43. Causing abortion £12. 0. 0.

44. Causing abortion and death ensuing should be a matter to be treated by the Government specially.

New Rules and Regulations were drawn up and submitted to the Legislature at its 1936 session, and, with certain modifications, were approved December 17, 1936 (Acts, 1936, c. 13, p. 26):

Sec. 1. That the Rules and Regulations proposed by the President for the government of the hinterland districts of the Republic as appear in the schedule hereto attached, be and the same is hereby approved.

Sec. 2. That the provisions of the Regulations shall apply, within the organized counties, to such areas as are wholly inhabited by uncivilized natives, in the same manner as if these areas are within the hinterland districts.

Sec. 3. That with a view to promoting more efficient administration the President be and he is hereby authorized from time to time, as may be necessary for this purpose, to modify or enlarge the provisions of the regulations hereby approved, or introduce new regulations. These new regulations shall be submitted to the Legislature annually for their approval, and shall be effective as

law so long as the Legislature do not indicate their disapproval thereof.

Any law to the contrary notwithstanding.

The changes are chiefly in the description of the boundaries of the several Provinces.

The Regulations were promulgated in 1937.

They provide for the designation of the Paramount Chiefs, and other heads of tribal government, native courts, extent of application of general laws of the Republic and native laws, the abolition of forced labor, except on public roads and of compulsory porterage service.

In his Annual Message of 1937[56], President Barclay points out certain defects in the law:

> The results of experiments under these regulations, have in a large measure proven beneficial. There are one or two features, however, to which objections have been taken by the chieftains and which some of the District Commissioners think are impolitic and unworkable The chiefs in most tribal areas seem opposed to the elective principle adopted by the administration as a basis of appointment to leadership of the tribe They feel that by insisting upon this feature of the Government's policy, the traditional governing power of the tribe is being disintegrated. Under this system, they claim, many persons who do not belong to the traditional ruling houses are brought forward, and sometime elected to the chieftaincy, for reasons which do not make for the better government of the tribe. The result is that its internal discipline is destroyed and every individual comes to feel that he has no obligation to obey authority, or undertakes to interpret the decisions and orders of the Government as suits his own purpose.
>
> This, in some sections, is demonstrably true and would be seen in the inability of chiefs to secure labour to work on the public roads or for other purposes where payment is made. In two instances this was graphically brought to my notice. In the Todee Chiefdom, no roads could be built nor could the Government taxes be fully collected for over a period of years. Paramount Chief after Paramount Chief had been deposed and others elected with no change in conditions. I made a visit to this chiefdom with a view to investigating the cause. The results of this investigation clearly demonstrated that these conditions grew out of the fact

[56] *Message of the President*, 1937, 6-9.

that the population felt themselves subject to a particular house to which they had paid allegiance for centuries. One witness said frankly that unless the paramount chieftaincy was restored to that house the Government would find that there would be only perfunctory obedience to its orders, since the majority of the tribe would continue to take up an attitude of passive resistance to the orders of any chief who did not belong to the ruling house.

This fact also emerged from investigations I had in the Rivercess District where a similar condition of passive resistance to Government orders obtained. The people there explained that these unsatisfactory conditions were based fundamentally upon the improper and unsatisfactory organization of the tribal government. . . .

It became necessary, therefore, to investigate the historical origin and the primitive, social and political organization of the tribe inhabiting that territory, in order to discover what was the original basis upon which authority was founded in the tribe. It has always been the purpose of Government to preserve the ancient tribal organization and system insofar as it does not conflict with modern ideas of good government, humanity and the Constitution of the Republic in cases where it is applicable. For this reason I initiated the council by an historical enquiry into the origin of the Bior people now occupying the territory. The discussions arising out of this enquiry were both interesting and informative, for they gave an insight into the primitive tribal government which will enable the central government to administer this tribe in accordance with their traditions and thus avoid violent disturbance of their inherited ideas.

In these two cases I reorganized the tribal administration in accordance with the factual results of the investigations. In the Todee Chiefdom, immediately, after the people had shown me who was their traditional chief, and I had assented to his assuming the functions anciently appertaining to his house, a complete change came over the administration of the chiefdom. . . .

In some tribes, notably on the Kroo Coast, the hereditary principle does not obtain. The chief is elected for life and so long as he gives satisfaction to his people, he is not removed. From these circumstances it can be seen that two distinct methods of dealing with the chieftaincy of a tribe, must be followed. That is to say, no arbitrary rule can be laid down on this question applicable, without distinction, to all tribes, without the risk of un-

fortunate repercussions on the general administration of the country.

The theory underlying the Regulations is that all Paramount Chiefs of all tribes must be *elected*. The idea being to educate the tribe in the method of selecting public officials in accordance with the principles of the Constitution.

In my conversation with some of the chiefs they professed themselves to be perplexed on this question of elections. Many of them think it an unmitigated evil making for the destruction of the moral fibre of the tribe and bringing forward men for public office whose only qualification is either their wealth or their demagogic capacity for misleading and inciting the masses. Article 51, therefore of the Administrative Regulations should be revised in such a manner as to give, for the present, recognition to the hereditary principle in selecting chiefs where such a principle is the tradition of the tribe.

The following extracts from the Regulations will give a general view of the administration of the Hinterland and of the laws there in force. The new Regulations make more precise the duties of the native rulers, always having regard to tribal customary law, but giving greater protection to the native subjects, and gradually putting in operation in the Hinterland the general criminal and civil laws. Native customs regarding family law are preserved.

Rules and Regulations for the Hinterland. Art. 50. It shall be the policy of the Government to administer Tribal affairs by indirect rule thru Tribal Chiefs, who shall govern freely according to tribal customs and traditions so long as these are not contrary to law, regulation or the public interest.

Art. 51 Each tribe shall be governed by a Paramount Chief who shall be elected to that position by the Council of Chiefs hereinafter described, subject to such conditions as the President may prescribe.

Art. 52. For administrative purposes, each tribe shall consist of Clans, according to tribal tradition, each Clan to be ruled by a Clan Chief. No Clan shall consist of less than twenty villages. In the event the number of villages fall below twenty the remaining villages shall be joined to another Clan or Clans.

Art. 53. (1) Clan Chiefs shall be elected by popular vote of the members of the Clan in the manner as prescribed by the Presi-

dent. (2) No person, not a member of a given tribe shall be eligible for election to the office of Clan Chief.

Art. 54. (1) A Paramount Chief is charged, under the direction of the District Commissioner, with supervision over the administration of the affairs in his tribe. He shall be responsible for the enforcement of all laws and regulations within his tribal area and shall carry out all such instruction as he may receive from time to time from the District Commissioner relating to the collection of taxes, the construction of roads and bridges and any other matters affecting the tribal welfare, such as improvements in agriculture, trade and sanitation. He shall accompany the District Commissioner on tours of inspection when required to do so by that official. He shall encourage in every way the prompt and early payment of all taxes by members of the tribe. He shall retain one half of the Hut Tax Collection Commission for his share. He shall be responsible for distributing the other half equally among the Clan Chiefs of the tribe. (2) When duly authorized, a Paramount Chief may establish a tribal treasury. Fines for petty offence shall be paid into the tribal treasury. (3) No expenditures shall be made from the tribal treasury without the majority vote of the tribal authority and the approval of the District Commissioner.

Art. 58. (1) A Town Chief shall be elected by the people residing in the village. No Paramount Chief nor Clan Chief shall have authority to appoint anyone to act as Town Chief. (2) A Town Chief shall be subject to all lawful orders of the Clan Chief and shall not refuse to carry out any such lawful order or orders on pain of fine, imprisonment, or both.

Art. 69. The Criminal Code of the Republic shall apply to all criminal delicts committed within the Hinterland area except where specifically modified by the present enactment.

Art. 70. (1) All cases arising between civilized people shall be tried in the Court of the District Commissioner. (2) All appeals arising from the judgment of the Paramount Chief shall lie in the Court of the District Commissioner.

Art. 71. The Court of the Paramount Chief shall have jurisdiction to hear and decide:

(a) Civil cases arising within a tribe in which the amount or subject matter does not exceed in value $100.00.

(b) Criminal cases subject to a punishment by a fine not to exceed $10.00, or imprisonment for a period not to exceed three months.

(c) Appeals from the Court of the Clan Chief.

All cases arising between strangers and members of the tribe, except they be civilized people, shall be tried by the Paramount Chief, unless he is a party to the case, when it shall be tried in the Court of the District Commissioner.

Art. 72. The Court of the Clan Chief shall have jurisdiction to hear and decide:

(a) Civil cases arising within a Clan in which the amount or subject matter does not exceed in value $25.00

(b) Cases arising within the Clan relating to personal status, marriage and divorce under native law.

(c) Criminal cases subject to a punishment by a fine not exceeding $5.00, or imprisonment for a period not to exceed one month.

No case shall be tried in the Court of the Clan Chief in which the Chief himself is a party. Such cases shall be tried in the Court of the Paramount Chief.

Art. 73. All cases arising between a civilized person and a member of a Clan or tribe shall be tried before a Court composed of the District Commissioner and the Paramount Chief acting jointly: the District Commissioner shall be chairman of the Court.

Art. 74. No sentence of corporal punishment shall be imposed upon any person except in cases of petty larceny. No sentence involving corporal punishment shall be carried out until approved by the District Commissioner.

Art. 75. No woman shall be given to or held by any District Commissioner, Paramount Chief, or Clan Chief as security for any debt, court fee or cost. Any person so engaged in giving or receiving a woman for such purpose shall be punished by imprisonment for a period not exceeding two years.

Art. 80. Marital cases shall be governed by the following regulations:

(1) Where the question of dowry is involved, no man shall be permitted to refund to the husband the dowry paid by such a husband for his wife. All dowries shall be paid only to the parents of the woman or the person standing in the place of the parents. In the exceptional cases where a woman is without parents or relatives standing in *loco parentis*, she shall be considered the ward of the tribal authority.

(2) Should a woman desire to leave her husband, she must go back to the control of her parents who shall be held responsible in a proper case to refund her husband the dowry paid by him for her.

(3) The legal dowry for women shall in no case exceed $50.00.

(4) Should a man estrange the affections of a woman from her husband, the husband shall be entitled to damages in a sum equivalent to $100.00. The payment of this sum shall not entitle the defendant to the possession of the woman. The provisions of this article apply only to the head or principal wife, and only in cases where the husband has not facilitated, connived at, or promoted the act directly or indirectly.

(5) Where illicit intercourse is had by a man with a secondary wife of another, the husband shall be entitled to damages in the sum of $10.00. Where the woman has represented herself as being unmarried and the man has been mislead by such representation, no penalty shall be imposed upon him. Where the husband has promoted, connived at, procured, or facilitated the intercourse no penalty shall be imposed.

(6) No man married in accordance with the Christian rite can legally marry according to native customs while his Christian marriage exists, nor in the event that such a man contracts a union with a pagan woman in accordance with native custom can he recover dowry from the parents should the union be dissolved.

(7) Marriage by native custom is considered a legal union for Mohammedans and Pagans. Should a Christian, while already married by Christian rites or by civil marriage, contract a marriage by native custom he may be prosecuted for bigamy.

(8) An unmarried Christian may contract a legal marriage by native custom. The offspring of such a marriage shall be legitimate. Such a person cannot, while the native marriage exists, contract a legal union with a civilized person.

Art. 81. The Human Leopard Society is declared illegal and the members thereof are liable to punishment by imprisonment for a period not to exceed twenty years, except when they are convicted of murder, in which case they shall suffer capital punishment.

Art. 82. The Negee Society, Shusha, Toyn, Kela, Yama-Yama, and all secret societies of a political nature are declared illegal. The members of any such societies shall be liable to punishment by imprisonment for a period not to exceed twenty years.

Art. 83. The Porron and Sundae Societies, being of a cultural nature, are permitted but none shall be established until after authority has been obtained from the District Commissioner. Any one session of the above societies shall not extend beyond a period of three[57] years.

Art. 94. These regulations shall supersede all others which may be in force at the present time, and shall have full force and effect of law.

The law provides for the representation of the native tribes in the Legislature. Revised Statutes, section 11, provides:

"All tribes complying with the provisions of law contained in Chapter VI[58] shall be represented in the Legislature by their Chief."

Section 1135 provides:

Native Representation—Every tribe paying one hundred dollars per annum in taxes, and desiring to become incorporated as citizens in the body politic shall be entitled to one delegate in the House of Representatives who shall be allowed to discuss all matters before the House affecting Native interests, and vote upon the same. Said taxes shall be paid to the tax collector or collectors, legally authorized to receive the same. On receipt of said taxes, each collector shall issue a receipt in duplicate, one of which shall be deposited with and be retained by the Superintendent of the County. The Superintendent shall certify on the back of the duplicate that the tribe is entitled to a delegate chosen by the tribe. Said certificated receipt shall be presented to the House of Representatives by said delegate, and after his admission thereto, it

[57] Amended to read "four" (Acts, 1936, c 13, p. 26, Schedule).
[58] The reference should be to Chapter XLVI

shall be deposited with the Secretary of the Treasury, and shall be charged against the sub-treasurer of the County from which the delegate comes. If any Superintendent shall grant said certificate without a receipt from the tax collector showing full payment of the said taxes, he shall be liable for the full amount of said taxes, or any deficiency thereof, and the same shall be deducted from his salary. There shall be only one delegate from each tribe.

Aborigines engaged in trade are protected against molestation (Rev. St. sec. 13) and against official misconduct on the part of officials of the Government (Criminal Code, 1914, sec. 129).

The tax contribution of the uncivilized natives is fixed by the Internal Revenue Code (Acts, 1937, c. 25, p. 54). It consists of a hut tax of one dollar per year on each hut (defined as a small habitable domicile of a man, his wife or wives, and minor children). By Executive Order the hut tax may be increased to $2.16. Additional taxes are imposed by section 17 of the Act:

> Sec. 17. With the exception of an annual tax of one dollar ($1.00) as poll tax, and an annual tax of one dollar ($1.00) as school tax, on all male members of uncivilized native tribes residing within the limits of corporate cities, townships and settlements, the uncivilized native inhabitants of the Republic responsible for the payment of the hut tax, prescribed by this Act, shall be wholly free from any other form of taxation, provided, however that any uncivilized native inhabitant, residing in hinterland districts, who may be engaged in mercantile trading operations, shall be required to procure a license for such operations and pay the corresponding fee thereof.

An important piece of legislation regarding the Hinterland is the Act of December 18, 1930. From the earliest times Liberian merchants had established trading posts and factories in the Hinterland, obtaining the necessary sites by agreement with the native chiefs against payment of a rental. Aliens were prohibited from trading in the Hinterland, except through the intermediary of a Liberian commission merchant. This situation was changed by the Act of December 18, 1930 (Acts, 1930-1931, c. 5, p. 10, reprinted in full *supra,* Chap. XXIV, *sub* Alienage) opening trade in the Hinterland to citizens and aliens on equal terms, and providing for short-term leases of building sites out of the public domain.

Legal Position of Women

There is no provision in the Constitution disqualifying women from holding political office, but there is also no provision granting to them any political rights. On the contrary, the right of suffrage is specifically limited to adult male citizens. (Art. I, sec. 11).

Women, otherwise qualified, may be citizens of the Republic.

As male sex or possession of the franchise is not one of the qualifications for election to the office of President, Vice President or membership of either House of the Legislature, women, so far as the Constitution is concerned, are eligible to these offices.

In the field of private law, however, women occupied a position in some respects equal or superior to that of the male members of the community.

During the Colonial Period unmarried women could draw lands in their own right on the same terms as men. Upon marriage the rights to these lands as well as other property were governed by the rules of the common law. The civil existence of a woman upon her marriage became completely merged in that of her husband. The position of a wife is described in the opinion of Justice Johnson in *Pritchard* v. *Parker* (November Term, 1923, unpublished. Extracts are given in the section on Adoption of Commonwealth Laws, in this Chapter). A married woman had no capacity to enter into a contract. If she committed a tort the action was against the husband, who also had the right to sue for damages for torts committed against the wife. The widow had her right of dower, but not as against the creditors of the husband, if he died insolvent.

This situation was greatly improved under the Constitution of 1847. Article V, sec. 10, reads as follows:

> The property of which a woman may be possessed at the time of her marriage, and also that of which she may afterwards become possessed, otherwise than by her husband, shall not be held responsible for his debts; whether contracted before or after marriage. Nor shall the property thus intended to be secured to the woman be alienated otherwise than by her free and voluntary consent, and such alienation may be made by her either by sale, devise or otherwise.

By this section the complete control and disposition of her separate property was given to married women who were thereby placed, as regards their property, in the same legal position as unmarried women. The husband cannot alienate the wife's property, real or personal,

except by the free and voluntary consent of the wife, and such property cannot be held responsible for the husband's debts. Finally, the wife may freely dispose of her property, *inter vivos* or *mortis causa.*

The wife's separate property consists of all property she may have possessed at the time of her marriage and that of which she may afterwards become possessed, otherwise than through her husband.

From the right to sell her separate property, the Supreme Court, in the case of *Dlydon* v. *Lambert,* 1 Lib. L. R. 178 (1884), deduced a right of a married woman to buy property.

The meaning of some of the clauses in the Articles of the Constitution is discussed in *Williams* v. *Allen,* 1 Lib. L. R. 259 (1894), where the Court says:

> In traversing his brief he (counsel for appellees) referred to the Constitution of Liberia, Article V, sec. 10, a part of which reads, "otherwise than by her husband." The term "otherwise than by her husband" involves a fact which requires proof as to whether the property referred to was secured to her by her husband, or not, which proof does not appear to the court. The phrase "free and voluntary consent," also involves facts which require proof as to whether Marshall Allen has had the free and voluntary consent of his wife, previous to her decease, to sell said property after her death, which proof does not appear upon the record in this case.
>
> The last clause for our consideration comprises these words: "And such alienation may be made by her, either by sale, devise or otherwise." Here the word "otherwise" involves a question of fact, which requires proof as to whether Ellenorah J. Allen, at any time before her death, had requested her husband to sell and convey away said lot of land in question, to him, her husband, in support of their children, as in very many cases a faithful wife would do.

The common law rule is that, by reason of the legal unity of the parties, the direct transfer of property from one spouse to the other is inoperative. Such transfers can be effected only by the interposition of a third person. The point is discussed in *Williams* v. *Manson,* 3 Semi-Ann. Ser. 19 (1914), where Chief Justice Dossen says:

> The Constitution declares that, "The property of which a woman may be possessed at the time of her marriage and also that of which she may afterwards become possessed, otherwise than by her husband shall not be held responsible for his debts.

. . ." *vide Const. Lib.* Art. V, sec. 10. It was contended that the words "otherwise than through her husband" in the above cited section implied that property thus acquired by a married woman may be made liable for the debts of her husband. We are of the opinion that this provision of the Constitution is subject to certain limitations and qualifications. We hesitate to lay down the broad principle that the property of a *feme covert* acquired after coverture through her husband, is subject to the payment of his debts under any and every circumstance. Now it is well understood that husband and wife are one in the eye of the law, and, therefore a contract made directly between them, in which property is the subject matter would be void *ab initio* for want of legally distinct parties thereto. But this barrier may be legally overcome by a husband buying or otherwise procuring property in the name of a third party, who becomes the medium through which the title may ultimately vest in the wife; and, it would seem that if such a transaction were unattended by fraud or the intent to defraud, and if the husband was at the time under no legal disability to contract; and if the transaction were allowed to pass unchallenged through probation and registration the wife would have acquired an absolute right and title in the subject matter which could not subsequently be assailed by the creditors of the husband. Again, let us suppose that the fee of the wife in property acquired under such conditions had run uninterruptedly for twenty-one years: we hold that a perfect and complete title therein would have vested in her by the doctrine of limitations which would be unassailable and to which that clause of the Constitution relied upon by the lower court and urged before this court by counsel for appellee, would be inapplicable.

In the case *Bingham* v. *Oliver* determined by this court in 1870 this court enunciated principles analogous with the foregoing premises with respect to the liability of the property of married women (*vide Lib. Law Reports*, pp. 47-50).

In an older marked case, *Bingham* v. *Oliver*, 1 Lib. L. R. 47 (1870), the Supreme Court held, that a married woman cannot join with her husband in a deed conveying his property.

If a wife join with her husband in a deed her separate estate, as well as her husband's, will become liable for the warranty, because deeds and other writings are evidence against all parties to them. Therefore a wife may not join in a deed with her husband,

since the letter and spirit of the Constitution is to keep their property separate and distinct, so far as the rights of the wife are concerned.

The widow retains her common law right of dower to one-third of her husband's real estate of which he died seized as a life estate and takes absolutely one-third of his personal estate. These rights are protected by Article V, sec. 11 of the Constitution, even in case of insolvency:

> In all cases in which estates are insolvent, the widow shall be entitled to one third of the real estate during her natural life, and to one third of the personal estate, which she shall hold in her own right subject to alienation by her by devise or otherwise.

On the other hand, it was held that the surviving husband no longer has a tenancy by the courtesy of England. *Pritchard* v. *Parker*, November Term, 1923, unpublished. *Contra, Brown* v. *Payne*, 1 Lib. L. R. 9 (1861).

Neither spouse takes by descent in case of intestacy (now Rev. St. sec. 1303). Homestead exemptions "continue as long as any of the heirs of the family shall occupy such homestead." (Rev. St. secs. 1095-1098).

A Liberian woman marrying an alien and thereby acquiring his nationality does not lose her title to property which she may have acquired either before or after marriage. (*Williams* v. *Young*. 1 Lib. L. R. 293 (1896); *Barclay* v. *Brown*, Decision February 17, 1932, unpublished, Judgment Book, p. 614.)

To enjoy the constitutional privileges marriage must not only be presumed, but proof must be put in evidence to entitle her thereto. *Wright* v. *Wright*, unpublished opinion 1935-1936, 138 (1936).

A sweeping change in the legal position of married women is made by the Married Woman Disability Removal Act of January 28, 1943 (Acts, 1942-1943, c. 14, p. 14). This Act is similar to the corresponding American and English acts. While it deals primarily with the married woman trader, the language of section 2 appears broad enough to make it applicable to all married women. On account of its importance it is reprinted in full.

> Whereas under existing laws no action may be brought against a married woman except by and in the name of her husband: and
>
> Whereas married women engaged in business on their own account are liable to great loss and embarrassment in the prose-

cution of their affairs and in the protection of their interest because of such disability; and

Whereas it seems desirable that such disability be removed,

It is enacted, etc.:

Section 1. This Act shall be entitled "The Married Woman Disability Removal Act."

Section 2. Any married woman who in her own name shall engage in any business or enterprise may for the purpose of such business or enterprise be considered a *femme sole* and as such without the intervention of her husband, may make and execute contracts, sue and be sued and do all such things as may be incident and necessary to the prosecution and the protection of her business interests, and shall be privileged or free to enjoy all the other civil rights granted by law to citizens of this Republic not in conflict with the Constitution of Liberia.

Section 3. For all debts which a woman so conducting a business as a *femme sole* or for the violation by her of any contract for which an action may be brought against her, her husband shall in no wise be responsible, nor for any claims in connection therewith shall he in any wise be chargeable but such claims shall be chargeable against her business assets and her individual property.

Section 4. Any married woman engaged in business for her own account in her own or under a business name shall give public notice of the fact of her coverture in order that third parties may not be affected in any wise by not being advised of this fact.

Any law to the contrary notwithstanding.

If our interpretation of the Act of 1943 is correct married women have obtained full capacity to contract, not alone in respect of their separate property, but generally, with constitutional protection of their separate property over which they may freely dispose, free of the surviving husband's right of tenancy by courtesy. The widow has a constitutional right to take absolutely one-third of the husband's personal estate, and a life estate in one-third of the real estate of which the husband may die possessed, even in case the husband dies insolvent. The husband remains liable for the torts committed by the wife, and can recover for torts committed against the wife either be-

fore or after marriage. The husband has no right to a portion of the estate of his deceased wife, nor a right to inherit in case of her intestacy.

Social Legislation

We must mention some laws whose constitutionality has not been tested in the courts but which contains some provisions which a generation ago would have been open to attack, chiefly as violative of the "due process of law" clause of the Declaration of Rights, and giving to administrative boards and courts the right to determine certain questions to the exclusion of the Judiciary. These laws typify the universal trend towards governmental control over private business and the relation of employer and employe, and follow the broad lines of similar legislation in the United States and England, adopting the rules framed for highly industrialized states to the needs of a purely agricultural community.

The first of the Legislative Acts is that of January 9, 1942 (Acts, 1941-1942, c. 6, p. 5, amended by Acts, 1942-1943, c. 30, p. 31) authorizing the President to establish a National Economy Committee, to be composed of three or more persons, one of whom shall be a representative of the Government, another a representative of the trading unity, and a third a representative of the consumer class. The Act provides, *inter alia*:

> Section 3. It shall be the duty of the National Economy Committee to take all appropriate measures to prevent profiteering by corporations, firms, traders, and pedlars as well as to control by the enforcement of regulations which shall be made and published by the Committee from time to time, fixing the maximum prices at which food products and other commodities of both domestic and foreign origin may legitimately be sold.
>
> Section 4. Profiteering in this Act shall be understood as receiving or demanding a price for a commodity higher than that fixed by the National Economy Committee.
>
> Section 6. (As amended by Acts, 1942-1943, c. 30, p. 31). The Committee shall have the power to compel the production by importers of invoices of goods imported; and, after inspecting said invoices and checking them with official reports furnished by Consular officials of the Republic, and information gathered from other sources, the Committee shall be authorized to fix the maximum price and profit that may be assessed on any given article

sold in Liberia during the present European conflict. Sale of goods above the regulated price shall be deemed profiteering and shall be punishable by the seizure of the entire stock of the article out of which such sale in excess of the regulated price may have been made. Said stock shall be confiscated to the Government of Liberia, and the trading license of the corporation, firm, or trader against whom a decision is made for profiteering shall be suspended for a period to be fixed by the Committee or such license shall be definitely cancelled if in the opinion of the Committee the facts justify such cancellation, and the Bureau of Revenues shall be accordingly notified.

All decisions of the National Economy Committee shall be made by majority vote of the Committee, and such majority vote shall be considered the decision of the Committee. The Committee shall have power to impose fines not exceding $2,000.00 or to imprison the delinquent for a period not exceeding 30 days or may impose both a fine and imprisonment in any one case for the violation of any law or any regulation published from time to time by the Committee by virtue of Section 3 of the Act above mentioned.

Section 7. Should the Committee have information with respect to any corporation, firm, trader or pedlar hoarding any of the commodities of both domestic and foreign origin, the Committee, upon investigation find the truthfulness of the report, they shall have the right to order the warehouses concerned opened for inspection, and should the charge be proven to be true the Committee may give a judgment of seizure of the entire stock of the article or articles hoarded, and in addition take such further action as is provided for in Section 6 of this Act.

Section 9. Should the Committee have information with respect to any violation of the regulations promulgated by them, the corporation, firm, trader or pedlar concerned shall be summoned before them for a hearing on charges within the purview of this Act, copy of which shall be furnished the respondent by the Committee. Should the charge be proven, the committee may give a judgment of seizure of the entire stock of the article and may in addition take such further action as is provided for in Section 6, of this Act.

Section 10. A summons issued by the Committee within the purview of this Act shall have the same force and effect as if it

was issued by a Judicial Court, and anyone disregarding or refusing to comply with the terms of such summons shall be liable to a fine not exceeding $500.00 to be imposed by the Committee.

Section 11. (As amended Acts 1942-1943, c. 30, p. 31). An appeal may be taken from any decision of the National Economy Committee to a Board of Review appointed by the President from time to time, as may be required; and shall be composed of not more than three persons whose decision on the matter under review shall be final. Any two members of the Board of Review shall constitute a quorum the decision in any matter shall be valid. In the event of illness, resignation or death of any one member and pending the appointment of a new member to fill the vacancy, the decision of the other two members shall be valid. If these two members do not concur on any matter before the Board, then the defendant shall be discharged from responsibility.

Under Section 3 of the Act of February 8, 1943, "any person giving information leading to a conviction under the provisions of this Act shall be entitled to and shall receive a reward of one-fourth (¼) the amount recovered."

The second of these Acts is the Workman's Compensation and Protection Act of January 29, 1943 (Acts, 1942-1943, c. 17, p. 16; also separately printed, with the Proclamation of the President and the Administrative Rules and Regulations of May 10, 1943.) The Act was proclaimed effective as of May 15, 1943. The Act applies to all skilled and unskilled workers, including agricultural laborers, office and hospital workers, nurses, and domestic servants, employed at a daily, weekly or monthly wage. It fixes the minimum wage, hours of labor, provides for hospitalization and compensation for injuries sustained in the course of employment, prohibits strikes, restricts employment of alien workers, provides for a Labor Registry, Labor Courts and Labor Agents. The Act makes punishable any physical violence to any employe. Novel is the provision against the use against a Liberian worker of abusive language "having reflectory racial basis" by a foreign employer, nor shall such abusive language "having reflectory racial basis" be uttered against any foreigner or his agents by a Liberian employer or employe, under a maximum penalty of one thousand dollars, and, in cases of foreigners, to immediate deportation of the delinquent.

By reason of its importance the text of the Act is reproduced in full:

AN ACT FIXING MINIMUM WAGE FOR WORKMEN AND PROTECTING THE INTEREST OF THE WORKING CLASSES.

Whereas there exists no laws by which the rights of working men and women are defined and protected; and

Whereas the basis upon which the relation between employee and employer should subsist should be fixed by law and the exploitation of working men and women be legally controlled; and

Whereas social security and economic justice demand that the wages of working men and women should bear a just relation to the cost of living;

Therefore it is enacted etc.,

Section 1. This Act shall be cited as the Workman's Compensation and Protection Act.

Section 2. [a] The term workman in this Act shall be taken to include agricultural labourers, skilled mechanics, chauffeurs, clerks, stenographers, bookkeepers, and other office workers, hospital workers and nurses, and all other classes of workers not specifically enumerated herein who are or may be employed at a daily, weekly, or monthly wage.

[b] The phrase "time and a half" shall mean one and one-half times the fixed wage.

[c] "Casual Labour" shall mean unskilled labour employed for a period less than a working day as defined in this Act.

[d] Skilled workman shall mean any person engaged in any skill trade or craft who having completed his training shall possess a certificate from his master or diploma from a technical institution certifying his qualification.

Section 3. The provisions of this Act shall not apply to Government employees whose compensation is fixed by law and provided for by Budgetary appropriation.

Section 4. All workmen coming within the definition of this Act shall be entitled to and shall receive the following per diem rates of pay during the period of their employment.

[a] Unskilled workmen, domestic servants and agricultural labourers shall be entitled to and shall receive a minimum wage of three cents per hour for each day of eight hours

with time and a half for overtime; that is to say, for each hour over eight hours they shall be entitled to and shall receive four and one-half cents per hour.

[b] Each skilled mechanic or chauffeur shall be entitled to and shall receive a minimum wage of ten cents per hour for a day of eight hours with time and a half for overtime; that is to say, fifteen cents for each hour over and above eight hours per diem.

[c] Stenographers, and bookkeepers shall be entitled to and shall receive a minimum wage of twenty cents per hour for a day of eight hours with time and a half for each hour over eight hours; that is to say, for every hour over eight hours they shall be entitled to and shall receive thirty cents per hour.

[d] Writing clerks, other office workers and other workers not specifically enumerated herein shall be entitled to and shall receive a minimum wage of sixteen cents per hour for a day of eight hours with time and a half for every hour over eight hours; that is to say, for every hour over eight hours they shall be entitled to and shall receive twenty-four cents per hour.

Section 5. The legal working day shall consist of eight hours and the employer shall pay a full day's wage to each workman, whether or not the office of business or job is open or lasts eight hours per diem, except for casual labour or in case a workman is dismissed for inefficiency, lack of qualification or unfitness for his job.

Section 6. No workman shall be compelled to labour for any period exceeding eight hours per diem or a total of forty-eight hours per week without being entitled to and receiving overtime pay as provided in section 4 hereof.

Section 7. No workman shall be dismissed from his job except upon one week's notice or two weeks' pay in lieu of notice. Should a workman be dismissed for inefficiency and lack of qualification, he shall receive in payment for his services only such compensation as he would be entitled to for the period of his employment.

Section 8. It shall be unlawful to dismiss a group or groups of workmen for any act the commission of which cannot be traced to a definite individual.

Section 9. No physical violence or attack shall be done to or committed on any one coming within the definition of this Act, nor shall any abusive language having reflectory racial basis be uttered against or directed to any Liberian worker in the employ of a foreign employer by such employer or his agents, nor shall any such language having reflectory racial basis be uttered against or directed to any foreigner or his agents by a Liberian employer or employee, under penalty not to exceed one thousand dollars to be imposed and collected from the offender by the labour court hereinafter authorized; and the court may in addition, in case of a foreigner recommend to the Secretary of the Interior the immediate deportation from the Republic of the delinquent.

Section 10. [a] No foreign workman within the definition of this Act, shall be employed in any of the callings contemplated under this Act except in administrative, supervisory or technical capacities, unless there be not a sufficient number of Liberians capable of supplying the labour needs of the employer. In the event an employer reports that he can find no Liberian worker capable of doing a specific job, which representation shall be made to the Interior Department, the Secretary of the Interior or his subordinate appointed for this purpose, shall grant a special permit setting forth this fact and according to the employer the right to engage the services of a foreign person or persons to be named in the permit, and designating the class of work he or she will be required to perform.

(b) No workman not a Liberian citizen shall be employed at rates not identical with wages paid Liberian citizens in similar positions, the question of competency and length of services being always taken into account.

Section 11. It shall be illegal for any group of workmen to strike or to promote a strike prior to their having laid their grievances before the labour court and a judgment thereon having been rendered. Should an employer after such judgment, neglect or refuse to comply therewith, then the workers shall have a right to strike.

Section 12. It shall be illegal for any employer to dismiss any workman from his employment because of his participation in a strike conducted in accordance with the provisions of section 11 hereof.

Section 13. The Department of Interior and its labour agencies shall keep a register of all Liberians qualified in all types of work. From this register employers shall be required to make their selection, except in respect of agricultural and unskilled labourers. No alien shall be employed in any of these capacities unless and until the list has been exhausted or no qualified person on the register can be found capable of performing the requisite duty, in which case the provision of section 10 [a] shall apply.

Section 14. (a) Each employer shall be responsible for the cost of hospitalization of any workman in his employ whose health may be affected by virtue of his employment or who may be injured in the course of his employment.

(b) Any workman suffering in the course of his employment from any permanent injury (not attributable to his own negligence and carelessness) which wholly incapacitates him from further work, shall be compensated by his employer in a sum equivalent to the aggregate pay he would receive for a period of three years at the rate of pay he was receiving at the time of his injury or accident. Proportionate compensation shall be paid for minor injuries which incapacitate the workman for a longer or shorter period.

Section 15. The employer of a workman who leaves his employment without or before receiving the accumulative wages owing to him shall be obliged to hold such wages for a period of six months to the credit of said workman. Should such workman or his accredited representative not apply for such accumulative wages within the period specified herein, such wages shall revert to the Government of Liberia and shall be made payable to the Secretary of the Treasury through the Labour Commissioner upon the verified payroll of the employer. The aggregate sum so paid shall be held by the Treasury as a special fund to be specifically applied annually to such educational purposes in the hinterland area of the Republic as may be designated by the Secretary of Public Instruction, through whom they shall be applied to such purposes.

Section 16. The minimum wage rates fixed in Section 4 hereof shall be increased from time to time in proportion to increases in the average price level for commodities as of January 1, 1943. Such increased minimum wages may be reduced at any time in proportion to the fall of the average price level, but shall never be reduced below the minimum rates fixed in Section 4 of this Act.

Section 17. The President of Liberia be, and is hereby authorized to draw up and caused to be drawn up and issued from time to time such rules and regulations as may in his discretion be deemed requisite for the proper and efficient operation and carrying out of the provision of this Act These rules and regulations shall have full force of law subject to the provisions governing Executive Orders.

Section 18. For the purpose of implementing the provisions of this Act, a Labour Court to be presided over by a Labour Commissioner, shall be set up in the Interior Department and in each County and District of the Republic, which shall have jurisdiction over labour disputes to which any employer, workman or employee, except Government employees, shall have recourse for the adjudication of all labour complaints arising under this Act. Appeals from the judgment of such Labour Court shall be reviewed by the Circuit Court of the appropriate Judicial Circuit. Such appeals shall be heard in a summary manner on the record of the Labour Court, and the decision of such Circuit Court shall be final. Rules governing the procedure of such Labour Court shall be drawn up by the Attorney General and enforced by Executive Order of the President.

Section 19. There shall be appointed in the several Counties and Districts of the Republic as and when required, officers to be styled: "Labour Agents" who shall supervise the administration of this Act under the direction and authority of the Secretary of the Interior.

Section 20. That each Labour Commissioner authorized by this Act shall receive a salary of six hundred dollars ($600.00) annually, and Labor Agents the sum of four hundred dollars ($400.00) annually.

Section 21. The Commission of any act prohibited in this law shall be an offence; and when no penalty is specifically prescribed shall be punished by a fine not exceeding five thousand dollars

($5,000.00) or by imprisonment not to exceed (5) five months, or by both fine and imprisonment in the discretion of the Court.

Section 22. This Act shall go into effect on the First day of February A. D. 1943.

Any law or parts of law to the contrary notwithstanding.

Approved January 29, 1943.

The Rules and Regulations of May 10, 1943, provide, *inter alia,* for the powers of and procedure in the Labor Courts. Proceedings are summary, and an appeal lies to the Circuit Court. The general rules prescribed in the Code of Justices of the Peace govern. Disregard of the judgment of the Labor Court is punishable as a contempt of court.

[14] Biographical Note—Edward James Roye was born at Newark, Licking County, Ohio, on February 3, 1815. He prepared for college in the local High School, and was an under-graduate in the University of Athens, Ohio. After spending some years in mercantile pursuits, he embarked in New York for Liberia, May 2, arriving there, June 7, 1846. He soon commenced business as a merchant, and, in a few years, became one of the richest men in Liberia. He early engaged in politics, and, in 1849, was elected Speaker of the House of Representatives. In August, 1854, he began the publication of the *Liberia Sentinel,* which, however, appears to have suspended publication in the following year. Roye served as Chief Justice, 1865-1868. Elected President of the Republic, he served from January 1, 1870, until deposed October 26, 1871. The exact date of Roye's death is unknown It was probably about February 12, 1872. See *African Repository,* XLVIII, 220.

APPENDIX OF LAWS

I

LAWS OF THE COLONY OF LIBERIA

1820 - 1838

Prefatory Note

Part I of the Appendix contains all of the printed compilations of the laws of the Colony of Liberia, except a compilation of local enactments authorized in 1836, and published in Liberia. A copy was in the possession of Dr. Alexander, author of History of the African Colonization. This copy appears to be lost, and no other copy has been traced.

The Code of 1828 was never published. The text here reprinted is that of an original manuscript in the Papers of the American Colonization Society in the Manuscripts Division of the Library of Congress.

The reprints of the two compilations are reproductions of the original official texts, exact in word, spelling, capitalization and punctuation of the originals, with indication of the original pagination.

CONSTITUTION,

GOVERNMENT

AND DIGEST

OF THE

LAWS OF LIBERIA,

AS CONFIRMED AND ESTABLISHED BY THE BOARD OF MANGERS

OF THE

AMERICAN COLONIZATION SOCIETY,

MAY 23, 1825.

Washington City:

PRINTED BY WAY & GIDEON.

. . . . . .

1825.

Office of the American Colonization Society,
Washington, May 18th, 1825

At a special meeting of the Board of Managers of the American Colonization Society, the digest of the laws, and the plan of civil government for Liberia, as adopted by the Agents of this Society, having been read and considered, it was, on motion

Resolved, That the Board of Managers, considering the satisfactory information afforded by recent accounts from the colony, of the successful operation of the plan for the civil government thereof, as established by their Agents in August last, and seeing therein reason to reconsider their instructions to the Agent of the 29th of December, 1824, now approve of the principles in that form of government, and give their sanction to the same.

Resolved, That the digest of the laws, be referred to a committee to examine the same, and compare them with the Constitution and laws of 1820, and report to the next stated meeting.

Office of the American Colonization Society,
Washington, May 23d, 1825.

At a meeting of the Board of Managers this day, the committee appointed at the last meeting, presented the following resolutions which were adopted·

Resolved, That the Board having considered the digest of the laws, now in force in the colony of Liberia, dated August 19th, 1824, as prepared by the Agent, do approve the same, and declare the same to be under the Constitution, the law of the colony, adding thereto the following: In case of failure to find recognizances for good behaviour, when required, the person so failing shall be subjected to such labour on the public works, or other penalty as the Agent shall prescribe, until he shall find recognizance, or the object for which it was required of him shall have been answered.

In all cases of banishment, where the banished person has no heirs in the colony, the land held by him shall revert to the colony.

Resolved, That this declaration of the law of the colony, shall not be construed to annul or impair any regulations which the Agent, under his constitutional authority, may have seen fit to establish subsequent to the above date of August 19th, 1824.

Resolved, That the resident Agent cause to be printed two thousand copies of the Constitution, government, and laws of the colony of Liberia, as established by this Board at Washington, 23d May, 1825.

JAMES LAURIE, *Acting President.*

R. R. GURLEY, *Resident Agent.*

[Blank page in original here omitted.—Ed.]

CONSTITUTION

FOR THE

GOVERNMENT OF THE AFRICAN COLONY AT LIBERIA.

ARTICLE I.

ALL persons born within the limits of the territory held by the American Colonization Society, in Liberia, in Africa, or removing there to reside, shall be free, and entitled to all such rights and privileges, as are enjoyed by the citizens of the United States

ARTICLE II.

The Colonization Society shall, from time to time, make such rules as they may think fit for the government of the Settlement, until they shall withdraw their agents, and leave the settlers to the government of themselves

ARTICLE III.

The Society's Agents shall compose a board, to determine all questions relative to the government of the Settlement, shall decide all disputes between individuals, and shall exercise all judicial powers, except such as they shall delegate to justices of the peace.

ARTICLE IV.

The Agents shall appoint all officers not appointed by the managers, necessary for the good order and government of the Settlement.

ARTICLE V.

There shall be no slavery in the Settlement.

ARTICLE VI.

The common law, as in force and modified in the United States, and applicable to the situation of the people, shall be in force in the Settlement.

ARTICLE VII.

Every settler coming to the age of 21 years, and those now of age, shall take an oath or affirmation, to support this Constitution.

ARTICLE VIII.

In cases of necessity, where no rule has been made by the Board of Managers, the agents are authorized to make the necessary rules and regulations, of which they shall, by the first opportunity, inform the Board, for their approbation; and they shall continue in force, until the Board shall send out their decision upon them.

[6]

ARTICLE IX.

This Constitution is not to interfere with the jurisdiction, rights, and claims of the agents of the United States, over the captured Africans and others, under their care and control, so long as they shall reside within the limits of the Settlement.

ARTICLE X.

No alteration shall be made in this Constitution, except by an unanimous consent of all present at a regular meeting of the Board of Managers, or by a vote of two-thirds of the members present at two successive meetings of the Board of Managers.

PLAN FOR THE CIVIL GOVERNMENT OF

LIBERIA.

The necessity of a mild, just, and efficient government for the preservation of individual and political rights among any people, and for the advancement of true prosperity, induces the Agents of the American Colonization Society most seriously to consider, and immediately to adopt a system for the better regulation, in this colony, of public affairs.

I. The Agent of the Colonization Society, possesses in this settlement sovereign power, subject only to the decisions of the Board.

II. *The Vice Agency.*

Three individuals shall be annually nominated by the colonists for the Vice Agency, one of whom shall be appointed by the Agent, unless special reasons forbid such appointment.

III. *Duties of the Vice Agency.*

The Vice Agent shall be admitted to the councils of the Agent in all important matters, and shall express an opinion on all questions submitted to his consideration. He shall aid the Agent in the discharge of his various duties, and in the defence and execution of the laws. In case of the absence or sickness of the Agent, the Vice Agent shall become the general superintendant of public affairs The colonists shall be permitted to nominate individuals annually for this office, yet an appointment to it, may at any time be revoked by the Agent.

IV. The Vice Agent with two other persons, nominated by the colonists, and (if approved,) appointed by the Agent, shall constitute

[7]

a council who shall meet when requested by the Agent, to deliberate on measures to be adopted for the prosperity of the colony. The Vice Agent shall consult the other members of the council on the general interests of the settlement, and make a report to the Agent whenever he may believe the common good to require it. The appointment of this council shall be annual.

V The Judiciary shall consist of the Agent and two Justices of the Peace, created by his appointment. The Justices shall have cognizance of all cases affecting the peace, and criminal cases within the definition of petit larceny; and all actions of debt not exceeding twenty dollars. In the Court of monthly sessions the Agent shall preside, and the Justices be his associates. The Court of monthly sessions shall have original jurisdiction in all actions of debt where the amount in litigation shall exceed twenty dollars, and in criminal causes above the degree of petit larceny, and shall have appellate jurisdiction in all cases whatsoever.

Two Constables shall be annually appointed by the Agent, whose duty it shall be to execute all processes, and levy distresses pursuant to writs issued by the Justices, and the Court of monthly sessions, and to aid in preserving the public peace.

The Clerk of the Court of monthly sessions, shall be appointed annually by the Court.

The following committees, the military committee excepted, shall be appointed by the Agent, in pursuance of a vote of a majority of the freeholders annually, whose election may be set aside or confirmed by the Agent, as in the case of counsellors.

I. The Committee of Agriculture, to consist of two persons, who are to report and serve as the organ of the government on all subjects relating to the agriculture of the colony.

II. The Committee of Public Works, to consist of three persons, who are to report and serve as the organ of the government on all subjects relating to buildings and fortifications. It shall be the especial duty of the members of this committee, to superintend in rotation the execution of the public works, by the labouring force employed by the government.

III. The Committee of the Colonial Militia, to consist of all the commissioned officers of the colonial militia; who are to report and serve as the organ of the government on all subjects relating to the militia of the colony. Each committee shall appoint a chairman, who shall communicate for them with the government and people.

[8]

IV. There shall be a committee of health, who shall be ready at all times to report to the government on all subjects relating to the health of the colony.

These committees are to become familiar with all the subects relating to their appointment, and be ready at all times to meet, consult, and report thereon, when required to do so by the Agent.

Each committee shall record all important observations and facts relating to the subjects they investigate for the future use of the colony.

V. The militia of the colony shall be organized into one corps, which shall act as Infantry, and as Artillery. This corps shall be officered by one Captain and two Lieutenants, elected by the men, but confirmed in their appointments, and commissioned by the Agent. The officers in committee shall appoint all the non-commissioned officers subject to the approbation of the Agent.

The officers directly attached to the Agency, and to be appointed by him without nomination by the people are:

1st. A store keeper, who, when not on rations, shall receive a small compensation for his services.

2d. A Commissary of Ordinance, who, when not on rations, shall receive some compensation.

3d. A Colonial Secretary, who shall likewise receive a small compensation.

4th. A Librarian, who shall preserve with care the Colonial Library, and attend to the delivery of books at houses fixed upon by the Agent.

5th. A guard of twelve privates, two corporals, and one Sergeant commandant. This guard shall be raised, appointed, officered by, and subjected to, the entire and direct control of the American Colonization Society, and their Agent. They shall, except in case of war, or manifest danger, perform all the military service of the colony. The settlers being thus delivered from this heavy burden, are expected, and will be required to devote themselves with becoming zeal to the great and paramount objects of public and private industry.

6th. A Superintendant of captured Africans.

7th. Instructors in the public schools.

8th. An Auctioneer.

9th Crier of the Court.

DIGEST OF THE LAWS

NOW IN FORCE IN THE

COLONY OF LIBERIA,

AUGUST 19th, 1824.

1st. Sedition, mutiny, insubordination, or disobedience to the lawful authorities, are high misdemeanors, and punishable either by the Justice, Court of Sessions, or prerogative of the Agent, as the case may be.

2d. Quarrelling, riot, drunkenness, Sabbath-breaking, profaneness and lewdness, are infractions of the public peace, and punishable by sentence of Justices, or of the Court of Sessions, with fine, imprisonment, standing in the stocks or whipping.

3d. Persons having violated the peace, or committed the misdemeanors specified in section first, on being discharged from custody, must find recognizances for their good behaviour.

4th. Simple theft, in which the property stolen shall be less than five shillings, is petit larceny, and shall always be punished in pursuance of sentence of Justices, or Court of Sessions, by a fine of fourfold the value of the property stolen, and the culprit to find recognizances in twenty times the amount.

5th. Grand larceny and all felonies punishable in pursuance of judicial sentence, with whipping and imprisonment, either in irons or not, or by a term of labour in chains on the public works. In case of failure to find recognizances for good behaviour, when required, the person so failing shall be subjected to such labour on the public works, or other penalty as the Agent shall prescribe, until he shall find recognizance, or the object for which it was required of him shall have been answered.

6th. Every able bodied male person receiving rations, is to labour for the public, under the superintendance of the commissioner for public works, two days in each week. Every person is to be considered in good health, who shall refuse to report himself and afford satisfaction of his inability to labour, to the committee of health.

7th. Every able bodied person as aforesaid, or person not reporting his indisposition as aforesaid, neglecting to labour on public works, or negligently attending to his own domestic labours, during the four days

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of each week alowed him, shall, on the representation of the committee of public works, be immediately, together with his family, put on his own resources.

8th. No person forfeiting his rations, shall have them restored in less than one month.

9th. Persons obstinately refusing to acquiesce in the express decisions of the Board of Managers, shall, on conviction thereof by a court of justice, forfeit all their real estate in the Colony, and be compelled to leave it.

10th. Persons trespassing on appropriated lands by cutting or removing timber, or other property, are liable to exemplary damages.

11th. No person is to reside on the lands of the Colony, without permission of the Society or their Agent.

12th. Expulsion from the Colony may take place on conviction for offences directly affecting the peace, and good government of the same; and when ordered by the Society in punishment of any misdemeanors in their judgment deserving that penalty. The property of exiles to pass to his next heirs resident in the Colony. In all cases of banishment, where the banished person has no heirs in the Colony, the land held by him shall revert to the Colony.

13th. The party in any judicial trial, is entitled, if he desire it, to trial by jury.

14th. The common law, and usages of the courts of Great Britain and the United States, to regulate all judicial proceedings.

15th. All persons are permitted to dispose of property by will. The estate of intestates to be committed with letters of administration to administrators appointed by the Agent.

16th. In all lands appropriated to settlers, every third lot, when practicable, shall be reserved for public uses.

17th. No person shall own lands who does not reside in the Colony, and cultivate at least two acres, or carry on with consent of the Agent some mechanical trade, and build a substantial house on his town lot.

18th. A substantial house, to answer the requisition of the preceding section, must be, 1st. of sufficient extent to accommodate the family.

2d. Built of stone, brick or pise, or of frame or logs weather boarded, and covered with tile or brick.

19th. All settlers on their arrival, shall draw town lots and plantations, for which the agent is to give them a certificate specifying their number, and the time of drawing. If within two years from that date, two acres of land on the plantation shall have been brought under cul-

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tivation, the town lot cleared and enclosed, and a legal house built, the said certificates may be exchanged for a title deed of such lands, to be held thereafter in fee simple.

20th. All town lots are to be enclosed by the proprietors with a good fence—any person neglecting to make such a fence, shall be answerable to his next neighbour for all damages he may sustain from the neglect, by application to the Committee of Agriculture, who shall proceed as directed in the laws of the 13th August, 1823. (See Journal under date of November 24th, 1824.)

21st. Persons holding town lots or plantations, are to keep the streets contiguous thereto, clear of weeds and brush to the centre, and cultivate any trees which may be planted thereon. Neglects in these cases are to fall under cognizance of the Committee of Agriculture, who are to proceed as in the law referred to in the preceding section.

22d. Every married man, besides a town lot, shall have for himself five acres of plantation land, two for his wife, and one for each child, if they are with him: *Provided,* that no single family shall have in all, more than ten acres.

23d. No Colonist shall deal with the natives of the Country for lands.

25th. Nothing but articles of necessity are to be given or expected in the rations issued from the public stores.

25th. Missionaries are permitted to reside, coming out with the approbation of the Society, so long as they devote themselves to their sacred functions.

ERRATA.—Page 8, 14th line from the bottom, for "Houses," read HOURS.

CODE OF LAWS

AT LIBERIA

(1828)

This is a collection of manuscript material to be found in the Papers of the American Colonization Society in the Library of Congress. It contains Laws and Treaties from 1820 to 1828.—Ed.

Ordinance No. XVII

An Ordinance for Publishing the Colonial Laws, etc., Biennially.
October 25, 1827.

Obligation of the Executive Government to revise and publish the Laws biennially.
Reasons for the particular form adopted.

Be it ordained by the Agent in Council,

That the present Executive Government of this Colony recognize and assume the obligation at the commencement of every second civil year to compile and publish, for the use of its members, a Biennial Digest and Record of all the statutory Ordinances, Decisions of Court and special authoritative usages, having at the time of publication, or at any time within the last preceding two years, the general application and force of law in the Colony, and that the recognition of the same obligation be strongly recommended as a measure of great utility to the Executive Government of the Colony in perpetual succession, and that in order to secure to the Colony all the advantages contemplated in the said Digest and publication and give to it the requisite uniformity and perspicuity, it be compiled according to the following forms and principles of arrangement, to wit:

Names of the compilation.

1. The volume or volumes containing the Digest shall be entitled "Liberia Code" and be further distinguished in the title page as the "First, Second and Biennial Digest and Record of the Colony".

Code of entering the articles of the Digest and of recording.
Acts in the compilation.

2. In these volumes, and on the left hand pages only, of the requisite number of folios, shall be engrossed at length in red ink, all the statutory Ordinances, and Executive Edicts of the Government which shall have been enacted and issued during the last preceding biennial term and on the same pages shall also be engrossed in the same manner, a Digest framed in concise and explicit language of all the other statutory laws, decisions of Court and authoritative usages of the

Colony, which shall have, or at any time within the last biennial term shall have had the force of law.

Articles of the Digest to be numbered. Ordinances to be numbered.

Original numbers to the articles.

3. The heads of which the Digest shall consist shall, for the convenience of reference, be numbered, as shall also the Ordinances and Edicts of the Record, and whenever an article in either the Digest or Record shall have been repealed, superseded, or have become obsolete, within the last preceding biennial term, the same shall be indicated in a note immediately following the article and written in black ink; and reference made in the same to the annulling act, circumstance, or other cause. In every subsequent Digest the numbers originally prefixed to the several articles shall continue to attach to the same without regarding the chasms which an adherence to this rule, shall, in time produce in the numerical series.

Expository notes to be entered on the right hand pages of the folios. Matter of the notes.

4. On the right hand pages of the folios containing the laws, etc. aforestated, and opposite to the same, shall be entered in black ink, a series of expository notes consisting of first, an exposition of the cause and reasons of the several enactments; 2nd, an account of their origin expressing their date and enacting authority; and referring to the Source when derived, or the constitutional or other bases, on which their authority rests; and 3dly, such expositions and limitations as experience shall have discovered to be necessary to prevent misconstructions, and establish their true spirit and import.

Degree of authority and use to be made of expository notes.

It is expressly provided that the expository note be as a general guide to the Courts, officers and members of the Colony, a safe rule, but that they have not of themselves the force and authority of law.

Given at Monroe, this 25th day of October, A.D. 1827, and of the Colony the year 6.

(signed) J. Ashmun

The great utility and necessity of the Digest and Record required by the Ordinance entered on the opposite page has appeared in the general ignorance of even the small number of statutory Acts now in force, discoverable not only in the citizens at large, but even in the Officers and courts of justice of the Colony. The want of system and organization in the executive department of the Colonial services caused by scanty funds have left to the present time some Acts of the Government unrecorded, and the simple insertion of an Act among other public records, even were that in no danger of being omitted, is only to preserve and not to publish it. That copies of the Laws may be produced, and multiplied so far as to meet the exigencies of the Colony, either in print, or manuscript, they must be embodied in a seperate form, and have an orderly arrangement; and in order to their being clearly and certainly understood, and easily applied, they must go accompanied with short and pertinent explanatory notes; and to compass their ends, nothing short of the systematic digest and record required by this Act is deemed sufficient.

The inconvenience already felt will every year increase, so long as the operative laws of the Colony be buried from the possibility of ready access in the court records, the files of the Agent's office and in the mass of accumulating documents or General records in the different Settlements. Should the present Agent be removed by death, or other causes, the uncertainty, difficulty and labour which the present state of the legal documents of the Colony must cause his successor, would be incalculable, and productive probably of public evils. The actual Executive is desirous of preventing the possible occurence of these evils at any future period, as well as effectually to cure existing inconveniences. Hence, the stated periods assigned in the Ordinances for renewing the Digest together with the exact form it is to receive, and the manner in which even the mechanical part of it shall be executed. It is not asserted that this form is the best. The advantages of having the Digest at all and having it statedly renewed, provided it be complete in its parts, and accurately executed, so far outweigh any that can arise out of a choice of the different forms into which it is capable of being thrown as to render them an object of very subordinate importance.

The use of this Ordinance insures to all the legislative acts of the Colony a two years' publication in their original, extended form and a new publication in the shape of Digest, once in two years, so long as they remain in force. It is further expected to furnish an interpre-

tation of the Laws of the Colony intelligible to the humblest capacity. It will also preserve and exhibit without much addition, a complete history of the legislation of the Colony and furnish by its references, the means of judging of the constitutionality and authority of every particular act.

The practice thus early adopted of reducing the main provisions of all of the colonial laws to concise digests, and publishing them in that form, for general use, it is believed, will insure to the colonists of Liberia a more enlarged and comprehensive acquaintance with their Civil Code than has even before been possessed by any other people. The originals will still be preserved in the earlier records for reference and the study of professional lawyers, while the compendious digests, sufficient for the common use, will put in free circulation among the people all those main principles of the laws they live under, which have a direct relation to their civil actions.

(signed) J. A.

DIGEST, Art. I.—Colony of Liberia, August 19, 1824

Sedition, mutiny, insubordination or disobedience to the lawful authorities, are high misdemeanors; and punishable either by a Justice Court, Court of Sessions, or prerogative of the Agent, as the case may be.

The Digest was formed from repeated Instructions of the Board of Managers, from January, 1820, to the period of the date, and from an Act of the Agent (E. Ayres), dated Fourah Bay, November 13th, 1821. See also Instructions from the Board, dated Washington. April 1, 1824. The Digest approved by vote of the Board May 23rd, 1825. Two classes of offences as enumerated in this article of the Digest may properly be visited by the Agent in virtue of his prerogative. 1st: Such offences as are notoriously open and flagrant. 2nd: Such as do not from any circumstance attending them admit of being referred to the regular tribunals without endangering the public welfare. Of these cases he is to judge.

DIGEST, Art. II.—Colony of Liberia, August 19, 1824

Quarrelling, riot, drunkenness, Sabbath-breaking, profanity, and lewdness are infractions of the public peace, and punishable by sen-

tences of Justices, or of the Court of Sessions, with fine, imprisonment, standing in the stocks, or whipping.

The Acts of which this article contains the substance were passed by the Agents, E. Ayres and J. Ashmun, by the first at Fourah Bay, November 13th, 1821,—by the last, Mesurado September, 1822:

DIGEST, Art. III.—Colony of Liberia, August 19, 1824

Persons having violated the peace or committed the misdemeanors specified in Article I Digest on being discharged from custody must find recognizances for their good behaviour. In case of failure to find recognizances for good behaviour when required, the person so failing shall be subjected to such labour on the public works, or other penalties as the Agent shall prescribe, until he shall find recognizance or the object for which it was required of him shall have been answered.

Partly as a punishment but chiefly that the peace of the Colony may be preserved by laying the disorderly under restraint.—J. A. The 2nd clause of this article was added to the Civil Regulations of the Colony, by a special vote of the Board of Managers, passed May 23rd, 1825. From the position of this clause which the Board made a part of Article V it is inferred that recognizance for behaviour may be required of felons when permitted, after punishment to return again to their places in the community.

DIGEST, Art. IV.—Colony of Liberia, August 19, 1824.

Simple theft in which the property stolen shall be less than five shillings is petit larceny, and shall always be punished, in pursuance of sentence of the Justices or Court of Sessions by a fine of fourfold the value of the property stolen, and the culprit to find recognizances in twenty times the amount.

Five shillings, African currency, was at the time of framing this article equal in value to one dollar. Use has limited the term for which recognizances are required, in ordinary cases to six months.—Authority: Article VI of Constitution. No person's recognizance can be admitted which has not the joint signature of, at least, one sufficient colonist beside himself.

J. A.

DIGEST, Art. V.—Colony of Liberia, August 19, 1824.

Grand larceny and all felonies, punishable in pursuance of judicial sentence with whipping and imprisonment either in irons, or not, or by a term of labour in chains on the public works or by banishment.

This article is construed to mean "all felonies not capital", as the Constitution Article VI. establishing the authority of the common law certainly requires the punishment of death to the inflicted on capital felons.—J. A.

DIGEST, Art. VI.—Colony of Liberia, August 19, 1824.

Every able-bodied male person receiving rations is to labour for the public under the Superintendence of the Commissioners for Public Works two days in each week. (This article rendered nugatory by a regulation since established by the Agent, and approved by the Managers, requiring all emigrants after six months to support themselves, and during the first six months of their residence in the Colony affording them such aid as the friends of the Colony allow gratuitously.)

The usage which was consent of the Managers, has taken the place of this arrangement and relieved emigrants from their obligation to perform their weekly quota of the public labour, is that of subsisting thence in whole or in part, and furnishing them with some tools and domestic utensils gratis, during the first six months only, and then discharging them wholly from further dependence on the public assistance. This usage from the progress of the Colony, now (October 18, 1827) gives way to the following, viz:

All emigrants are to receive from the public County shelters and the materials for clothing themselves for the six months next ensuing their arrival in the Colony, and such a supply of farming and mechanical tools, and household utensils, as the public stores and means at the disposal of the Agent shall allow and receive a gratuitious support, with the necessary medical attendance in case of sickness during the same period, but are to provide for themselves food, and all other necessaries not comprehended in this enumeration. It is understood that the Agent is to provide employment for as many as his means allow, and afford some aid to widows having large and helpless families, and to such aged persons as have not relations capable together with their own exertions of maintaining them. The present ration system

(October 18, 1827) places every person on his own resources, so far as they can afford him a subsistence. See the preceding expository note.

DIGEST, Art. VII.—Colony of Liberia, August 19, 1827.

Every able-bodied person as aforesaid, or person not reporting his indisposition as aforesaid, neglecting to labour on public work or negligently to (sic) attending to his own domestic labour during the four days of each week allowed him, shall, on the representation of the Committee of Public Works, be, immediately, together with his family put on his own resources.

(Superseded by the arrangement of the ration System subsequently established in 1826.)

DIGEST, Art. VIII.—Colony of Liberia, August 19, 1824.

No person forfeiting his rations shall have them restored to him in less than one month.

(Superseded by the discontinuance of the ration System since January, 1826.)

Rations not being allowed by the present system to any persons who are capable of subsisting without them—(viz., the sick and aged, and such as are burdened with the support of expensive families) without leaving them to a heavier penalty than the one contemplated in this article what, under the old system was a moderate punishment, would, under the new, be cruelly disproportionate to the delinquencies on which were this article in force, they would be visited. Temporibus mutaas, mutatas etiam jus.—J. A.

DIGEST, Art. IX.—Colony of Liberia, August 19, 1827.

Persons obstinately refusing to acquiesce in the express decisions of the Board of Managers, shall, in conviction thereof by a Court of Justice, forfeit all their real estate in the Colony and be compelled to leave it.

This Act is digested from instructions sent to the Agent at an early stage of the Colony, before the proper organization of the government, and when instead of a fixed written code of general laws, the special edicts of the Board of Managers were interposed

on many important occasions as they happened to be called for by the circumstances of the Settlement. At present (October, 1827) it has gone far toward desuetude in consequence of the strength of the government, the perfection of the Criminal Code, and the infrequency of references to the Board.

The decisions of the Board, what are they but laws the moment they are promulgated in the Colony? All the laws of the Colony are strictly considered the edicts or decisions of the Board. The article then in practice declares that any person obstinately refusing to obey the laws of the Colony shall be banished from it. True, but it must only be after the power of those punishments which the laws denounce against their violators, have been sufficiently tried upon this obstinacy, and found incapable of subduing it. J. A.

DIGEST, Art. X.—Colony of Liberia, August 19, 1824.

Persons trespassing on appropriated lands by cutting or removing timber or other property, are liable to exemplary damages.

Passed by the Agent and approved May 23rd, 1825 by the Board of Managers. By "appropriated lands" is meant lands that have been drawn for, from the date of the drafts. Timber cut on lands before they are appropriated, cannot, according to this article, be removed by the person who cut it, after their appropriation, without the proprietor's consent. J. A.

DIGEST, Art. XI.—Colony of Liberia, August 19, 1824.

No person is to reside on the lands of the colony, without permission of the Colonization Society, or their Agent. A good character of Industry, and morals are requisite qualifications for citizenship, and residence in the colony.

Agents Gurley and Ashmun, approved May 23rd, 1825. Originally enacted by the Board in the Code of June 26, 1820. The intention was to preclude all foreigners from a settlement in the Colony, except, 1st, citizens, or candidates for citizenship. 2ndly, persons of whatever colour, or country, appointed to fill some situation of trust, or engaged to perform some careful service, for the time in which they shall be so engaged and no longer. Such appointments and contracts may be made either by the Society in America or by the Agent in the Colony. The second clause

must (be) construed to deny to the Agent the right of employing or retaining in the service any person not a colonist whose moral character is either bad or strongly suspected. See the Code of the Board of Managers of June 26, 1820, 1st clause. J. A.

This Act is not construed to relate in any way to the natives of the country who had a residence on the lands of the Colony at the time of the cession of those lands to the Society, but it is understood to impose on the Agent an obligation to suffer no trading establishment to be erected by foreigners within the territorial limits and jurisdiction of the Colony.

DIGEST, Art. XII.—Colony of Liberia, August 19, 1824.

Expulsion from the Colony may take place on conviction for offences directly affecting the peace and good government of the Society in punishment of any misdemeanors in their judgment deserving that penalty.

The property of exiles to pass to their next heirs resident in the Colony. In all cases of banishment where the banished person has no heirs in the Colony, the lands held by him shall revert to the Colony.

Digested from Section Second. Code Board of Managers, June 26, 1820, second clause. Reapproved in present form by the Board of Managers, May 23rd, 1825. It is an important question what classes of offences are punishable by expulsion from the Colony.

By Article 9th of the Digest (see notes on that Article) it is settled that culprits after having been so repeatedly convicted of, and punished for any offences, as to have acquired the brand of obstinate disobedience and incorrigible depravity, may, on conviction, be sentenced to final exclusion from the Colony. This describes the first class of offences liable to be punished in this way.

Secondly, Article 12th allows this punishment to be inflicted on offenders against the peace of the Colony. Not all such offenders, but such only are liable to be expelled as first have been proved to be so addicted to practices violating the peace, as to admit of no reasonable expectation of their reformation, by means of the ordinary penalties of the law, or, secondly, who have been convicted of such outrageous violations of the peace as manifestly to render their further stay in the Colony dangerous.

Thirdly, Article 12th allows this punishment to be visited on persons convicted of offences against the Government of the Colony—and for the same obvious reasons, viz., that such as are once convicted of mutinous, treasonable or refractory design, and dispositions, cannot be suffered to remain in the Colony, without too greatly endangering by their presence its highest and most sacred interests. The man, who simply breaks the laws, has injured himself and perhaps a few other individuals. But, he who weakens or attacks the Government commits a crime which may overthrow the whole Colony and bury the community in its ruins. Hence, such firebrands must be at once thrown out of the Colony.

Fourthly, this Article allows expulsion to be decreed against any other classes of offenders judged to deserve this punishment by the Board of Managers. In all cases of banishment, it is to be observed, that this mode of punishment is adopted not merely for the heinousness of the offenders above described, not for the reformation of the offenders alone, nor principally, and not, I add, for the sake of the example, but to rid the Colony of such wretches as are found digging down its foundations, and who cannot remain in it without endangering its general welfare.

Who are a man's legal heirs in this Colony that have a right to take his lands? 1. His children (legitimate first, illegitimate next, and wife; 2. His parents by consanguinity; 3. His step-children; 4. His step-parents; 5. His brothers and sisters by consanguinity; 6. His nephews and nieces by consanguinity. It is the opinion of the Agent (J. A.) that no relations more distant than these can take lands by descent in the Colony. (Clause second of this edict established by Board of Managers, May 23rd, 1825.)

DIGEST, Art. XIII.—Colony of Liberia, August 19, 1824.

The party in any judicial trial is entitled, if he desires it, to trial by jury.

It has been a question whether in suits where both the parties are aliens, either of them is, if he desires it, entitled to a jury, and whether, secondly, the privilege of a jury belongs to the parties in all civil actions. But following the plain meaning of this Article, I think both of these questions must be answered in the affirmative.

Parties to causes brought in Justices' Courts, if they desire a jury are to be indulged in their request, except only when the process is by warrant in which case the legal notice cannot be given to persons summoned on the *venire*, previous to the trial.—Managers' Code of June 26, 1820, Section third.

DIGEST, Art. XIV.—Colony of Liberia, August 19, 1824.

The Common Law and the usages of the courts of Great Britain and the United States, to regulate all judicial proceedings.

The enumeration of authorities in this Article comprehends the whole body of general judicial principles and usages which are common to Great Britain and Ireland and all the United States and not manifestly inapplicable to this Colony. The whole system of criminal law common to those two countries which (the measure of punishments amended by the laws of those different countries is not, and, therefore, is not the same in this Colony) is, by this Article, clearly transferred to and made the law of Liberia. And in my opinion, the chief intention of this Article originally was to give to those judiciary and criminal laws principles (and perhaps a few others) force in the Colony. This provision was no doubt necessary in the infancy of the Colony when the Managers had not leisure to frame, nor the colonists to learn a better code. But I pray that the time may come, when the principles of the civil law alone shall be law in every civilized country in the Eastern Continent. I believe this code infinitely more favourable to moral justice, and to the virtue of a civil community than the clashing principles and shifting forms of the common law of England.—See Constitution, Article 6th.—J. A.

DIGEST, Art. XV.—Colony of Liberia, August 19, 1824.

All persons are permitted to dispose of property by will. The estates of intestates to be committed with letters of administration to administrators appointed by the Agent.

Merely declares a particular privilege secured to all colonists by Article 14th recognizing the common law of the United States of which the right of disposing of property of the United States of which the right of disposing of property by will, is directly drawn. The second clause directs a measure so intimately connected with the security of the rights of property everywhere

sacredly respected by the common law, as to result of course from the Article which recognizes the authority of the law even had it not been specially asserted in this Article. The exercise of the powers (have) granted to the Agent over the estate of intestates is under his superintendence, delegated, as is the exercise of many other similar powers since the establishment of a system of civil government and the creation of a regular judiciary for the Colony, to the Court of Sessions. See Constitution, Article VI. Also Managers' Code of June 26, 1820, Section 4th.—J. A.

DIGEST, Art. XVI.—Colony of Liberia, August 19, 1824.

In all lands appropriated to settlers, every third lot shall, when practicable, be reserved for public uses.

Of the practicability of admitting this reservation in its full extent, the Agent must judge in the several surveys accomplished under his direction But reservations are construed not to be "practicable" which involve the sacrifice of greater common benefit. In all the original surveys at Monroe, the Half-way Farms, Caldwell and Stockton a much smaller proportion of the lands than this Article designates was reserved, owing to the strong reason felt for situating the original possessions in the nearest possible limits. But the reservations, though few were often larger than the Article required sometimes comprehending three, four and even six lots each. And at this time (October, 1827) the deficiencies in the whole quantity of reserved lands is nearly or quite supplied by the resumption of vacated grants It seems to be confirmed by experience that one fifth part of all the lots granted to settlers, will revert to the Colony, either by the death, removal, neglect, or mismanagement of the original grantee. Hence, if in future surveys, one sixth of the lots be reserved, it is fair to presume that nearly one third will ultimately become public property.

The obligation to reserve applies to building and plantation lots, but specially to town lots.

Ought the Agent to allow exchanges of the public or reserved lots for such as they shall be drawn by individuals? Not, when the exchange would be in any degree disadvantageous to the public interest, particularly by throwing too great a number of those lots into the same body, or the same neighborhood.—J. A.

The Agent is authorized to grant these reserved lots on adequate consideration for a term of years or otherwise. (See Code of Managers, Section 5th.)

DIGEST, Art. XVII.—Colony of Liberia, August 19, 1824.

No persons shall own lands who do not reside in the Colony and cultivate at least two acres, or carry on with consent of the Agent some mechanical trade; and build a substantial house on his town lot within two years from the time when the lands shall have been laid off to him.

The last supplementary number of this Article "Within two years etc." was omitted in the Digest of 1824. But as it (is) found in the original Regulations of June 26, 1820, and appears necessary to limit the signification of the preceding numbers of the Article, it is resumed October, 1827. The practical construction which this Article has received is as follows: *first*, it does not affect the title deeds once given to settlers for their land owners, properly so called, may even neglect to cultivate two acres of land without a forfeiture thereby of their land titles. *Secondly*, every settler both before and after his title secured, is expected and the obvious spirit of this Regulation, enjoined to cultivate the lands held by him in the Colony. *Thirdly*, the residence required in the Article of landholders admits of any absence from the Colony not attended with the transfer of their domicil. *Fourthly*, both the two acres of land must be in actual and productive cultivation, and the substantial house so far completed as to be a comfortable residence, within the two years here limited *Fifthly*, should delay in the "laying off" of the lands of settlers occur in consequence of their faults the term of two years allowed for making the preceding improvement shall commence from the date of the draft of the lands. *Sixthly*, both mechanics and others have two conditions here prescribed them, on the performance of both of which a residence in the Colony is permitted them. The mechanic is to carry on his trade with consent of the Agent and build a house; others are to cultivate two acres of ground and build a house. *Seventhly*, to "cultivate" comprehends: 1. Clearing fit for tillage. 2. Actually tilling or breaking up the entire surface with a plow, hoe or other implements of husbandry. 3. Actually planting with the seeds, roots, shoots, stems, etc. of grains or vegetables suited to the soil and climate, and 4. Weeding, hoeing, tending and keeping the crop so planted in such way as to bring it to the best result. No pretentions of culture short of this definition, undertaken with a view only to the security of the title of lands, can be admitted as a compliance with the condition which requires the lands to be "cultivated."

It has been customary, and is considered within the spirit of this Article, to allow to such individuals as are employed by the Agent by the year, or even for a shorter time, in a way necessarily to hinder the making of the required improvements on their lands, within the two years of probation, such an extension of the terms as shall be equal to the hindrance actually incurred by them in consequence of such public service.—J. A. Code Board of Managers.

DIGEST, Art. XVIII.—Colony of Liberia, August 19, 1824.

A house to answer the requisition "substantial" in the preceding section, must be first, of sufficient size to accomodate the family of the proprietor: and secondly, built of stone, brick, or other substantial material and workmanship or of frame, or logs weather-boarded and roofed with tile, slate or shingles.

This Article is properly a definition of the 17th Article, orignally established by the Agents Ayres and Ashmun, in 1823, digested by Gurley and Ashmun, August 1824, and ratified by the Board of Managers, May 23, 1825.

DIGEST, Art. XIX.— Colony of Liberia, August 19, 1824.

All settlers on their arrival shall draw Town Lots and Plantations, for which the Agent is to give them a certificate specifying their number, and the time of drawing. If within two years from that date two acres of land on the plantation shall have been brought under cultivation, the town lot cleared and inclosed, and a legal house built, the said certificates may be exchanged for Title Deeds of such lands, to be held thereafter, in fee simple.

"All settlers", females not attached to and making a part of other families of which the head is allowed to draw lands for himself in their right, are comprehended in this definition.

It is decided that certificates may be transferred, provided the original holder continue to reside and would, were he to hold it, be entitled to secure his right to the lands assigned him therein, not otherwise. For in every other case, the lands revert to the Colony. Deeds can only be granted to the original grantee, or his heirs—not to his assignees, for the Colony takes next after the lawful heirs.

The evidence of improvements made is by usage the certificate of the Commissioner of Agriculture. But this evidence

is subject to invalid action, only, before the granting of title deeds, except a case of fraud, bribery or collusion be clearly made out.

DIGEST, Art. XX.—Colony of Liberia, August 19, 1824.

All town lots are to be enclosed with a good fence, by the proprietors. Any person neglecting to make such fence, shall be answerable to his next neighbor for all damages he may sustain from the neglect, by application to the Committee of Agriculture, who shall proceed as directed in Art. XXVIII this digest.

Without fences there can be no gardens, no agriculture. For it is neither possible, nor desirable, to exclude all domestic animals and live stock from the settlements. The obligation to construct sufficient fences around plantation ranges is not universal, because the necessity of such enclosure does not always exist, and so often happens that from the contiguity of several farms or their remote situation, a very short line of fence made by each of the proprietors, may be made to protect the whole. The Half-way Farms will for several years require no fence at all. Whenever a large assembly of plantation lots which require enclosure can be easily secured by a common fence, a law requiring all who are interested to unite in building it, must be passed, as has already been done for securing the Caldwell lands. See Ordinance of October 16, 1827, as example, originally passed August 13th, 1823, confirmed May 23rd, 1825.

DIGEST, Art. XXI.—Colony of Liberia, August 19, 1824.

Persons holding town lots or plantations, are to keep the public streets, if any, contiguous thereto, clean of weeds or brush to the centre, and cultivate any trees which may be planted therein. Neglects in these cases are to fall under recognizance of the committee of Agriculture who are to proceed as directed in Art. XXIX of this Digest.

Passed originally soon after establishing the survey of the town, and approved by the Board of Managers May 23, 1824, which is a part of the plan of all the towns of populous settlements of the Colony to plant double rows of fruit or shade trees in all the streets 12 feet distant from each side, along and outside of which are to be the footwalks and thoroughfare for teams long the centre. This work has hitherto, for want of public means, been left with individual proprietors by whom it has been very

generally neglected. Emigrants from the towns are apt to mistake grass for weeds and in clearing the streets of these and of brush (and brushes, sic) to cut up the grass growth and thus to form the appearance of the streets, increase their heat from the reflection of the sun and render them in several respects uncomfortable.—J. A.

DIGEST, Art. XXII.—Colony of Liberia, August 19, 1824.

Every married man besides a town lot, shall have for himself five acres of plantation lands, together with two more for his wife, and one for each child, if they are with him, provided that no single family shall have in all more than ten acres.

Several cases are likely to occur in which the spirit and intention of this provision are to govern the decision and conduct of the Agent granting lands under this Article.

1st case. The man has apprenticed minors incorporated with his family. He is to draw no lands in their right; because it is presumed that the terms of their apprenticeship are sufficiently advantageous without the additional bounty of lands.

2nd case. Has adopted children originally related to him or not, in family at the time of drawing. He draws for them—the same reasons holding in the case of such children as in the case of his own.

3rd case. The drawer has young unmarried women making a part of his family, although not his daughters. He does not draw for them because they are likely soon to marry when they will cease to be a burden to the family and will be otherwise provided with lands.

4th case. A wife, or children, die after emigration from America, but before a draft take place,—it matters not when—the man can draw only for the family he has at the time of presenting himself at the lottery.

5th case. A wife and children die after the draft, but before the lands are actually laid off to the husband or father—a subsequent death cannot affect the previous draft, which is presumed to be recorded the moment after it takes place.—J. A. Managers' Code, June 26, 1820, digested by Agents August 19, 1824, ratified in this form, May 23, 1825.

DIGEST, Art. XXIII.—Colony of Liberia, August 19, 1824.

No Colonist shall deal with the natives of the (Country for lands.) (Words in brackets not in the original text.—Ed.)

This prohibition is demanded by several important considerations:

1. It secures an invaluable right to the Society: the right of disposing of its own acquisition for the advancement of its own ends. Even the power of holding the lands which individuals acting contrary to the prohibition might possess is wholly derived from the original purchase of the territory and the protesting can still exercise over it by the Society (sic). The ends for which this acquisition has been made are very diverse from the aggrandizement, and enriching a few rapacious individuals at the expense of a whole race of people—the certain and direct effect of suffering individual speculations with the natives of Africa, for their lands. Were the Society to allow this practice, it would by implication suffer individuals to withdraw the territory of the Colony from their Government and jurisdiction and gradually create a new Government of their own. For the jurisdiction which the government of the Colony claims over its soil, is chiefly sustained by the act of acquiring that soil originally from the natives and granting the property of it only to individuals, who by accepting it, as well as before they can accept, by their own act recognize the authority of the Colonial Government or in other words, the Society's jurisdiction over the soil of the Colony. Conflicting title would inevitably follow the practice here prohibited—as it would not be possible to avoid a plurality of purchases of the same tract—nor prevent repeated sales of the same lands by the same and different native claimants to different purchases. The certain consequences of such a state of property would be civil strife, and open hostilities with the native land merchants.—J. A. Code of Managers, June 26, 1820; Digest of August, 1824.

DIGEST, Art. XXIV.—Colony of Liberia, August 19, 1824.

Nothing but articles of necessity are to be given or expected in the rations or supplies issued to colonists from the public store.

Compiled at the period of its date from the instructions of the Managers to the Agent. This definition was the more neces-

sary under the old ration system than since its discontinuance. It still applies with the same force to such as receive rations. But their number is, and it is hoped will be ever hereafter, much smaller in proportion to the whole number of emigrants, than formerly. Medicine and hospital stores in sickness, plain wholesome food, chiefly African, and plain, cheap and strong labourer's clothing in health, are the articles to which the issues from the public store are to be limited and confined.—J. A.

DIGEST, Art. XXV.—Colony of Liberia, August 19, 1827.

Missionaries coming out with the approbation of the Society are permitted to reside, so long as they devote themselves to their sacred functions.

Code of Managers, June 26, 1820, re-ratified May 23rd, 1825. This article presents the full and only measure of encouragement which the Colonization Society, agreeably to its Constitution, and consistently with a faithful discharge of the trust reposed in it by the contributors to its funds; can offer to African Missionaries as such. But an intelligent, persevering, and godly missionary is required to labour for and amongst the colonists themselves Many of them profess themselves Christians without knowing the rudiments of Christian doctrine, or following the most obvious and essential of the moral precepts of Christianity. Some endanger even the corrupt character of the natives who observe their example, by their corrupter practices. All require to be taught much which a Christian minister is bound to inculcate, before they can fulfil the duties of members of civil society. If the Society, as such, cannot employ missionaries, let them as an influential body of enlightened and Christian men sue to such associations as can and let the first missionary station be Monroe, and the missionary's object be, the conversion of the colonists.—J. A.

(There is no Art. XXVI—Editor.)

DIGEST, Art. XXVII.—Colony of Liberia (undated).

Every person is to be considered for all legal purposes in good health, who shall neglect to report himself and afford satisfaction of his inability to labour to the Committee of Health, or the colonial physician.

Article XXVII was formerly the 2nd clause of Art. VI but separated for want of connexion.—J. A.

DIGEST, Art. XXVIII.—Colony of Liberia, August 13, 1823.

Every holder of a building or town lot shall put a sufficient fence around one half of the same on the parts contigous to his next neighbours. Colonist injured or liable to injury from his neglect to make such fence, to apply to the Commissioners of Agriculture, who are to warn the delinquents to construct such fence within a reasonable and specified number of days. In case of neglect, the delinquent is to be again warned to complete the same, within ten days thereafter. At the expiration of the last ten days, the original complainant is authorized to cause the fence to be made, submitting his bill for the same to the Commissioners, who are to revise and if reasonable allow it. On this bill any Justice of the Peace applied to is to issue execution, commanding the constable to levy on the delinquent's personal estates and raise the money for judgment of costs, within 30 days.

This act was passed August 13, 1827 E. Ayres Agent. It had its rise in the necessity of compelling the indolent to perform one of the first of social duties growing out of the landed property of which they had then just been possessed. It is intended to protect the industrious in fruits of their labour, by allowing them a direct and cheap process—that of distress under the authority of a Justice of the Peace—in cases of injury suffered or liable to be suffered thro' the neglect of a slothful, ill natured, or inconsiderate neighbour. It may be asked what remedy has the distraince in case he is unjustly proceeded against? Ans. By an action on the case, against one, or all, of the commissioners of Agriculture, who may have approved the complainants. Bill to the Justice who issued the process. Digest Oct. 17, 1827. J Ashman Agent with such variations as accomodates the original to the present state of the Colony.

DIGEST, Art. XXIX.—Colony of Liberia, October 17, 1827.

The Commissioners of Agriculture, Health Officers, Commissioners of Public Labours, and all other commissioners, officers or persons having authority to enjoin any labour, improvements or things to be accomplished by Colonists, or by any one colonist, for the common benefit, shall, whenever he shall allow of the time (sic) proceed to discharge his duty and accomplish the said labour, improvement in the following way, to wit:

He or they shall serve or sufficiently publish, a notice to the party or persons concerned, to accomplish the work and on or before a certain day. If such notification prove ineffectual, the commissioner

or officer, etc. shall serve a second warning on the delinquent party to accomplish the same in ten days, and no more. If this warning be not obeyed, the Officer is to cause the work to be immediately done and deliver a Bill of it to a Justice who is to issue to a Constable a process of distress, without delay, for the amount of bill and cost.

This Digest is framed from, but is an improvement upon, a law of August 13th 1823. (See Journal Nov. 24th 1824.) The improvement consists in extending the principal of that law from a particular case, to all other similar cases, in which a certain and simple remedy against a selfish spirit, and indolent habits, operating to the common injury of the citizens is required. The defendant, case under this law, has his remedy against injustice, by an action on the case against the officer, or officers instigating the process. It is considered that an authorized requisition for fatigue service made by the commanding officer, on his corps, does not come under this act; but is to be enforced, or the failure punished by marshal law except only when the requisition measures the labour by quantity and not by time, when a specified part of the labour is assigned to each man and he allowed to perform his portion without attending upon any military call in the meantime. The requisition, in this case, ceases to be strictly military; and falls under the cognizance of a civil regulation.—J. A.

DIGEST, Art. XXX.—Colony of Liberia, October 17, 1827.

All labour-taxes or requisitions for work in accomplishing any object of common utility and benefit to the Colony, shall be so assessed when the nature of the work shall allow as to assign to each of the individuals taxed his specfic proportionate quantity of the whole labour and the hours or time in which the said work shall be performed by the several individuals shall not be otherwise specified, than by limiting the period within and before which, the said labour shall be accomplished.

The Digest preceding is the simple embodying in the form of law and extending to the whole colony of a rule which has been followed in practice within the Caldwell Settlement, from its commencement. Experience has proved that the form of taxation here in established, is the only one in the observance of which the public burdens can be equally distributed amongst a number of individuals possessing different degrees of public spirit, industry, skill, and principle (authority, Art. VIII. Constitution.) J. A.

DIGEST, Art. XXXI.—Colony of Liberia, October 22, 1827.

All unmarried men of the age of twenty one years, either arriving in the Colony from abroad or attaining their majority while resident in the same, and having taken the oath of allegiance (illegiance), shall be admitted to draw and hold a building lot and five acres of plantation lands, in the same condition as married men.

In case of marriage, afterwards the person herein respected is to draw on account of his family no additional lands, but shall be entitled to hold whatever his wife may have predrawn in her own right, or inherited from a former husband, or other persons provided only she shall not have alienated such lands at the time of her marriage.

This article as may be seen by the date and minutes is an interposition enacted by the Agent Oct. 1827. The usage has from the first been exactly according to the article, the substance of which was indeed originally enacted by the Board of Managers June 26, 1820, Section 8th but limited then to one year, has never before been revised. It however could not become obsolete as cases have been continually occuring to require its application. It relates to an interest of too great importance to want a definite, uniform and authoritative rule and in the infancy of the Colony, while lands are abundant, and the population small, it doubtless has the sanction of sound policy. The provision which will easiest admit of repeal is that which bestows land on young men arriving at age in the Colony, as most of these can be as easily provided with lands or other means of commencing life for themselves, without the public bounty, in this, as in other countries. The provisions of the second clause, as indeed of all the regulations relating to the County of lands, are strictly according to the following rule, which is only to be departed from in the solitary case of young men arriving at the age of 21 years in the colony. Namely No draft of lands for, or by any person belonging to the Colony is to be made or allowed, except at the time of such persons first arrival in the Colony. The concluding member of clause is only the direct consequence of the law of descent as recognized by the constitution.

DIGEST, Art. XXXII.—Colony of Liberia, October 22, 1827.

No bargain, transfer, exchange, sale (shall sec) deed or lease of land, by or with the grantee of lands for the same, before a legal and complete title obtained for them in fee shall be valid or lawful.

Enacted by the Agent rather to elucidate the principles on which the grant of lands by the Society is made, than establishing a new principle. In order to bargain, sell or grant lands, the property or right in these lands quoad hoc must reside at the time in the party performing these acts certainly imply and require in the person exercising them a perfect right in the soil about which the transaction is had. But this right resides in the Colonization Society until transferred to and vested in the grantee by their act which does not take place until the deeds are actually executed in their name and delivered into the hands of the individuals on his performance of the conditions on which alone the first imperfect grant was to become effectual. Hence, all speculations in the lands of the Colony by settlers who have not acquired a perfect right in them, in fee, are not only destitute of validity, but unlawful and fraudulent.—J. A.

DIGEST, ART. XXXIII.—Colony of Liberia, October 22, 1827.

The imperfect right in lands acquired by the draft of the same, shall, in the event of the decease, or expulsion of the drawer, before the expiration of the probationary term, descend to his heirs in the Colony.

The imperfect right here secured to the heirs can only become effectual for securing the lands in question by the complete performance of the original conditions of the grant, within the term first limited, or 2 years from the drawing. The justice of this provision appears from the fact that in a great majority of cases of the decease of the original grantee before the full right to his lands as required, he will have begun and perhaps nearly completed the lawful improvements. The labour and money employed in such improvements ought justly to be secured to his heirs, which can only be effectually done by installing them in the right of the deceased party—for many improvements are of such a nature as to cost much, but be worth nothing except to the proprietor and cultivator of the lands himself. This article merely embodies a principle which has formed the basis of the usages pursued in the Colony since the date of the earliest grant of lands to settlers.—J. A.

DIGEST, Art. XXXIV.—Colony of Liberia, October 24, 1827.

No marriage of colonists or other residents or being in the Colony (natives of the country excepted) shall be lawful without a license

previously had—authorizing the same, from under the hand and seal of the Agent of the Colony.

The parties to such illegal marriage shall be expelled from the Colony and persons performing the marriage service for unlicensed parties shall be fined discretionarly (sic) by the Court of Monthly Sessions.

DIGEST, Art. XXXV.—Colony of Liberia, October 24, 1827.

The owners of all decked crafts belonging to the Colony shall not sail the same outside of the rivers without providing them with a Colonial flag or broad pennant, and a sailing license from under the hand and seal of the Agent, under penalty of paying one dollar a ton for every ton which such craft shall measure for each unlawful trip.

DIGEST, Art. XXXVI.—Colony of Liberia, October 24, 1827.

The standard and legal weights, measure and retail prices of the Colony shall be those in use at the Colonial store.

> Founded on a report of a committee to examine the weight and measures of the Colony, dated August 31, 1825, Dearborns patent balances are the standard weights and a half bushel formed from the report of the said committee, and since kept in use the standard of dry measure. The attention of the Agent and storekeeper is constantly directed to the other measures introduced with a view to attain the greatest degree of accuracy. The weights etc. of the public store may not in all cases be precisely accurate, but are likely to be more nearly right than any others to which a general reference can at this time be made.—J. A.

DIGEST, Art. XXXVII.—Colony of Liberia, October 24, 1827.

All treaties whereof the Government of the Colony is one of the contracting parties, shall, from the date of their publication become law in the Colony. Offenders against their provisions to be punished in pursuance of judicial sentence.

DIGEST, Art. XXXVIII.—Colony of Liberia, October 24, 1827.

From the treaty of Mesurado, December 15, 1821, between King Peter and his headmen, and the Government of the Colony: Persons within the peace of the Colony, interrupting the peace and friendship of the parties to this treaty, or making war upon King Peter, or other-

wise molesting or disturbing him and them to be punished in pursuance of judicial sentence, as their said offences deserve.

DIGEST, Art. XXXIX.—Colony of Liberia, October 24, 1827.

From the Treaty of Gourah, May 4, 1825, between King Peter, Long Peter, Governor, Todo and Jimmy, and the Government of the Colony: Persons in the peace of this Colony interrupting or impairing the friendship of the parties to this treaty, or disturbing the forementioned Kings, their successors, people in the quiet possession and use of the lands which they now occupy, or may hereafter require for building their towns, or working plantations, to be punished according to their deserts, in pursuance of judicial sentence

DIGEST, Art. XL.—Colony of Liberia (no date).

From a treaty between King Freeman of Young Sesters and the Government of the Colony, October 27, 1825: No colonist or person in the peace of this Colony shall deliver merchandise or trust for trade to the native inhabitants of the District of Coast between Trade Town exclusive and Joppocaneah inclusive on penalty of forfeiting the same.

DIGEST, Art. XLI.—Colony of Liberia, October, 1824.

Women not having husbands, emigrating to this Colony, with permission and attached to no family besides their own, shall receive each a town lot and two acres of plantation lands on their own account, and an acre on account of each of their children.

J A. Agent

DIGEST, Art. XLII.—Colony of Liberia, (no date).

Liberated Africans, incorporated in the Colony, and who shall be adjudged capable of managing, shall receive small grants of lands.

See Record, pt. II.

DIGEST, Art. XLIII—Colony of Liberia, (no date).

The Decisions of the Agents of August 16, 1824 (See the Colonial Record) except the first clause of Decision 6th, having been ratified by the Board of Managers, American Colonization Society, in law.

DIGEST, Art. XLIV.—Colony of Liberia, (no date).

Of the decision of the Agents respecting lands, dated August 20, 1824 (See Colonial Records) Section 2, 3 & 4 have become and still

remain law—all the other sections of that Document are obsolete, rescinded.

DIGEST, Art. XLV.—Colony of Liberia, (no date).

From a treaty between King Talkley of Grand Colo and the Government of the Colony, dated January 31, 1824: Persons attached to or residing in this Colony, are not to impair the friendship subsisting between parties to this treaty on penalty, as for similar offences ordained.

DIGEST, Art. XLVI.—Colony of Liberia, September, 1824.

Every proprietor of plantation lands is required to erect and keep erected at the angles of the same, posts six inches square at top, to stand two feet above ground, and to be planted 18 inches deep. Penalty one dollar for each post not so erected to any person suing for the same.

DIGEST, Art. XLVI.—Colony of Liberia, September, 1824.

In the purchase of rice of the natives no other measures shall be used, except the standard creo or half bushel of the Colony, and aliquot parts of the same, on penalty at discretion of Justice Court.

(This and preceding article both numbered XLVI.—Ed.)

DIGEST, Art. XLVII.—Colony of Liberia, September, 1824.

The sellers of planks, boards, clapboards and shingles in the Colony shall cause the same to be measured and inspected by the lawful Measurer and Inspector, if thereto required by the buyer, under penalty of forfeiting triple the amount of the inspection or measurement fee.

DIGEST, Art. XLVIII.—Colony of Liberia, September, 1827.

The duties of the "Council Committee of Agriculture," "Board of Health" as described in the Colonial Records, although far gone in desuetude in regard to some of their articles, are still useful for reference in declaring very fully the true intention of the appointment of these several boards.

DIGEST, Art. XLIX.—Colony of Liberia, October 24, 1827.

All authentic projections of land surveys, in and for the Colony, constructed by or under the immediate discretion of the Agent, whether

entered or not in the Records of the Colony, comprehending the explanations, numbers, and every other part essential to the same, shall have the authority of law in determining questions of boundary, situations, and quantity arising about the said lands.

DIGEST, Art. L.—Colony of Liberia, October 24, 1827.

From a treaty between the Government of the Colony and Prince Will and others of Junk, dated 11th October, 1826: Persons in the peace and protection of this colony offending against the provisions of this treaty, especially by practising or attempting frauds, imposition, or violence, whereby the people of Junk shall suffer in their reputation, property, or persons, to be punished and make satisfaction to the injured party.

DIGEST, Art. LI.—Colony of Liberia, October 25, 1827.

The essential provisions of the ordinances of November 26th, 1825, of October 24, 1827, appended to and making a part of the preceding, and of December 1, 1825, regulating the trade of the Colonists of Liberia with the Sesters and Grand Bassa Territories, are further extended in their full force to the District of Coast, reaching from Peter Harris's Town, near and on the South Side of Junk River, northwestwardly, to the northernmost Salt Town belonging to King Town on the north west side of the same river.

DIGEST, Art. LII.—Colony of Liberia, October 25, 1827.

Proprietors of land in Caldwell, situated either on St. Paul's River, or Stockton Creek shall place the fronts of their houses on a line drawn ten feet from the line of the street they live on most remote from the water. They shall also clean the public reserve ground in front of their premises to the water's edge and shall leave a lane 16½ feet wide between every 4th and 5th, every 8th and 9th, every 12th and 13th, etc., lots for the plantation proprietors more convenient access to their farms. (See the (sic—word left out) of the Caldwell Authentic Survey). Differences arising between Caldwell settlers and the country people to be referred in the first instance to Peter Bromley for settlement.

DIGEST, Art. LIII.—Colony of Liberia, October 25, 1827.

From a treaty of peace executed January 16, 1827, between the Government of Liberia and King West of Trade Town: That Colonists

and persons resident in the Colony recognize all their intercourse with Trade Town and the authorities of the same, the amicable compact subsisting between them; afford their enemies in war no succor, by service, or articles contraband of war, and endeavour by cherishing to strengthen and confirm the amiable ties which the treaty of peace has created.

DIGEST, Art. LIV.—Colony of Liberia, October 16, 1827.

The Colony founded in a spirit of pious dependence in the Almighty, thus early consecrated to Him, it has received affecting testimonies of his mercy and favour. A time there has been when his help alone saved and only could save the settlers from being buried in its ruins. It is base and ungrateful now in our prosperity to forget, or cease to render our thanks for such benefits. Wherefore the first of December following is again appointed as a season of religious commemoration and thanksgiving. All will govern themselves accordingly. And may God's ear be open to our praises then, and never abandon this Colony to its weakness and the course of ingratitude—through the Redeemer "In all thy ways acknowledge him and he shall direct thy steps."

The preamble to this digest, formed from a proclamation of the same date, expresses the occasion of it. It is here registered, because designated to become and earnestly recommended to the Executive of the Colony, in perpetuity, to make it perpetual.

DIGEST, Art. LV.—Colony of Liberia, May 23, 1825.

Persons failing, when lawfully required, to find recognizances for their behaviour, shall labour on the public works or perform other services in (word missing. Ed) there of at the discretion of the Agent, till the ends of the said penalty shall have been attained.

DIGEST, Art. LVI.—Colony of Liberia, November 2, 1827.

No person, and member of, or resident in this Colony shall leave the same, except for some other part or place in Africa, without a passport, bearing the Colonial seal, under such penalty as the Court of Session shall adjudge.

Masters of vessels or any other persons convicted of any act proving either the violation or an intention to violate or evade this regulation shall be amended in a sum of not less than twenty dollars, no more than one hundred dollars.

DIGEST, Art. LVII.—Colony of Liberia, June 1, 1827

The masters of all vessels requiring the protection of Fort Norris Battery, against a piratical or suspected vessel actually in sight or believed to be hovering in the offing, also the masters of all vessels through whose fault it shall become necessary to man the Battery for their detention in port, shall pay towards the expense of the said Battery, one dollar an hour for every hour during which the Battery shall be actually manned for the detention or defence of the vessels aforesaid.

DIGEST, Art. LVIII.—Colony of Liberia, November 2, 1827.

No oaths of office or other oath whatever, except the oath of allegiance to the Constitution and such as according to the Common Law necessarily belong to judicial proceedings shall be admitted in this Colony.

The principle of this usage has now had a five year trial, and the experiment strongly recommends it to perpetual practice. Not one evil is believed to have resulted from the disuse of that alarming multiplicity of official, and other oaths, which has in England and the United States, more than all other countries, grown out of that depravation of the public conscience, to which the very practice has no doubt contributed.

There are two reasons in favour of the practice of the Colony, which seem no less sound in effect than plausible in theory. 1st—The person whose fidelity in official duties requires the guaranty of an oath, is not fit to hold the office and 2nd, the laws severally punish all wilfull offences of malversation.

The oath of allegiance, it may be added, as it does, in fact so it can easily be made appear, to extend its obligations to the official conduct of all the functionaries of the government, police, and the peace of the Colony.—J.A.

DIGEST, Art. LIX.—Colony of Liberia, January 3, 1828.

No inhabitant to carry merchandise further inland than Big Town and Ta-Ba-Poo's without a License from the Agent or Vice-Agent which is to be renewed every Journey. Penalty at the discretion of the Court.

No. I

Treaty of Amity, Trade and the Right of Passage Between the Government of Liberia and Certain Native Kings Therein Named.

Colony of Liberia

Parties.

J. Ashmun, Agent on behalf of the people of Liberia, Chief Caia on behalf of himself and his people; King George on behalf of himself and his people, and King Gray on behalf of himself and his people, *Agree*

Stip'n 1, amity

1) To live in perpetual peace with all the consenting parties.

Stip'n 2, fair trade.

2) To trade without fraud or interruption, in any goods and produce which we may have to dispose of.

Stip'n 3, not to obstruct the passage of trade.

3) Never to hinder the trade or intercourse of any other people whatever, with any of the above named parties.

Stip'n 4, to deliver up felons, etc.

4) The Kings agree to send any evil disposed persons who, by lying, spreading false reports, or stealing, shall undertake to injure the American people, to the Colony, to be punished.

Stip'n 5, the last stip'n reciprocated.

5) The Agent undertakes to give the Kings notice of any of their people, who attempt maliciously to injure their good name, or stir up in his mind a suspicion of their hostile intentions toward the American people or Colony.

6) (6th Section obsolete).

The text of this omitted section is given in Gurley, Life of Jehudi Ashmun, App. 51:—Ed. "The Agent and Kings particularly agree, to send each a messenger immediately, to

the Junk people—to the Pequenino and Grand Bassa people, to declare in their names to those people, that their trade with the Americans, is and shall be free; that the path is entirely open, and that neither the Kings, nor their people shall in any way hinder or molest the free trade of any other people with the American town "

IN WITNESS WHEREOF, we the above named Parties have all subscribed our signatures this 22nd day of September, 1824, at Monroe

Signed (no signatures)

No. II

An Ordinance Regulating the Intercourse and Trade of Foreigners with Liberia.

Colony of Liberia.

Be it ordained by the Agent in Council,
Traders to be introduced to the Agent.

1. That the master or supercargo of every merchant vessel arriving in the jurisdiction of the Colony, shall on landing be furnished by the Officer of the Port with a copy of all the port regulations of the Colony; and previously to entering upon any commercial transactions, shall, by the said officer, be introduced to the Agent, or in his absence to the Vice-Agent, of the Colony.

To be furnished with a tariff of prices.

Port officer to receive an exhibit of goods to be offered for sale, and to publish it. And to furnish the use of a warehouse.

2. That every such master, supercargo, or trader, shall, on signifying to the said port officer his intention to trade, be furnished by him with a tariff of the current prices of every species of African produce known by him to be in the market. The master or supercargo shall then deliver to the officer a complete enumeration list

of all the articles of merchandize which he intends to offer for sale in the Colony, with the prices and terms of payment annexed, and he shall not expose or offer for sale any merchandise not so exhibited. The officer, on receiving such exhibit, shall display it in a conspicuous situation; and procure for the trader the use of a warehouse, of which the officer shall keep the keys and stand responsible for the property therein deposited, if damaged or lost through his neglect.

Foreign traders to allow no credit for longer term than ten days or during the stay of their vessel.

3. That it shall not be lawful for the said trader to allow to colonists a credit for a longer term than ten days, nor for any term extending beyond the stay of his vessel in ports, without first submitting to the Agent or Vice-Agent the conditions of the proposed credit and obtaining his written permission to allow the same.

Default in purchases how removed.
Process.

4. That persons contracting for and receiving merchandise at the warehouse, on an understanding of prompt payment, and neglecting to fulfill their said contracts, shall, on a written declaration of the fact made by the officer, to a Justice of the Peace, or Clerk of the Court of Monthly Sessions, suffer a distress of his goods and chattels, without delay by the officer to whom the process is directed, to an amount sufficient to satisfy the debt and costs.

Property where deliverable.

5. That all merchandise introduced is deliverable at the said warehouse, and all produce sold for exportation at one of the frequented landing places of the settlement.

Officer to report infraction of these Regulations. Compensation of officer.

6. That the officer be bound to report to the proper (word omitted. —Ed.) to receive from the master, supercargo or trader afore-

said for every days attendance at the warehouse, one dollar and fifty cents, and no more, and also to receive for use of warehouse, 75 cents for every day in which it shall be opened for the sale, or exhibition of merchandise.

Forfeiture how to be applied.

7. That all merchandise sold, deposited, or delivered on credit, contrary to the foregoing regulations, shall be forfeited to the use of the Colony.

Done at Monroe, this 26th day
of November, A. D. 1825, and of
the Colony, the 4th
(signed) J. Ashmun.

No. III

An Ordinance authorizing Foreign Traders
To Employ Commission Merchants
instead of the Port Officer,
during the Stay of their Vessels
in the Colony

Foreign traders may employ common merchants instead of port officers

Port Officer payable for one day's service.

Colony of Liberia

Be it ordained by the Agent in Council.

That any foreigner arriving in this Colony as described in the Ordinance of September, November 26th, 1825, and choosing to employ a commission merchant to transact his business during the continuance of his vessel in port, shall not be held to employ or pay the Port Officer or use the public warehouse, as in the said Ordinance provided (in case he do actually employ the merchants as factor aforesaid) for a longer term than one day; but that it shall in all cases be the duty of the Port Officer to yield one day's services to every foreign trader arriving in the Colony; for which he may demand his legal compensation.

Duties of Port Officer to devolve on commission merchant.

2nd) That all the responsibilities and duties devolved by the Ordinance of November 26, 1825, on the Port Officer, shall, from the moment a commission merchant or factor is employed, as aforesaid, devolve and be obligatory on such merchant or factor, both in relation to his employer, and to the Colony.

Given at Caldwell, this 25th day of October, A. D. 1827. and of the Colony, the 4th.

(signed) J. Ashmun

No. IV

An Ordinance regulating the Trade of the Colonists of Liberia with St. John's and Grand Bassa Districts.

Sester Regulations to extend to St. John's Factory.

Colony of Liberia

Be it ordained by the Agent in Council,

1. That from and after the first day of December, one thousand eight hundred and twenty-five, the provision of the Ordinance of the 26th of November last (1825) "regulating the trade of this Colony with Young Sester" be and they are hereby declared to be extended in their full force and in all their parts (the necessary local changes and accommodations being made) to all that part of the Coast, the interior country, opposite to the same being included, which beginning at the village of Jabaconee, below Grand Bassa, extends to the village Bullock Town, the last inclusive.

and to St. John's Factory.
Be it also ordained,

2. That the Regulations contained in the aforesaid Ordinance, in relation to the Young Sester Factory, including the tariff of price appended to the same be, and are hereby declared to be in all respects, necessary exceptions only admitted, applicable to the St. John's Fac-

tories, established on the St. John's River and Factory Island, in the Territory of Grand Bassa,

Done, with amendments, this 24th day of October, 1827, originally passed in Council, Monroe, December 1, A. D. 1825, and of the Colony the 4th.

(signed) J. Ashmun.

No. V

An Ordinance directing the Mode of levying on the Property of Debtors by Execution, and of Proceeding against Insolvent Debtors.

How Executives are to levy. Tools, etc. not liable to or for debts.

Real estate to be levied only in default of personal property.

Colony of Liberia

Be it ordained by the Agent in Council,

1. That officers charged with execution for debt, taken out in pursuance of the Judgment of courts of this Colony, against any member of the same, shall if necessary to settle the same, levy, first upon the goods and chattels and movable property of the said party, except, one bed, one table, two chairs, cooking utensils, and so many mechanical tools, and agriculture implements as may be absolutely necessary for the present use of the said individual and his family, which property only, shall not be liable to attachment or distress for debt. But in default of personal effects as above enumerated to satisfy the execution and cost, it shall be lawful to attach and sell the real estate, beginning with the building (the refusal of the lease of the grounds on which such building stands to take the purchase at a reasonable rent forever always following the property of the buildings) and in default of buildings, the town lot etc. lastly the plantation lands of the party insolvent to the Court from which the execution issued.

Insolvent debtors to be committed to Guardian.

2. It shall, therefore, be the duty of the court on the said return made immediately to consign over the said insolvent debtor to two guardians, whom the court shall appoint with full power to control and direct the time and services of the said debtor, until the judgment and costs aforesaid shall have been fully satisfied and paid out of the proceeds of his industry as so controlled and directed.

His earnings how to be applied.

The said guardian shall receive and pay over to the court from time to time all the earnings of the said debtor as they shall accrue, reserving only forty cents per week for their own fees, and such further sum as may be necessary to submit and keep the debtor and his family from suffering, and no more.

Refractory debtors how punished.

3. In case the said debtor refuse to submit himself entirely to the directions of his guardians, or, having so submitted, shall afterwards revolt from the same, or shall conceal, alienate, or refuse to deliver over to them punctually any part of the whole of his earnings, so long as he remain in their custody, he shall by a written request to his sheriff from his guardians, be by him imprisoned in the common jail, without bail, for the first such contempt, etc. of misdemeanor twenty four hours: for the next forty-eight hours, for the third four days, and so on double the period for every repetition of the offence.

Given at Monroe, this 14th day of July, 1826, and of the Colony the 5th.

(signed) J. Ashmun.

Form of a warrant of Appointment of Guardians of Insolvent Debtors.

Colony of Liberia. You, ... and ..... are hereby appointed Guardians according to the Ordinance of July 14, 1826, of ....., an insolvent debtor with au-

thority to receive the said .... into your custody, and him to oblige to, and direct in his services so long, and in such way as shall be necessary to receive therefrom the sum of . . . . dollars, to satisfy a judgment of this Court given against the said . ... in favour of ...., with the cost of suit. Herein you will conform in all respects to the directions of the Ordinance above cited. ... .

Given at .. . ., this .. day
(L.S.) of . ... , 182 .

... ... J.P. or C. of Ct.

Form of a Request to the Sheriff.

To .. . Sheriff of Liberia:

You are hereby notified, as by law provided, that . ., an Insolvent Debtor, in our custody has by contempt and contumacy incurred the penalty of ..... . days close imprisonment in the common jail, which penalty you will forthwith cause to be duly inflicted on the said ..... . and redeliver him, at the expiration of the said term to us. Herein fail not.

Given at , this . . day . . Guardian of

.. ..

Insolvent
Debtor
of . . 182 . . . .

No. VI.

An Ordinance constituting "the Mesurado Channelling Company."

Title
Incorporating clause. Object of the company.

Colony of Liberia

Be it ordained by the Agent in Council,

1. That a company politic and corporate, having the title of "The Mesurado Channelling Company" and possessing the usual powers

and sustaining the usual responsibilities to such companies appertaining, is hereby constituted for the sole purpose of improving the navigation of the mouth of the Mesurado River and Anchorage, to consist only of stockholders.

Stockholders.

2. Any person subscribing and paying one share of ten dollars, or any greater number of shares, shall be a stockholder in the said company.

Managing Committee.

3. All the business of this company shall be conducted by a committee, consisting of the following persons, and such successors and associates taken from those stockholders only who own not less than ten shares each as the majority of the committee shall from time to time choose to supply vacancies in their own body, to wit, Devany, and Anthony D. Williams, together with the Agent of the Colony *ex officio*, who shall preside in the meetings of the committee.

Treasurer.

4. The committee shall appoint a treasurer of their own number, and meet as often as they judge proper for the transaction of business.

Gov't of faith pledged to stockholders.

To raise a fund by tonnage and other duties.

How the proceeds of the duty are to be applied.

Interest and Extinguishment of the capital.

5. The faith of the Colonial Government is hereby pledged to stockholders, so soon as the improved channel shall be, by this corporation rendered navigable, to charge for their advantage and the ultimate redemption of their stock, a tonnage duty on all Colonial crafts using for commercial purposes the improved channel and to charge a light anchorage duty on all merchant vessels trading to Monroe. Of the proceeds of this duty a sufficient sum shall be reserved and designated to the committee, for keeping the work in order. Another sum suffi-

cient to pay the stockholders an interest not exceeding twenty five per cent, and per annum on the amount of their shares, shall next be reserved out of the said proceeds, and the balance be applied as a sinking fund to repay the principal of the stock until the whole shall be extinguished.

Desolution of the company.

6. When the whole stock of the corporation shall have been extinguished and not before, all the rights and powers of the corporation shall devolve to the Executive of the Colony, and be employed only for the common benefit and improvement of the same.

Stock Certificates transferable.

7. Certificates of stock signed by the treasurer and countersigned by the Agent of the Colony, shall be transferable.

Given at Monroe, this second day of October, 1826, and finally amended and recorded October 25, 1827.

(signed) J. Ashmun

No. VII

An Ordinance to limit the Retailing and Use of Ardent Spirits in the Colony, and to pay a Duty on the same.

Spirits not to be retailed, except by persons licensed thereto.

Colony of Liberia

Be it ordained by the Agent in Council,

1. That from and after the passage of this Ordinance it shall not be lawful for any person to retail ardent spirits in any of the Settlements of this Colony by the small quantity than one gallon, nor at the factories of the same in small quantities than half a gallon, unless he shall previously have received a retailing license under the signature and seal of the Colonial Agent.

A duty laid on ardent spirits.

Provisions for warehousing spirits.

2. That from and after the first day of March, 1827, a duty of twenty-five cents per gallon shall be paid by purchaser to the Treasurer of the Colony on all distilled spirits, by him introduced into any of the Settlements of this Colony: and that, until the purchaser shall have paid, or given a sufficient bond securing the payment of the said duties within ninety days after the date thereof such spirits shall be retained within the public warehouse, at the risk of the owner, but without charge.

Retailing License.

3. That the Agent grant retailing license to applicants for the same, who shall produce the Treasurer's receipt certifying the actual payment by the said applicant, of the sum of three hundred dollars, into the Treasury of the Colony.

Duties under this Act to go for the support of schools.

4. That all moneys accruing to the Colony in the aforesaid duty, the sale of retailing licenses and fines and forfeiture under this Ordinance, be applied under the direction of the Agent in Council, to the schools of the Colony; and

Penalties.

Officers charged to execute this ordinance.

5. That all violations of this Act proved before any of the Courts of the Colony, shall be punished with a fine of double the amount of the value of the spirits so illegally bought, sold or introduced into the Colony, together with the forfeiture of the same whenever seized, one half of which fine and forfeiture shall go to the person prosecuting, or in consequence of whose information the offender shall be prosecuted to effect. The Port Officers, Commissioners of Health, and Treasurer are charged with the execution of the Ordinance.

Given at Monroe, the 25th day of October, 1826, and of this Colony the 5th.

(signed) J. Ashmun.

No. IX.

An Ordinance granting to Persons paying Duties on Ardent Spirits, a draw-back of the same in certain Cases.

Treatment to allow a draw-back of duties on Spirits.

Treasurer to pay back the duty.

Colony of Liberia

Be it ordained by the Agent in Council,

1. That for the term of six months from this date it is hereby made the duty of the Treasurer of this Colony to allow to all persons paying duties on spirits according to the Ordinance of the 25th of October, 1826, a drawback of the amount of said duties, on receiving satisfactory proof that the spirits on which such duties are charged have been actually sold and conveyed beyond the limits of the Settlements of this Colony, without any intention of reintroducing the same into any of the Settlements aforesaid. And the Treasurer is hereby authorized and required on demand to pay back the full amount of the duties aforesaid.

Given at Monroe this 7th day of June, A.D. 1827, and of the Colony the 6th.

(signed) J. Ashmun.

No. VIII.

An Ordinance requiring the solemn Recognition of their Marriage by Persons named therein.

Emigrants arriving as married required to acknowledge their marriage.

Colony of Liberia

Be it ordained by the Agent in Council,

1. That from and after the date of this Ordinance, all persons, who, at the time of their arrival in this Colony shall be living and

cohabiting together as husband and wife, shall previous to their admission to the rights and privileges of citizens, or any of them, be cited by the Clerk of the Court of Monthly Sessions of the Colony, to appear and in his presence and the presence of each other, be required solemnly to acknowledge and declare themselves to be bounden and lawful husband and wife, and to recognize all the duties of that relation.

Acknowledgment to be recorded and to be good in law.

2. It shall be the duty of the Clerk of the Court to record in the records of the same, the said acknowledgment, which record shall forever thereafter, be full and sufficient evidence of the marriage of the parties therein named.

Penalty.

Exception.

Be it further ordained,

3. That no person who shall be living and cohabiting together in the manner aforesaid, and who shall refuse or neglect to obey the citation of the Clerk of the Court of Sessions, and declaration, shall be entitled to draw or hold lands in the Colony or enjoy and exercise any of the rights and privileges peculiar to citizens of the same; until and unless they shall have applied for and undergone a legal and formal marriage, solemnized according to the customs and forms of the Colony.

Given at Monroe this 28th day of April, A.D. 1827, and of the Colony the 6th.

(signed) J. Ashmun.

No. X.

An Ordinance prohibiting Foreigners to trade with the the Native Inhabitants of a District of Coast therein limited, and fixing the Compensation and explaining the Duties of Commission Merchants.

Preamble.

Colony of Liberia

Whereas, it has ever been considered essential to the prosperity of this Colony, that foreigners be excluded from all interference in the

commercial relations of the native tribes, that the past labours and sufferings of the Colonists, and their present burdens in planting and sustaining their settlements, entitle them as a matter of right to the advantages of the native trade within the limits of their actual commercial connections, and that the indulgent terms on which foreign importations are admitted to the Colony, effectually preclude to persons concerned in such importations, all just grounds of complaint or dissatisfaction on account of any restrictive regulations intended to secure to colonists the profits of the country trade.—Therefore,

Foreigners interdicted country trade in certain limits.

Be it ordained by the Agent in Council,

1. That from and after this date it shall not be lawful for any person or persons arriving on the African coast from abroad, except members of this Colony, to carry on trade, or communicate for the purposes of trade, with the native inhabitants of any port or place situated upon the said coast, between the mouth of Grand Cape Mount River, towards the North-West, and the Colonial factory near Poor, or Young Sesters River, towards the South Coast, both places included.

No persons to trade within the said district for foreigners.

Be it ordained as aforesaid,

2. That no colonist or other persons whatever, acting as commission merchant or factor for any foreign importer or merchant whatever shall sell or barter any goods or merchandize, being wholly or in part the property of such foreigners, to or with the native inhabitants of the aforelimited district of coast, including the interior regions situated between the same limits.

Commission merchants to take out license.

Their commissions.
Not to deal by retail.

Be it further ordained,

3. That it shall not hereafter be lawful for any colonist or other person resident within the aforesaid limits to sell or barter any goods

merchandize, or vendible property, or transact commercial business for any foreign importer, merchant, master, supercargo or owner, on commission without taking out a commission-merchant's license, under the hand and seal of the Agent, and that, while holding such license, the commission merchant shall be entitled to demand and to receive on all sales by him effected as aforesaid, a commission fee of seven per centum on the amount of said sales, and furthermore, that while holding such License, the said Commission Merchant shall neither for himself nor for any other person, nor by himself, nor by any other person deal, transact, or trade either with colonists or any other persons whatever otherwise than in the large, or wholesale way.

Penalties for violating this law.

Be it also ordained,

4. That the penalty for violating any of the provisions of this Ordinance by the forfeiture by the party offending of four times the value of the property employed in each and every such illegal transaction, and that every repetition of the offence incur a forfeiture in double the ratio of the proceeding. And that it be the duty of the Port Officer to file information against any person offending, or suspected as offending, in any manner aforesaid, and effectually to prosecute for, and collect all penalties incurred under this Ordinance.

Given at Monroe, this 30th day
Of June, A.D. 1827, and of the
Colony the 6th.
(signed) J. Ashmun.

No. XII.

An Ordinance defining and regulating the powers and proceedings of the Courts of Liberia.

Enacting clause.

One Justice to issue writs.

Two to try criminal prosecutions. See Black Com. B. II Ch. 8, p. 351.

Colony of Liberia

Be it ordained by the Agent in Council.

That the following rules be established as the guide and directory of the Courts of law in this Colony and of all the officers belonging to

the same, or those points to which they relate, namely—first a single Justice of the Peace may issue any writ in a Civil or criminal process, within the jurisdiction of Justices Courts and may try and give judgment in any civil actions within the same—but for the time of criminal process, he shall associate with himself one or more Justices of the colony.

Process by Summons only against free holders except p. 63, 64.

2. Process shall not issue against a free holder, or colonist owing lands in fee, except by summons in any civil action; unless the party applying for the same affirm that he believes himself in danger of losing a first claim, unless he proceed by Warrant.

Warrants returnable immediately. Money to be raised on execution in 30 days, p. 64.

3. A Warrant is made returnable immediately, and execution pursuant of a judgment in such an action is immediately to issue and the officer is bound to raise and pay over the money on such execution within thirty days.

Justice court summons returnable in not less than 3 days, p. 65, 68. Execution ag. free holders to issue in not less than 30 days.

4. A summons cannot be made returnable in less than 3 days and must always be served on the defendant at least three days before the time of trial. An execution cannot issue in this process in less than 30 days after judgment given.

Warrants in criminal cases, p. 63, 64.

5. Criminal arrests are to be made under the authority of warrants.

Two kinds of subpoena, p. 64, 65. First gives 24 hours notice. Last when issueable.

6. Subpoenas for the Summoning of witnesses are of two kinds:

The first when the process by summons shall give the witness 24 hours notice.

Directs immediate appearance.

The last when the process is by warrant, when issued by the Court actually sitting on the cause—and when issued for the Examination or trials of parties arranged on criminal charges, shall compel the instant attendance of the party subpoenaed.

Jurors summoned by Venire for Justice Court, p. 64, 65.

7. Jurors are to be summoned for the hearing and trial of causes in Justice Courts by Venire and shall have 24 hours notice—In the court of sessions are to be summoned by the Sheriff in virtue of a standing rule of Court, to this effect and have one week notice.

Summoned by a standing rule for court of sessions. Form of Rule of Court for Summoning Jurors for every session.

"To the Sheriff of Liberia" you will summon "24 good lawful men, being free holders of the Colony" to serve on the Grand Jury for the Court, at every monthly session of the same during the whole term of your sheriffalty. Also twenty-four other good and lawful citizens of the same to serve on the petit Jury for this Court, at every session of the same, during the same time. Dated and signed

Clerk of the Court of Sessions.

See 6 concern. the Sheriff.

Section 6th to govern the Sheriff in serving Subpoenas for witnesses.

Jurors in Court of Session sworn for the sessions, p. 68, 69. Panels how formed.

7. (Evidently 8.—Ed.) At the opening of the Court of Jurors of the grand and petit Juries are to be sworn, and of the former 18 shall be drawn out for every inquest submitted to them and of the whole number of the latter, 12 for every cause on which they are to set. The balance to supply vacancies caused by challenge in either panel.

Section 2, 3 and 4 relate alike to both the courts. Exception.

8. (Evidently 9.—Ed.) Section 2nd, 3rd, 4th of this ordinance to apply alike to the processes of both Justices, courts, and the court of Sessions except that, in process by summons issued by the court of sessions the defendants is to have not less than one week's notice previous to the end of the term limited for the return of the precept.

What money is receivable in courts.

9. (Evidently 10.—Ed) The Courts of the Colony shall receive in satisfaction of judgments given and fines imposed by them, such produce and species of money, as mercantile usage in the colony shall at the time determine to have the currency and effect of money, and no other.

Given at Caldwell this 23rd day of October, 1827, and of the colony the 6th.

(signed) J. Ashmun.

These rules had a greater or less authority previous to the passage of this Ordinance. Some of them are simply the usages in judicial proceedings under the common law, some have been, from time to time, adopted by the Court of Sessions of Liberia for securing uniformity in its own proceedings. Others result from the local circumstances of the Colony, and others, still, are introduced in order to produce a simple but complete directory easily understood and followed, for the management of the ordinary business of our Courts of Justice. The object of this ordinance is to establish uniformity of prudence in the courts of the Colony.

The jurisdiction of a Justice's Court extends not beyond actions in which the amount in controversy exceeds 20 dollars. But Justices (not less than 2 acting jointly) may commit for trial persons arrested on suspicion of even capital felonies, and may, if they see cause, require recognizances in any sum which the public security shall demand, of persons convicted of breaking or intending to break or disturb the common peace.

Who are, and who are not freeholders?

1. No person can be a citizen, much less a freeholder, who has not taken the Oath of Allegiance to the Colony.

2. No person although sworn to the Allegiance of the Colony, is a freeholder who has not drawn lands.

3. No person is a freeholder, although a citizen of the Colony, who has forfeited, or overgone his two years probation without securing, his lands.

There are two descriptions of citizens who are freeholders in law. 1st. Such as have drawn lands, reside and have not been two years in the Colony. It is favourably presumed of all such citizens that they will in the time limited by law secure the complete title to their lands by performing the conditions on which they were granted, and they are admitted to the privileges of freeholders in anticipation.

2ndly. A freeholder, not only in law, but in fact also, is a proprietor who has a perfect title to his lands from under the hand and seal of the Society's Agent.

An execution not only authorizes but requires the officer to whom it is directed to proceed immediately to levy on the property and raise the money; or in default of goods, effects, be dealt with according to the law made in relation to insolvent debtors.

All writs are to specify the date on which they are returnable.

A Summons may be served 1st by a copy left at the defendant's house provided he is not out of the Colony; 2ndly by reading it in his presence and hearing; 3rd by showing the paper and distinctly explaining the essential parts of the precept. A warrant requires the office to lay his hand on the defendant. Otherwise he is not his prisoner, and that the write be produced, unless from circumstances this is impossible. No houses, chests, etc. can be broken by an officer in serving a civil process.

Grand and Petit Jurors are to (be) sworn but once for the same term or sessions of the court.

When the process is by writ during the recess of the Court of Monthly Sessions, the writ shall be signed by some one of the Justices of the said court and countersigned by the clerk of the court.

The grand jury to consist of 18 only of the whole number summoned for the sessions, to try an inquest. This is a departure

from the usages of United States, but without sacrificing anything material to the ends of justice, it dispenses with much burdensome and useless formality in the empanelling of juries. Jurors as drawn are called, answer to their names and step to their box. The Panel is (word missing. Ed.) answered, and counted, the jury seated When the cause is brought on previous to the second call challenge may be interposed.

When no usage can be proved, the court is to exercise its discretion in deciding what species of transferable property is to be considered as currency, leaning in doubtful cases to the liberal side.

No. 13

An Ordinance directing the Mode of Process by Attachment in Certain Cases.

Colony of Liberia

Be it ordained by the Agent in Council,

1. That persons resident in the Colony and having claim against persons not members of, nor resident, nor being in the Colony, but who have property within the same, shall have process for the security and recovery of their land claims by attachment to issue either from the Court of Sessions, or Justice Court in manner following. To wit:

Declaration filed.
Security in double the amount of claim required.
Writ of attachment on whom served.
Effect on the factor or attorney.
Form of the property is in, not material.
(See the form of this writ p. 1330)

2. The claimants on filing a declaration setting forth his claim, and giving security in double the amount of the same, for the satisfaction of damages and costs, in case he fail to establish the same, shall be entitled to a writ of attachment, directed against the property described in the said declaration. This writ shall be served on the agent, factor,

commission merchant, or other holder of the said property resident and being in the Colony, who as far as the property of the original and principal defendant in his hands shall go, is thenceforward obliged to the Court, issuing the process for the same, whether the said property consists in money, debts, notes of hand, merchandize, produce, or other articles whatever.

First thing the plaintiff is held to prove.

Factors evidence admissible.

Effect of the plaintiff failing to make out this point.

3. It shall, moreover, be required of the plaintiff to prove in Court, 1st, that the property described in the declaration and against which the attachment has been issued, belongs to the original or principal defendant. In this inquisition the factors or merchants evidence shall be admitted. In this case the plaintiff fail to make out this point of his cause, it shall be dismissed, the plaintiff paying costs, and such damages as the court shall award to the commission merchant, Agent, or factor.

The second point the plaintiff is held to sustain.

Effect of failure in this.

4. But after proving the property in the hands of the said factor to belong to the defendant, the plaintiff shall be held only to sustain his claim against the principal non-resident defendant, to the satisfaction of the court. If he fail, the cause shall be dismissed at this stage with costs and damages.

If he succeeds to have judgment.

Effects of judgment as regards attorney.

To be held on a certain contingency in 6 months.

If he succeed he shall have judgment with costs, entered against the said property, which shall thenceforward remain in the hands of the commission merchant or factor, as before, but in the custody of the

court, for six months; then, if not previously awarded to the defendant, as provided for hereafter, it shall be liable to execution.

Proceeding consequent on a judgment in favor of plaintiff.

In what contingency the judgment to be reversed.

When judgment is to be affirmed.

Effects and close of the process.

5. But on judgment in the first instance rendered, the Court shall notify the principal or his agent or attorney, as may be practicable of said judgment and require him to show cause if any within six months, why execution shall not issue and he shall be entitled to a hearing within that term and to a reversal of the judgment, with damages and costs, on proper cause shown otherwise the judgment is to be confirmed, execution issued, as in ordinary action, and the plaintiff's bond cancelled and delivered up by the court.

Given at Caldwell, the twenty third day of October, A.D. 1827, and of the Colony the sixth.

(signed) J. Ashmun.

The intention of this enactment is to guard against abuse and perversion, a process to which as a provision of the common law recourse has already been had, and may become often necessary hereafter, in the Colony.

The class of persons against whom the remedy is likely to be oftenest used consists of absconding colonists.

When therefore do such cease to be members of the Colony. Answer. The oath of allegiance binding the person subscribing it no longer than he continues to enjoy the protection of the Colony and perform the duties of a citizen, it follows, that a Settler who has actually withdrawn himself from the protection of the Colony, with intent to abandon it, finally ceases to be a member so soon as this intention is perceived. So soon, therefore his property left

in the Colony, or arriving in it, is liable to attachment under this Act.

The security required, see 2nd, is to pay costs that shall have occurred in any stage of the action at which the claimant's suit shall be dismissed and to satisfy any damages to which either principle or attorney shall be adjudged by the court to be entitled in consequence of being of the suit.

It has been decided in the case of Douglas vs. Bock that property brought into the custody of the courts and left by the court in the hands of the defendant factor or attorney shall be, in all respects, subject to the instructions of the principal originally given in respect to that property properly, to the said attorney the power of alienating it, only, excepted: and that the same commissions allowed the said factor, etc., by his principal, for the management of the said property, shall be allowed him by the court.

It may be observed that some of the particular provisions of this act are peculiar, but comfortable to the circumstances of the Colony.

No. 5

An Ordinance regulating the Trade of the Colonists of Liberia with the subjects and territories of King Freeman of Young Sester

Traders to Sesters to take out license.

Colony of Liberia

Be it enacted by the Agent in Council,

1. That from this date, no colonist or person resident in the Colony shall trade to, or upon the line of coast comprised between Trade Town exclusive and the Village of Tabocanee, inclusive, without a special written license from the Agent of the Colony.

Factor and his duty.

2. That an incredited factor of this Colony shall reside near the mouth of Young Sester River, whose duty it shall be to make all purchases of African produce effected in the said territory both on account of the government and of individual colonists, and be accountable to

the owner of all property, consigned to him for that purpose for the same, except in case of providential and unavoidable loss. And on causing the said produce so purchased to be safely embarked on board of a licensed boat—or vessel of the Colony, he shall be entitled to receive and retain, ten per cent for commissions on the amount of purchases, and no more.

Colonists may consign goods to the factor.

3. That all colonists or persons resident by permission in the Colony, have the right to deposit with the said factor any merchandize or purchase-money, whatever to be laid out in just rotation, without regard to the amount of the said merchandize, in the purchase of country produce. And the factor is bound to dispatch the proceeds of the goods so laid out, to the owner of the same by the earliest licensed conveyance: reserving the commissions due on the same.

Licensed vessels.

4. That the owners of any boats, or vessel of sufficient size and goodness belonging to the colony, who shall undertake to run them between Cape Mesurado and the Sesters, and become accountable for the freight, the accidents of the Sea excepted, shall be licensed to carry freight to and from the said factor, and during the actual performance of the trip the said owners, or their masters in their name shall have the right to trade from their vessel, with their own funds only, in any part of the Sester territory, acceptable by water, except within one mile, it must be at the factory, and with the concurrence of the factor, and in conformity to the prices by law established.

Rates of freight.

5. That licensed freighters and the masters of public vessels be entitled to receive in advance, for all freight to be carried without loss, or damage, to the said factory, five per centum on the value of the same: and the officer of the Port, who is to take accounts of merchandize so sent, one per cent of the same. And the rates lawful to be charged on all freight safely brought from the factory to Mesurado, shall be on Camwood, ten per centum of its value, on rice and oil ten per centum, on shell five per centum, ivory five per centum, on mats twenty per centum, and on live Stock and produce not specified a reasonable discretionary charge may be made.

Forfeitures.

6. That all goods sent or consigned to natives or others in New Sesters, except to be licensed freighters and factors be forfeit to prosecution, or any of the chiefs of the country who choose to seize on the same.

Penalties.

7. That any accredited factor, or freighter convicted of mal-practices be forthwith deprived of his license, recalled and liable to an action of damages, and any other colonist attempting to evade or violate this provision of this ordinance shall forfeit, for the first offence, the goods so employed, with costs of suit—and for every subsequent offence, three times this value; or be cut off from the Colony at the discretion of the Agent.

Given at Monroe, this 26th of November, A.D. 1825, and of the Colony, the 4th

(signed) J. Ashmun

The first section of this ordinance is not construed to allow colonists indiscriminately, or for their own emolument exclusively, to demand a trading license of the Agent—except they own, and intend to trade from small vessels visiting the line of Coast therein described. It principally relates to factors, to be appointed and licensed as provided in the subsequent sections of the ordinance.

No. XV.

Supplement to the foregoing ordinance.

Colony of Liberia

Be it ordained by the Agent in Council,

That the foregoing ordinance be construed to prohibit all colonists, licensed freighters only excepted, to trade to or in any part of the District therein limited, except only *at the factory* established in the same.

Caldwell, October 24, 1827

(signed) J. Ashmun.

No. XVI.

Repeal of tariff of prices.

Colony of Liberia

Be it ordained by the Agent in Council,

That the legal authority of the tariff of prices originally appended to and making a part of the ordinance of the 20th November 1825, has ceased as fettering too much the freedom of trade.

October 24, 1827

(signed) J. Ashmun

No. XI.

An Ordinance requiring the Inhabitants of Caldwell to construct certain Fences therein Named.

Inhabitants of Caldwell required to construct certain fence within a limited time Penalty.

Colony of Liberia

Be it ordained by the Agent in Council,

That the actual settlers on the St. Paul's River and Stockton Creek be required on or before the first day of December next to have completed on the South line of St. Paul's Street and the South Eastern line of Stockton Street, the chain and eight links of substantial fence, respectively, over and above the fence in front of their several buildings lots, on penalty of paying seven dollars and fifty cents for neglecting to make the same, with cost of suit. The Commissioners of Agriculture are charged with the execution of this Ordinance.

Given at Monroe this 16th day of October, 1827—

(signed) J. Ashmun.

At the commencement of the St. Paul's alias Caldwell Settlement, landholders were instructed by the Agent to clear, and per-

mitted to cultivate, the strip of public unappropriated lands lying between their building lots and the water. See the Survey. To insure to the persons clearing and planting this strip, their crops, cattle etc. were by law, forbidden to run at large, until the 1st of January, 1827. Notice being previously given to all who owned crops, cattle and swine then became free commoners. But, in October of the Year, application was made to the Agent, again to restrain domestic animals in their liberty of commons, in order to preserve the crops of the Settlement, without subjecting the farmers to the expense of fencing them round. But the inquiry which such a measure would inflict on the owners of stock forbade such a regulation. And it was judged that a single fence drawn in front of the range of building lots, to turn off stock from the premises of proprietors, would supersede all other inclosures and thus sufficiently protect the cultivators and that the same fence throwing all the lands between it and the river open for a range to the cattle and swine, would afford only a fitting encouragement to their owners of these kinds of stock.

To secure the effectual concurrence of both parties in this measure, it was judged necessary to give it the authority of law Hence the Act of Oct. 16th opposite Enacting authority conferred by Art. VIII of the Const. and the form of Govt. generally.

(signed)
J. Ashmun

No. XIX

An Ordinance Establishing the forms of Certain Judicial Precepts and Instruments therein Named

Colony of Liberia

Be it ordained by the Agent in Council,

That the forms following be, and are hereby established as the only Legal forms of the writ and precepts to be used by the Courts of this Colony in pursuance of the directions contained in the "Ordinance" of October 23rd, 1827 "defining and regulating the powers and proceedings of the Courts of Liberia" and that no judicial precept shall either the Officer or party on whom served, that shall not bear the seal of the Court when it issues. (So in original.—Ed.).

Warrant of J. P. for the arrest of a Criminal

Colony of Liberia

To ..... or any Constable of this Colony:

I hereby command you to arrest and forthwith have before me ..... to answer to the colony of Liberia, on a charge of ..... preferred by ... . .. Herein fail not, on your peril. Given at ..... this ... ..day of . 182..

For Ct. S. Return ... term of . ... . Just. Ct. of Sessn.

C of S. (LS) ..... Clerk of C.S. or J.P.

Just. Ct. Return immediately. by Order of the Court

Warrant of J. P. for arrest, in a civil action

Colony of Liberia

To .... or any constable, of Liberia

I hereby command you to arrest and forthwith have before me ..... to answer to ... . in an action of trespass on the case, to the amount of twenty dollars, or under. Herein fail not at your peril.

Return forthwith

Given at .. .. this ..... day of LS 182 ..... Jus. peace.

Warrant of Clk of Ct. of S. ... in a Civil Action

Colony of Liberia

To ..... Sheriff, or any Deputy S. of Liberia:

I hereby command you forthwith to arrest, and oblige to appearance at the next term of this court . . . . to answer to ..... . in an action of trespass on the case to the amount of ..... dollars or under: Herein fail not at your peril

Given at the office of the C. of Ct. of S. for Liberia, this ..... day of 182

Return .... term of Ct. of S. .... L.S. .... Clk. of Ct. of S.

Summons ....

Colony of Liberia

To ..... or any ..... of Liberia

I hereby command you to summons ..... to appear before ..... at ..... on the ..... day of ..... to answer ..... in an action of trespass on the case. Herein fail not, at your peril.

Given at ..... this ..... day of .... 182..

Return on the day of ..... 182.. LS ..... J.P.

Subpoena 1st.

Colony of Liberia

To ..... or any . ..... of Liberia.

I command you to summons ..... to appear before .... . at ..... on the ..... day of ..... as a witness in the case of .. .. against ..... on a civil process then and there to be tried and give you the said ..... twenty four hours notice of this citation .. .. Herein fail not.

Given at
L.S. this ..... day of ..... 182...

Return on the ..... day of)
..... 182 .....)

..... J.P. or C of Ct.

Subpoena No. 2nd

Colony of Liberia

To ..... or any ..... of Liberia

I command you forthwith to cite and require the immediate attendance before ..... of ..... as a witness in a case of ..... now pending, of ..... against ..... Herein fail not at your peril. Given in Court this ..... day

L.S. .... of ..... 182...

Return immediately. ..... J.P. or C.C.S.

Venire for a Jury.—in Court of Session

Colony of Liberia Venire for a Jury—in Justices' Court

To ..... or any constable of Liberia:

I command you to summon 24 lawful men, being freeholders to serve as jurors, in this court on ..... the ..... day of ..... 182... in a civil action brought by ..... against . .. .: and give you the said freeholders three days notice of this citation. Herein fail not at your peril ....

Given at ... .. this ..... day of
L.S. .... . 182...

Return on the ..... day of ..... 182 .. Justice peace

Execution

Colony of Liberia

To ..... Sheriff, or constable, of Liberia.

Judgment, having been rendered by this Court against ..... in favour of ..... for the Sum of ..... dollars, with cost of suit. There are therefore, to command you, forthwith to levy upon the personal and real estate of the said ..... and the same to sell, and the money to raise and paying this court within thirty days, for the satisfaction of the said Judgment, with all the costs of suit and the costs and commissions by law allowed for the execution of this precept—And in default of such real and personal estate of sufficient amount, you shall return the said defendant "Insolvent," as by the Ordinance of July 14, 1826" required.

Herein fail not ....

Given at ... this & ... day of .... 182..

Returnable 30 days LC J.P. or C.Ct. S.

Oath to be administered to the Grand Jury, at the Commencement of the Term.

You, and every one of you shall diligently inquire and true presentment make of all such matters and things as shall be given you in charge. You shall present no man for hatred, envy or malice, neither shall you fail to present any man for love, fear, favour, affection or

the hope of reward. But you shall present things truly as they come to your knowledge, according to the best of your understanding

So help you God.

Oath to be administered to the petit Jurors

Summoned for the term ..... at the opening of the Same.

You shall well and truly try, and a just verdict give, in every action, question, and matter for the trial of which you or any of you, shall be empanelled during your present attendance at this court .. So Help you God.

Form of a writ of attachment to issue against the property of absentee debtors.

Colony of Liberia

To ..... Sheriff of Liberia (or constable) .. .. having filed in this court a declaration with the legal Securities, setting forth a claim by him held against .. ... not within this Colony, and that ..... now resident and being in the Same, is the factor and agent of the said ..... for certain moneys merchandize, etc. the property of him the said .....

These are therefore to command you to attach so much of the said property as shall be sufficient to satisfy the said claim of . .. dollars with all the costs of suit, by serving this writ, on the said ..... factor of the said ..... and commanding him to appear before ..... at ..... on the ..... day of ..... 182... to answer in behalf of his principal to the said ..... on his suit for the said claim according to an ordinance of this Colony in such cases made and provided.

..... Justice peace or C. of Ct. Ses.
Given at Caldwell, this 2nd day of November, AD 1827, and of the Colony the 6th

Return ..... day of ..... 182...

L.S.

J. Ashmun

Resolution (not numbered)

Colony of Liberia

Frances Devany, captain of the Corps of "Monrovia Independant Artillerist" has submitted to the Agent in Council a claim in behalf

of the said corps, relating to the proper post of the said corps, in the line of the Colony, and likewise on his own past, a claim to the command of the said line, on the ground of holding the Senior Captain's commission under the Government of the Colony.

Whereupon the Agent and Council have duly deliberated, and decide as follows: namely,

1st, That, on the general parade, and on other occasions where the position of the different corps of the Colony in line is to follow the order of precedence, the said Artillery Corps, and all the Artillery Corps of the Colony are entitled to form in the right of the Infantry of this Colony according to the military principles and usages of England, France and the United States of America: and

2nd, That the appointment to a Captain's command of Captain Devany, in the year 1824, in which he rests his claim to be considered the Senior Captain of the Colony, was a temporary appointment, growing out of the then exigencies of the Settlement, and was made before the present Government of the Colony, under which regular commission have since been granted had come into existence: that the said appointment was resigned by Captain Devany the same year, and that Captain Devany, even if he had then held a regular captaincy, has, by subsequently accepting two other military commissions under the Colony, virtually resigned the same, and can at this period sustain no claim to rank or precedency by reference to the appointment of 1824.

It was further decided by the Agent in Council, that Captain Devany, having tendered the resignation of his commission as Captain of the "Monrovia Independant Artillerist" the said resignation be, and hereby is excepted.

Given at Monroe, the 30th day of January, A.D. 1828, and of the Colony the 7th.

(signed) J. Ashmun

W. L. Weaver, Acting Secretary of the Colony of Liberia.

Ordinance (not numbered)

Colony of Liberia

Whereas, by Letters Patent from under the Seal of this Colony, a monopoly of the trade of Young Sesters Territory is granted for five years from this date to Jacob Warner, Richard Sears, Daniel George, and nine others, provided the said individuals become permanent settlers of the said territory within one year from December 25, 1827.

Be it therefore ordained by the Agent in Council, that it shall not be lawful for any citizen or persons resident within this Colony, except members of the said Settlement of Young Sesters, to trade to the said Settlement, with the country inhabitants, until after the 25th day of December, 1832, on penalty of forfeiture of double the amount of the property employed in such unlawful transaction.

Given at Monroe, this 25th day of December, 1827, and of the Colony the 6th

(signed) J. Ashmun.

No. 14

Plan of Civil Government for the Colony of Liberia.

October 23, 1827

Preamble

The necessity of a mild, just and efficient civil government for the preservation of individual and political rights among any people, and the advancement of true prosperity, induces the Board of Managers of the American Colonization Society to adopt, after mature consideration, the following system of government, for the proper regulation of public affairs in the Colony of Liberia.

The Plan of Government here drawn out at length has grown by unsensible (*sic*) degrees out of the Constitution and circumstances of the Colony. The earlier Agents of the Colony were furnished only with the Constitution and a few general introductions from the board relating to the government of the people. The necessity of the case obliged them, however, to an uniform and systematic mode of administering the powers with which they came invested for the security and civil order of the settlers. Much uncertainty and its consequent evils still attended this imperfect organization of the government, until June 1823, when the Regulations of the Board of June 26, 1820, taking effect, somewhat extended the privileges of the people, and reduced to form and practice the elements of a civil state, which had formerly been latent in the charter of the Colony. The experience of a few months proved the imperfection of even this improved state of the government. The paucity of civil officers allowed by it required the creation of others by the Agent, exarbitrio, and the provisions of these

regulations for the defence of the Colony, for the administration of justice and for maintaining civil orders and compelling obedience to the laws, were found to be altogether defective. A more perfect and detailed constitution of government was accordingly drawn up by the two Agents then in the Colony, in August, 1824, and immediately carried into effect. The actual exigencies of the settlement dictated the whole of this compend of government. It was submitted to the Board of Managers and by them approved as a temporary relief of the then critical and distracted state of the civil affairs of the Colony. And with God's blessings it has fulfilled this end. But several of its provisions have become obsolete. Some are proved to have been too indefinite and incomplete and others too complex and burdensome. Meantime, while the letter and form were respected, as belonging to a system to which the Colony owed its civil establishment, the practice of the government deviated in several points very widely from both. Such parts as were proper to the infancy of the Colony fell into (word missing. Ed.) first. The necessity of retrenching expenses, curtailed some other parts, and the gradual change of the military organization of the colony, has since led to the most important practical innovation in all. The form now established is almost wholly the offspring of a thorough experiment and has been proved sufficiently comprehensive to meet all the ordinary exigencies of the Colony for many years to come. November 27, 1827, J. A.

Article I.

Power of the Agent.

The Agent of the American Colonization Society resident in the Colony possesses within the same, sovereign power, subject only to the Constitution, the chartered rights of the citizens, and the decisions of the Board.

Article I. Differs from the corresponding article of the preceeding form only in expressly naming the limitations of the Agent's authority necessarily qualifying it, even if not expressly declared.

Article II.

Voters' Qualifications.

All male coloured people, who have subscribed the oath to support the Constitution, and drawn and not forfeited lands in the Colony, shall be entitled to vote for, and be eligible to the civil offices of the Colony.

Article II. Defines the qualifications of citizenship to which, instead of the freehold of the United States and England the elective and other civil franchises attach. It would be dangerous to entrust these rights to persons holding a less interest in the Colony, and production of an aristocracy, to insist at present on higher qualifications. But these at some future period.

Article III.

Annual Elections.

The civil officers of the Colony shall be appointed annually, and the polls for the general annual election of the Colony shall be opened on the last Tuesday in August, and continued open not more than three, nor less than two successive days, in the different settlements. Election shall be organized by the appointment in each settlement of a president, two judges, and two clerks.

Article III. The annual change of the civil officers of the Government would greatly endanger its stability did not the Agent and Judicial officers, with several of the other public servants depending on the appointment of the Agent and Board, hold their situation for a much longer time. The *vox populi* in the government of a community unaccustomed to self-government cannot with safety be heard too often, or too loudly. When all the officers of the government become elective, the term of office, as respects the most important, will require to be extended.

Article IV.

Colonial Officers Eligible by the People.

The colonial officers eligible by the annual suffrage of the (free) holders, in which the Agent has the right to interpose his negative assigning to the voters, in time to renew their choice at the same election, his reason for such interposition, are for the Colony:

A Vice-Agent;
Two Councillors;
A High Sheriff;
A Secretary;
A Register; and
A Treasurer: and for each of the settlements consisting of not less than sixty families,

Two Commissioners of Agriculture;
Two Commissioners to form a Board of Health; and
Two Censors.

Article IV. Elections are carried by a plurality of votes. The first High Sheriff and Treasurer were appointed in 1826. the former by the Agent. But to add to the authority of this officer the influence conferred by the choice of the people is now made elective.

The old Committee of Public Labour went into disuse in 1827, and the officers of Secretary, Register and Censors, the long and greatly needed, are created in the present revision of the system of Government.

ARTICLE V.

Dates of Vice-Agent.

The Vice-Agent shall be admitted to the Councils of the Agent in all important matters, and shall express an opinion on all questions submitted to his consideration. He shall aid the Agent in his discharge of his various duties, and in the support and execution of the laws. In the event of the Agent's absence or sickness the Vice-Agent shall become the General Superintendent of Public Affairs

Article V. The Vice-Agent and Council, but especially the first, is the strong connecting link of the permanent and the popular parts of the Government; and it unites them, both in the legislative and executive departments so effectually as to tie the whole into one strong indivisible and vigorous system. The only conflicting interests of the community are those which look abroad to the general, and forward to the future welfare of the Colony, as occasionally arrayed against the present convenience and private advantage of individuals. Of the first the Agent is emphatically the guardian. The latter are represented in the government by the Vice-Agent and Councillors. But at their joint board both will be reconciled as far as the ends of government require, so long as the Agent shall respect the happiness of the people, and the other members of the Board possess the wisdom, discernment and firmness necessary to qualify them for their important functions. The Vice-Agent by being a member of the Agents Council is supposed to be thoroughly acquainted with the affairs, the principles and the details of his administration and

therefore the better qualified to succeed to his place when occasionally or providentially vacated. He has the aid of the same council which assisted the Agent. Hence the presumption, fully justified by experience, that the absence and inability of the Agent will never much endanger the stability or change the course of the administration of public affairs in the Colony. In case the Agent is divided in opinion against his whole council, it becomes him first to weigh the arguments by which their judgment is determined and secondly to inquire whether a greater benefit may not from the circumstance be hoped for to the Colony, from his waving than persisting in his opinion and that particular instance. Such a concession may not always be weakness and sometimes wisdom. For it is sometimes better to carry the Colony with you in a way not absolutely the best than to pursue the very best without it.

Article VI

Council

The Vice-Agent, with the two councillors, shall constitute a Council, who shall meet, when requested by the Agent, to deliberate on the interest of the Colony, and the measures to be taken for their security and advancement.

The Vice-Agent shall also advise with the other members of the Council on any subject connected with the general welfare, as often as he shall think proper, and report the result to the Agent, if present, or act upon the same in case of his absence.

Article VII

Duty of Councillors.

The duty of the Councillors shall be to aid the Agent, or Vice-Agent, with their advice and counsel, on subjects relating to the general welfare of the Colony, whenever thereto requested by either.

Article VIII

Duties of Sheriff.

The High Sheriff shall, either by himself or his deputies, aid in the organization of elections; act as Marshall for the Government of

the Colony; execute all processes, judgments and commands of the Court of Sessions, and perform, generally, the services required of the same officer by the Common Law of England and the United States.

Article IX

Duties of Secretary.

The Secretary of the Colony shall take charge of, and carefully keep, all the papers, records, and archives of the Colony, generally, shall attend and exactly record the doings of the Agent in Council, shall publish all the Ordinances, and legal enactments of the Government notices; issue the Agent's orders, civil, military, and judicial to the proper functionaries; cause a fair copy of Government, papers necessary to be recorded, to be delivered to the register of the Colony, and manage its internal correspondence on the part, and under the direction, of the Agent.

Articles IX, X, XI The vice-Agent to serve without pay during the presence of the Agent in the Colony, when not in a state of disability. At other times the duties of his office cannot be performed, and leave him time to care for his private affairs. And such services he deserves a compensation. The councillors ought to give their services to the Colony, as should also the health and agricultural officers in the discharge of their ordinary duties. The Sheriff pays himself with his legal fees. The Treasurer has his commissions as established by law. The Register's pay is assessed on the records made by him estimated by the folio. The Secretary's consists of a yearly salary, and is to be constantly employed, not only as the Secretary of the Colony, but the Agent's assistant. The Censors serve gratuitously, as do also the Justices of the Court of Sessions, and the military officers of the Colony in the time of peace. Constables and justices of the peace are entitled to the fees of office. The auctioner receives a fixed commission on the amount of sales. The storekeeper has an annual salary. The Librarian receives $50 per annum.

Article X

Duties of Register

The Register shall record all documents and instruments relating to the security and title of public or individual property, government

grants, patents, licenses, contracts and commissions and all other papers which are properly a matter of record, and to which the Government of the Colony shall be a party.

Every volume of records, when completed, shall be delivered by the Register to the Secretary of the Colony for preservation among the archives.

Article XI

Duties of Treasurer

The Treasurer of the Colony shall receive and safely keep all the monies and public securities required by law, or the judgments of Courts, to be deposited in the public treasury, and shall deliver up, and pay over the same, only to a requisition signed by the Agent.

Article XII.

Commissioners of Agriculture.

The Commissioners of Agriculture shall report, and serve as the organ of the Government, on all subjects relating to the agriculture of the Colony.

The Commissioners composing the Board of Health shall report and serve as the organ of the Government, on all subjects relating to the health of the Colony; shall ascertain the proper objects of medical attention; report nuisances prejudicial to the public health, and superintend their removal, and make themselves, generally, active in diminishing the sufferings and dangers of the settlers caused by sickness.

Duties of each of the Committees.

Each of these committees shall record for the future use of the Colony all important observations and facts relating to the subjects of their charge.

Article XIII.

Duties of Censors.

The two Censors shall act as conservators of the public morals, and promoters of the public Industry, and be obliged to all the duties and invested with all the legal powers or whatever relates to the public morals and industry, which are by law required of, and possessed by

Grand Juries in such part of the United States as recognize such (word missing. Ed.) to their magistracy.

It shall be the especial duty of the officers to ascertain in what way every person in their proper districts acquire a livelihood, to report or present idlers, detect vicious or suspect practices, and present for legal investigation and cure any actual or probable evils, growing out of the immoralities or idleness, either of a portion of the community or of individuals.

Article XIV.

Judiciary.

The judiciary of the Colony shall consist of the Agent, and a competent number of justices of the peace, created by his appointment. The justices shall have cognizances of all cases affecting the peace of criminal cases within the definition of petit larceny, and all actions of debt not exceeding twenty dollars. In the Courts of Monthly Sessions, whether acting as a Court of Law, or a Court of Equity, the Agent or Vice-Agent shall preside and the Justices be his associates.

Court of Session.

The Court of Session shall have original jurisdiction in all actions of debt, in which the amount in litigation shall exceed twenty dollars; and in criminal cases, above the degree of petit larceny; and shall have appellate jurisdiction in all civil causes whatsoever.

Constables.

The requisite number of constables for the Colony shall be appointed by the Agent annually.

Clerk and Crier.

A Clerk and a Crier of the Court of Sessions shall also be appointed by the said Court annually.

Auctioneer.

An Auctioneer, who shall conduct all auction sales except those of the Sheriff and Constables, in pursuance of the judgment of the Court of the Colony, shall also be created by annual appointment of the Agent.

Storekeeper, Librarian & Commissary of Ordinance.

A Storekeeper, Librarian, Commissary of Ordinance, to be appointed by the Agent, shall be respected and obeyed in matters belonging to their respective functions, as officers of the Colony.

Instructors of Schools.

Instructors in all (public) schools having the sanction of a public charter, or participating in any degree in the public funds, shall be appointed and employed by the regular school committees of the Colony, but only with the Agent's approbation and concurrence.

All Custom, Port, Infirmary, Medical, Guard and Police Officers not appointed by the Managers of the Colonization Society, and where services are required and defined by the laws of the Colony,

Measurers, Inspectors, Appraisers.

together with the Public Measurers, Inspectors and Appraisers shall be appointed by the Agent of the Colony.

ARTICLE *XV.*

Militia, How Organized.

The Militia of the Colony shall consist wholly of such uniformed volunteers corps as shall obtain charter under the Government of the Colony, of which charters the following shall be fundamental articles:

Essential Articles of Military Charters.

1) That the Corps shall always comply with any requisition for these services, either wholly or in part, made by the Executive Government of the Colony.

2) That the Corps shall ever preserve and hold itself, and its arms and equipment, in a state of readiness for actual service, at the shortest notice.

3) That its officers be commissioned by the Agent.

4) That it shall muster, parade, and serve in the line of the Colony under general officers, when thereto required by the Executive Government.

General Officers.

General officers shall be appointed by the Agent, and when especial reasons do not forbid, shall be taken from the officers of the several corps and promoted according to rank and the security (*sic*) of their commissions.

Court Martial.

All military offences and delinquencies shall be tried by a general Court Martial, to be composed, except the officers and guard, of the Court, of commissioned officers, and to sit quarterly.

No. XVIII.

Colony of Liberia. An Ordinance Directing the Application of Public Money.

What Monies are for Military Use.

Be it enacted by the Agent in Council,

1. That all monies arising from military fines and contributions be held by the Treasurer of the Colony for application to the general defence and military uses of the Colony, reserving for chartered military corps the fines of the same, when the right of disposing of their own fines shall have been secured by charter to the said corps.

What Monies for Judicial Uses.

2. That fines imposed by the Civil judiciary of the Colony, constitute a fund to defray the expenses attending the same and

3. That all monies accruing from duties on imports, forfeitures, reversion of the estates of intestates, and all other sources, except from civil and military fines as above provided, be held applicable to the Common School Fund of the Colony.

Done at Caldwell, this 25th day of October, A.D. 1827, and of the Colony the 6th,

(signed) J. Ashmun.

No. XIX.

Colony of Liberia. An Ordinance establishing the Forms of Certain Judicial Precepts and Instruments therein named.

Be it ordained by the Agent in Council, That the forms following be, and are hereby established as the only legal forms of the writs and

precepts to be used by the Courts of this Colony in pursuance of the direction contained in the Ordinance of October 23, 1827, No. 12, defining and Regulating the Powers and Proceedings of the Courts of Liberia, and that no judicial precept shall either the officer, or party on whom served, that shall not bear the seal of the court when it issues

No. XX.

Colony of Liberia. An Ordinance Lengthening the Time for Improving Lands to those who fought for to lay a Foundation of this Colony.

Colony of Liberia.

Whereas several of the early defenders of this Colony are from different causes still without a title to lands in the same, and the legal term offered them to become possessed of such titles having expired, and that it is agreeable to the benevolent intentions of the American Colonization Society that those individuals do not lose so important a recompense of this Colony therefore,

Be it ordained by the Agent in Council, that to all the settlers now in the Colony who assisted in the defense of the same in 1822, are yet without landed property within it, be allowed an extension of their term for accomplishing the legal improvements on their lands drawn to the 1st day of May, 1829.

Given at Monroe, this 15th day of March, 1828

(signed) J. Ashmun

STATUTE LAWS

OF

THE COMMONWEALTH OF LIBERIA

AND PLAN OF CIVIL GOVERNMENT.

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[1]

STATUTE LAWS

OF

THE COMMONWEALTH OF LIBERIA,

AND PLAN OF CIVIL GOVERNMENT.

EVERY holder of a building or town lot shall put a sufficient fence around one-half of the same, on the parts contiguous to his next neighbors.

Colonists injured or liable to injury from his neglect to make such fence, to apply to the commissioners of agriculture, who are to warn the delinquent to construct such fence within a reasonable and specified number of days. In case of neglect, the delinquent is to be again warned to complete the same, within ten days thereafter. At the expiration of this last ten days, the original complainant is authorized to cause the fence to be made, submitting his bill for the same, to the commissioners, who are to revise, and, if reasonable, allow it.

On this bill, any justice of the peace applied to, is to issue execution, commanding the constable to levy on the delinquent's personal estate, and raise the money for judgment and cost within thirty days.

Passed, August 13*th*, 1823.

SEDITION, mutiny, insubordination or disobedience to the lawful authorities, are high misdemeanors; and punishable either by a Justice's Court or Court of Sessions. *Passed, August* 19*th*, 1824.

QUARRELING, riot, drunkenness, Sabbath breaking, profanity, and lewdness, are infractions of the peace, and punishable by sentence of Justices, or of the Court of Sessions, with fine, imprisonment, or standing in the stocks. *Passed, August* 19*th*, 1824.

SIMPLE theft, in which the property stolen shall be less than one dollar, is petit larceny. *Passed, August* 19*th*, 1824.

GRAND larceny and all felonies, punishable, in pursuance of judicial sentence, with imprisonment, either in irons or not, or by a term of labor in chains on the public works. *Passed, August* 19*th*, 1824.

PERSONS obstinately refusing to acquiesce in the express decisions of the board of managers, shall, on conviction thereof by a court of justice, forfeit all their real estate in the Colony, and be compelled to leave it. *Passed, August 19th,* 1827.

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[2]

PERSONS trespassing on lands by cutting or removing timber or other property, are liable to exemplary damages.

Passed, August 19th, 1824.

NO PERSON is to reside on the lands of the Colony without permission of the Colonization Society, or their Agent. A good character for industry and morals are prerequisite qualifications for citizenship and residence in the Colony. *Passed, August 19th,* 1827.

EXPULSION from the Colony may take place on conviction for offences directly affecting the peace and good government of the same, and when ordered by the Society, in punishment of any misdemeanor, in their judgment deserving that penalty.

The property of exiles to pass to their next heirs resident in the Colony In all cases of banishment, where the banished person has no heir in the Colony, the lands held by him shall revert to the Colony.

Passed, August 19th, 1824.

ALL persons are permitted to dispose of property by will. The estates of intestates to be committed, with letters of administration, to administrators. *Passed, August 19th,* 1824.

IN all lands appropriated to settlers, every third lot shall, when practicable, be reserved for public uses.

Passed, August 19th, 1824.

NO PERSONS shall own lands who do not reside in the Colony, and cultivate at least two acres, or carry on, with consent of the Agent, some mechanical trade; and build a substantial house on his town lot, within two years from the time when the lands shall have been laid off to him.

Passed, August 19th, 1827.

A HOUSE, to answer the requisition "substantial," in the preceding section, must be, first, of sufficient size to accommodate all the family of the proprietor; and, secondly, built of stone, brick, or other substantial materials and workmanship, or of frame, or logs, weatherboarded, and roofed with tile, slate or shingles.

Passed, August 19th, 1824.

ALL settlers, on their arrival, shall draw town lots or plantations, for which the Agent is to give them a certificate, specifying their number and the time of drawing. If, within two years from that date, two acres of land on the plantation shall have been brought under cultivation, the town lot cleared and inclosed, and a legal house built, the said certificates may be exchanged for title deeds of such lands, to be held, thereafter, in *fee simple.* *Passed. August 19th,* 1824.

[3]

EVERY married man shall have for himself a town lot, or five acres of plantation land; together with two more for his wife, and one for each child, if they are with him; *provided,* that no single family shall have more than ten acres. *Passed, August 19th,* 1824.

WOMEN not having husbands, emigrating to this Colony with permission, and attached to no family besides their own, shall receive, each a town lot, or two acres of plantation lands on their own account, and one acre on account of each of their children.

Passed, October, 1824.

LIBERATED Africans, incorporated in the Colony, and who shall be judged capable of managing, shall receive small grants of land.—[See Record, pt. II, p. 12.]

All unmarried men of the age of twenty-one years, either arriving in the Colony from abroad, or attaining their majority while resident in the same, and having taken the oath of allegiance, shall be admitted to draw and hold a building lot, or five acres of plantation lands, on the same conditions as married men.

In case of marriage afterwards, the person herein respected, is to draw on account of his family no additional lands, but shall be entitled to hold whatever his wife may have previously drawn in her own

right, or inherited from a former husband, or other person, provided she shall not have alienated such lands at the time of her marriage.

Passed, October 22d, 1827.

No BARGAIN, transfer, exchange, sale, deed, or lease of lands, by or with the grantee of lands for the same, before a legal and complete title obtained for them in *fee,* shall be valid or lawful.

Passed, October 22d, 1827.

THE imperfect right in lands acquired by the draft of the same, shall, in the event of the decease or expulsion of the drawer, before the expiration of the probationary term, descend to his heirs in the Colony.

Passed, October 22d, 1827.

No COLONIST shall deal with the natives of the country for lands.

Passed, August 19th, 1824.

MISSIONARIES coming out with the approbation of the Society, are permitted to reside, so long as they devote themselves to their sacred functions. *Passed, August 19th,* 1827.

[4]

AN ORDINANCE defining and regulating the powers and proceedings of the Courts of Liberia.

Be it ordained by the Agent and Council, That the following rules be established as the guide and directory of the courts of law in this Colony, and of the officers belonging to the same, on those points to which they relate, namely—

1. A single justice of the peace may issue any writs in a civil or criminal process, within the jurisdiction of justice's courts; and may try and give judgment in any civil actions within the same: but, for the trial of criminal processes, he shall associate with himself one or more justices of the Colony.

2. Process shall not issue against a freeholder, or colonist owning lands in fee, except by summons, in any civil action, unless the party applying for the same affirm *that he believes to be in danger of losing a just claim unless he proceed by a warrant.*

3. A warrant is made returnable immediately; and execution pursuant of a judgment in such an action is immediately to issue; and the officer is bound to raise and pay over the money on such execution within thirty days.

4. A summons cannot be made returnable in less than three days, and must always be served on the defendant at least three days before the time of trial. An execution cannot issue in this process in less than thirty days after judgment given.

5. Criminal arrests are to be made under the authority of warranty.

6. Subpoenas for the summoning of witnesses are of two kinds: *The first,* when the process is by summons, shall give the witnesses 24 hours' notice. *The last,* when the process is by warrant—when issued by the court actually sitting on the cause, and when issued for the examination or trials of parties arraigned on criminal charges—shall compel the instant attendance of the party subpoenaed.

No MARRIAGE of colonists, or others resident or being in the Colony. (natives of the country excepted,) shall be lawful without a license previously had, authorizing the same, from under the hand of the clerk of the County Court; and those persons requiring license shall give bond and security in the sum of $200, that there be no illegality in forming that connexion.

The parties to such illegal marriage shall be expelled the Colony; and persons performing the marriage service for unlicensed parties shall be fined, discretionary by the Court of Sessions.

Passed, October 24th, 1827.

THE OWNERS of all decked crafts belonging to the Colony shall not sail the same outside of the rivers, without providing them with a Colonial flag or broad pennant, and a sailing license from under the hand and seal of the Agent; under penalty of paying one dollar a ton

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for every ton which such craft shall measure, for each unlawful trip.

Passed, October 24th, 1827.

ALL treaties, whereof the Government of the Colony is one of the contracting parties, shall, from the date of their publication, become

laws in the Colony. Offenders against their provisions to be punished in pursuance of judicial sentence. *Passed, October 24th,* 1827.

EVERY proprietor of plantation lands is required to erect, and keep erected, at the angles of the same, posts 6 inches square at top, to stand 2 feet above ground, and be planted 18 inches deep. Penalty one dollar for each post not so erected, to any person suing for the same.

Passed, September, 1824.

THE seller of plank, clap-boards, and shingles, in the Colony, shall cause the same to be measured and inspected by the lawful measurer and inspector, if thereto required by the buyer, under penalty of forfeiting triple the amount of the inspection or measurement fee.

Passed, September, 1824.

ALL authentic projections of land-surveys, in and for the Colony, constructed by, or under the immediate direction of the Agent, whether entered or not in the records of the Colony, comprehending the explanations, numbers, and every other part essential to the same, shall have the authority of law in determining questions of boundary, situation, and quantity, arising about the said lands.

Passed, October 24th, 1827.

AN ORDINANCE regarding the intercourse and trade of Foreigners with Liberia.

Be it ordained by the Agent and Council—1. That the master or supercargo of every merchant vessel arriving in the jurisdiction of the Colony, shall, on landing, be furnished by the officer of the port with a copy of all the port regulations of the Colony; and, previously to entering upon any commercial transactions, shall, by the said officer, be reported to the Governor, or, in his absence, to the Lieutenant-Governor. *Passed, November 26th,* 1825.

AN ORDINANCE prohibiting Foreigners to trade with the native inhabitants, of a district of coast therein limited; and fixing the compensation, and explaining the duties of commission merchants.

WHEREAS, it has ever been considered essential to the prosperity of this Colony, that foreigners be excluded from all interference in the commercial relations of the settlers with the contiguous native tribes; that the past labors and sufferings of the Colonists, and their present burdens in planting and sustaining their settlements, entitle them, as

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a matter of right, to the advantages of the native trade within the limits of their actual commercial connexions; and that the indulgent terms on which foreign importations are admitted to the Colony, effectually preclude to persons concerned in such importations, all just grounds of complaint or dissatisfaction on account of any restrictive regulations, intended to secure to colonists the profits of the country trade; therefore—

1. *Be it ordained by the Agent and Council,* That, from and after this date, it shall not be lawful for any person or persons arriving on the African coast from abroad, except members of this Colony, to carry on trade, or communicate for the purposes of trade, with the native inhabitants of any part or place situated upon the said coast, between the mouth of Grand Cape, Mount river, towards the northwest, and the Colonial Factory, near Poor or Young Cessters rivers, towards the southeast, both places included.

2. *Be it ordained as aforesaid,* That no colonists, or other person whatever, acting as commission merchant, or factor for any foreign importer or merchant whatever, shall sell or barter any goods or merchandise, being wholly or in part the property of such foreigner, to or with the native inhabitants of the aforelimited district of coast, including the interior regions situated between the same limits.

3. *Be it further ordained,* That it shall not hereafter be lawful for any colonist or other person resident within the aforesaid limits, to sell or barter any goods, merchandise, or vendible property, or transact commercial business for any foreign importer, merchant, master, supercargo, or owner, on commission, without taking out a commission merchant's license, under the hand and seal of the Agent; and that, while holding such license, the commission merchant shall be entitled to demand, and to receive, on all sales by him effected as aforesaid, a commission fee of seven per centum on the amount of said sales; and

furthermore, that, while holding such license, the said commission merchant shall, neither *for* himself, nor for any other person, *nor by himself*, nor any other person, deal, transact, or trade, either with a colonist or any other person whatever, otherwise than in the legal or wholesale way. *Passed, June 30th,* 1827.

AN ORDINANCE requiring the solemn recognition of their marriage, by persons named therein.

Be it ordained by the Agent and Council—1. That from and after the date of this ordinance, all persons, who at the time of their arrival in this Colony, shall be living and cohabiting together as husband and wife, shall, previous to their admission to the rights and privileges of citizens, or any of them, be cited by the clerk of the Court of Quarter Sessions of the Colony, to appear, and, in his presence and the presence of each other, be required solemnly to acknowledge and declare themselves to be bounden and lawful husband and wife, and to recognize all the duties of that relation.

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2. It shall be the duty of the clerk of the Court to record in the records of the same, the said acknowledgment; which record shall forever thereafter be full and sufficient evidence of the marriage of the parties therein named.

3. *Be it further ordained,* That no persons who shall be living and cohabiting together in the manner aforesaid, and who shall neglect to obey the citation of the clerk of the Court of Sessions, and to make the aforesaid acknowledgment and declaration, shall be entitled to draw or hold lands in the Colony, or enjoy and exercise any of the rights and privileges peculiar to citizens of the same, until and unless they shall have applied for and undergone a legal and formal marriage, solemnized according to the customs and forms of the Colony.

Passed, April 28th, 1827.

PROPRIETORS of lands in Caldwell, situated either on St. Paul's river, or Stockton creek, shall place the front of their houses on a line drawn ten feet from the line of the street they live on, most remote from the water. They shall also clear the public reserve ground in front of their premises to the water edge; and shall leave a lane 16½ feet wide between every 4th and 5th, every 8th and 9th, every 12th and

13th, &c. lots, for the plantation proprietors' more convenient access to the farms.—[Vide, the projecta of the Caldwell authentic survey.]

Passed, October 25th, 1827.

THE masters of all vessels requiring the protection of Fort Norris battery, against a piratical or suspected vessel actually in sight, or believed to be hovering in the offing; also the masters of all vessels through whose fault it shall become necessary to man the battery, for their detention in port, shall pay towards the expense of the said battery, one dollar an hour for every hour during which the battery shall be actually manned for the detention or defence of the vessel aforesaid. *Passed, June 1st,* 1827.

RESOLVED, That all merchandize, goods and chattles which may be hereafter landed in the Colony, from foreign vessels, for sale, and shall remain unsold, the captain, supercargo or other officer of such foreign vessel shall, upon obtaining a certificate from the collector of customs, be allowed to reship such goods, merchandize, &c., on board such foreign vessel from which they were landed, free of import duty; *provided,* if the goods remain more than thirty days, such goods shall not be entitled to such exemption. *Passed, January 6th,* 1835.

RESOLVED, That no permit, either special or general, granted to any vessel, shall be valid only so long as she shall remain in harbor. Any vessel having left the harbor, shall, on her return, procure a permit to land any portion of her cargo, without which all articles landed shall be liable to seizure. *Passed, February 27th,* 1835.

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WHEREAS, serious difficulties have arisen with the natives residing in the vicinity of the different towns belonging to this Colony, for the imprudent interference of persons in offices of authority—

Resolved, That from and after this date, any commissioned or non-commissioned officer or other person who shall go beyond the limits of the town where he resides, and by force and arms interrupt or interfere with the natives, unless acting under the immediate authority of the Executive power authorizing such interference, shall be amerced in the sum of not less than one hundred dollars, and in default of payment, shall be imprisoned for two years.

Passed, February 27th, 1835.

AN ACT regulating Insolvent Debtors.

Be it enacted by the Agent and Council, That from and after this date, any man being a bankrupt, or owing more than his property will pay, that if his property be attached by any one of his creditors, his property shall be equally divided among the whole, as though he were dead, and the expense of the first suit only shall be allowed.

And be it further enacted, That any conveyances made by any one whose property is thus involved, either before or after said suit, for the sake of securing one individual creditor to the exclusion of others, shall be considered fraudulent, and shall be null and void in law.

Be it further enacted, That the laws and usages in this Colony contrary to the foregoing enactments, be and the same are hereby repealed.

AN ACT prohibiting Smuggling.

Be it enacted by the Agent and Council, That no citizen of Liberia shall receive goods or merchandize in any place between Grand Cape Mount and Young Cessters, on which tariff duties have not been paid in the Colony, under a penalty of not less than ten nor more than thirty dollars, and twice the amount of tariff duties on the goods received, except at ports of entry.

Be it enacted by the Agent and Council, That the duties of Collector shall be to inspect all boats coming to this place, from foreign vessels or otherwise; and all goods landed from such boats or vessels which are not enumerated in a permit, which must in all cases be previously obtained, shall be seized. *Passed, February 8th,* 1836.

Be it enacted by the Agent and Council, That no person who has been convicted of theft or any other misdemeanor, that is punishable by imprisonment, shall be suffered to sit on jury. *And be it further enacted,* That no person who shall in future be convicted of theft, burglary or robbery, shall ever after enjoy the elective franchise, or be eligible to any office in this Colony, or have a right to sit as a juror or give evidence in a court of justice, unless specially restored by an act of the Agent and Council, by having given sufficient evidence of repentance and reformation. *Passed, March 20th,* 1836.

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Be it enacted, That from and after this date, no person shall be allowed to plead before the courts, but such as shall be regularly licensed by the courts; and said license may be at any time withdrawn, where any indecorous language is used by the person towards either the court or jury. *And be it further enacted,* That not more than five dollars be allowed to any one attorney for managing a case at any one term of said court. *And be it further enacted,* That there be an attorney appointed to manage all public prosecutions, and that it be his duty to maintain the authority of the laws against all who shall criminally violate them.

And be it further enacted, That fifteen dollars be paid into the public treasury for each license, and fifty cents to the clerk of the court for drawing the said license, and that said license be signed by the judge of the court, and be recorded by the Register.

Passed, July 7th, 1836

Resolved, That a fine of three dollars shall be imposed on the flag officer for every neglect to signalize a vessel previous to her anchoring in the harbor.

Resolved, That four guns be mounted, two on the cape and two in the town of Monrovia, and that the Colonial Treasury pay half the expenses of preparing them. *Passed, September 8th,* 1836.

Resolved, That any person who shall be convicted of transacting business as a commission merchant or factor, without obtaining a license, shall be mulcted in the sum of one hundred dollars, one-half to go to the informer and the other half to the Commonwealth. The method of prosecution shall be the same as in other cases of violation of the laws of the Colony. *Passed, January 5th,* 1837.

Resolved, That persons fined in sums in any of the courts of the Colony, and put to public labor to satisfy said fines, shall be allowed, if an American, the sum of six dollars a month, and if a native, the sum of three dollars a month, until said fine shall be satisfied.

Passed, January 5th, 1837.

Be it enacted by the Agent and Council, That any person or persons who may pick up or find a boat or canoe, shall immediately advertise the same in some conspicuous place where the boat or canoe was found, and on neglecting to advertise the same, said person shall be regarded as the thief.

WHEREAS, it has been the practice of captains, supercargoes, and merchants of foreign vessels, to traffic, trade and barter with the captains, supercargoes and merchants of other vessels, as well as with the natives of the country, without the intervention of a commission merchant, greatly to the annoyance and injury of the inhabitants and merchants of the Colony: Therefore, *Be it enacted by the Agent and*

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Council, That from and after this date, no foreigner shall have the privilege of trading with another foreigner, nor with the natives within the limits of the Colony, without the intervention of a commission merchant of the Colony; excepting, nevertheless, such articles of provision and tackling as may be wanted for ships' use, which may be purchased under the inspection of the collector or his deputy, so as to secure the duties. Any foreigner violating the above, shall, on conviction, be fined for the first offence in the sum of one hundred dollars, and for the second, double the amount; one-half to go to the informer. *And be it further enacted*, That no vessel not immediately owned by the lawful citizens of the Colony, shall be allowed to anchor in any of the ports or harbors of the Colony, without paying the regular anchorage duties. All rules, usages, customs or laws to the contrary, are repealed.

Be it further enacted, That from and after this date, the sum to be allowed for the flag officer, be one hundred dollars a year, and that he keep clean around and adjacent to the flag-staff.

Passed, January 10th, 1837.

RESOLVED, That from and after this date, no person or persons shall be allowed to exercise the privilege or carry on the business of an auctioneer, unless he has first complied with the law by paying into the treasury the sum of twenty-five dollars ($25) a year. Nevertheless, this shall not be construed to apply to sheriffs, constables, marshalls, collectors, nor their deputies, who may sell in pursuance of a decree of courts of justice. *Passed, March 17th*, 1837.

WHEREAS, the laws of the Colony do not make any provision for filling up such elective civil offices as may become vacant, during the intervals of elections, by death, resignation or removal:

Be it enacted by the Lieutenant-Governor and Council, That from and after the first day of September next ensuing, whenever the office of councillor, sheriff, treasurer, collector, wharfinger, committee of agriculture, or censor, become vacant, it shall be the duty of the Governor, or, in his absence, the Lieutenant-Governor, to fill such vacant office or offices, by an appointment of suitable persons under his hands, said appointment to be countersigned by the Colonial Secretary, who shall attach the Colonial seal thereto. Nevertheless, said appointments shall expire at the next annual election.

Be it further enacted, That any person or persons holding an office under this Government, and shall remove to any other Colony unconnected with this, to reside, or shall accept of any office of emolument from any such foreign Colony, shall be considered vacating said office or offices, and said office or offices shall be filled by the Governor or Lieutenant-Governor, in the manner directed in the foregoing resolutions. Nevertheless, this shall not be construed to apply to any person

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or persons that may be commissioned to any foreign colony on public business.

Be it further enacted, That in the event of the death, resignation or other disability of both the Governor and Lieutenant-Governor of the Colony, it shall be the duty of the Colonial Secretary immediately to summon the Council, who shall elect a person to fill said vacant office, until the next election, or superceded by an appointment of the Board of Managers of the American Colonization Society

Be it further enacted, That no person or persons residing in any colony unconnected with this, or holding an office of emolument, under any foreign government, shall be eligible to any office in this Government; nevertheless, this shall not be construed to apply to such citizens of this Colony as may be commissioned from this Government to transact business in other colonies.

Be it further enacted, That from and after this date, all goods, wares, and merchandize imported into this Colony, shall be entitled to drawback when re-exported, subject, however, to the following provisions: Said goods, wares, and merchandize must be landed in com-

plete and unbroken packages, and re-shipped in the same unbroken packages; must be re-exported in the same vessel in which they were imported, and in nine months from the date of landing; each package shall be marked at the time of landing, and the name of the vessel from which it was landed: for which the collector shall receive a compensation of three cents on each package from the owners of said goods. The captain or supercargo of the vessel in which said goods may be imported, or the owner of said goods with his factor, shall pay the amount of duties on said goods, wares, or merchandizes, at the time they are landed, or shall execute a bond to the collector for said amount of duties, payable in nine months, or whenever said goods shall not be considered as re-shipped, unless they are re-shipped under the immediate inspection of the collector or his deputy. The collector shall keep a true and faithful account of said goods, with the marks and the date of landing; and in the event of his resignation, shall deliver the account over to his successor.

Passed, July 12th, 1837.

Be it enacted, That from and after this date, no captain or supercargo of any vessel shall take away any resident of this Colony, out of the limits of the Colony, without a passport, to be granted by the Secretary, under the penalty of one hundred dollars; nevertheless, this shall not apply to vessels carrying persons to any of the American settlements. *Passed, May 9th,* 1838.

Question submitted by the Lieutenant-Governor, whether the term "resident," in the act of May 9th, prohibiting persons from leaving the Colony without a passport, is intended to include missionaries and natives, and persons of all descriptions?

The Council determined that all residents of every description and occupation are intended. *Passed, June 2d,* 1838.

The committee to which was referred that part of the petition regarding persons leaving the Colony and becoming citizens of others, reported the following, which was enacted as law:

Be it enacted, That any person or persons, citizens of the Colony, who shall remove to another government or colony, and take the oath of allegiance, shall not be entitled to the privileges of citizens in this;

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and should such persons again return, they shall not be entitled to the elective franchise, until they have again taken the oath, and have remained in the Colony at least twelve months thereafter.

And be it further enacted, That should any person or persons who had left the Colony, again return, and refuse to take the oath, declaring that he or they had become citizens of any government, and should there be any doubt respecting the same, said person or persons shall be questioned to the truth of the same before some justice of the peace, and his or their answer in the negative shall be recorded by the Register; and should it be afterwards found that he or they had taken such an oath, all their real property in the Colony shall be confiscated, and they be debarred forever from citizenship in the Colony.

Passed, July 3d, 1838.

Be it enacted, That from and after the first day of August next ensuing, the Governor, Lieutenant-Governor, and all officers of Government, be sworn in office.

Be it further enacted, That the Governor or Lieutenant-Governor, in pursuance of the above resolution, administer the oath of office to the Secretary, and that the Secretary henceforth administer the oath of office to the Governor, Lieutenant-Governor, and Council, and record the date of their entering upon office, upon the records of the Council

Be it further enacted, That the Secretary administer the oath of office to the clerks of the courts, and that the clerks of the courts swear all the members of the court. *Passed, July 6th,* 1838.

Be it further enacted, That from and after this date, if any woman shall be delivered of a bastard child that shall be, or is likely to become, chargeable to the public, and shall, upon examination, to be taken in writing upon oath before any justice of the peace in the place where the person charged may be a resident or inhabitant, on application of any citizen of a place wherein such child be born, issue a warrant to apprehend and bring the person so charged before him or any other justice of peace; and such justice shall commit him to jail unless he will enter into bonds with sufficient security in a sum not less than fifty dollars, for his appearance at the Court of Quarter Sessions, and abide the order thereof; and if the court, upon the circumstances, shall adjudge

the person so charged to be the father, and that the child is likely to become chargeable to the public, they may provide for its maintenance by charging the father with the payment of not less than one dollar per week, payable monthly into the hands of the Treasurer of the Colony, to continue while such child is likely to become chargeable to the Colony; and the father shall enter into recognizance with sufficient security before the court, payable to the Governor or Lieutenant-Governor of the Colony, and their successors, to perform such orders of the court. And if the father shall make default in the payment of such money for six months, or refuse to give such bond to the court, shall give judgment, and the sheriff shall proceed to the collection of all such sums as may be due from time to time by the father, his excutors, or administrators.

Be it further enacted, That if any woman, after having been summoned before a justice of the peace, should refuse to swear to the father of the child, and the child is likely to become chargeable to the public, the court may order the said woman to be hired out from time to time, as long as said child may be likely to become chargeable to the public. Nevertheless, the mother of a bastard child may give good bonds with sufficient security to be approved of the Governor and Court of Quarter Sessions, for the maintenance of the child.

Passed, July 7th, 1838.

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WHEREAS, sufficient provision has not been made for the effectual collection of duties imposed on spirituous liquors, imported into the Colony of Liberia, therefore, with a view to prevent the illicit introduction of the same, and to secure to the Colony the full benefit of said duties:

Be it ordained by the Agent and Council, That from and after the 15th day of January, 1830, the master or owner of any vessel sailing under the flag of the Colony of Liberia, and registered in said Colony, shall, within twenty-four hours after the arrival of such vessel within the port of Monrovia, present to the port officer or collector of customs of said port, a correct list or manifest of the cargo on board, and receive from him a permit to land the same, without which it shall not be lawful to break bulk, or discharge any part of the cargo of said vessel.

And be it further enacted, That if any master or owner of any such vessel arriving in the port of Monrovia, shall proceed to land or dis-

charge any part or portion of his cargo, without first having complied with the provisions of the preceding section of this ordinance, he shall, for every such offence, on being convicted thereof before the Court of Quarter Sessions, be fined in a sum not exceeding forty dollars nor less than twenty dollars; and all goods or merchandize thus landed, on which there is a duty to be collected according to the commercial regulations or revenue laws now in force, shall be seized by the collector, and disposed of at public sale, the proceeds of which shall go to the use of the commonwealth, reserving to the collector or any person making such seizure, a commission of 50 per cent. for his services.

Passed, Dec. 8th, 1829.

THE Colony, founded in a spirit of pious dependence on the "Almighty," thus early consecrated to him, has received affecting testimonies of his mercy and favor. A time there has been when his help alone saved, and only *could* save, the settlers from being buried in its ruins. It is base and ungrateful now, in our prosperity, to forget or cease to render our thanks for such benefits.

Wherefore, the 1st December following is again appointed as a season of religious commemoration and thanksgiving. All will govern themselves accordingly; and may God's ear be open to our praises then, and never abandon this Colony to its weakness, and the curse of ingratitude, through the Redeemer.

"In all thy ways acknowledge him, and he shall direct thy steps."

Passed, October 16th, 1827.

PLAN OF CIVIL GOVERNMENT

FOR THE COLONY OF LIBERIA.

PREAMBLE.—The necessity of a mild, just, and efficient civil government for the preservation of individual and political rights among any people, and the advancement of true prosperity, induces the Board of Managers of the American Colonization Society to adopt, after mature consideration, the following system of government for the proper regulation of public affairs in the Colony of Liberia:

ARTICLE I.—*Power of the Agent.*

The Agent of the American Colonization Society, resident in the Colony, possesses within the same, sovereign powers, subject only to

the Constitution, the chartered rights of the citizens, and the decisions of the Board.

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ARTICLE II.—*Voters' Qualifications.*

All male colored people, who have subscribed the oath to support the constitution, and drawn, and not forfeited lands in the Colony, shall be entitled to vote for, and eligible to, the civil offices of the Colony.

ARTICLE III.—*Annual Elections.*

The civil officers of the Colony shall be appointed annually; and the polls for the general annual election of the Colony shall be opened on the last Tuesday in August, and continue open not more than three nor less than two successive days, in the different settlements.

Elections shall be organized by the appointment in each settlement of a president, two judges, and two clerks.

ARTICLE IV.—*Colonial Officers eligible by the People.*

The colonial officers eligible by the annual suffrage of the holders, in which the Agent has the right to interpose his negative, assigning to the voters, in time to renew their choice at the same election, has reasons for such interposition, are, for the Colony, a Vice-Agent; two Councillors, a high Sheriff; a Secretary; a Register; and a Treasurer: and for each of the settlements, consisting of not less than sixty families, two Commissioners of Agriculture; two Commissioners to form a Board of Health; and two Censors.

ARTICLE V.—*Duties of the Vice-Agent.*

The Vice-Agent shall be admitted to the councils of the Agent in all important matters, and shall express an opinion on all questions submitted to his consideration. He shall aid the Agent in the discharge of his various duties; and in the support and execution of the laws. In the event of the Agent's absence or sickness, the Vice-Agent shall become the general superintendent of public affairs.

ARTICLE VI.—*Council.*

The Vice-Agent, with the two Councillors, shall constitute a Council, who shall meet, when requested by the Agent, to deliberate on the interests of the Colony, and the measures to be taken for their security and advancement.

The Vice-Agent shall also advise with the other members of the Council, on any subject connected with the general welfare, as often as he shall think proper; and report the result to the Agent, if present, or act upon the same in case of his absence.

Article VII.—*Duty of Councillors.*

The duty of the Councillors shall be to aid the Agent, or Vice-Agent, with their advice and council, on subjects relating to the general welfare of the Colony, whenever thereto requested by either.

Article *VIII.—Duties of Sheriff.*

The High Sheriff shall, either by himself or his deputies, aid in the organization of elections; act as Marshal for the government of the Colony; execute all processes, judgments, and commands of the Court of Sessions; and perform, generally, the services required of the same officer by the common law of England and the United States.

Article IX.—*Duties of Secretary.*

The Secretary of the Colony shall take charge of, and carefully keep, all the papers, records, and archives of the Colony, generally,

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shall attend and exactly record the doings of the Agent in Council; shall publish all the ordinances and legal enactments of the Government; publish Government notices; issue the Agent's order, civil, military, and judicial, to the proper functionaries; cause a fair copy of Government papers, necessary to be recorded, to be delivered to the Register of the Colony; and manage its internal correspondence on the part, and under the direction, of the Agent.

Article X.

The Register shall record all documents and instruments relating to the security and title of public or individual property; Government grants, patents, licenses, contracts, commissions, and all other papers which are properly matter of record, and to which the government of the Colony shall be a party.

Every volume of records, when compiled, shall be delivered by the Register to the Secretary of the Colony, for preservation among the archives of the Colony.

ARTICLE XI.

The Treasurer of the Colony shall receive and safely keep all the moneys and public securities required by law or the judgment of courts to be deposited in the public Treasury; and shall deliver up, and pay over the same, only to a requisition signed by the Agent, or Vice-Agent of the Colony; to whom he shall render a statement of the public finances on the Monday preceding the annual election of the Colony.

ARTICLE XII.—*Commissioners of Agriculture—Duties of each of the Committees.*

The Commissioners of Agriculture shall report, and serve as the organ of the Government, on all subjects relating to the agriculture of the Colony.

The Commissioners composing the Board of Health, shall report and serve as the organ of the Government, on all subjects relating to the health of the Colony; shall ascertain the proper objects of medical attendance; report nuisances prejudicial to the public health, and superintend their removal, and make themselves, generally, active in diminishing the sufferings and dangers of the settlers, caused by sickness.

Each of these committees shall record, for the future use of the Colony, all important observations relating to the subjects of their charge.

ARTICLE XIII.—*Duty of Censors.*

The two Censors shall act as conservators of the public morals, and promoters of the public industry; and be obliged to all the duties, and invested with all the legal powers, or whatever relates to the public morals and industry, which are by law required of, and possessed by, Grand Juries, in such parts of the United States as recognise such to their magistracy. It shall be the especial duty of these officers to ascertain in what way every person in their proper districts acquires a livelihood; to report or present idlers, detect vicious or suspected practices; and present for legal investigation and cure any actual or probable evils, growing out of the immoralities or idleness, either of a portion of the community or of individuals.

ARTICLE XIV.—*Judiciary—Court of Sessions—Constables—Clerk and Crier—Auctioneer—Storekeeper—Librarian—Commissary of Ordinance—Instructors of Schools—Custom, Port, Infirmary, Medical, Guard, and Police, Officers—Measurers—Inspectors—Appraisers.*

The Judiciary of the Colony shall consist of the Agent and a competent number of justices of the peace, created by his appointment.

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The justices shall have cognizance of all cases affecting the peace; of criminal cases, within the definition of petit larceny; and all actions of debt not exceeding twenty dollars. In the court of monthly sessions, whether acting as a court of law or a court of equity, the Agent or Vice-Agent shall preside, and the justices be his associates.

The Court of Sessions shall have original jurisdiction in all actions of debt, in which the amount in litigation shall exceed twenty dollars, and in criminal cases, above the degree of petit larceny; and shall have appellate jurisdiction in all civil causes whatsoever.

The requisite number of Constables for the Colony shall be appointed by the Agent, annually.

A Clerk and Crier of the Court of Sessions shall also be appointed by the said court annually.

An Auctioneer, who shall conduct all auction sales, except those of the Sheriff and Constables, in pursuance of the judgment of the courts of the Colony, shall also be created by annual appointment of the Agent.

A Storekeeper, Librarian, Commissary of Ordinance, to be appointed by the Agent, shall be respected and obeyed in matters belonging to their respective functions as officers of the Colony.

Instructors in all schools having the sanction of public charter, or participating in any degree in the public funds, shall be appointed and employed by the regular School Committees of the Colony; but only with the Agent's approbation and concurrence.

All Custom, Port, Infirmary, Medical, Guard, and Police Officers, not appointed by the Managers of the Colonization Society, and whose services are required and defined by the laws of the Colony, together with the public Measurers, Inspectors, and Appraisers, shall be appointed by the Agent of the Colony.

ARTICLE XV.—*Militia, how organized—Chartered Corps—Essential Military Charters—General Officers—Courts Martial.*

The Militia of the Colony shall consist wholly of such uniformed volunteer corps as shall obtain charter under the Government of the Colony; of which charters the following shall be the fundamental articles:

1. That the corps shall always comply with any requisition for their services, either wholly or in part, made by the Executive Government of the Colony.

2. That the corps shall ever preserve and hold itself, and its arms and equipments, in a state of readiness for actual service, at the shortest notice.

3. That its officers be commissioned by the Agent, &c.

4. That it shall muster, parade, and serve in the line of the Colony under general officers, when thereto required by the Executive Government.

General officers shall be appointed by the Agent; and when especial reasons do not forbid, shall be taken from the officers of the several corps, and promoted according to rank and the seniority of their commissions.

All military offences and delinquencies shall be tried by a general court martial, to be composed (except the officers and guard of the court) of commissioned officers, and to sit quarterly.

A true copy:

J. N LEWIS, *Colonial Secretary.*

MONROVIA, APRIL 1st, 1841.

II

ACTS OF THE GOVERNOR AND COUNCIL OF LIBERIA

1839-1847

Prefatory Note.

The following are literal reprints absolutely exact in word, spelling, capitalization and punctuation of the texts as published by Authority. The pagination of the originals is indicated in brackets. The Acts of 1842 were never published; they appear in the volume containing the Acts of 1843. Some of the Acts passed in 1841 were not published until 1843, and appear at the end of the volume for that year.

ACTS

OF THE

GOVERNOR AND COUNCIL OF LIBERIA

IN LEGISLATURE ASSEMBLED,

PASSED AUGUST AND SEPTEMBER, 1839.

[By Authority.]

(From an original in
the British Museum)

ACTS

OF THE

GOVERNOR AND COUNCIL OF LIBERIA, IN LEGISLATURE ASSEMBLED,

PASSED AT THEIR SESSION IN AUGUST AND SEPTEMBER, 1839.

[Printed by Authority.]

An Act regulating the judiciary of the commonwealth of Liberia.

SEC. 1. *Be it enacted and ordained by the Governor and Council of Liberia, in Legislature assembled, and it is hereby enacted by the authority of the same.*—That all persons, who may hereafter be appointed to act as justices of the peace or magistrates, shall continue to hold and exercise the said office during good behavior, they shall be sworn to do the duties of their said office, as by law is laid down, and shall have cognizance of all civil actions for debt not exceeding the sum of twenty dollars. They shall be the conservators of the public peace, and as such shall have the power, in the name of the commonwealth, to command the seizure and arrest of any felon, or disorderly person or persons, and so to confine them until legal action can be had on their case; and any two of them associated with one who shall bear the style and character of the chairman, shall hold the courts of quarter sessions for each county, as by law they shall be arranged. They shall sign with their own names, as justices of the peace, any precept presented to them by a sheriff or constable, to proceed in any action for the recovery of debt, or for the suppression of any criminal within their respective counties, and they shall sit on and try all cases of minor offences, not involving the life of any transgressor; and where a difficulty seems, or in reality there does any exist, to call in the aid of one or two others to assist in trying and making up a correct judgment, according to the best of their ability in such cases, without fee or reward, and without favor or affection, in any case to any party whatever.

SEC. 2. *Be it further enacted.*—That there shall be held in each of the counties of Montserrado and Grand Bassa, four courts of common pleas, and quarter sessions in each year, to be composed by the chairman and two associate justices. That of Montserrado to be made and begun on the first Monday in February, May, August and Novem-

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ber, in each year, and may be continued from day to day, for and during the term of one week; and that of Grand Bassa, on the second Monday in February, May, August and November, as aforesaid, to be continued for a like term of one week if necessary. The said court shall have original jurisdiction in all cases of debt, for sums over and above that of a single justice, viz. twenty dollars. It shall have the care and management of the person and estates of orphans, the ordering and direction of such public action as may tend to the removal of nuisances, particularly of vagrants. The said court shall be a court of probate for wills, and all conveyances of land and other chattels, a record of all which said matters and things to be ordered and transacted by them, when holding their sessions, shall be kept in a book or books to be provided at the expense of the government, by a clerk appointed for that purpose. The clerk of said court shall issue all leading process, or writs, or subpoenas, signed with his own name, directed to the sheriff or any one of his deputies, in which shall be clearly defined the objects thereof, who shall execute the same at least five days before the return day of each term, to which a return may be directed; and the clerk, as aforesaid, shall make record in a book to be styled the return book of all such issues made by him, according as the return thereon endorsed, executed or not, found or other notice of what action has been had on the case shall be reported. He shall take minutes of the trial of all such cases, and make a record of the whole doings of the session, the date of commencement, the magistrates presiding, the jury empannelled, and the names of the empannel who pass their judgment on each and every case, and also to deliver in due time to the sheriff, so that at least twenty days notice may be given to the pannel drawn out for jurors to the superior court. It shall have the record of wills or other conveyances of property, which shall have been proven in the said court, and the said papers after being so recorded shall be delivered to the register, who shall transcribe the same into a book of registration, to be always kept in the clerk's office, so as to be at all times accessible to those who may have occasion to consult such records, and all returns of executions, satisfied writs, or returned not found, and inventory of estates, with administration bonds and wills, and account of sales, and settlements of estates, shall be filed in alphabetical order, and deposited in the said office for safe keeping. And the said clerk under the direction of the court shall issue license to those to whom they are granted, and make record thereof, as in other cases whereof a record is necessary to be kept.

SEC. 3. *Be it further enacted,*—That there be holden in each of the counties of Montserrado and Grand Bassa a superior court, which shall have original jurisdiction of all cases of offences against the

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commonwealth, presentments whereof shall be made by a grand jury, on information given to them of cases existing or by commitments made by any magistrate or magistrates for offences constituted penal by any statute or law of the commonwealth, and shall have jurisdiction of all cases carried up by appeal from the court of common pleas and quarter sessions. There shall be a judge appointed for the said court in each of the counties of Montserrado and Grand Bassa who shall alone preside at each session of the court, to commence that for Montserrado on the first Monday in April and October, and that for Grand Bassa on the second Monday in April and October; the said judges shall have jurisdiction of all causes in equity, and shall have power to issue supersedeas and writs of inquiry into all cases originating in courts of an inferior jurisdiction, and may suspend their proceedings for want of matter, form or evidence, so that the parties aggrieved may have issue of their cause in the said superior court There shall be a clerk of the said superior court in each county, who shall receive his appointment from the judge aforesaid, and who shall be governed and directed in all issues to be made, and all empannels of juries, and all and every other matter and thing relating to the official transactions of the said court by the judge thereof.

It shall be the duty of the said clerk to issue out all writs of process directed to the sheriff, and in case of that office being vacant, to the coroner of the county, at least ten days before the return days of each and every term of the said court, he signing the said precepts with his own name, commanding him the said sheriff, or other officers, in the name of commonwealth, that such legal proceedings as are therein specified, be performed in the name or before his honor, the judge of the superior court for the county wherein such offence or recognizance of any matter or thing in controversy, shall be cognizable, and he shall keep a book wherein shall be made record by him of all issues of original actions sued out in the name of the commonwealth, or of individuals, as well as those carried up by appeal to the said tribunal. He shall issue subpoenas for witnesses whenever required, and shall direct the same to the sheriff or his deputy, who shall execute the same and that without delay, and make returns thereupon according to the action had upon the case, and all such papers and documents so returned to his office, shall by him be arranged and kept filed in

alphabetical order, so as to be of easy access to those whose occasion may require to have examination made of them. And the said clerk shall also be qualified to act as clerk and master in equity in all matters and things pertaining to the said court.

SEC. 4. *Be it further enacted,*—That there shall be one supreme

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court for the commonwealth of Liberia, over which shall preside his excellency the governor, or his successor in office, to be held by him at such times, and in such manner, and in such places as he may appoint according to the circumstances as connected with his general administration of the affairs of the colony. To it shall belong original jurisdiction in all maritime cases, and all cases of suits between citizens and aliens, and of all cases without or beyond the limits of the colony, and the returns on precepts issued therefrom, shall be made to such courts as they may be directed. The colonial secretary shall act as the clerk in this court, and shall keep such record of the matters and things connected with the business thereof, as shall seem meet and right to the presiding judge thereof to have done and made, and this court shall also have appellate jurisdiction in all cases originating in the superior court or carried up by appeal from the court of pleas and quarter sessions, or on the cases originating in actions before magistrates that have traveled up to it by a regular course of appeals, and the judgments and decisions of this tribunal, whether betwixt man and man, or the government and its citizens or aliens, or otherwise, in all manner of cases its decisions shall be final.

An Act regulating the fees of public officers in the commonwealth of Liberia.

SEC. 1. *Be it enacted by the Governor and Legislature of the commonwealth of Liberia in council assembled, and it is hereby enacted by the authority of the same,*—That the following rates of fees be, and the same is hereby ordered to be observed by all officers interested therein.

Fees of county court clerks shall be as follows.

For every leading process returned to the first court including all services, together with dismission or final judgment, where either happens at the first court	$1 00
For every recognizance	20

For every reference or continuance of a cause	25
For every judgment entered after the return term	50
For every subpœna 10 cts. If there be added more names than one, each individual name shall be	5
For every execution or order of sale	25
For copy of a record, for every ninety words or proof sheet	5
For every copy of a will, do. do.	5
For proving and recording at length in a bound book to be kept for that purpose, and filing an inventory, accounts of sales or accounts current, exhibited by an executor, administrator, or guardian, if the estate be under $200, the	
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clerk shall be entitled to	50
If above $200 and under $1000	75
If above $1000	1 00
For search and certificate	10
For entering on the minutes the probate of wills qualifying executors, making certificates and recording the will in a bound book kept for that purpose	75
For granting administration, taking bond and all other necessaries thereon	75
For marriage license and bond . .	75
For every search of record out of court	10
For proving or entering the acknowledgment of the conveyance of land or other estates, and certifying the same with order of registration	20
For every commission to take testimony	25
For every guardian or other bond taken in court .	50
For every indenture of binding apprentice	50
For every writ of error or appeal with a transcript of record	1 00
For every certificate of minutes or juror's attendance .	10
For every affixing the seal of office and writing the necessary certificate, or any instruments of writing requiring the same	25
For recording a mark or brand	10
For enrolling divisions of estates for each lot	20
For every certificate of a license	1 00
For docketing constables' levies, including all services in court	1 00
For docketing appeals and entry of pleas or default . . .	75
For every guardian notice	50

SEC. 2. *Be it further enacted,*—That the clerks of the superior courts of law in this commonwealth, shall for like services receive

the same fees, as are by this act allowed the clerks of county courts, and no other.

SEC. 3. *Be it further enacted,*—That any clerk who shall fail or neglect to record in a well bound book, to be kept for that purpose, all wills and testaments, inventories, accounts of sales, and accounts current of executors, administrators and guardians, within thirty days after their probate, shall be liable to indictment in any court of record in the county wherein he held the office of clerk; and upon conviction shall be fined at the discretion of the court.

SEC. 4. *Be is further enacted,*—That in all commonwealth cases where there shall be a withdrawing of the suit, or the defendant shall be acquitted, or convicted and unable to pay costs; the court shall not order the prosecutor to pay the cost, but the county shall, by order

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of the chairman of the county court, pay the clerk and sheriff half the fees allowed by this act.

SEC. 5. *Be it further enacted,*—That in all suits hereafter tried and disposed of either in the county or superior court, the party cast or convicted shall pay the tax fee of one dollar, which several sums the respective clerks shall pay over to the county treasurer, within thirty days after the same have been received by them.

SEC. 6. *Be it further enacted,*—That the sheriff in each county in this commonwealth shall receive the following fees, and no other.

For every arrest	$0 75
For every bail or replevin bond	25
For service of subpœna with copy of a petition	50
For service of notice to arbitrators, referees, or commissioners to take an account	25
For every *scire facias*	50
For attachment levied	75
And if further trouble by moving goods to be taxed by the court	
For every replevin bond upon such attachment . . .	25
For summoning a guardian to renew his bond	50
For every subpœna issued for one person	25
And for all other persons named therein	5
For putting a person in the stocks	50
For every commitment	25
For every release	25

For each criminal in jail, per day	35
For every notice to take deposition	25
For summoning original venire, and for empanelling and attending on the same	37½
For summoning every jury in every cause in court and calling the same	10
For summoning a special venire by order of the court, for summoning each juror	10
For serving and attending on any one in a habeas corpus per diem	1 00
For selling the estate of an intestate, per centum . . .	2½
For executing a warrant of distress or an execution against the body, per centum	2½
For all moneys collected by him by virtue of any levy, per centum	2½
And the like commission for all money that may be paid the plaintiff by the defendant while such precept is in the hands of the sheriff.	
For every writ of possession	1 00
For every levy by virtue of an execution . .	75
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For execution and decent burial of any criminal	10 00
For services of equity, process and precept, incidental thereto, the same fee as for the services at law.	
For apprehending any criminal	1 00

SEC. 7. *Be it further enacted,*—That the sheriffs of the respective counties in this commonwealth, shall hereafter collect and receive all fines and forfeitures or penal statutes imposed, adjudged, or decided by any of the courts in this commonwealth, and all sums of money by them so collected and received, shall be paid over to the respective county treasurers entitled to receive the same, within thirty days after such moneys shall be so collected and received.

SEC. 8. *Be it further enacted,*—That the said sheriff shall return a transcript at the time of settlement, which shall contain the names of all persons from whom fines and forfeitures shall have been collected, and the amount from the persons so received.

SEC. 9. Be it further enacted,—That it shall be the duty of the clerks of the superior and county courts to keep a copy of this act posted up in their offices.

SEC. 10. Be it further enacted,—That the fees of the coroner shall be;

For attending on every inquest	$2 00
For interring a deceased person, to be recovered out of the estate of the deceased if they have any	10 00
And if not, to be paid by the county treasury	6 00
For other services, the same fees as the sheriff would be entitled to for performing them.	

SEC. 11. Be it further enacted,—That the fees of attorneys shall be;

For any suit in equity	$10 00
For any suit in the superior or a county court	5 00
For all appeals from the judgment of a justice court	2 00

SEC. 12. Be it further enacted,—That the fees of the commonwealth's attorneys shall be;

For every conviction of petit larceny	$2 00
For every conviction of grand larceny	4 00
For every conviction of a misdemeanor	2 00
For term of court they attend	10 00

SEC. 13. Be it further enacted,—That the fees of constables shall be,

For every day attending on a court, if summoned by the sheriff	$0 75
For every warrant for each person named therein	50
For summoning witnesses, each	25
For every execution levied	50
For every attachment levied	50

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For every bail bond	10
For serving notice on one who fails to give in his taxables	20

SEC. 14. *Be it further enacted,*—That the fees of the clerk and master in equity shall be;

For a report on an answer	$0 25
For a plea and answer	50
For a demurrer and answer	50
For an affidavit	10
For copying a report of ninety words	20
For copies of proceedings and exemplification	20
For taking a bond	10

For every subpœna, writ or other process	1 00
For every commission	50
For every injunction	1 00
For drawing a decree per copy sheet	25
For executing a bill or answer	20
For entering a plea on demurrer	20
For recording deposition to perpetuate testimony	20
For every dismission	20
For every search	10
For taking security in a leading process	20
For recording such bond	20
For affixing the seal to any writing requiring the same	25

SEC. 15. *Be it further enacted,*—That the judges of the superior courts shall receive forty-two dollars for every session of the court they hold.

SEC. 16. *Be it further enacted,*—That the fees of the register shall be;

For registering a grant or deed if it contains no more than one tract	$0 50
If it contains more than one, then for every additional tract	10
For registering every other instrument of writing . . .	50
For registering every search	10

SEC. 17. *Be it further enacted,*—That notaries public for every protest, certifying the dishonor or non-payment of a bill of exchange, promissory note, and in any and all other matters requiring the attestation of a public notary, for all services in each case, one dollar

SEC. 18. *Be it further enacted,*—That the pay of the marshall be, for all services, three dollars per day.

SEC. 19. *Be it further enacted,*—That the pay of the collector of customs, he doing the duties of wharfinger, and holding and accounting to the proper authority for the money paid into his hands, shall be fifteen per centum.

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An Act regulating agriculture and internal improvement for the commonwealth of Liberia.

SEC. 1. *Be it enacted by the Governor and Legislature of Liberia in Council assembled; and it is hereby enacted by the authority of*

the same,—That there shall be a standing committee appointed by the governor and council for the counties of Montserrado and Grand Bassa, to be known as the organs of the government in all matters relative to agriculture and internal improvement.

SEC. 2. *Be it further enacted,*—That the commonwealth shall afford assistance to farmers, by providing such animals and agricultural implements, as may be required to carry their operations into effect, provided such loans be refunded by two or three instalments with three per cent. interest in three years, in agricultural produce.

SEC. 3. *Be it further enacted,*—That there shall be a public road opened from Monrovia to Millsburg, commencing from Monrovia on the west side of the Stockton river to Caldwell, and from thence to be continued on the east side to Millsburg; also a road from Edina and Bassa cove to Bexly and as far into the interior as the governor and council may think requisite.

SEC. 4. *Be it further enacted,*—That the committee of agriculture shall report to the governor and council as often as they may be called on for the purpose

SEC. 5. *Be it further enacted,*—That there be a canal opened from the head of the Monsterrado river to the Junk river.

SEC. 6. *Be it further enacted,*—That there shall be a standing committee, whose business it shall be to examine and see whether those persons who have drawn land for the purpose of farming, cultivate at least two acres annually.

An Act regulating the residence of native Africans in the commonwealth of Liberia.

SEC. 1. *Be it enacted by the Governor and Council in Legislature assembled,*—That all native Africans who may become residents of this commonwealth, or remain within the limits of the corporation, whether minors or adults, shall be compelled to wear clothes under the penalty of being fined in a sum not exceeding five dollars nor less than one dollar.

SEC. 2. *Be it further enacted,*—That no native youth under the age of eighteen years shall be allowed to dwell in the families of colonists residing in the different towns, without being bound by their parents or guardians for a certain term of years; nevertheless this

shall not be so construed as to apply to children residing now in the families of colonists, until such parents or guardians shall have an

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opportunity of complying with the requisitions herein. And where the parents or guardians of the said youth are dead or at such a distance, that their consent cannot be obtained, previously to the first session of the courts having cognizance of such matters, to be held in the year 1840, then by an application to the said court the said children shall be bound.

An Act concerning apprentices.

SEC. 1. *Be it enacted by the Governor and Council of Liberia,*—That the probate court shall and may bind out as an apprentice, every orphan child who has no estate, or sufficient for a maintenance out of its profits, and every illegitimate child, till the age of twenty-one years if a boy, or eighteen years if a girl, to any discreet person applying for or willing to receive such child, who shall covenant to teach the apprentice some art, trade or business, to be particularized in the indenture, and also reading, writing and common arithmetic, and to pay him or her twelve dollars at the expiration of the time. The indenture of such apprentice shall specify their respective ages, and shall be filed in the office of the clerk of the said probate court, and shall not be transferable to any person without the approbation of said court.

SEC. 2. *And be it further enacted,*—That any parent may bind his or her child, and that any guardian may bind his or her ward, till the age of twenty-one years if a boy, or eighteen years if a girl, on reasonable terms, which terms together with the age of such apprentice shall be specified in an indenture under the hand and seal of the parent or guardian, and of the master or mistress. The said indenture shall be filed by the master or mistress, within ten days after the execution thereof, in the office of the clerk of the probate court under the penalty of twenty dollars, to be recovered in an action of debt in the quarterly court of session. And such indenture shall not be transferable to any person without the approbation of the probate court.

SEC. 3. *And be it further enacted,*—That any native African child may be bound out in the manner and according to the provisions prescribed by the two foregoing sections of this act, with the consent of such child, and with the consent of the parent or parents, guardians or other nearest relation, if any be, of such child.

SEC. 4. *And be it further enacted,*—That the quarterly court of sessions shall, at all times, receive the complaints of apprentices residing within its jurisdiction, against their masters or mistresses, alleging undeserved or immoderate correction, insufficient allowance of food, clothing or lodging, or instruction, and may hear and determine such complaint in a summary way, making such order thereon, as in the

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judgment of said court will relieve the party injured in future, or removing the apprentices and binding them to other masters or mistresses, when it shall seem necessary; and may also in the same manner hear and determine complaints of masters or mistresses against their apprentices, for desertion without good cause or other misconduct.

SEC. 5. *And be it further enacted,*—That any justice of the peace may, when the quarter court of session is not sitting, on receiving good information of any improper treatment from a master or mistress to an apprentice, summon such master or mistress to appear before him, and may require and take a recognizance of such master or mistress, with reasonable and proper security, to be forfeited in case such master or mistress should not appear at the next quarter court of session, to answer and abide the determination of said court, on any complaint which may be exhibited by such apprentice, or in default thereof may take away such apprentice from his or her master or mistress, and place such apprentice under the care of some other proper person, who shall be bound to have the apprentice before the next quarterly court of session, to abide such determination as shall be made.

SEC. 6. *And be it further enacted,*—That any person who shall knowingly harbor or conceal any apprentice who shall have deserted from his master or mistress, besides being liable to an action for damages, shall forfeit and pay to such master or mistress two dollars for every day of such concealing or harboring.

SEC. 7. *And be it further enacted,*—That this act shall commence in force from and after the first day of November in the year eighteen hundred and thirty-nine.

An Act constituting and regulating a post office department for the commonwealth of Liberia.

SEC. 1. *Be it enacted by the Governor and Legislature of Liberia in Council assembled; and it is hereby enacted by the authority of the*

same,—That there be a post office department for this commonwealth, and that the colonial secretary be *ex officio* post master general.

SEC. 2. *Be it further enacted,*—That a post office be established in each of the towns of Monrovia, Marshall, Bassa-cove, Millsburg, Caldwell and New Georgia.

SEC. 3. *Be it further enacted,*—That there be appointed at each place post masters, and that a carrier of letters be employed to convey the mail containing such letters, newspapers or pamphlets as may be forwarded therein, and that a fixed rate of postage be established, not exceeding twenty-five cents per hundred miles for each single letter,

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and a mean rate for mean distances, to be collected by the said post master, which shall go towards the payment of the expenses of the establishment, and the balance to be paid out of any money in the treasury not otherwise appropriated.

SEC. 4. *Be it further enacted,*—That the several post masters make full and accurate returns on the first Tuesday in each month to the post master general of all letters received and forwarded from their respective offices, and on the same day (if not otherwise directed) to pay over to the post master general all moneys in their hands.

SEC. 5. *And be it further enacted,*—That the several post masters, excepting the post master general, be allowed fifteen per cent on all moneys received by them for postage, as a full compensation for their services.

An Act regulating and ordering the building and repairs of fortifications for the commonwealth of Liberia.

SEC. 1. *Be it enacted by the Governor and Legislature of Liberia in Council assembled; and it is hereby enacted by authority of the same,*—That there shall be a battery erected on Cape Messurado, and that Fort Norris with a suitable magazine and arsenal therein be completed.

SEC. 2. *And be it further enacted,*—That a block house be erected at Millsburg, mounting two or more guns, after any plan that may be proposed by the commander in chief; and that the block house or fortification commenced at Bassa cove be completed after its present form, should it be necessary a block house will be erected at Edina and Marshall.

SEC. 3. *And be it further enacted,*—That for the fulfillment of the above enactments, one half of the expense for carrying the same into effect shall be drawn out of the colonial treasury, and the remaining half to be furnished by the settlements or towns in their municipal capacity either in current money, materials or labor.

An Act regulating the employment and oversight of the poor of the commonwealth of Liberia.

SEC. 1. *Be it enacted and ordained by the Governor and Legislature of Liberia in Council assembled,*—That the support and maintenance of aged widows, destitute orphans or poor persons, and invalids, shall be borne by this commonwealth out of any moneys in the treasury not otherwise appropriated.

SEC. 2. *Be it further enacted,*—That asylums shall be provided

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for such classes of individuals as are named in the first section, on the principle of manual labor schools, in each of the counties of the commonwealth and that a superintendant be appointed by the governor and council, whose business it shall be to superintend and manage the entire concerns of the said institution.

SEC. 3. *Be it further enacted,*—That all persons, inmates of these asylums not disabled from disease or otherwise shall be employed in the cultivation of a farm, which shall be connected with the establishment, and the profit arising therefrom shall go to the use of the institution; any tract of land not otherwise appropriated may be used for the present establishment.

SEC. 4. *Be it further enacted,*—That a number of good cards, wheels, looms, knitting and sewing needles shall be provided for the use of all females who reside in the asylum, so that they may be employed in carding, spinning, weaving, knitting and sewing; and to the end that there shall be no Idlers about this institution, the requisite quantum of wool, cotton, flax, hemp, and such other materials as may be manufactured into useful articles for the convenience of the community, shall be kept constantly on hand.

SEC. 5. *Be it further enacted,*—That there shall be a regular teacher employed to take charge of a school attached to the asylum, whose business it shall be to instruct the youths belonging to the institution in all the branches of a common English education.

SEC. 6. *Be it further enacted,*—That for the improvement of the youth of this institution, carpenters, rope makers, blacksmiths, and such other mechanics as the improving state of the colony may demand, shall be employed in and about the establishment for the purpose of instructing the youth in their several branches.

SEC. 7. *Be it further enacted,*—That in each of the counties of this commonwealth, there shall be one or more asylums established on the plan suggested, and to which paupers, whether natives or colonists, shall be admitted, where they shall be fed, clothed, educated, and instructed in agriculture or in some useful branch of mechanic art if they are of a proper age.

SEC. 8. *Be it further enacted,*—That the poor of this commonwealth shall not be allowed to wander about from one settlement to the other, but shall be taken by the officers appointed for that purpose, and placed under the care of the superintendant of the asylum.

SEC. 9. *Be it further enacted,*—That should there be any surplus produce arising from the sale of such articles of agriculture, as the consumption of the asylum may not demand, or such articles of manufacture as the necessities of the poor may not require, the same, if any, shall be paid into the treasury of the commonwealth.

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SEC. 10. *Be it further enacted,*—That a board of twelve commissioners shall be appointed by the governor and council annually, seven of whom for the county of Montserrado and five for the county of Grand Bassa. This board of commissioners shall regularly inspect these institutions, and make semi-annual reports to the governor and council of the condition thereof, as to the health of the inmates, their improvement in moral education and the mechanic arts; whether they are properly fed and clothed; what state of discipline; of the receipts and expenditures of the asylum, and to suggest any plan of improvement they may deem expedient. The commissioners shall also make semi-annual reports of the number of paupers, invalids, aged widows, and destitute orphans in their respective counties.

SEC. 11. *Be it further enacted,*—That there shall be kept a record of the names of the inmates of each asylum by the superintendant, which record shall be handed to the commissioners in time to be included in their reports to the governor and council.

An Act relating to government offices, &c.

SEC. 1. *Be it enacted and ordained by the Governor and Council in Legislature assembled,*—That the sum of three thousand dollars be, and the same is hereby appropriated out of any moneys in the treasury, for the erection of suitable buildings in the town of Monrovia,—for the purpose of a jail, the wall on Crown hill commenced for that purpose some years be completed. A court house, council hall, and the necessary offices for the several departments of government.

SEC 2 *Be it further enacted,*—That the sum of five hundred dollars be appropriated as aforesaid for the erection of a light house on Cape Messurado

A Bill to establish a circulating medium in the commonwealth of Liberia and for other purposes.

ART 1. *Be it enacted,*—That from and after the passage of this act the articles of cam-wood and ivory which have been heretofore the currency of this commonwealth, shall be considered no more than other merchandize, or as the articles of grain and other products of the country, and that no established rate shall prevail as the fixed value of the said articles.

ART 2. *Be it further enacted,*—That in lieu thereof there shall be established a circulating medium in bills of fifty cents, one dollar and three dollars, signed by the general agent of the Colonization society in the United States of America, and payable at their store in this

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commonwealth in such articles, whether of specie or merchandize as may best suit the holder of the said bills.

ART. 3 *Be it further enacted,*—That the said bills shall be a tender in all payments whatsoever, whether in regard of government dues or of contracts between citizens, but should there be any necessity to have for the accomodation of foreign intercourse an exchange of the said bills made for specie, then and in that case a discount of two per cent and no more may be given, and in order, to prevent any misapprehension on that point it is understood that no discount is to be allowed in payment for any article of merchandize whatever, and should it occur that in any case a larger discount than the two per cent, as allowed in exchange for specie, is allowed, the receiver thereof may be proceeded against as in cases of usury.

Art. 4. The established rate of interest in this commonwealth shall be six per cent to accrue on all bills, bonds, notes, mortgages, having a set day for payment, and all open accounts after they shall have remained six months without being closed.

Art. 5. Any change of interest or discount which shall be allowed above six per cent, shall be punishable with the forfeiture of the whole sum involved in any such usurious transaction, with the cost of action and presentment made by a grand jury to the superior court of the county, wherein such offence has been committed.

Art. 6. The custom prevailing of taking oaths without kissing the book being wanting in the degree of formality necessary to give due solemnity to such a transaction,

Be it enacted,—That from and after the passage of this act it shall be the duty of all persons making oaths, whether before magistrates or judges or clerks, to place their right hand upon the book of the new and old testament, or either of them, and after hearing such matters propounded as may be the subject of an oath, they shall kiss the book in token of their assent to the truth of the subject proposed, on their agreement and consent to the acts to be done, and on their failing to do so, it shall render the person administering the oath liable to a fine of not more than $50 nor less than $5, according to the case.

Art. 7. If in any matter of controversy, any witness of an empannel, or in cases of estates, any executor or administrator should fail to make an oath when required by the proper authority so to do, or should any person in any case fail so to do, then and in that case they shall be fined at the discretion of the court or tribunal having cognizance of the offence, at the discretion of the presiding officer, subject however to an appeal as in other cases of other suits at law.

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An Act to regulate the militia of this commonwealth.

Be it enacted by the Governor and Council in Legislature assembled, as follows:—

Art. 1. That every able bodied male citizen of this commonwealth between the ages of 16 and 60, except those hereinafter enumerated, shall be enrolled in the militia.

Art. 2. Every person between the ages before mentioned shall be considered an able bodied man, unless he shall produce to the proper

officer a certificate from the surgeon of the regiment or battalion in which he is enrolled, of his infirmity or disability.

Art. 3. The following persons shall be exempted from doing military duty except in case of invasion or insurrection, or when in the opinion of the commander in chief the public exigences shall demand their services.

1st. Judges of the superior courts, the marshall, collector of customs, and other officers of the commonwealth when actually engaged in their official duties and at no other time.

2d. Ministers of the gospel having a pastoral charge.

Art. 4. It shall be the duty of the commander in chief to organize the militia of the commonwealth into one brigade, to consist at present of one regiment and one battalion, and as soon as may be, complete the organization by filling up the brigade, provided however, it shall not ever embrace more than four regiments which shall be made as equal in point of numbers as circumstances will allow.

Art. 5. No new regiment shall be formed with less than six companies of fifty men each.

Art. 6. There shall be one brigadier general with one aid, whose rank shall be that of captain, one brigade inspector with the rank of major, and one quarter master with the rank of captain.

Art. 7. To each regiment there shall one colonel, one lieutenant colonel, one major, one surgeon with the rank of lieutenant, and two surgeon mates with the rank of ensigns, one adjutant, and one quarter master with the rank of lieutenant, one sergeant major, one quarter master sergeant, and one drum major with the rank of the first sergeant.

Art. 8. To every company there shall be one captain, one lieutenant, one ensign, four sergeants, four corporals, and two musicians.

Art 9. The commander in chief may at any time organize a volunteer company, when in his opinion it may be expedient, provided however, such company shall at its formation consist of at least forty rank and file; and the charter of every volunteer company shall specify the duty of its members to arm and equip themselves, fully as

herein after provided, and to hold themselves ready at all times when notified for actual service as volunteers.

Art. 10. Every volunteer company now organized, shall present its charter within sixty days of the passage of this bill to the commander in chief, when if its provisions are not in accordance with this bill, a new one shall be granted, provided the full number of forty rank and file are enrolled in its muster book, and resident within its beat, otherwise it shall be disbanded.

Art. 11. Every private and non-commissioned officer in the line, whether attached to volunteer companies or not, shall be bound at all times to appear on parade with a good musket, bayonet and cartridge box, and when called into actual service with a suitable knapsack.

Art. 12. Every volunteer company neglecting to comply with or actually violating the provisions of its charter, shall be formally cited by notice of at least twenty days, to show cause before the commander in chief why it should not be disbanded, and if sufficient excuse is not rendered for such neglect or violation, the commander in chief may disband the company and institute proceedings against the officers of such company before a court martial.

Art. 13. The commander in chief shall within thirty days of the passage of this bill convene a council of at least four general and staff officers, and with their advice and consent, adopt a uniform for the militia of this commonwealth, which shall be made known immediately by a general order, when it shall have the force and sanction of law.

Art. 14. The general tactics and discipline of the militia shall be the same as that adopted and in force in the United States army.

Art. 15. There shall be regimental and battalion parades at least four times in each year, viz. on the first Saturday in October, January, April and July; company parades shall be the first Monday of every month.

Art. 16. The officers and non-commissioned officers of the staff and line shall be required to parade for drill and other duty two successive days preceding each regimental and battalion parade, and the whole or any portion of the militia may be ordered on duty at such other times as the commander in chief may direct.

Art. 17. All general orders shall be issued by the commander in chief through one of his aids; brigade orders will be distributed by the brigade major, and regiment and battalion orders by the adjutant of each regiment or battalion.

Art. 18. The brigade major shall keep a fair transcript of all returns made to him in a book, and shall file all such returns in his office. He shall make a full report of the state of arms and equipments

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throughout the brigade within twenty days after each regimental and battalion parade to the commander in chief.

Art. 19. Four regimental courts martial shall be held in each county within twenty days after each regimental and battalion parade. The Court shall be composed of the commanders of the regiment or battalion where it is held, and at least four other commissioned officers. This court shall have cognizance of all military offences occurring within their respective bounds committed by officers below the rank of major, and may impose and collect all fines and forfeitures incurred at any time between its sessions; from this court appeals may be made to the commander in chief.

Art. 20. Their shall be one brigade court martial held at Monrovia on the second Wednesday in January of each year, to be composed of the commander in chief, and two or more general or staff officers, which shall have cognizance of all military offences committed by any officer above the rank of captain.

Art. 21. Any private failing to attend when properly notified shall be fined in a sum not less than one and a half, nor more than five dollars; for appearing without a gun not less than twenty-five cents, nor more than three dollars, and for any and every other article of arms or equipment he may appear without, not less than twenty-five cents, nor more than two dollars. For every act of disorderly or unsoldierly conduct, a sum not less than one dollar nor more than ten dollars, and for any instance of disobedience or disrespect to officers, not less than two nor more than twenty-five dollars. Every non-commissioned officer for any of the above offences shall be fined double the sum imposed upon a private and be also reduced to the ranks.

Any officer failing to appear on parade at any time when properly warned, shall be fined in a sum not less than three dollars nor more than twenty dollars, and for failing to uniform himself according to law, shall be fined in a sum not less than ten nor more than fifty dollars, and for any unofficerlike conduct or disobedience to superiors may be fined in a sum not less than twenty nor more than one hundred dollars, and may be further cashiered and reduced to the ranks.

Art. 22. Whenever the militia or any portion thereof may be called into actual service, they shall be put upon the same footing as to police

and general regulations, as the militia under similar circumstances in the United States. The pay of a private shall be eight dollars per month, and a daily allowance of one pint and a half of rice, and a half pound of beef, or an equivalent for these articles in other wholesome provisions.

The corporals shall receive ten dollars per month, and like rations as a private. The sergeants (except the orderly) eleven dollars. The

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orderly sergeants shall receive thirteen dollars per month. The ensigns and lieutenants shall receive seventeen dollars per month, and two rations; captains shall receive twenty-two dollars per month and two rations; majors, thirty dollars per month and three rations; lieutenant-colonels shall receive thirty-five dollars per month and three rations; brigadier general, forty dollars and four rations.

Art. 23. The forms of proceedings in courts martial and all forms of military process, order of reports, accounts and returns, shall be the same as those in the United States.

Art. 24. The commander in chief shall, and he is hereby directed to procure as soon as may be for the use of the militia, forty copies of the most approved work on tactics and discipline of the United States, which work shall include the forms necessary for all military proceedings, &c.

And it shall be the duty of every field and staff officer, and every commander of companies, and the orderly sergeants of companies to provide themselves each with a copy of said work.

An Act regulating common schools.

SEC. 1. *Be it enacted by the Governor and Council of the commonwealth of Liberia, in Legislature assembled,*—That there shall be established in each settlement and township, that is or hereafter may be formed in this commonwealth one common school, the same to be under the supervision or control of a school committee, to be created for that purpose by the governor and council.

SEC. 2. *Be it further enacted,*—That to each school there shall be a teacher whose appointment shall come from the governor and school committee, and that said teacher be required to conform to such instructions as may be furnished him relative to his duty as instructor.

SEC. 3. *Be it further enacted,*—That the sum of three dollars per year be paid by himself, parent or guardian of all those who may be admitted into these schools, (if they be able,) the said amount to be paid to the school committee, or any person appointed by them. All applications for entrance in said common school shall be made to the school committee.

SEC. 4. *Be it further enacted,*—That all infractions of order by any scholar thereto attached shall be referred to said committee, who shall be clothed with power to act on all such cases, as to them may appear the most prudent for the good of the community.

SEC. 5. *Be it further enacted,*—That each teacher of common schools shall receive for his services a sum not exceeding four hundred dollars per annum, to be paid him quarterly.

SEC. 6. *Be it further enacted,*—That there shall be two vaca-

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tions in each year, the first at the close of the first term of twenty weeks, the second at the close of the second term of twenty weeks.

SEC. 7. *Be it further enacted,*—That at each vacation the teacher shall be bound to furnish a report, showing the state of his school, the number of scholars, the time of entrance and by whom entered, their ages, &c., and make such other remarks as he may deem necessary. The schools shall be examined at least twice in one year.

SEC. 8. *Be it further enacted,*—That all persons shall be bound by law to send their children to school, (provided their ages vary from five to twelve years,) and whosoever fails to comply with the above requisitions, shall without excuse be compelled to pay a fine of three dollars, said fine to go into the hands of the school committee for the benefit of the school.

SEC. 9. *Be it further enacted,*—That the governor and council recommend to the board of directors of the American Colonization Society, the appropriation of a tract of land of one mile square in each township of this commonwealth, for the benefit of common schools.

A bill to prevent fraud in the management of intestate and other estates.

Whereas, there does exist within this commonwealth, many sore evils growing out of the loose and improvident manner, in which trusts

and other assumed responsibilities, with regard to estates both real and personal, have been executed within this commonwealth; for remedy whereof,

Art. 1. *Be it enacted,*—That in all cases where persons have died and left estates in the hands of an executor or executors, whereof settlement has not been made in due course of law, that the clerks of the county courts in the name of this commonwealth shall immediately after its first session, have power and cause to to be issued from their office a citation to the executors aforesaid, to appear and render in writing a statement of all matters and things connected with their charge; which said statement shall be filed in the said clerks' office as a matter of reference as in the case of other documents: and should it be found that any fraud has been committed in the management or direction of the said estate, the parties aggrieved may bring their action and recover the whole of such demand as they may have against the estate of the said deceased, out of the goods and chattels, lands and tenements of any executor so fraudulently managing an estate.

Art. 2. *Be it further enacted,*—That all administrators who may have been appointed, whether by the court, or at the request of those interested, or of themselves assuming such responsibilities, shall in like manner be notified to render an account of their doing in relation

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to any estate or property they may have had the management of, so as clearly make known any and all the degrees of liability resting upon them; and whenever any frauds are discoverable the same penalties shall attach as in cases of executors.

Art. 3. From and after the passage of this act no person or persons shall meddle or interfere with the estate of any person without there being a will or other writing to that effect, unless authorized so to do by the court of quarter sessions in the county wherever he or she may reside; and any person so doing shall thereby become liable for the payment of all the debts due by the deceased and actions in law, for the respective shares of heirs or legatees; nevertheless nothing contained in this act shall be so construed as intending to prevent those interested from taking inventories of the estate chattel, as well as real, of deceased persons so as that a true account of their possession may be obtained.

Art. 4. *Be it further enacted,*—That when any person a citizen of this commonwealth shall die, if he leave no will it shall be the duty

of the court of quarter session, at its first sitting thereafter to appoint an administrator, who shall give bond and security in double the value estimated on such estate; so as to secure the performance of all the duties connected therewith, viz. he shall make a correct statement of all and singular the property and effects of the deceased; and whatever thereof is perishable he may sell by auction after notice being given in three of the most public places in the county by advertisement thereof for twenty days; and the sale made shall be on credit of six months on bond and sufficient securities in the currency of this commonwealth; and he shall make return thereof to the next term of court, concerning this and all other doings in the matters and things connected with the said estate, which return shall be recorded by the clerk on the book of records of the said county; and should it be found that the intestate is so indebted as to make it necessary that a further sale of property should be made to meet the said demand, he shall be ordered by the court to sell any or all of the same to meet such demands; and should there not after such sale enough be made to meet all the claims existing against the said estate, then and in that case a *pro rata* dividend shall be made according to the amount of each claimant's demand, the administrator taking care to reserve for himself a commission of five per cent on the said estate as compensation for his services.

Art. 5. *Be it further enacted,*—That in all cases where mortgages on real estates do now exist within this commonwealth that it shall be the duty of the parties concerned, whenever the limitation has ceased and been determined, to have foreclosure or redemption made thereon, in order that such estate may be relieved from enthralment, and all

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factors, agents or attorneys are hereby required to do the same within twelve calendar months from the operations of this act, or so to have arrangements in train that the same may thereafter be soon completed; and any case of neglect or inattention to the requirements of this act, shall be punishable with fine recoverable in action of contempt of court of not less than one nor more than five hundred dollars.

Art. 6. Whereas many cases do now exist of persons under the cover of titles as above, are holding property to which they have no proper right, and thereby delaying justice and in perversion of equity.

Be it enacted,—That from and after the passage of this act all such estates so held, shall be liable to seizure for any debt or debts of the mortgagor, and the equitable interest may be sold subject to

the right of redemption by the purchaser; and it shall be the duty of such mortgagee, by himself or his agents, at the time of such sale to make a correct and true statement of his claim on the premises so offered for sale, and on his failing to do so the sale shall be considered *bona fide,* and the sheriff shall execute a fee simple title to the purchaser, by which he shall be made to hold and possess all the right and property in said estate; and should any fraud be discoverable in the management or conduct of the said agent, factor or attorney, he shall be sued in an action of trover and damages, recovered against him according to the amount of wrong established against him, or fined at the discretion of the judge of the superior court in a sum not exceeding five hundred dollars.

Art. 7. *Be it further enacted,*—That whenever it may be necessary to act upon estates of any deceased person in the recess of the county courts, that the chairman of the said court shall have power to grant letters of administration and orders of sale to the person by him authorized to act thereon.

An Act to provide regulations for the counties and towns in the commonwealth of Liberia.

SEC. 1. *Be it enacted by the Governor and Legislature of the commonwealth of Liberia in Council assembled, and it is hereby enacted by the authority of the same*—That this commonwealth shall be divided into two counties, viz. the county of Monserrado and the county of Grand Bassa, and into such others as may from time to time be established.

SEC. 2. *Be it further enacted,*—That each county shall be divided into townships of not more than eight miles square each.

SEC. 3. *Be it further enacted,*—That the several townships in this commonwealth shall have capacity as bodies corporate—

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1st. To sue and be sued as such.

2d. To take and hold real estate within their respective limits, and also personal property; provided such real and personal estate shall be taken and held only for the benefit of the inhabitants of the respective counties and townships, and for such objects and purposes and for no other as county and township rates and levies may be au-

thorized by law, to be laid and collected and for such other objects and purposes as may be expressly authorized by law.

3d. To make such contracts as may be necessary and proper for the execution of the same objects and purposes.

SEC. 4. *Be it further enacted,*—That the corporate powers of the several counties shall be exercised by the supervisors thereof respectively.

SEC. *Be it further enacted,*—That there shall be a county seal for each county of this commonwealth, which shall be in the custody of the clerk of the county court, and all official acts of the commonwealth by the county clerk shall be authenticated therewith.

SEC. 6. *Be it further enacted,*—That there shall be appointed in each county three commissioners to serve for two years or during good behavior.

SEC. 7. *Be it further enacted,*—That it shall be the duty of the commissioners to have care of the buildings and other property belonging to their respective counties, to exercise a general supervision over prisons, and poor houses and asylums. To examine into the state of roads, bridges and other matters of public interest; to determine what expenditures are needed for the erection, improvement and care of the same, and recommend to the governor the appropriation of such sums as may be necessary out of the funds of said county; and the said commissioners shall have the power whenever the necessities of their case shall so require, to levy and collect such taxes as may be required to pay the expenses of government in their corporate capacity.

SEC. 8. *Be it further enacted,*—That the county treasurer shall receive and keep subject to the order of the commissioners all the moneys of the country, to whom he shall make full quarterly report of all his doings. He shall keep an account of all receipts and disbursements in a book, to be subject at all times to the inspection of the commissioners.

SEC. 9. *Be it further enacted,*—That it shall be the duty of the county treasurer to keep separate accounts of all moneys received on behalf of the commonwealth, 1st From licenses to merchants and others; 2d. From military fines: From commonwealth taxes and all other sources of this nature.

SEC. 10. *Be it further enacted,*—That the county treasurer shall receive in compensation for his services a per centum, on all moneys re-

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ceived and paid by him, the rate to be determined from time to time by the commissioners; provided however it shall not exceed twenty per cent in any case.

SEC. 11. *Be it further enacted,*—That the chairman of the county courts shall be appointed by the governor and council and shall hold his office during good behavior.

SEC. 12. *Be it further enacted,*—That the county courts at their quarter session, by their clerk shall issue all license to traders, merchants and others, he making record of the same on the minutes of the court, and all persons desiring such license, shall apply to the said court at its first session, to be held under the system of the judiciary now propsed to be regulated by law; and if there be no objection he may receive such license.

SEC. 13. *Be it further enacted,*—That there shall be a town meeting of the citizens under the direction of the magistrates held in each township annually, on the first Tuesday in October for the purpose of levying such taxes as may be necessary in their corporate capacity, for the expenses of government, and further to appoint three overseers who shall regulate the order of the police, keeping the roads and streets in order, the keeping of stocks, and the ingress of natives on the Sabbath day, as well as the desecration of that day by the colonists; the regulation of market, &c., &c.

SEC. 14. *Be it further enacted,*—That the governor and council shall appoint during the present session, for the county of Montserrado, a commonwealth attorney, an auctioneer, a public notary, three commissioners, a chairman of the county court, a surveyor and port officers to be appointed at Marshall, with jurisdiction extending over Little Bassa, eight constables, one judge of superior court, twelve justices of the peace, a clerk of the court, a register, a high sheriff, a coroner, a treasurer, a collector of customs, four overseers of the poor, three assessors of real estates for the purpose of laying taxes, one marshal whose power shall extend throughout the colony.

SEC. 15. *Be it further enacted,*—That there shall be appointed for the county of Grand Bassa, a judge of superior court, a chairman of the county court, a clerk of the county court, a register, a treasurer, eight magistrates, six constables, a high sheriff, a coroner, a collector of customs, four assessors of the value of real estates, four overseers of the poor, a commonwealth's attorney, an auctioneer, a surveyor.

SEC. 16. *Be it further enacted,*—That a ferry shall be established on the St. John's river to communicate beteen Bassa cove and Edina.

SEC. 17. *Be it further enacted,*—That there shall be a ferry or ferries at Junk, and the court of quarter session for the county of

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Grand Bassa, shall affix the rates to be charged for tolls at either place or on the St. John's.

A bill for the relief of James Benson.

Be it enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,—That from and after this date the said James Benson shall be entitled to receive out of the funds of the general treasury of this commonwealth the sum of twelve dollars per annum, to be paid to him on application therefor at the seat of government, on the first Tuesday in December in each year, and his receipt for the same shall be allowed to the treasurer in the settlement of his current account.

A bill for the relief of Jane Hawkins.

Be it enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,—That whereas a petition has been presented to this legislature, asking some provision to be made for her support, it shall and may be lawful for his excellency the governor of this commonwealth to inform himself whether or not any such provision, as will reach her case has been made by the American board of managers of the Colonization society, in the name of her husband the late Daniel Hawkins, or in her own name, and if not, then and in that case he may direct such relief to be extended to her, as he may judge the necessities of her case may demand.

An Act legalizing marriages and legitimating illegitimate children for the commonwealth of Liberia.

SEC. 1. *Be it enacted by the Governor and Council in Legislature assembled,*—That from and after this date, all persons who at the time of their arrival in this commonwealth shall be living and co-habiting together as husband and wife, shall previous to their admission to the

rights and privileges of citizens, or any of them, be cited by the clerk of the court of quarter sessions of the county in which they may be, to appear and in his presence, and in the presence of each other, be required solemnly to acknowledge and declare themselves to be bounden and lawful husband and wife; and to recognize all the duties of that relation.

SEC. 2. *Be it further enacted,*—That it shall be the duty of the clerk of the said court, to record in the records of the same, the said acknowledgement, which record shall forever thereafter be full and

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sufficient evidence of the marriage of the parties therein named.

SEC. 3. *Be it further enacted,*—That no persons who shall be living and co-habiting together in manner aforesaid, and who shall refuse or neglect to obey the citation of the clerk of the court of quarter sessions, and to make the aforesaid acknowledgement and declaration, shall be entitled to draw or hold lands in the colony, or enjoy and exercise any of the rights and privileges peculiar to citizens of the same, until and unless they shall have applied for and undergone a legal and formal marriage, solemnized according to the customs and forms of this commonwealth.

SEC. 4. *Be it further enacted,*—That a certificate of any marriage solemnized, whether by a minister or any other person according to the usages or customs of the state or place from whence the person or persons may have come. The producing of a certificate by either of the parties interested in the proof of the marriage, shall in all cases be deemed sufficient evidence of the marriage of the parties interested.

SEC. 5. *Be it further enacted,*—That in all cases where any person or persons may have an illegitimate child or children, and desires to make him, she, or them legitimate, on application of he, she, or them to the chairman and justices of the court of quarter sessions and common pleas, when they shall be sitting in the capacity of a probate court, the chairman and justices of the said court, shall order their clerk to make a record of the said application, stating at the same time the date of the day, month and year, of the time when application was made, the names of the parties making the same, with the name of the child or children to be legitimized, &c., and it shall be the duty of the said clerk to give the said parties a certificate of said record, signed with his own name, which shall in all cases be deemed full and sufficient evidence of the legitimacy of such child or children.

A bill for the regulation of the towns and villages in this commonwealth.

Whereas there does appear in many of the towns and villages inhabited by colonists, an excess of under brush or noxious weeds adjoining or contiguous to inhabited or cultivated lots, whereby the residents thereupon are subjected to many inconveniences affecting their ways, or property or health, for remedy whereof,

SEC 1. *Be it enacted by the Governor and Council of this commonwealth in Legislature assembled, and it is hereby enacted by authority of the same,*—That it shall be the duty of those persons so aggrieved to make a representation of their case to the commissioners appointed in the sixth section of the act to provide regulations for the counties and towns in the commonwealth of Liberia, and it shall be their duty

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to make known by public advertisement for thirty days to the owners of the same, to clear away or remove whatever nuisance or other obstruction may be so complained of, and should no attention be given to the said notice so as that the necessary work be accomplished, then and in that case the said commissioners shall advertise the work to be done, in clearing or otherwise, properly the said premises; and after ten days notice being given by advertisement at two of the most public places in the said township, the said work shall be let to the lowest bidder, or to whomsoever will accomplish the same for the smallest sum or sums, to be paid out of any funds of the commonwealth.

SEC. 2 *Be it further enacted,*—That the owners of the said lot or lot shall be allowed one year from the day of such sale for the repayment of the sum so expended in clearing, for the redemption of their lots, they paying advance of thirty-three and a half per cent. on the sum so paid out; and should they fail or neglect to pay the same, at or before the expiration of the said term of one year, then and in that case after forty days public notice being given by the proper authority, in one of the newspapers published in Monrovia, the same shall be sold, or such proportion thereof as may be necessary to repay to the government the sum so expended as well as the advance to be charged thereon.

SEC. 3 *Be it further enacted,*—That if in case any of such lots be the property of minors having no guardian, then and in that case, if they shall pay on or before their arrival at the age of twenty-one years, all such expenses as may have arisen in manner above for the clearing

and keeping in order the said lot or lots, then and in that case, they shall be privileged to redeem them at any time thereafter, either by themselves or their heirs or assigns.

SEC. 4. *Be it further enacted,*—That the parts of the said town included in their streets, being under the direction of the commissioners to be appointed as in the thirteenth section of the aforesaid act expressed, it shall be their duty on certain days and at certain times, to summon every taxable male citizen of this commonwealth by notifying him three days before each working day to be appointed by the said overseers, viz. not exceeding twenty-six working days in each year, to assemble and clear out the streets; and they shall either in person or by a substitute attend whenever summoned so to do, and apply themselves to the work aforesaid, or pay the sum of one dollar, for each day they fail of so complying with the notice as above given, to be recovered by a warrant before any magistrate with costs accruing on the said action.

SEC. 5. *Be it further enacted,*—That should either the said com-

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missioners or overseers fail to do their duty as laid down in the clauses or sections of acts herein contained, they shall be subjected to indictment and fine on the presentment of a grand jury made before his honor the judge of the superior court of the county wherein they reside.

SEC. 6. *Be it further enacted,*—That any acts or clauses of acts having a tendency to invest any town or settlement in this commonwealth with corporate powers, contrary to the true intent and meaning of the act or acts passed in relation thereto at this present session of the council of this commonwealth, are hereby repealed and made utterly null and void.

Resolved,—That his excellency the governor of this commonwealth be requested to appoint one person in each township to take a census of the inhabitants thereof, and that on his receiving such appointment it shall be his duty to make a correct statement, and render a true account of all the matters and things given him in charge to do, viz to ascertain:

1st. The name of each head of a family, whether male or female;

2d. To note particularly their ages and number in family, so as to show

3d. All males over 65 years of age;

4th. All females over that same age;

5th. All males over 50 and under 65;

6th. All females of that same age;

7th. All males over 21 and under 50;

8th. All females of the same age;

9th. All males between 16 and 21;

10th. All females of the some age;

11th. All males over 12 and under 16;

12th. All females of the same age;

13th. All males over 5 and under 12;

14th. All females of the same age;

15th. All males over 1 and under 5;

16th. All females of the same age;

17th. All males under one year; and noticing particularly how many of all ages in each family have been born in the colony;

18th. All females of the same age;

19th. All idiots, lunatics and other decrepit persons;

20th. The number of horses, jacks, mules or working-oxen belonging to one family; the number of spinning wheels, and if any what kind and quantity of produce they raise or manufacture for market; with the number of acres of land cultivated by each citizen.

21st. The pay he shall receive will be according to the numbers returned at the rate of one dollar per hundred souls, and the returns

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thereof to be completed within one year from this date, so as to justly apportion the rates of representation to the legislative council to be held in the year 1841.

An Act supplementary to the judiciary act.

SEC. 1. *Be it enacted by the Governor and Council of Liberia, and it is hereby enacted by the authority of the same,*—That from and after the passage of this act the justices of the peace within this common-

wealth shall be entitled to receive the same fees as they have heretofore received.

SEC. 2. *And be it further enacted,*—That so much of the judiciary bill as refers to the gratuitous service of magistrates be, and the same is hereby repealed.

SEC. 3. Whereas, the duties of the chairman of the court of pleas and quarter sessions, being over and above that of an ordinary magistrate

Be it enacted,—That there shall be allowed to that officer the sum of twenty dollars annually, to be paid out of any funds arising from fines and forfeitures in the said court.

An Act regulating the commerce and revenue of the commonwealth of Liberia.

SEC. 1 *Be it enacted by the Governor and Council of the commonwealth of Liberia, in Legislature assembled,*—That from and after this date, the importation of all and every kind, species, or quality of ardent spirits into the commonwealth, be and the same is hereby prohibited, excepting in such quantities as may be absolutely necessary for the medical department; a committee to consist of the governor, or in his absence the lieutenant governor, the physicians and the apothecary shall determine from time to time, what quantities of alcohol and other kinds of ardent spirits may be required for the use of that department, and the care of all such ardent spirits shall be committed to the apothecary, who shall not allow it to go out of his charge on any pretext whatever, unless by regular prescription from a physician.

SEC. 2. *Be it further enacted,*—That if any person or persons suspected of being engaged in, or aiding and abetting in the smuggling of any quantity of ardent spirits into this commonwealth, he, she, or they shall on complaint being made thereof, be immediately cited to appear before any justice of the peace of this commonwealth, and if it shall be clearly proven that the person or persons so cited to trial, have been engaged in or have by any means aided or abetted in the smuggling into this commonwealth ardent spirits of any kind, or in any quantity, the person or persons so convicted, shall be fined in a sum not less

than two hundred dollars nor more than five hundred dollars, recover-

able before any court in this commonwealth having jurisdiction of such cases.

SEC. 3. *Be is further enacted,*—That if any individual or individuals be found drunk in the streets of any of the settlements in this commonwealth, he, she, or they shall be taken immediately and confined in jail till they get sober.

SEC. 4. *Be it further enacted,*—That if any person or persons found guilty of the violation of the laws of this commonwealth, relative to the prohibition of ardent spirits, and unable to pay the fine imposed by the laws of this commonwealth, he, she, or they shall be sentenced to hard labor on the public works, for any term not exceeding two years nor less than six months.

SEC. 5. *Be it further enacted,*—That any port officer, justice of the peace, or constable, who shall have knowledge of smuggling into, or selling of ardent spirits being carried on within the limits of this commonwealth, and do not proceed forthwith to have such offender or offenders apprehended and brought to justice, such officers, so neglecting their duty, shall be fined in a sum not less than two hundred dollars, nor more than five hundred dollars.

SEC. 6. *Be it further enacted,*—That all male citizens resident in these colonies, who are or shall be subject to the laws of the commonwealth, at or above the age of twenty-one years and under sixty, shall pay annually a poll tax of fifty cents.

SEC. 7. *Be it further enacted,*—That there shall be collected on the assessed value of real estates within this commonwealth, a tax of one-eighth per cent. for the year next ensuing.

SEC. 8. *Be it further enacted,*—That each commission merchant that is to say, one who receives goods to sell for others on commission, shall pay a tax of twenty-five dollars per annum, each retailer shall pay twelve dollars per annum.

SEC. 9. *Be it further enacted,*—That all merchants who may be licensed as above, and who shall receive articles from foreigners, on deposit for sale and returns, shall hold such goods, wares, or merchandize for sale, at the rates or prices thereon affixed by the consignor, and no merchant or factor receiving goods and commodities for sale, shall be allowed to advance on the said goods, wares, and merchandize, contrary to the written instruction of the said foreigner, by whom such articles had been left on deposite for sale and returns as above men-

tioned, under the penalty of one hundred dollars for every offence, to be recovered by presentment made by the grand jury of the superior court of the county in which the said offence is committed, one half to the use of the informer and the other half to the use of the commonwealth.

SEC. 10. *Be it further enacted,*—That no foreign vessel shall traffic within the limits of this commonwealth except at ports of entry, under

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the penalties set forth in the port regulations of the same, a copy whereof shall be furnished to every trader according to the customs hitherto prevailing.

SEC. 11. *Be it further enacted,*—That from and after the first day of December, 1839, no citizen of this commonwealth or alien resident therein, shall trade or traffic with the natives of this country, out of the bounds of the town wherein they reside. Any citizen or alien violating the provisions of this act, the articles of trade, produce, cattle or other animals, shall be seized and sold by the sheriff or constable of the county where the offence has been committed and the whole proceeds shall go to the use of the commonwealth; and should any citizen violate this regulation after the first offence he shall suffer as in manner before mentioned, and be fined in a sum not exceeding one hundred dollars and the costs of action, and if unable to pay, he or she shall be sentenced to hard labor for six months on the public farm, and should he, or she, or they make any resistance to the officer in the discharge of his duty, they shall be subject to presentment as in other cases of misdemeanor, and be confined to hard labor for six months on the public farm.

SEC. 12. *Be it further enacted,*—That all vessels, boats and people engaged in, or in any wise aiding or abetting the slave trade are hereby forever forbidden to have any intercourse with our waters or our shores, and should they by distress be driven to anchor in our waters, or land on our shores, the circumstances of their case are to be immediately reported to the governor, or some person authorized and appointed by him to hear and decide on the merits of their case, and any violation of this law shall subject them to seizure and imprisonment of themselves and confiscation and sale of their effects.

SEC. 13. *Be it further enacted,*—That no citizen of this commonwealth, or any foreigner, shall be permitted to act as agent or attorney for any person or persons engaged in the slave trade under a penalty of being six months bound to hard labor in irons.

SEC. 14. *Be it further enacted,*—That no person resident within the jurisdiction of this commonwealth, shall enter into the employ or service of any slave dealer, or of any person in the remotest degree connected with him or them, under the penalty of fifty dollars to be collected by presentment of a grand jury, and any person belonging to these colonies being found on board of any boat, vessel, or in the neighborhood of any such slave dealing establishment, shall be deemed accessary to their crime and shall suffer the penalty as above; but should any person, being a citizen of this commonwealth, be found on board any vessel, or in a situation connected with the establishment of a slaver, and if it can be shown that they have by accident or distress been thrown into that situation, they may make representation of their

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case to his excellency the governor, who may, should he see cause, admit their pleas in extenuation of their fault, and they may thereby be blameless; but should they fail to make representation of their case, it shall be taken for granted and received as evidence of their guilt, and shall suffer the penalty of the law by presentment as in other cases.

SEC. 15. *Be it further enacted,*—That all vessels hailing from ports in this commonwealth, and sailing under its authority, are hereby prohibited from any and every species of intercourse with slavers at sea or elsewhere, so as not to trade or hold any negotiations with them, under the pain of the seizure and condemnation of their vessel, and forfeiture of all the articles or the value of them so traded for, and no such vessel as above mentioned shall purchase at sea any goods, wares or merchandize, and land them at any factory they may be licensed to keep within this commonwealth without accounting to the nearest port officer for the amount of duties chargeable on the said purchase, and paying the regular tariff duties imposed on the said articles.

And, whereas, it is the custom with certain merchants to employ natives to carry out for them articles of trade into the country, hereby forestalling and frustrating the regular trader, and materially hindering the direct courre of trade.

SEC. 16. *Be it further enacted,*—That from and after this date no such custom shall continue to prevail; and the violators of this statute shall, for every such offence, forfeit and pay double the value of such sums so intrusted with natives, recoverable before a justice of the peace, one half to the use of the informer, and the other half to the use of the commonwealth.

SEC. 17. Whereas it has been a custom prevailing to the disgrace of the settlements in this commonwealth, that its citizens leave their homes and wander as vagrants to and from the settlements of the natives, adopting their habits and manners, and in some instances throwing off their clothes to the great shame of our citizens and disparagement of our civilized institutions: *Therefore be it further enacted,*—That from and after this date, if any person or persons be guilty of thus idly wandering about, he, she, or they shall be presented to the grand jurors of their respective counties as common vagrants, and the overseers of the poor shall be authorized to employ such means as they shall see proper, to have them or such a one brought from the country and confined in the county jail, or otherwise secured, and after due notice being given for ten days, by public advertisement, they shall be hired out to pay the expense of their capture and bringing in and confinement, and all the expenses chargeable on their folly; their term of service however shall not be extended beyond six months in any one instance.

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SEC. 18. *Be it further enacted,*—That it shall be the duty of the overseers of the poor to make diligent inquiry and by every possible means to get the names and ascertain the residence of all youths or others belonging to these colonies, who have done to reside among the natives; and they shall be empowered to use and employ any means in their power to cause them to be brought away, and they shall be by them disposed of, so as to make their services pay the expense of catching them; and it is understood that the said wardens are unlimited in their action and boundless in their power in this regard, provided however that they shall not be sold as slaves.

SEC. 19. Whereas there do exist difficulties with respect to native treaties, in order therefore effectually to remove the same.

Be it further enacted,—That a committee to be appointed by the governor of this commonwealth be empowered to call up and examine into the manner in which treaties between this commonwealth and the surrounding native tribes have been observed, and the same in an official report under their hand and seal, to make known to the governor and council of this commonwealth, who shall take such action thereon, as may be necessary to conciliate and cement the bond of amity between us and them.

SEC. 20. *Be it further enacted,*—That in all cases of treaties to be made of which this government shall be a party, the governor shall

appoint commissioners, who may be clothed with the necessary power and held bound in no wise to depart from their instructions.

SEC. 21. *Be it further enacted,*—That in all treaties or negotiations with the surrounding headmen or chiefs of the native tribes inland, the settling of questions of boundary, or for the extension of the colonial territory, a fair and complete understanding shall be had and obtained, and proper instruments of writing shall be had and made and done, fully expressing the whole subject matter of such agreement or arrangement entered into, the full amount paid as the consideration price of any bargain or purchase made, together with the real signatures of all concerned in the transaction; and no chief or head man, the proprietor of any lands, shall by either force or fraud be brought to accede to measures, nor shall any construction by force of implication to be given to words or actions be employed to deprive them of their rights in any respect, and more especially with regard to lands, unless they signify a willingness to do so in the way of pacific negotiation.

SEC. 22. *Be it further enacted,*—That all natives choosing to reside in our settlements may do so by conforming to the laws enacted for their government.

SEC. 23. *Be it further enacted,*—That the lawful commerce of all nations shall be placed on an equal footing in these colonies, so far

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as they shall transact lawfully their business according to the rules and regulations by law laid down for their government; they shall be entitled alike to all the advantages thereof, but no trading establishment whatever shall be formed on the coast within the jurisdiction of this commonwealth by any foreigner, under the penalty of the seizure of his person and the confiscation of his goods.

SEC. 24. *Be it further enacted,*—That from and after this date there shall be no trade, traffic, or barter with the natives in the usual mode of estimating by bars, but that instead thereof, all commerce with them by colonists shall be carried on in the usual calculations of the currency of the country, and any citizen so transgressing shall for each and every offence be fined in the sum of one dollar, to the use of the commonwealth, to be recovered by action or warrant before any justice of the peace with costs.

SEC. 25. *Be it further enacted,*—That all vessels hailing from any port in these colonies and trading coastwise, under the protection of

this government, shall pay a tax of one dollar per ton per annum: a license or warrant to that effect from under the hand of the governor of this commonwealth, to be granted to the master or owner by him, on payment of the aforesaid sum; nevertheless it is expressly understood that no such license shall entitle him to land and leave for sale on shore, any goods, wares, or merchandize within the jurisdiction of this commonwealth.

SEC. 26. *Be it further enacted,*—That in addition to the prohibition with regard to factories, no person or persons whatsoever shall trade or traffic by buying or selling merchandize for gain within this commonwealth, except those who have obtained a license as by law required for the privilege of so doing.

ACTS

OF THE

GOVERNOR AND COUNCIL OF LIBERIA.

PASSED JANUARY 1840.

(By Authority.)

Printed at the Herald Office, Monrovia,—J. C. MINOR.
1840

(From an original in the possession of former President Edwin Barclay)

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ACTS

OF THE

GOVERNOR AND COUNCIL OF LIBERIA IN LEGISLATURE ASSEMBLED.

Passed at their Session in January Anno Domini 1840

(*Printed by Authority.*)

An Act to amend an Act, entitled An Act to establish a Circulating Medium in the Commonwealth of Liberia.

Article 1*st. Be it Enacted by the Governor and Council of Liberia, in Legislature Assembled, & it is hereby enacted by the authority of the same,*—That from and after the 20th day of this present instant January, the legal currency of this Commonwealth shall consist, *First* of Camwood & Ivory: camwood at the value of three cents per pound, and ivory weighing less than twenty pounds, sixty cents per pound· twenty pounds and upwards, one dollar per pound. *Secondly*: Bills on the credit of the Commonwealth of the denomination of Five, Three, Two and One Dollars: Fifty cents, Twenty cents, Ten cents and Five cents, to be issued on the credit of the Commonwealth under such regulations, and in such a manner as shall be provided by this Act. Said bills or notes shall bear in fair and legible characters the date of their issue, and shall be redeemable at the Treasury in two equal instalments, the first at the expiration of six months from the date of issue, and the second at twelve; & the Commissioners shall be authorised by the Direction of the Governor, at any reasonable time before the arrival of these specified periods, should there not be an amount of specie, camwood or ivory in the Treasury to redeem the notes, to negotiate loans for the purpose, at any interest not exceeding seven per centum And further that the Governor and Council shall appoint one person at

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Edina, and another at Sinoe to receive from the Collector, the amount of duties collected according to this Act, to hold the same subject to the order of the Governor, to be disposed of according to the true intent and spirit of this Act.

Art. 2nd. Be it Further Enacted,—That said bills or notes shall be a legal tender in all payments between the Government and citizens,

and between citizens and citizens, in all debts and contracts, the payment of which was not otherwise expressly stipulated for at the time of making the contract.

Art. 3rd. Be it further Enacted,—That there shall not in the twelve months immediately succeeding the date of the passage of this Act, be a larger amount of said bills or notes in circulation than Two Thousand Dollars.

Art. 4th. Be it further Enacted,—That from and after the date of the passage of this Act, all captains, supercargoes or agents of foreign vessels trading or landing goods in any of the ports of this Commonwealth, shall before the vessel leaves the port, pay in specie, camwood or ivory, to the proper officer appointed to receive the same, the amount of duties accruing on merchandise so sold or landed, together with the amount of anchorage. And it shall be the duty of the collector or officer so receiving the duties & anchorage, or anchorages alone, as the case may be, to pay the amount so received into the hands of the Treasurer of the Commonwealth immediately and without delay.

Art. 5th. Be it further Enacted,—That in cases of direct importation of goods or merchandise, by citizens of this Commonwealth, in which the duties on the same shall amount to a sum exceeding one hundred dollars, the term of ninety days shall be allowed for the payment of the duties accruing on said importation. The amount shall be secured by a bond with sureties good and sufficient in double amount of said duties, to be executed to the Commonwealth of Liberia, to be taken by the Collector and deposited in the Treasury.

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Art. 6th. Be it further Enacted,—That at the expiration of the ninety days, the Treasurer shall demand the payment of the bond. and if the payment be neglected or refused to be made, he shall proceed immediately to attach the property of the principal or sureties, on the face of the bond; which shall be considered as an execution, and shall sell the same by public auction after ten days public advertisement, unless the amount with all expenses incurred shall have been previously paid.

Art. 7th. Be it further Enacted,—That there shall be appointed by the legislature, three persons to be styled Commissioners of the Treasury of Liberia; one of whom shall by the designation of the legislature, be President of the board, and another by similar designation,

Sec. 3rd. Be it further Enacted,—That the Judge of the Superior Court, shall in presiding in said Court have two associates to be chosen by him for every term of said Court, from among the justices of the peace in said county, in regular rotation as far as the case will allow. It shall be the duty of the Judge of this Court to notify such justices through the clerk of the court, at least one week before the session of the court, but no justice shall be allowed to sit in said court on any case which he has adjudicated.

Sec. 4th. Be it further Enacted,—That all persons feeling themselves aggrieved by the decision of a Justice Court, shall have the privilege of appealing to the quarterly court of session; and from the

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quarterly sessions, whether in cases appellant from the decision of justices, or in those originating in the said court, appeal may be had to the superior court.

Sec. 5th. Be it further Enacted,—That there shall be appointed two additional magistrates for each of the counties of Monsterrado and Grand Bassa.

An Act to amend An Act, entitled An Act regulating the Commerce and Revenue of the Commonwealth of Liberia.

Section 1st. Be it Enacted by the Governor and Council of Liberia, in Legislature Assembled,—That the 25th section of the act regulating the commerce and revenue of Liberia, be so altered as to read, fifty cents per ton per annum, instead of one dollar per ton per annum.

Sec. 2nd. Be it further Enacted,—That the citizens of this Commonwealth shall be allowed to establish factories on the seaboard, any where within the territory of this Government, (viz:) from Cape Mount on the north to Tabaconee on the south, by paying an annual license of twenty-five dollars.

Sec. 3rd. Be it further Enacted,—That no person nor persons shall be allowed to trade or barter with the natives, or others within this Commonwealth, in goods wares or merchandize, on which the regular duties have not been paid.

Sec. 4th. Be it further Enacted,—That any person convicted of violating the provisions of this Act shall forfeit and pay the amount of the goods so sold and bartered contrary to law.

Sec. 5th. Be it further Enacted,—That the first, second, fourth and fifth sections, of the above named Act be, and the same are hereby repealed.

Sec. 6th. Be it further Enacted,—That the duty on all spirituous liquors landed in this Commonwealth, shall be twentyfive cents a gallon, and that no drawback in any case be allowed on spirituous

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liquors.

Sec. 7th. Be it further Enacted,—That merchants or others, who may retail ardent spirits, shall previous to doing so, pay the sum of twenty-five dollars per year, as special license.

An Act entitled An Act to amend An Act, to regulate the Militia of this Commonwealth.

Article 1st. *Be it Enacted by the Governor and Council of Liberia, in Legislature Assembled,*—That citizens of this Commonwealth who are regularly employed on board the vessels of this colony, whether as seamen or supercargoes, shall be exempt in time of peace from doing military duty, excepting such as shall be belonging to volunteer companies.

Art. 2nd. Be it further Enacted,—That persons so claiming to be exempted, shall enrol their names in the book of the clerk of county courts, of this colony: and on proof being furnished to the captain or commander of the militia that any such person or persons so registered, shall have been unemployed in their appropriate duty for the space of three months at any one time, he or they shall be enrolled and be compelled to do military duty, the registration of his or their names in the clerk of the county courts' books notwithstanding.

Art. 3rd. Be it further Enacted,—That every seaman and supercargo of this Commonwealth exempted from military duty, shall pay monthly into the hands of the county Treasurer of the county in which the port he hails from is situated, the sum of fifty cents, to be accounted for by the Treasurer to the proper authorities, and to be applied in such a way as the legislature may direct.

Art. 4th. Be it further Enacted,—That no seaman or supercargo of this Commonwealth, whether attached to volunteer or militia companies, shall be compelled to do military duty in time of peace, when

he is actually engaged in his appropriate employment, or about to go to

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sea on the days of muster.

An Act amending An Act, regulating the Post Office Department,

Section 1*st.* Be it Enacted by the Governor and Council of Liberia, in Legislature Assembled, and it is hereby enacted by the authority of the same,—That from and after this date, it shall be the duty of the Collector, immediately on the arrival of a vessel, to demand all letters which she may have brought, and deposite them in the Post Office, and on all such letters two cents shall be paid to the Captain of the vessel in which the letters came, to be collected from those receiving them.

Sec. 2*nd.* Be it further Enacted,—That from and after this date, it shall not be lawful for carries to take letters outside of the mail within four miles of any post office.

Sec. 3*rd.* Be it further Enacted,—That the Post Master General and Colonial Secretary, shall have all letters hereafter received or sent by him free of postage.

An Act regulating the Tariff of the Commonwealth of Liberia.

Sec. 1*st.* Be it Enacted by the Governor and Council of Liberia, in Legislature Assembled,—That from and after the passage of this Act, that all goods wares and merchandise, landed in this Commonwealth except such as are herein exempted, shall pay an advalorem duty of four per centum.

Sec, 2*nd.* Be it further Enacted,—That on all spirituous liquors landed in the Colony after the passage of this Act, the duties shall be twenty-five cents a gallon.

Sec. 3*rd.* Be it further Enacted,—That in all direct importations, the duties shall be assessed on the cost of goods: but in the sales of transient traders the Commission Merchant's account shall be assumed as the advalorem price, and the duties assessed accordingly.

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Sec. 4*th.* Be it further Enacted,—That all goods, and merchandise imported by the American Colonization Society, and by any Missionary Societies, shall be free of duties, provided said goods, wares and

merchandise so imported by Missionary Societies, are not applied in the way of trade.

Sec. 5th. Be it further Enacted,—That from and after the passage of this Act, all vessels anchoring in the harbour of Monrovia, shall pay a "light" duty of Three Dollars.

An Act to Amend An Act regulating the Towns and Villages in this Commonwealth.

Sec. 1st. Be it Enacted by the Governor and Council of Liberia in Legislature Assembled,—That so much of the fourth section of the Act, for the regulation of the towns and villages in this Commonwealth, be so altered as to read 'not exceeding twelve working days in each year, to assemble and clear out the streets,' instead of 'twenty six working days in each year to assemble and clear out the streets.'

Sec. 2nd. Be it further Enacted.—That all natives residing within the several townships, be compelled to work the same number of days as is directed by law for the citizens of this Commonwealth, they being ordered out at the discretion of the commissioners.

ACTS

(in part)

OF THE

GOVERNOR AND COUNCIL OF LIBERIA, IN LEGISLATURE ASSEMBLED.

PASSED AT THEIR SESSION IN JANUARY, ANNO DOMINI 1841

(*Printed by Authority.*)

Printed at the Herald Office, Monrovia—J. C. MINOR Printer
1841.

(From an original in
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GOVERNOR AND COUNCIL OF LIBERIA, IN LEGISLATURE ASSEMBLED,

PASSED AT THEIR SESSION IN JANUARY, ANNO DOMINI 1841.

(*Printed by Authority.*)

An Act, to amend An Act regulating the fees of officers of the Commonwealth of Liberia.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same,*—That the fees of the Sheriff for each criminal in jail per day shall be . . . . . $ 25

Sec. 2. *Be it further Enacted,*—That the fees of magistrates shall be as follows,

For issuing a warrant . . . . . " 25
For rendering judgment . . . . . " 25
For issuing subpœnas, ... " 05
And for each additional name mentioned therein, . . " 05
For swearing witnesses . . . . . " 05
For issuing execution, ... " 25

Sec. 3. *Be it further Enacted,*—That the fees of jurors shall be as follows,

For petit jurors for every case, ... " 12 1-2
For grand jurors per day . . . . . " 50

Sec. 4. *Be it further Enacted,*—That the commonwealth's attorney shall have no other pay than the fees chargable upon each case.

Sec. 5. *Be it further Enacted,—That the Constables shall* have the following fees,

For summoning a witness, ... " 10

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And when there is more than one name in the summons, for every additional name, ... " 05
For attending court, per day . . . . . " 50

Sec. 6. *Be it further Enacted,*—That the Judges and Clerks of election shall have per day $1 00

Sec. 7. *Be it further Enacted,*—That all committees while in actual employment for the commonwealth—whether as appraisers, assessors or in any other capacity, shall receive per day . . . . . " 1 00

Sec. 8. *Be it further Enacted,*—That the fees of the coroner's jurors shall be, ... " 25

Sec. 9. *Be it further Enacted,*—That the fees of the surveyor shall be per day . . . . . " 1 50

An Act supplementary to the Judiciary Act.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same,*—That the time of opening the Superior Court for the County of Grand Bassa, shall be; on the first Monday in May and the first Monday in November annually.

Sec. 2. *Be it further Enacted,*—That the law appointing associate justices to preside with the Judges on the bench of the Superior Court be, and the same is hereby repealed.

Sec. 3: *Be it further Enacted,*—That whenever there shall happen to be a vacancy upon the bench of the County Court by the absence of the Chairman, it shall be the duty of the magistrate present whose commission bears oldest date, to fill that vacancy by occupying the Chair: he taking care to distinguish between his acts and those of the regular incumbent, by adding to the signature of his name the words pro tem, notwithstanding the official acts of either shall be equally valid, so far as they have jurisdiction in the courts or otherwise.

Sec. 4. *Be it further Enacted,*—That when the judge of the Superior Court is interested in any case that may be brought into his court, then, and in that case, the Judge of the sister county shall preside, and shall be entitled to the fee allowed for that term.

Sec. 5. *Be it further Enacted,*—That the first section of an Act entitled an Act to regulate the judiciary of the Commonwealth of Liberia passed January 1840 be, and the same is hereby repealed, and that the Courts of Quarter Sessions be hereby authorised and empowered to empanel jurors to try all such cases as are particularly noticed in that Act.

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Sec. 6. *Be it further Enacted,*—That in all cases of civil action brought in either the courts of this commonwealth, or before any magistrate, the party cast shall pay the cost; and in all cases of a criminal nature wherein the commonwealth is a party, it shall be left discreaionary with the court upon whom to charge the costs.

Sec. 7. *Be it further Enacted,*—That hence forth there shall be allowed, when required by the defendant, sufficient surety having been first given by him, a stay on all judgments granted out of the court by a justice or justices of the peace, under the following regulations, viz:—on all sums of twenty dollars there shall be allowed a stay of five months,—on all sums under twenty and over fifteen, a stay of four months,—on all under fifteen and over ten, three months; all under ten and over five, two months; all under five and over two, one month; and on all sums under two dollars, ten days. The computation of the time allowed for the stay, to commence on the day the judgment was rendered.

Sec. 8. *Be it further Enacted,*—That at the expiration of the stay of an execution as aforesaid, unless the payment is made, execution shall issue thereupon immediately, in virtue whereof the officer may seize upon any chattels, the property of the principal first, and in case of deficiency next on that of the security, of sufficient amount to pay the debt, interest and cost, & after public notice by advertisement for ten days at the usual places of publication, shall proceed to sell the same to the highest bidder for ready money, and should he by the sale make a sum exceeding the amount for which he claims on the execution or executions in his hands, he shall forthwith pay the surplus into the hands of the defendant.

Sec. 9. *Be it further Enacted,*—That at the Courts of Quarter Sessions of this commonwealth, the sheriff, constables and all other county officers, shall make full and complete returns of all issues made to them, as well as of monies collected by them and also a statement of defaults and insolvencies or other matters connected with the duties of

their several offices, so that it may be known to those interested, what has been the progress made in the accomplishment of the business committed to them.

Sec. 10. *Be it further Enacted,*—That in all cases of judgment taken before one or more magistrates, no appeal shall be allowed except in cases where the sum contested exceeds five dollars.

Sec. 11.—WHEREAS, the custom of sentencing culprits to labor on the public works as a punishment for their crimes, has been generally attended by a defeat of the objects intended, owing to the impossibility of detaining them in custody, and thereby causing an accumulation of expense to the government and subjecting those having the charge of them to heavy fines & forfeitures, by their escaping from confinement: for remedy whereof

Be it further Enacted,—That from and after this date, all persons convicted of any crime which has been hitherto punished by imprisonment and hard labor on the public works, may be at the discretion of

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the court, ordered to be hired out by the sheriff of the county publicly, before the door of the court house on the first Monday after the adjournment of the said court, to the highest bidder for the term of his or her sentence, he at the same time making it the condition of his engagement that the said prisoner shall not be allowed to go at large in the street, without being secured by a chain.

Sec. 12. *Be it further Enacted,*—That if any person shall suffer any prisoner hired by him or her to go at large in the streets, without being secured by a chain of sufficient strength to keep the prisoner, that may be in his or her possession for the time of such prisoner's serving: he or she shall be subjected to a fine of not less than ten dollars nor more than fifty dollars at the discretion of the court—*And further* it shall be the duty of sheriffs and constables to arrest all culprits that may be seen at large in the streets, and to enter prosecution against the persons in whose charge the said prisoners were.

Sec. 13. *Be it further Enacted,*—That should any sheriff or constable refuse or neglect to arrest any prisoner, after receiving information of said prisoner going at large, he or they shall be subjected to a fine not exceeding fifty dollars.

An Act requiring public officers to renew their bonds at the first term of the Court of Quarter Sessions, occuring after the first day of January in each year, and for other purposes therein mentioned

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same,*—That all public officers, whose duty it is to give bond and security for the faithful performance of the services required of them, shall at the *First* term of the Court of Quarter Sessions occurring after the first day of January in each year, renew their bonds, and give if so required increased security, a record whereof shall be made at the said term of the court with order of registration to be made of the same.

Sec. 2. *Be it further Enacted,*—That hereafter any persons imprisoned for debt shall be kept at the expense of the plaintiff, at whose instance they have been confined, unless it can be made to appear that they do wilfully omit to make payment of the claims agsinst them.

Sec. 3. WHEREAS, a most pernicious habit prevails of colonists seizing upon the property of natives, without any legal process, under the pretence of the said natives being indebted to them, thereby inducing feuds and strifes in our community oft-times extending to bloodshed; for remedy whereof,

Be it further Enacted,—That in every instance of such conduct by colonists, whether within or beyond the jurisdiction of these colonies, it shall be considered an ACT OF ROBBERY, and shall be punishable with

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all the penalties attached to that crime.

Sec. 4. *Be it further Enacted,*—That it is not intended to bound the limits of our townships by the distance of eight miles, but only in such degree as the outlet on each quarter of each particular settlement may admit of the same, (viz): when there is not the space of eight miles between any two settlements, then one half the distance whatever that may be shall bound the limits of each township, and when there may be no obstruction by the intervention of an American or native settlement, the largest extent shall be four miles and no more.

Sec. 5. *Be it further Enacted,*—That from and after this date, all person claiming the right of voting for any representive in council or

other government officers elected by general ticket, shall produce evidence if required of their having previously paid a poll tax for that year, and all former arrearages of that kind.

An Act creating an Agency in Grand Bassa County

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same,*—That from and after this date, there shall be appointed a Superintendent to reside at the capital town in Grand Bassa County, under the control and during the pleasure of the Governor of the commonwealth.

Sec. 2. *Be it further Enacted,*—That it shall be the duty of the said Superintendent to see that the laws are obeyed and respected, and he shall receive from the Governor such instructions and authority from time to time, as may be thought proper to be communicated to him, in order best to secure the objects for which he was appointed.

Sec. 3. *Be it further Enacted,*—That the said Superintendent shall be held accountable to the Governor of this commonwealth for all his official acts, and shall render such accounts as may from time to time be required of him, to give information relative to general or particular affairs, the execution whereof may have been entrusted to him, and for which he may receive such amount of compensation as the Governor is disposed to allow

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An Act to establish a Currency in the Commonwealth of Liberia.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same,*—That from and after this date, the law making camwood, ivory and the printed bills issued under the Act of 1840 the currency of this commonwealth, be repealed and the same is hereby repealed.

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Sec. 2. *Be it further Enacted,*—That the engraved bills of the American Colonization Society under the control of their Agent, and none others, shall be the currency of this commonwealth, and that the said bills shall be, at their par-value, a tender in all payments whatsoever.

Sec. 3. *Be it further Enacted,*—That the aforesaid bills shall at all times be redeemable with specie whenever it shall be required by the holders of them.

Sec. 4. *Be it further Enacted,*—That all and any bills now in circulation issued under the Act of 1840, shall be received in payment for any taxes due to the commonwealth, or for any debt due to the Colonization Society, or in case they shall not be applied to those purposes, shall be redeemable in the notes of the new currency.

Sec. 5. *Be it further Enacted,*—That the above regulations concerning camwood and ivory, shall not extend to specific contracts or the transaction of business in general, so as to invalidate any contracts or lessen the value of those articles at the rates of prices formerly obtained.

An Act allowing Merchants to credit their Goods.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same,* —That from and after this date any trader or merchant in the ordinary operation of his business, shall have the liberty to give out his goods on credit to any native African or other person: any law, ordinance, or custom to the contrary notwithstanding.

An Act authorizing Magistrates to hold Inquests.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same.* —That from and after this date it shall be the duty of any justice of the peace, in the absence of the coroner, when an inquest is needed, to cause such inquest to be held and make report to the Governor within five days thereafter.

An Act to provide a Revenue, and for other purposes.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same,*

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—That on all ardent spirits, wines and cordials, landed in any of the settlements of these Colonies, there shall be collected a duty of twenty

five cents per. gallon to be paid into the Treasury of this Commonwealth.

Sec. 2. *Be it further Enacted,*—That there shall be collected a duty of five per. cent ad valorem upon all goods wares and merchandize, (other than those above enumerated) brought into these Colonies excepting such as are imported by the American Colonization Society; provided that goods and merchandize brought in by the missionaries for their *private* use be free of duties.

Sec. 3. *Be it further Enacted,*—That no person shall sell ardent spirits, wines or cordials without having first obtained a special license for which he shall pay the sum of twenty five dollars, the said license, to be renewed on the 1st. day of January, in each year, and any person now having license shall be allowed a discount for the unexpired period of the old license; the same will apply to those obtaining license after the month of January of each year.—All licenses to be subjected to the same rule.

Sec. 4. *Be it further Enacted,*—That any person or persons accused of the crime of smuggling into these Colonies any goods or articles chargeable with duties shall be subjected to have the said articles seized by the collector, and on conviction thereof the same shall be sold for the benefit of the Commonwealth, and he shall also pay four fold the value of the articles so smuggled, or be committeed to the common jail, there to be kept in close confinement until the said penalty with all costs of collection shall be paid.

Sec. 5. *Be it further Enacted,*—That all vessels sailing from ports in these Colonies shall receive a clearance from the Collector of Customs before departing, the master or owner thereof paying for the same the sum of twenty-five cents.

Sec. 6. *Be it further Enacted,*—That it shall be the duty of the Collector, to board every vessel anchoring in our ports before such vessel has had any communication with shore, and on failure thereof he shall pay the sum of ten dollars. It shall be his duty to furnish the master or commander of said vessel with a copy of the port regulations, for every neglect whereof he shall pay the sum of five dollars. He shall suffer no vessel to unlade any part of her cargo without a permit, under the penalty of twenty-five dollars. He shall keep in a book to be provided for that purpose, an accurate account of all the

arrivals and departures of vessels, and of all passengers coming to or

going from these ports—the exports & imports received or shipped away. It shall also be the duty of the Collector to enforce the collection of duties before the departure of any vessel from which any sums may be claimed, and for every neglect he shall forfeit and pay the sum of fifty dollars. He shall make a full return of all the matters and things connected with his office at the close of each quarter and pay over to the Treasurer all and whatever monies may have come into his hands, and in case of his failing to do so he shall forfeit and pay for his failing to make a report, the sum of ten dollars. And on failing to pay over the amount collected, he shall forfeit and pay the sum of one hundred dollars.

Sec. 7. *Be it further Enacted,*—That all fines and forfeitures imposed on civil officers for the neglect of duty shall be collected under the direction of the executive or other persons appointed by him, within twenty days by a summary process or by distress of the person so delinquent, and all penalties imposed by law or monies due to the Commonwealth from other persons shall be collected by the Sheriff within forty days, and if not then paid he shall proceed to levy on and sell as much of delinquent's property as will satisfy the demand.

Sec. 8. *Be it further Enacted,*—That in all cases where a sheriff or other person charged with the collection of money due to the Commonwealth, shall fail in accomplishing the same there shall issue execution against them and their securities immediately, and all officers neglecting or refusing to pay over monies collected on the account of the commonwealth, shall be subjected to a summary process for the recovery of double the amount claimed at their hands, to be levied on any goods and chattles in their possession.

Sec. 9. *Be it further Enacted,*—That all foreign vessels shall be compelled either to deposit their papers in the office of the Collector or if the circumstances render that unsafe he shall deposit with him in lieu thereof and as security for the payment of his dues, property in value to the amount of one hundred dollars until the time of the vessel's departure after having been cleared by the Collector.

Sec. 10. *Be it further Enacted,*—That any further regulations necessarily growing out of our maritime regulations shall be subjected to the control of the Chief Executive officer of this Commonwealth.

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Sec. 11. *Be it further Enacted,*—That all laws or sections of laws heretofore enacted having reference to the subjects embraced in this

bill are hereby repealed or so altered as to conform to the provisions of this.

An Act punishing Official Misconduct.

Section 1st. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the Authority of the same,* —That any person having, holding and exercising the office of Judge in any Court in this Commonwealth, who shall be guilty of shewing favor and partiality in judgment or giving counsel in its tendency, calculated to impede or hinder the right influence of the law in rendering justice to those who seek it, or of erecting or aiding or abetting any factions or tumults, amongst the people, shall on proof thereof before this tribunal, be dismissed from his office. But it shall be lawful at any time for the executive to suspend such officer on proof of either of the above offences, until the Legislature can take cognizance of his case.

Section 2 *Be it further Enacted,*—That if any Magistrate or Justice of the peace shall fail in attending to such complaints as may be laid before him, so as to withhold a precept when required to be issued by him, or to give counsel so as to turn aside the right of any person, or perversely render a wrong judgment in any case at issue before him, he shall on proof thereof made before his Excellency the Governor, be dismissed from office and be liable to such other penalties as may be attached to the crime for which he is discharged.

Sec. 3. *Be it further Enacted,*—That the Clerks of the Courts in this Commonwealth having issues or other documents to proceed from their offices shall observe with punctual exactness, the rules and regulations by law prescribed for their Government, so that no failure of service shall arise through the delays subjecting precepts to the return of "too late to hand"—neither shall they neglect the duties of their offices, so as by their absence therefrom to obstruct, or frustrate, or hinder by delay any person in pursuit of justice, under the penalty of ten dollars for each case of issues not made. Twenty dollars for every case of neglect to subpœna or give notice of decress or forms and rules connected with any cases at issue in their several courts. And fifty dollars for closing their offices and absenting themselves so that access

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cannot at all times be thereunto had The fines and forfeitures recoverable under this Act to be levied by execution on the goods and chattels of the said Clerks after judgment or conviction being had against them.

Sec. 4. *Be it further Enacted,*—That the Sheriffs of the counties in this Commonwealth shall be liable to amercement in the sum of fifty dollars for each and every individual case of failure to make due returns on any precepts issued by the Clerks, and to them directed.

Sec. 5. *Be it further Enacted,*—That for all failures to make returns of monies to the courts issuing out executions to collect the same summarily, judgment shall be entered up against the Sheriff and his securities for the amount with charges of the cost occuring.

Sec. 6. *Be it further Enacted,*—That the coroner shall be subjected to the same liabilities and penalties as the Sheriff in all similar cases of delinquencies in the discharge of the duties of his office.

Sec. 7. *Be it further Enacted,*—That it shall be the duty of all Constables to present to the Court of Quarter Sessions, in a book provided for that purpose an account of all precepts to them directed with an account of what action has been had on each individual case under the penalty of twenty dollars and in default of the proper discharge of their duties, they shall forfeit and pay for neglecting to serve a precept in an ordinary case of action for debt, the sum of ten dollars, and in all cases of breach of the peace or criminal arrest, he shall be fined at the discretion of any tribunal, having cognizance of such malversation in office according to the magnitude of the offences.

Sec. 8. *Be it further Enacted,*—That all officers not named in the preceding sections, and for whose trial no laws have been made, may be prosecuted before a Court of Quarter Sessions and on conviction of violation of duty, shall be liable to be displaced from office by the executive and subject to such fines and penalties as such court may impose.

Sec. 9. WHEREAS there appears to be some misunderstanding of the law concerning trade in this Commonwealth for explanation whereof.

Be it further Enacted,—That any and all persons may obtain license to trade at any or all, or as many places as they may choose

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within the corporate limits of each township in this Commonwealth. That is, he, she or they, having no more than one place of trade in each township, or only so many as they may have received a license for each to keep, and that whenever individuals shall go beyond these limits, they violate the law and are to be subjected to its penalties.

Sec. 10. THAT WHEREAS others there are, who remain a part of their time in our towns and settlements, who do not employ themselves in any honest calling whatever, but are dependent on the precarious chance of traffic with a native or natives without any proper authority so to do—therefore.

Be it further Enacted,—That all persons whether native Africans or Americans who do so, shall be considered as vagrants and shall be dealt with by the town Commissioners, or other authorities as such.

Sec. 11. *Be it further Enacted,*—That nothing in the foregoing sections shall prevent any day laborer or mechanic from being permitted to exchange the proceeds of this labor—and any farmer, the broducts of his farm for such articles as are necessary for the consumption of his family. And also for camwood and ivory, provided always such exchanges made with natives shall be made at the house of the Colonist so making them, or with a regular merchant at his store.

An Act to regulate Elections in the commonwealth of Liberia.

Section 1. WHEREAS it is of vital importance to maintain the purity of the elective franchise, and the free and untrammelled exercise of the privilege intended to be granted to persons entitled to vote, and whereas gross deceptions may be practiced by base and unprincipled men, upon the ignorant and unwary, whereby they may be hindered the real and honest expression of their opinions, therefore:

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same,—That from and after the passage of this Act, any person or persons who shall be convicted of changing, or of causing to be changed by fraudulent or deceptive means, any ticket or tickets in the ballot box, shall for every such offence forfeit and pay a sum of fifty dollars.

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Sec. 2. *Be it further Enacted,*—That any candidate for public office who shall either by himself or by others for him, give or cause to be given any treat entertainment, or other consideration to any voter or voters for the purpose of influencing his or their vote or votes, shall on conviction of the same before any tribunal competent to try the same, forfeit and pay the sum of one hundred dollars, and all persons concerned in violating this section of this Act, shall be subjected on conviction as aforesaid, to a like penalty of one hundred dollars.

Sec. 3. *Be it further Enacted,*—That any person or persons entitled to vote at any of the elections in this common wealth, who shall be convicted of receiving a present, credit or other consideration for his or their vote or votes, in favor of any candidate shall forfeit and pay for such offence the sum of five dollars, and said vote shall not be counted in making up the returns.

Sec. 4. *Be it further Enacted,*—That no native African or Africans excepting such as may be brought here under the character of recaptured Africans from beyond the sea, by the authority of the American Colonization Society shall be entitled to the elective franchise, unless he or they shall have remained in the Colony at least three years immediately preceeding the election at which the privilege is claimed, and shall have during that continuous period exhibited an uniform course of civilized life. The standard of decision in this case shall be the solemn declaration of three creditable and disinterested persons, (who shall have had an opportunity of noticing the conduct and life of the party or parties,) that the person or persons so claiming the right to vote have during the three aforesaid consecutive years, abandoned all the forms, customs, and superstitions of heathenism, and that he or they so claiming to vote have during the period aforesaid conformed to the forms, customs, and habits of civilized life.

Sec. 5. *Be it further Enacted,*—That no person or persons holding or executing any office of emolument and profit under a foreign body whether political or ecclesiastical or merely moral, (said bodies professing exculusively benevolent intentions, notwithstanding,) shall be eligible to any elective office in this Commonwealth, while said person or persons shall be so employed.

Sec. 6. WHEREAS recent events have indicated the necessity of some well marked and defined course to be pursued in cases between candidates in elections.

Be it further Enacted,—That in all cases where two candidates shall have an equal number of votes, the Council or Legislature, at its

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next session after said election, shall determine the election by ballot.

Sec. 7. *Be it further Enacted,*—That in order to ensure true and faithful returns of all elections in this Commonwealth, it shall be the duty of the Sheriff or his deputies, or other persons acting in his place, immediately on the close of the Polls to count in the presence of the sworn judges of the elections, the number of votes polled for each can-

didate. He shall write down said number opposite each candidate's name in fair and legible characters in a letter signed by the Sheriff, and the judges of the election, to be forwarded immediately and under seal, to the Colonial Secretary, one copy of said statement authenticated as aforesaid shall be deposited in the office of the clerk of the county court. The Colonial Secretary shall immediately on receiving the returns as aforesaid, notify the citizens of the result of the election by posting the same up in some conspicuous place, or otherwise publishing the same as may most effectually accomplish the purpose of notification, as well as give persons elected a separate and official notice of their election.

An Act to prevent the disturbing of Religious Congregations.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled and it is hereby Enacted by the authority of the same,* —That any person or persons whomsoever, who shall interrupt or disturb any congregation assembled at any church, chapel, or meeting house, or any other place, for public worship during the time of Divine service, it shall be the duty of any justice of the peace, sheriff, constable, or other civil officer of the county being present, where the offence shall be committed, to take the person or persons so offending into custody, or on complaint made by any person on oath, to issue a warrant against him or them so offending, and the said justice is hereby empowered to impose a fine on such offenders not exceding twenty dollars, or on default of payment of the sum, to commit him or them to the common jail of the county, or to the nearest jail thereto, for a space of time not exceeding fifteen days.

Sec. 2. *Be it further Enacted,*—That it shall be the duty of the officer, who may collect the fine and forfeitures imposed by this Act, to make a return of the amount so collected, to the clerk of the Court of Quarter Session, & to pay the same into the hands of the county

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Treasurer, for the use of the county wherein such offence shall have been committed.

An Act to prevent the destroying of Palm-Trees

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same,* —That it shall not be lawful henceforth for any person or persons, to

cut down or destroy any palm-trees, on lands for which they do not possess a title in fee simple.

Sec. 2. *Be it further Enacted,*—That for every act of offence in that case, he, she or they, shall be subjected to a fine of five dollars, recoverable by warrant before any magistrate to the use of the party sueing for the same.

An Act relating to Auctioneers.

Section 1. *Be it Enacted by the Governor and Council, in Legislature Assembled, and it is heredy Enacted by the athority of the same,* —That hereafter any person or persons applying for license as an Auctioneer, may receive the same on application to the clerk of the Court of Quarter Sessions, on the payment of the sum charged by law, viz: twenty-five dollars.

Sec. 2. *Be it further Enacted,*—That so much of the 14th, section of the law of September 1839, to provide county and town regulations as relates to the appointment of auctioneers be, and the same is hereby repealed.

An Act reducing the amount to be paid by seamen to exempt them from military duty.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same,* —That from and after this date, every seaman or supercargo, sailing from any of the ports of these colonies, who shall pay into the Treasury, the sum of twenty-five cents a month, (instead of fifty cents a month, as requireded by the 3rd, article of an Act passed January 1840. Entitled an Act to amend an Act, to regulate the militia of this commonwealth,) shall be exempted from military duty, according to the provisions of said Act.

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An Act on Registration.

Section 1. *Be it Enacted by the Governor and Council of Liberia in Legislature Assembled, and it is hereby Enacted by the authority of the same,*—That there be a town clerk appointed annually in each town, whose business it shall be to keep a record of the births and deaths, of

all persons occuring therein, and he shall specify in such record, the day of each birth and death, and the names of the persons if known.

Sec. 2. *Be it further Enacted,*—That parents shall give notice to the clerk of their town of the births and deaths of their children; and every householder shall give the like notice of every birth and death happening in his house: and the eldest person next of kin shall give such notice of the death of his kindred: the sexton of the burial ground, in each town shall give notice of the interment of every person and the names of the persons so interred.

Sec. 3. *Be it further Enacted,*—That the commander or commanding officer of any vessel shall give the like notice of every birth or death happening among the persons under his charge: and every person neglecting to give such notice for the space of three months after the birth or death shall have happened, shall forfeit to the county a sum not exceeding three dollars.

Sec. 4. *Be it further Enacted,—That the town clerk shall make* semiannual reports to the probate court.

Sec. 5. *Be it further Enacted,*—That it shall be the duty of all authorized ministers of the Gospel, Judges, justices of the inferior courts, or justices of the peace who shall hereafter join together any persons in bonds of matrimony, to make a return of the marriage license of the actual intermarriage of the parties, and the day on which the same was solemnized, to the clerk of the probate court, whose duty it shall be to enter the same in a book kept for that purpose, for which he shall be entitled to receive the sum of ten cents, which shall be paid when such license is granted, which register or certified copy thereof shall be admitted as evidence of such marriage in any court where the solemnization of such marriage may be called in question.

Sec. 6. *Be it further Enacted,*—That the clerk of the court of probate and the town clerk, shall receive each the sum of five cents for every birth or death that they may record, which sums shall be paid out of the county funds.

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Sec. 7. *Be it further Enacted,*—That it shall be the duty of the probate clerk to make annual returns to the Colonial Secretary, of all such matters and things as come within the view of this Act.

Notice: this statute book does not contain all the laws enacted by the Legislature at their last session, held in Monrovia in January, 1841, but such only, as immediately affects the citizens of this commonwealth.

ACTS

OF THE

GOVERNOR AND COUNCIL OF LIBERIA, IN LEGISLATURE ASSEMBLED

PASSED AT THEIR FIFTH SESSION

JANUARY, 1843.

(Printed by Authority.)

Printed in Monrovia, at the Herald Office
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1843.

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the Library of Congress)

[3]

ACTS

OF THE

GOVERNOR AND COUNCIL OF LIBERIA, IN LEGISLATURE ASSEMBLED

PASSED AT THEIR FIFTH SESSION

JANUARY, 1843.

(Printed by Authority.)

An Act to amend an Act regulating common Schools.

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby Enacted by the authority of the same,*—That all monies arising from Licenses, Military and Court fines shall constitute a permanent fund to be called the school fund of the counties of Monserrado and Grand Bassa.

Sec. 2. *Be it further Enacted,*—That all monies arising as a foresaid, be divided among the several towns and villages according to a just ratio of inhabitants.

Sec. 3. *Be it further Enacted,*—That the several towns and villages, elect annually a standing committee of five persons, who shall be authorized in their municipal capacity to impose a Tax or Taxes on the male inhabitants over the age of twenty one years, which amount arising from such Tax or Taxes, shall be added to the dividend arising from the permanent fund to be applied to the sole use of schools.

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Sec. 4. *Be it further Enacted,*—That the schools shall be under the entire control and supervision of the several standing committees, and that they be authorized to contract and employ an instructor for each school, and make rules for the government of the same.

Sec. 5. *Be it further Enacted,*—That the standing committee in the several towns and villages, shall be empowered to draw quarterly their

dividend from the permanent fund and apply it, and the monies raised by Tax or Taxes for erecting school houses, or to purchase or hire any buildings suitable to be used as school houses, to pay teachers and purchase such books as may be necessary for the use of the schools.

Sec. 6. *Be it further Enacted,*—That the Governor be requested to make an appropriation of land in each township of one mile square to be deeded to the standing committee and their successors in office in trust for the benefit of common schools. All laws repugnant to this Act, shall be and are hereby repealed.

An Act supplementary to an Act regulating common Schools.

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—That, from and after the passage of this Act, it shall be the duty of the Town Clerks to call an election for the standing committee in the several towns and villages, on the first Tuesday in February annually,—the polls to be managed as in other elections, and the same pay be allowed the Judges and Clerks, to be paid out of the permanent fund.

An Act to repeal an Act creating an agency in Grand Bassa County.

Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the Authority of the same,—That, from and after the passage of this Act,—the Act creating an agency in Grand Bassa County passed January 1841, be and the same is hereby repealed.

An Act granting to the inhabitants of Caldwell the sum of Fifty Dollars to assist in the repairing and building of Bridges in said settlement.

Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,—That, from and after the passage of this Act,—His Excellency the Governor appropriate the sum of Fifty Dollars out of any monies in the Commonwealth Treasury, not otherwise appropriated for the improvement and rebuilding of bridges in Caldwell.

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A Bill for the relief of Harmon Whitfield.

Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,—That, from and after the passage of this bill Harmon Whitfield of the town of Monrovia be allowed a pension in the sum of Forty Dollars annually, to be obtained quarterly, on application to the Governor of the Commonwealth, out of the Commonwealth Treasury.

An Act to amend an Act regulating the Revenue of the Commonwealth of Liberia.

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—That in future it shall be the duty of those who are or may be hereafter engaged in the sale or trade of spirituous liquors, to have their shops distinguished by a sign board on which the name or names of the owners shall be printed in large capitals, underneath which their special business shall be designated thus A. B sells rum—and on failing thus to distinguish him or themselves, he or they shall forfeit and pay the sum of one hundred dollars recoverable in any Court of competent jurisdiction, to be collected as often as the offender is admonished by any of the officers of government and fails to comply with the requisition of this law.

Sec. 2. *Be it further Enacted,*—That the duty on ardent spirits, wines and cordials be and remain the same as is now collected, with the annexed—that all articles of the above description, shall be landed under the immediate observation of the Collector of customs, and by him be gauged or the quantity otherwise ascertained on the spot, and the amount of duties thereon, be paid before it is removed from the place of landing, and on failure in either of these particulars, the articles aforesaid shall be forfeited to the Commonwealth.

Sec. 3. *Be it further Enacted,*—That from & after the passage of this Act, any person wishing to carry on the business of Auctioneer, shall pay annually to the Commonwealth the sum of Five Dollars. The method of obtaining license for the same shall be by his presenting to the County Court during its session the Treasurers receipt,—whereupon the said Court shall order the Clerk of the Court to grant a license to the applicant for the purpose,—and shall further pay to the

Clerk the sum of Fifty cents as his Fee for the same. Any former rule, custom or law to the contrary notwithstanding.

Sec. 4. Be it further Enacted,—That there shall be paid on all auction sales, the sum of one and half per centum to be called auction

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duty—said duty shall be collected quarterly by the Sheriff or his Deputy and deposited by him in the Treasury and on which he shall be allowed the same remuneration as for collection of other matters as allowed by law. The Sheriff for the safe collection of said auction duty shall be allowed and empowered to use the means allowed for the collection of other monies. Nevertheless the Tax as above to be collected is not intended to extend to sales of estates made by Executors or administrators.

Sec. 5. Be it further Enacted—That all licenses shall be granted for one year to expire on the 31st day of December. Nevertheless should any person or persons apply for license or licenses after the commencement of the fiscal year, which is understood to commence on the first day of January—said person or persons so applying shall be compelled to pay only in a just ratio of the unexpired term of one year.

An Act restoring Wily Brown to the privileges of Citizenship.

Be it Enacted by the Governor and Council in Legislature assembled and it is hereby enacted by the authority of the same,—That, from and after the passage of this Act, Wily Brown be and hereby is restored to all the rights and privileges that are granted to other citizens in the Commonwealth of Liberia.

An Act restoring Edmond Curtis to the privileges of Citizenship.

Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,—That, from and after the passage of this Act, Edmond Curtis be and hereby is restored to all the rights and privileges as provided for in the Constitution for other citizens in the Commonwealth of Liberia.

An Act restoring Andrew Green to the privileges of citizenship.

Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,—That, from and

after the passage of this Act, Andrew Green be and hereby is restored *to all the rights, that are granted to other citizens of credit in the Com-*monwealth of Liberia.

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An Act establishing the boundaries of the several Townships in the County of Grand Bassa.

Whereas the rights and privileges of corporations being matters of primary importance to the citizens thereof—it is necessary to mark their bounds, so as to define the limits to which their rights extend.

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—That the limits of the corporation of Edina, shall extend from the ocean shore along the right bank of the St. John's River, as far as the upper end of Factory Island, and from thence a north west course so far as the jurisdiction of the Colony extends into the Little Bassa country—thence to the ocean wherever it may reach so as not to extend beyond the Little Bassa settlement on the sea beach.

Sec. 2. *Be it further Enacted,*—That the limits of the corporation of Bassa Cove shall extend from the ocean shore along the left bank of the St. John's River to the extent of the purchase made of Joe Harris, and the east side of the St. John's River so far eastward as shall be deemed within the jurisdiction of this Commonwealth, embracing so much of the Grand Bassa territory as may be comprehended within the bounds of the limits aforesaid and Tabacconee on the sea shore.

Sec. 3. *Be it further Enacted,*—That the Township of Bexley shall extend from the upper end of Factory Island aforesaid, to the creek called Doiv which divides our purchase from the natives' possession of lands called Graccho on the west side of the St. John's River, and run back a north west course on both the upper and lower lines without any fixed limits or boundaries other than those prescribed in the deed of purchase made of the natives.

Sec. 4. *Be it further Enacted,*—That the town of Marshall on the west side of the main branch of the Junk River, be and the same is hereby attached to and connected with the county of Monserado. Nevertheless in all cases of judicial matters whether of a civil or criminal nature which have been refered to the courts of Grand Bassa, or trans-

acted under the direction of Magistrates appointed for that county, a decision shall be there made and a final issue had under their direction—but all matters of fiscal or other affairs from henceforth to arise or growing out of the relations at that place, shall be conducted under the authority of the county of Monserrado.

Sec. 5 *Be it further Enacted,*—That the main branch of the River Junk shall be, and is hereby declared to be the dividing line between the counties of Monserrado and Grand Bassa.

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Sec. 6. *Be it further Enacted,*—That the Farm settlement now being established on the east bank of the main branch of the River Junk, beginning at low water mark on the point of land which lies opposite to the main bar of the aforesaid Junk River, and running along the west bank of the easternmost fork of the Junk, and along the east bank of the said main branch of the Junk, shall constitute the corporation of Farmington which shall be and remain a township separate and distinct from that of Marshall, and attached to, and connected with, the county of Grand Bassa

Sec. 7. *Be it further Enacted,*—That all corporation laws made and ordained by the people in the annual meeting held in October, shall be and remain in full force until the next annual meeting of the citizens in their corporate capacity. And it shall be the duty of the same commissioners who are now appointed to maintain the regulations of the police until the next annual election in October.

Sec. 8. *Be it further Enacted,*—That in order to have a clear understanding in the matter, it is only intended that the fiscal and judicial affairs in the settlement of Marshall, shall be at the present affected by this transfer, and those reserves already expressed make complete and explain fully the intention of this Act.

An Act providing a Treasurer for the Town of Marshall.

Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,—That there shall be appointed by the Governor and Council a Treasurer for the port of Marshall.

An Act to incorporate the Ladies' Benevolent Society of Monrovia.

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—That, from and after the passage of this Act. That Colinet Johnson, Susannah E. Lewis, Melinda-Crawford, Frances Teage, Willy-Ann Yates, and all persons who now are or who hereafter may become associated with them, are hereby constituted a body corporate by the name of the Ladies' Benevolent Society of Monrovia, & by that name and style be capable of purchasing, holding, and conveying such real estate as the purposes of the corporation shall require—but the annual income of the real estate to be held by them shall not exceed three thousand dollars.

Sec. 2. *Be it further Enacted,*—That the object of this Society shall be to relieve the distressed, and to administer to the necessities of those whose circumstances render them proper objects of benevolence—to encourage recommend and diffuse by precept and example virtuous and honorable sentiments and feeling.

Sec. 3. *Be it further Enacted,*—That the management and disposition of the affairs of the said corporation shall be vested in a Board

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of Managers to be elected annually in the town of Monrovia on the second Wednesday in November.

Sec. 4. *Be it further Enacted,*—That the persons named in the first section of this Act, shall be the first Board of Managers of such corporation, and shall hold their office until the next annual election, or until others shall be elected in their place.

Sec. 5. *Be it further Enacted,*—That the said corporation shall possess the general powers, and be subject to the liabilities imposed on, similar institutions in the United States.

Sec. 6. *Be it further Enacted,*—That the Legislature may at any time alter or repeal this Act.

An Act to incorporate the Ladies' Dorcas Society of the Methodist Episcopal Church.

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—That, from and after the passage of this Act, Sarah Gripon, Mary

Benedict, Rebecca Moore, Maliada Crawford, Mary Prout, Sarah Brown, Cherry Anderson, Amelia Burns, and all persons who now are, or who hereafter may become associated with them are hereby constituted a body corporate by the name of the Dorcas Society of the Methodist Episcopal Church, and by that name and style be capable of purchasing, holding and conveying such real estate as the purposes of the corporation shall require—but the annual income of the real estate to be held by them shall not exceed the sum of three thousand dollars.

Sec. 2. Be it further Enacted,—That the object of this Society shall be to relieve the poor in Monrovia and elsewhere, as far as means can be obtained by soliciting subscriptions and donations in money, clothing or any other useful article, and to clothe converted natives in the neighboring towns.

Sec. 3. Be it further Enacted,—That the management and disposition of the affairs and property of the said corporation shall be vested in a standing Committee and an agent to be elected annually on the second Thursday in January in the town of Monrovia.

Sec. 4. Be it further Enacted,—That the persons named in the first section of this Act, shall be the first Board of Managers of said corporation and shall hold their office until the next annual election or until others shall be elected in their place.

Sec. 5. Be it further Enacted,—That the said corporation shall possess the general powers and be subject to the liabilities imposed on similar institutions in the United States.

Sec. 6. Be it further Enacted,—That the Legislature may at any time alter or repeal this Act.

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An Act to incorporate the Ladies Union Sisters of Charity Society of Monrovia.

Section 1. Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,—That Mary L. Johnston, Rebecca M. Harris, Elizabeth Ciples, Marinda Cooper, Rachael Eden, Harriet Eden, Mary Hunter, and all persons who now are or who hereafter may become associated with them are hereby constituted a body corporate by the name of the Union Sisters of Charity, and by that name and style be capable of purchasing,

holding and conveying such real estate as the purposes of the corporation shall require. But the annual income of the real estate to be held by them shall not exceed the sum of three thousand dollars.

Sec. 2. Be it further Enacted,—That the object of the said corporation shall be to assist to the utmost of their ability, all subjects of charity, by helping the widow and relieving the orphan and needy, clothe, feed, educate and otherwise provide for such as the corporation may from time to time be enabled to take under its patronage.

Sec. 3. Be it further Enacted,—That the management and disposition of the affairs of the said corporation shall be vested in a standing Committee, and an agent to be elected annually on the third day of November in the town of Monrovia.

Sec. 4. Be it further Enacted,—That the persons named in the first section of this Act shall be the first Board of managers of such corporation and shall hold their office until the next annual election or until others shall be elected in their place.

Sec. 5. Be it further Enacted,—That said corporation shall possess the general powers and be subject to the liabilities imposed on similar institutions in the United States.

Sec. 6. Be it further Enacted,—That the Legislature may at any time alter or repeal this Act.

An Act establishing Committees of Finance.

Whereas a considerable degree of needless excitement is occasioned by persons indulging themselves in querelous discontent and exciting others to a clamorous outcry in regard of the expenditure of money arising from imports and other sources of Revenue in this Commonwealth for remedy whereof—

Section 1. Be it Enacted by the Governor and Council in Legislatuae assembled, and it is hereby Enacted by the authority of the same,—That there shall be three persons in each county who shall be appointed yearly at the first session of the county court, to act as a committee of Finance, of whose names a record shall be made with the other business of the said session, and who for their services shall be entitled to the same rate of pay as other commissioners when actually employed in the service of the Commonwealth.

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Sec. 2. *Be it further Enacted,*—That it shall be the duty of said committees of Finance to assemble at the court house in each county, at least ten days before the meeting of the Legislative Council, and continue their sitting from day to day until their object is accomplished, and they shall summon by a notice to be served by the Sheriffs in each county, the attendance before them of all the officers of the Commonwealth, (excepting the Governor,) through whose Agency the fiscal affairs of the government are conducted, at which call the said officers shall be bound to attend and render a comprehensive statement of such matters and things, as are connected with the several trusts committed to them, and a statement of the financial affairs of each county, being thus ascertained, publication thereof by advertisement shall be made in each of the townships in this Commonwealth, so as that the condition of the money affairs of the Colony, shall be thereby made known to the people generally.

Sec. 3. *Be it further Enacted,*—That should any officer on being cited as aforesaid fail to attend and render the accounts required of him, he shall forfeit and pay the sum of one hundred dollars, to be recovered in any court of law having competent jurisdiction of such offences.

Sec. 4. *Be it further Enacted,*—That the report of the committees aforesaid shall be evidence in all cases of settlements with the officers of the Commonwealth, and in case of their failing to make one within the time prescribed by law they shall be fined in a sum not exceeding fifty dollars.

An Act to amend an Act passed 1839, *to regulate the Fees of the Sheriffs and County Court Clerks.*

Section 1. *Be it Enacted by the Governor and Council in Legislature, assembled, and it is hereby enacted by the authority of the same,*—That it shall be the duty of the Clerks of the said courts, to grant jurors a certificate of attendance clear of charge.

Sec. 2. *Be it further Enacted,*—That in all Commonwealth cases the Clerks, Sheriffs, and Constables, shall be entitled to half the amount of Fees as in civil cases.

Sec. 3. *Be it further Enacted,*—That the Clerks shall receive for every certificate of license the sum of fifty cents.

An Act for the Relief of Farmers.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby Enacted by the authority of the same,*—That the provisions of a law passed in the year 1839 purporting to have for its object the relief of Farmers in these Colonies, shall be carried out in the following manner viz:—

On application of any person whose business is exclusively that of Farming, made either to the Governor or to any agent by him appointed—on the production of a certificate to that effect from the agricultural committee of this Commonwealth, and also on such personal security on bond being given as shall be required of him, made payable

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to the Treasurer of this Commonwealth, he shall have loaned to him at the lawful rate of interest in these Colonies, the sum of Five Dollars an acre for each and every acre of land by him cleared and kept in constant cultivation so that when a crop of one kind is removed there shall remain to be seen thereupon such other articles as distinctly mark the character of its possess—or as one devoted to the particular interest, and calling of a farmer.

Sec. 2 *Be it further Enacted,*—That the repayment of the aforesaid sums shall be made in the following manner—viz: the interest on the whole sum due to be paid annually—one fourth of the principal at the end of one year—one fourth at the end of two years—one fourth at the end of three years and the last and remaining fourth at the end of four years.

Sec. 3 *Be it further Enacted.*—That the funds to meet the loan as aforesaid shall be supplied out of any monies in the Treasury, not otherwise appropriated.

Sec. 4 *Be it further Enacted,*—That notice by public advertisement of the provision, of the law shall be given by the Colonial Secretary in every town in the counties of Monserado and Grand Bassa, immediately on the rise of the present Session of the Council, and inviting such persons as are within the purview of this Act to make application accordingly.

An Act to amend an Act entitled an Act regulating Towns and Villages, passed August and September 1839.

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—

That from and after the passage of this Act—the overseers of streets shall receive for their services when actually engaged one dollar per day, out of any monies arising from fines or Taxes in their corporate capacity.

Sec. 2. *Be it further Enacted,*—That each town and village in their corporate capacity shall be authorized to appoint a Treasurer to be under the immediate control of the overseers.

Sec. 3. *Be it further Enacted,*—That any person or persons accepting the appointment of overseers, either from the Governor or people, failing to do their duty, shall be fined in a sum of not less than one dollar nor more than five recoverable on complaint before any Justice Court.

Sec. 4. *Be it further Enacted,*—That all male inhabitants from the age of sixteen to sixty, shall be compelled to work on the public streets or shall be subject to the fine as provided for in the 4th section of an Act regulating towns and villages.

An Act to amend an Act regulating the Treasur's and Collector's Fees

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—That, from and after the passage of this Act the Fee of the Collector

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of customs for the port of Monrovia, shall be ten per centum—nothing in this Act however is to effect the Fee of the Collector of Grand Bassa County.

Sec. 2. *Be it further Enacted,*—That the Treasurer's commission shall be four per centum—any law contrary to this Act, notwithstanding.

An unpublished Act Passed January 1841.

An Act to carry into effect the provisions of the Act of 1839 *concerning internal improvements and for other purposes connected therewith.*

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—That there shall be appointed at the present session of the Legislature three commissioners whose duty it shall be to make a survey of the route from Kughos, at the head of the Messurado, to the head waters

of the Junk River in order thereby to ascertain the most fit and convenient route for a canal or other boat communication to either place, and that the same commissioners fix upon the most eligible site to begin a like communication from the Junk to a lake at the foot of the Junk mountain, and from thence to another below Little Bassa which empties itself in the Mechlin River.

Sec. 2. Be it further Enacted,—That the distances of the spaces between these points shall be ascertained by them as nearly as can be, and an estimate made of the probable expenses of opening such communication, a report whereof shall be made to His Excellency the Governor who will take such action thereupon as he may deem most proper.

Sec. 3. Be it further Enacted,—That His Excellency the Governor be solicited to grant from the funds of the American Colonization Society, the loan of such sums as may be necessary to prosecute and complete this work with the least possible delay.

Sec. 4. Be it further Enacted,—That the Governor be authorized to draw on the Treasury of this Commonwealth for the amount of the expense of the commissioners appointed under this Act, and that should the work be undertaken as contemplated and authorized—the Legislature shall from time to time devise ways and means by which the amount so expended by the American Colonization Society in opening said communication be refunded.

An unpublished Act passed January 1841.

An Act to amend the Law regulating the Post Office department.

Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,—That from and after this date the Lieutenant Governor may receive and send all his official letters by the mail, free of postage.

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An Act unpublished Act passed January 1841.

An Act to amend and repeal certain Laws therein mentioned.

Section 1. *Be it Enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—That instead of the words five shillings used in the statute laws of this

Commonwealth, to define the crime of Petit Larceny—the words one dollar shall be substituted.

Sec. 2. Be it further Enacted,—That the words whipping and banishment suggested in the definition of the offence of Grand Larceny, be and the same are hereby repealed and made void.

Sec. 3. Be it further Enacted, That the law forbidding trespass on lands, shall be so altered as to embrace the unappropriated, as well as the appropriated lands.

Sec. 4. Be it further Enacted,—That all applications for marriage licenses, shall be made to the Clerk of the court of quarter sessions, instead of to the agent of the Colony, and those persons requiring licenses, shall give bond and security in the sum of two hundred dollars, that there will be no illegality in their forming that connextion.

Sec. 5. Be it further Enacted,—That the law regulating the intercourse and trade of Foreigners, be so changed, as to make it the duty of the Collector, instead of introducing them to the Agent—to report to the Governor their arrival

Sec. 6. Be it further Enacted,—That the recognition of marrages required to be made in the Court of monthly session, shall be made in the Court of Quarter sessions.

Sec. 7 Be it further Enacted,—That the law fixing a limitation in bar of the recovery of claims in this Commonwealth be, and the same is hereby repealed and that no such law, statute or ordinance shall be in force previously to the year 1850.

Sec. 8. Be it further Enacted,—That the name of the Commonwealth attorney—be erased and left out of the law appointing that office.

Sec. 9. Be it further Enacted,—That so much of the law respecting bastardy as refers to the exemption of servants from the same penalties as others be stricken out, erased and made null and void.

Here ends the unpublished Acts of the Colonial Legislature in 1841.

JOHN N. LEWIS,
Colonial Secretary.

CONSTITUTION

AND

LAWS

OF THE

COMMONWEALTH OF LIBERIA,

INCLUDING AN

ABSTRACT OF LEGAL PRINCIPLES AND RULES,

WITH AN

APPENDIX OF FORMS.

PUBLISHED BY ORDER OF

THE LEGISLATIVE COUNCIL.

IN TWO PARTS

MONROVIA, LIBERIA.

HILARY TEAGE,—PRINTER.

1843.

(From an original in the Library
of the Foreign Office, London)

CONSTITUTION,

OF THE

COMMONWEALTH OF LIBERIA.

The American Colonization Society, hereby grants to the colonies or settlements, on the Western Coast of Africa, under its care, the following

CONSTITUTION.

Article 1. The Colonies or Settlements of Monrovia, New Georgia, Caldwell, Millsburg, Marshall, Bexley, Bassa Cove, and Edina, and such other colonies hereafter established by this Society or by Colonization Societies adopting the Constitution of the American Colonization Society, on the western coast of Africa, are hereby united into one government, under the same name and style of the Commonwealth of Liberia

Art. 2. All legislative power herein granted, shall be vested in a Governor and Council of Liberia, but all laws by them enacted, shall be subject to the revocation of the American Colonization Society.

Art. 3. The Council shall consist of representatives, to be elected by the people of the several colonies or settlements, and shall be appointed among them, according to a just ratio of representation. Until otherwise provided, Monrovia, New Georgia, Caldwell, Millsburg, shall be entitled to six representatives: and Marshall, Bexley, Bassa Cove, and Edina, to four representatives, to be appointed among them by the Governor.

Art. 4. The representatives shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest, during their attendance at the session of the Council, and in going to, or returning from the same; and for any speech or debate therein they shall not be questioned in any other place.

Art. 5. Until otherwise provided by law, the Governor shall appoint, and publish the times, places, and manner of holding elections, and making returns thereof, and the time for the meeting of the Council.

Art. 6. The Governor shall preside at the deliberations of the Council, and shall have a veto on all their Acts; provided nevertheless

that if two thirds of all the members elected to serve in the Council shall concur in passing a bill or resolution, notwithstanding the veto of the Governor the same when so passed shall become a law and have effect as such.

Art. 7. A Colonial Secretary shall be appointed by the Governor; and it shall be the duty of such colonial secretary to record in a book or books, all the official acts and proceedings of the Governor, of the Council and of the Governor and Council to secure and preserve the same carefully, and to transmit a copy of each of such acts or proceedings to the American Colonization Society, from time to time, provided, however, that such acts and proceedings be so transmitted at least once a year.

Art. 8. A Great Seal shall be provided for the Commonwealth of Liberia, whereby the official and public Acts of the Governor, shall be authenticated; and the custody of the said seal shall be committed to the colonial secretary.

Art. 9. The Governor and Council shall have power to provide a uniform system of military tactics and discipline; to provide for organization, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the Commonwealth:

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To declare war in self-defence:

To make rules concerning captures on land and water:

To make treaties with the several African tribes, and to prescribe rules for regulating the commerce between the Commonwealth of Liberia, and such tribes; except that all treaties for the acquisition of lands shall be subject to the approval of the American Colonization Society.

To prescribe uniform rules of naturalization for all persons of color, and all persons now citizens of any part of the Commonwealth of Liberia, shall continue to be so, and all colored persons, emigrating from the United States of America, or any district or territory thereof, with the approbation, or under the sanction of the American Colonization Society; or any society auxiliary to the same, or of any state Colonization Society in the United States, which shall have adopted the constitution of the American Colonization Society, shall be entitled to all the privileges of citizens of Liberia; except the same shall have been lost or forfeited by conviction of some crime.

EXECUTIVE POWER.

Art. 10. The Executive Power shall be vested in a Governor of Liberia, to be appointed by, and to hold his office during the pleasure of the American Colonization Society.

Art. 11. The Governor shall be Commander in chief of the army, of the navy, and of the militia of the Commonwealth; he shall have power to call the militia, or any portion thereof, into actual service, whenever the public emergency shall require; and he shall have the appointment of all military and naval officers, except the captains and subalterns of militia companies, who may be elected by their respective companies.

Art. 12. The land owned by the Society, and all other property belonging to the Society, and in the commonwealth, shall be under the exclusive control of the Governor and such agents as he may appoint under the direction of the Society

Art. 13. The Governor, with the advice and consent of the Council shall appoint all officers whose appointment or election is not otherwise specially provided for in this constitution.

Art. 14. There shall be a Lieutenant Governor, who shall be elected by the people—he shall exercise the office of Governor, in case of a vacancy in that office, occasioned by the Governor's death or resignation, or in case the Governor shall delegate to him the temporary authority of Governor, during the Governor's absence or sickness.

JUDICIAL POWER.

Art. 15. The judicial power of the Commonwealth of Liberia, shall be vested in one Supreme Court, and in such interior Courts as the Governor and Council may from time to time, ordain and establish. The Governor shall be, Ex-officio, Chief Justice of Liberia, and as such shall preside in the supreme ourt, which shall have only appellate jurisdiction. The Judges, both of the supreme and interior courts except the chief Justice, shall hold their office during good behaviour.

Art. 16. A code, or uniform system of civil and criminal laws shall be provided by the American Colonization Society for the Commonwealth of Liberia.

Art. 17. The present criminal laws in force in the several colonies, or settlements now forming the Commonwealth of Liberia, and such others as may from time to time be enacted, shall constitute the crim-

inal code of the commonwealth. Such parts of the common law, as set forth in Blackstone's Commentaries, as may be applicable to the situa-

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tion of the people, except as changed by the laws now in force and such as may hereafter be enacted, shall be the civil code of law for the commonwealth.

Miscellaneous.

Art. 18 Until otherwise provided by law, the Commonwealth of Liberia shall be divided into two counties as follows:—

Monrovia, New Georgia, Caldwell, and Millsburg shall canstitute one county, under the name of Montserrado; Bassa Cove, Edina, Bexley and Marshall, shall constitute the other county, under the name of the county of Grand Bassa

Art. 19. There shall be no slavery in the commonwealth.

Art. 20. There shall be no dealing in slaves by any citizen of the commonwealth, either within or beyond the limits of the same.

Art. 21. Emigration shall not be prohibited

Art. 22 The right of trial by Jury, and the right of petition shall be inviolate.

Art. 23. No person shall be debared from prosecuting or defending any civil cause, for or against himself or herself before any tribunal in the commonwealth, by himself or herself or counsel.

Art. 24. Every male citizen of the age of 21 years, shall have the right of suffrage.

Art. 25. All elections shall be by ballot.

Art. 26. The military shall at all times, and in all cases, be in subjection to the civil power.

Art. 27. Agriculture, the mechanic arts and manufactures, shall be encouraged within the commonwealth; and commerce shall be promoted by such methods as shall tend to develope the agricultural resources of the commonwealth, advance the moral, social and political interest of the people, increase their strength, accelerate, firmly establish and secure their national independence

Art. 28. The standards of weight, measure, and money, used and approved by the Government of the United States of America, are hereby adopted as the standards of weight, measure and money within

the Commonwealth of Liberia. But the Governor and Council shall have the power to settle the value of the actual currency of the Commonwealth according to the metallic currency of the United States of America.

Office of the American Colonization Society,
Washington, January, 14*th,* 1839.

I hereby certify the above twenty eight articles to be a true copy of a Constitution of the Commonwealth of Liberia, adopted by the Board of Directors, of the American Colonization Society, on the fifth day of January in the year Eighteen Hundred and Thirty Nine.

PHILIP R. FENDALL,
Recording Secretary.

PART FIRST.

[5]

LAWS

OF LIBERIA

An Act incorporating, bounding, and regulating Counties and Towns.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the Authority of the same:* —That this Commonwealth shall be divided into the two counties, of Monsterrado and Grand Bassa--separated from each other by the main branch of the Junk River.

Sec. 2. *Be it further Enacted* —That each county shall be divided into Townships of not more than eight miles square, until otherwise more accurately defined by law. *Provided,* that when there is not the space of eight miles between any two settlements—then half the distance whatever it may be, shall limit each township.

Sec. 3. *Be it further Enacted* —That the line of the Township of Edina, in Grand Bassa County, shall extend from the ocean shore along the middle of the St. John's river East of, and as far as the upper end of Factory Island, and from thence a North-west course so far as the jurisdiction of the Colony extends into the Little Bassa Country—thence to the ocean so as to include the settlement of Little Bassa—thence along the sea-beach to the place of beginning.

Sec. 4. *Be it further Enacted*:—That the line of the Township of Bassa Cove, shall extend from the ocean along the line of Edina Township, to the purchase made of Joe Harris, then East as far as may be deemed within the colonial jurisdiction, including the Grand Bassa territory comprehended within the bounds aforesaid, and Tabaccone on the sea shore.

Sec. 5. *Be it further Enacted*:—That the Township of Bexley shall extend from the upper end of Factory Island, aforesaid, to the creek called Doiv, which divides our purchase from the Natives' possession of lands called Graccho, on the West side of the St. John's River, and run back a North-west course on both the upper and lower lines without

any fixed limits other than those prescribed in the deed of purchase made of the natives.

Sec. 6. *Be it further Enacted:*—That the Farm settlement on the East bank of the main branch of the Junk River, between the West bank of the Eastern-most fork of the Junk, and the East bank of the said main branch of the Junk, shall constitute the corporate Township of Farmington.

Sec. 7. *Be it further Enacted:*—That the several Townships shall be bodies corporate, and as such—May sue and be sued—

Take and hold real and personal property for the benefit of the Township—

Make and fulfill contracts, and levy all such taxes as may be necessary for township purposes.

Sec. 8. *Be it further Enacted:*—That the corporate powers of the several counties shall be exercised by three Commissioners appointed in each county, whose duty it shall be to have the care of the buildings

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and other property of their respective counties—exercise a general supervision over prisons, poor houses and asylums—to examine into the state of roads and bridges—to determine what expenditures are needed for the erection, improvement and care of the same, and recommend to the Governor the appropriation of such sums as may be necessary, out of the funds of said county:—And the Commissioners shall further have power whenever the necessities of the case require, to levy and collect such taxes as may be required towards paying the expenses of Government.

Sec. 9. *Be it further Enacted:*—That the Treasurer of the County shall receive and keep subject to the order of the Commissioners, all the monies of the County—and make full quarterly report to them of his doings. He shall keep an account of all receipts and disbursements, subject at all times to the inspection of the Commissioners:—Shall keep separate accounts of monies received for the Commonwealth; 1st, For licenses; 2nd, for military fines; and 3rd, Commonwealth taxes, &c. &c. And for his services, he shall receive a per centum, not to exceed twenty on all monies received and paid by him—the rate per centum to be determined by the Commissioners.

Sec. 10. *Be it further Enacted:*—That there shall be a County Seal for each County of the Commonwealth, which shall be in the custody

of the Clerk of the County, and it shall also be the seal of the County Courts.

Sec. 11. *Be it further Enacted:*—That the Governor and Council may appoint one Marshal and one Public Notary for the Colony: and in each county one Commonwealth Attorney, three Commissioners, one Chairman of the County Court, one Surveyor, one Judge of Superior Court, one Clerk of the Court, one Register, one High Sheriff, one Coroner, one Treasurer, one Collector of Customs four Overseers of the poor,—eight Constables in Montserrado and six in Grand Bassa; fourteen Justices of the Peace in Montserrado, and ten in Grand Bassa; three Assessors of the value of real estate in Montserrado and four in Grand Bassa; and deputy Port officers for Marshall. All which officers not otherwise ordered, shall hold their respective appointments during two years, unless removed on impeachment or conviction of some crime:—*Provided always* that the same officer may at the discretion of the Governor and Council, be reappointed to the same office.

Sec. 12. *And be it further Enacted*:—That there shall be a ferry established between Bassa Cove and Edina, and one to cross the Junk river at Marshall. The rates of toll at both places shall be fixed by the court of Quarter Sessions for Brand Bassa

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An Act regulating Towns and Villages.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the Authority of the same:*

—That whenever there exists an excess of under brush or noxious weeds to the injury of persons living contiguous, injuring or inconveniencing them either in their ways, property or health—it shall be the duty of persons aggrieved thereby to make a representation of such nuisance to the Commissioners under the 8th section of "An Act incorporating, bounding and regulating counties and towns" whose duty it shall then be to publicly advertise, for thirty days, the owner

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or owners thereof to clear away and remove the nuisance complained of —and should such nuisance still remain after such notice then said Commissioners shall advertise at two of the most public places in the township for the space of ten days, at the end of which time the work necessary for the removal of such nuisance, shall be let to the lowest

bidder who shall be paid, for removing such nuisance, from any funds of the Township.

Sec. 2. Be it further Enacted:—That the owners of property thus incumbered shall be allowed one year from the date of such incumbrance for the repayment of the sum expended in clearing the same—they paying an advance of 33 1-3 per cent of the sum so paid out. And should they fail or neglect to pay the same at or before the expiration of the year then after forty days public notice in one of the newspapers published in Monrovia the same shall be sold or such proportion thereof as shall be necessary to repay the township with the advance and costs chargable thereon. *Provided always* that the property of minors having no guardian shall not be sold before the expiration of one year from the time of their arrival at the age of twenty one years.

Sec. 3. Be it further Enacted —That every holder of a building or town lot, shall put a sufficient fence around one half of the same, on the parts contiguous to his next neighbours. Colonists injured or liable to injury from his neglect to make such fence may apply to the Commissioners aforesaid who are to warn the delinquent to construct such fence within a reasonable and specified number of days. In case of neglect, the delinquent is to be again warned to complete the same within ten days thereafter. At the expiration of this last ten days, the original complainant is authorized to cause the fence to be made; submitting his bill for the same, to the Commissioners, who are to revise, and, if reasonable allow it. On this bill, any Magistrate applied to, is to issue execution, commanding the constable to levy on the delinquent's personal estate and raise the money for judgment and costs within thirty days.

Sec. 4. Be it further Enacted:—That there shall be a town meeting, under the direction of the Magistrates, held in each township annually on the first Tuesday in October for the purpose of levying such taxes as may be necessary for township purposes. And further to appoint one Treasurer and three overseers of Police—the last to keep the roads and streets in order and guard the ingress of natives on the Sabbath day and the desecration of the same by colonists:—And for the proper ordering of the streets it shall be their duty, and the said overseers are authorized to summon all male inhabitants, from the age of sixteen to sixty years, by notifying them three days before each working day (not to exceed twelve working days in each year), to assemble and clear out the streets—persons thus notified shall either in person or by substi-

tute apply themselves to the work aforesaid, or pay the sum of one dollar for each day they fail to comply with such requisition, recoverable with the costs accruing by summons before any magistrate, for the use of the township.

Sec. 5 Be it further Enacted:—That should any of the officers appointed under and named in this act, fail of their prescribed duty, he or they shall be severally fined in a sum of not less than one dollar, nor more than five dollars recoverable for the use of the township on complaint before any Justice's Court.

Sec. 6. And be it further Enacted.—That if any individual or individuals be found drunk in the streets of any of the towns of this commonwealth he, she or they, shall be taken immediately and confined in goal until he, she, or they become sober.

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An Act pertaining to Lands, and Reservations, Apportionments and improvements of the same

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That no persons shall own lands who do not reside in the colony and cultivate at least two acres, or carry on with the consent of the Governor some mechanical trade, and build "a house of sufficient size to accommodate all the family of the proprietor and built of stone, brick, or other substantial materials and workmanship, or if frame or logs weatherboarded and roofed with tile, slate or shingles."

Sec. 2. Be it further Enacted —That all settlers, on their arrival shall draw town lots or plantations for which the Governor shall give them a certificate specifying their number and the time of drawing. If, within two years from that date two acres of land on the plantation shall have been brought under cultivation, the town lot cleared and enclosed and a substantial house built, the said certificates may be exchanged for title deeds in fee simple.

Sec. 3. Be it further Enacted.—That every married man shall have for himself a town lot, or five acres of farm land, together with two more for his wife and one for each child that may be with him—*provided always* that no single family shall have more than ten acres.

Sec. 4. Be it further Enacted:—That women not having husbands immigrating to this colony with permission and attached to no family besides their own shall receive each a town lot, or two acres of farm lands

on their own account and one acre on account of each of their children—and unmarried men of the age of twenty one years, arriving in the colony from abroad, or attaining their majority while resident in the same, and having taken the oath of allegiance, shall be admitted to draw and hold a building lot, or five acres of farm lands on the same conditions as married men. In case of marriage afterwards such person is to draw on account of his family no additional lands, but shall be entitled to hold whatever his wife may have previously drawn in her own right or inherited from a former husband or other person provided she shall not have alienated such lands at the time of her marriage.

Sec. 5. *Be it further Enacted*:—That no colonist shall deal with the natives of the country for lands. And all persons trespassing on lands not their own by cutting or removing timber or other property, are liable to exemplary damages.

Sec. 6. *Be it further Enacted*:—That no bargain, transfer, sale, deed or lease of lands, by or with the grantee of lands for the same, before a legal and complete title in fee simple has been obtained, shall be valid or lawful. The imperfect right in lands acquired by the draft of the same, shall, in the event of the decease or expulsion of the drawer before the expiration of the probationary term, descend to his or her heirs in the colony.

Sec. 7. *And be it further Enacted*.—That every proprietor of farm lands is required to keep erected, at the angles of the same, posts 6 inches square at top, to stand 2 feet above ground and be planted 18 inches deep.

Penalty one dollar for each post not so erected to go to any person suing for the same.

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Judiciary Act.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*:—That all persons who may be appointed to act as Justices of the Peace, shall be sworn to do the duties of said office according to law and the prescribed forms. They shall be conservators of the public peace, and as such, have the power in the name of the Commonwealth, to command the seizure and arrest of any felon or disorderly person or persons, and to commit him or them to jail until legal action can be had in the premises:—And all precepts issued out of their courts, shall be signed by their names as Justices of the Peace. And further it shall be the duty of any Justice of the Peace in the absence of the Coroner, when

an inquest is needed, to cause such inquest to be held, and make report thereof to the Governor within five days thereafter.

Sec. 2. *Be it further Enacted*:—That on all Judgments rendered in a Justice's Court, when required by the defendant, and sufficient security first given, time for payment shall be allowed:—For all sums of twenty dollars five months;—sums under twenty and over fifteen, four months;—under fifteen and over ten, three months;—under ten and over five, two months;—under five and over two, one month, and all sums under two dollars, ten days. At the expiration of the time above allowed, execution may issue immediately against the defendant and his surety, by virtue of which, the officer may levy upon the goods and chattels first of the principal, and in case of deficiency, then of the surety to an amount sufficient to liquidate the debt, interest and costs:—And after ten days notice by public advertisement, shall proceed to sell the same to the highest bidder for cash, and should he by the sale make a sum exceeding the amount for which he claims, he shall forthwith pay the surplus over to the defendants. And all Judgments rendered in a Justice's Court, shall be recorded on the original precepts, and all judgments and all executions upon judgments not so rendered, shall be null and void.

Sec. 3. *Be it further Enacted*:—That there shall be holden in each of the Counties of this Commonwealth a Court of Common Pleas and Quarter Sessions, to be constituted by a Chairman and two Justices of the Peace as associates. That for Montserrado County to be opened on the first Monday in February, May, August and November, in each year, and may be continued from day to day, during the term of one week. And that for Grand Bassa County aforesaid, on the second Monday of the same months, and continued for a like term if necessary. The said Court shall have original jurisdiction in all cases of debt, for sums over twenty dollars; and be authorised to empannel jurors, to try and determine cases of petit larceny, and all infractions of the peace of the Commonwealth, except High Misdemeanor.—It shall have the care and management of the persons and estate of orphans not otherwise provided for.—It shall be a Court of Probate, and with its other records have a record of Wills, which may be proven in said Court.

Sec. 4. *Be it further Enacted*:—That the Chairman of said Court shall not exercise the functions nor perform the duties of a Justice of the Peace—but his duties shall be confined exclusively to the Court of which he is Chairman; and for the services so rendered, he shall be

allowed Twenty Dollars per annum, out of any fines and forfeitures collected in said Court.

Sec. 5. *Be it further Enacted*:—That whenever a vacancy shall happen upon the bench of the County Court, by the absence of the Chairman, it shall be the duty of the Magistrate present whose com-

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mission bears oldest date to fill the vacancy. He taking care to distinguish between his acts, and those of the regular incumbent, by adding to the signature of his name the words "Pro. Tem." Notwithstanding his official acts shall be equally valid within the jurisdiction of said Court.

Sec. 6. *Be it further Enacted*:—That it shall be the duty of the County Court at their term next before the general election, to appoint Judges and Clerks for said election, and make record of all the names of persons so appointed for each town or district, and the Clerk shall issue notice to the persons so appointed to be served by the Sheriff, as in the case of other process issuing from the said Court.

Sec. 7. *Be it further Enacted*.—That the clerk shall keep a record of all matters and things ordered and transacted by the Court, in a book or books to be provided at the expense of the Government—issue all leading processes, writs and subpœnas, signed with his own name as Clerk, made and directed according to law;—make record of all such issues and note the returns made by the officer to whom they were directed;—take minutes of the trial of all such cases, magistrates presiding, jurors empanneled, and the names of the jury who pass their judgment in each and every case:—Note the proof of wills or other conveyances of property in said Court, and deliver all such papers after being so noted, to the Register for recording;—and under the direction of the Court issue license to those to whom they are granted, and make record thereof as in other cases whereof a record is necessary to be kept.

Sec. 8. *Be it further Enacted*:—That the duties of the Probate Court shall be distinct from that of the Court of Pleas and Sessions, though they are performed at the same term. It shall be the duty of the Chairman presiding at the said Probate Court to cause the probate of any will or testamentary paper that shall possess the features of one, or if contested he shall cause the will so contested to be brought before the Court of Common Pleas, that it may be submitted to a competent jury upon its merits and by them either rejected, set aside or

quashed or unanimously approved; or if rejected, the same may be removed by appeal to other tribunal on petition made by any person aggrieved, according to the laws of this commonwealth which relate to appeals.

Sec. 9. *Be it further Enacted*:—The Register shall record all documents and instruments relating to the security and title of public or individual property—Government grants, patents, contracts, commissions and other papers, which are properly matter of record and to which the Commonwealth shall be a party. He shall receive papers of record from the County Clerk, register and file them in alphabetical order that they may at all times be in safe keeping in his office, and accessible to persons desiring to examine them And every volume of records when full shall be delivered by him to the Colonial Secretary, for preservation among the archives of the colony.

Sec. 10. *Be it further Enacted*.—That there shall be holden in each of the Counties of Montserrado and Grand Bassa a Superior Court, which shall have original jurisdiction of all offences against the Commonwealth constituted penal by any law of said Commonwealth, presentments whereof shall be made by a Grand Jury on information given to them of existing cases, or of commitments made by Justices of the Peace; and shall have jurisdiction of all cases carried up by appeal from the court of pleas and sessions. There shall be a Judge

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appointed for the said court in each of the said counties: who shall alone preside at each session of said court, to commence in Montserrado on the first Monday in April and October, and in Grand Bassa on the first Monday in May and November. The said Judges being governed by the same rules as courts of Equity in the United States, shall have jurisdiction of all causes in Equity shall have power to issue supersedeas and writs of enquiry into all cases originating in Inferior Courts and may suspend their proceedings for want of matter, form or evidence so that the party aggrieved may have issue of his cause in the said Superior Court. And when the Judge is interested in any case that may be brought in his court, then and in that case, the Judge of the sister County shall preside, and shall be entitled to the fee allowed for that term There shall be a clerk of the court in each county who shall receive his appointment from the Judge of said court and shall be directed in all issues to be made and other matters and things relating to the official transactions of the court, by the Judge thereof. He shall issue all writs directed to the

Sheriff or in case of that office being vacant to the Coroner of the county, at least ten days before the return day of the term of said court to which they shall be returnable, sign them with his own name as clerk commanding the proceedings therein specified to be performed in the name of or before His Honour the Judge of said court: and he shall keep a book wherein he shall make record of all original issues and actions so made and begun as well as of all matters carried up by appeal to said court. He shall issue subpoenas for witnesses when required, and direct the same to the Sheriff or Deputy who shall execute without delay and make proper return thereof; and all such papers and documents so returned to his office, shall be filed in alphabetical order so as to be of easy access to those having occasion to examine them. And the said clerk shall also be qualified to act as Clerk and master in Equity in all matters and things pertaining to said court.

Sec. 11. *Be it further Enacted*:—That there shall be one Supreme Court for the Commonwealth, in which His Excellency the Governor shall preside, (he being Ex-officio Chief Justice of Liberia), to be held by him at such times, in such manner, and in such places as he shall from time to time direct, to it shall belong original jurisdiction in all maritime cases, and all cases of suits between citizens and aliens, and of all cases without or beyond the limits of the colony, and the returns on precepts issued therefrom, shall be made to such courts as they may be directed: and said Court shall have appellate jurisdiction, in all causes originating in the Superior Courts, or carried up by appeal from the Courts of Pleas and Sessions, or on cases originating in Justices Courts that have travelled up to it by regular course of appeals, and the judgments and decisions of the tribunal both between man and man and the commonwealth and its citizens, or aliens, in all manner of cases shall be final. The Colonial Secretary shall act as the Clerk in said Court, and shall keep such record of all matters and things connected with the business thereof, as shall seem meet and right to the Justice thereof to have done and made.

Sec. 12. *And be it further Enacted*:—That in addition to the above Courts, there shall be a Court of Monthly Session for the district of Sinoe. The Chairman of which court shall be clothed with powers similar to those vested in the Chairman of the County Court, and all matters of a legal nature above the jurisdiction of a Quarterly or County Court, within said district shall be laid in the Superior Court for the County of Grand Bassa.

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An Act defining certain crimes, and relating to the punishment of crime.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That sedition, mutiny, insubordination or disobedience to the lawful authority, are high misdemeanors and cognizable by the Superior Court.

Sec. 2. *Be it further Enacted.*—That grand larceny and all felonies may be punished in pursuance of judicial sentence, by imprisonment either in irons or not, or by a term of labor in chains on the public works.

Sec. 3. *Be it further Enacted:*—That banishment from the Colony may take place on conviction for offences directly affecting the peace and good order of the same, and for obstinately refusing to acquiesce in the express decisions of the Board of Manages of the American Colonization Society. The property of exiles shall pass to their next heirs resident in the Colony. And in all cases of banishment when the person has no heir in the Colony, the lands held by him shall revert to the Colony.

Sec. 4. *Be it further Enacted:*—That theft in which the property stolen shall not be more than one dollar, is petit larceny—and quarrelling, riot, drunkenness, sabbath breaking, profanity and lewdness are infractions of the peace.

Sec. 5. *Be it further Enacted:*—That no person who shall have been convicted of theft or any other misdemeanor, punishable by imprisonment, shall be suffered to sit on a jury. *And further:*—That no person who shall be convicted of theft, burglary or robbery, shall ever after enjoy the elective franchise, or be eligible to any office in this Colony, or have a right to sit as juror or give evidence in any court of justice, unless specially restored to the rights and immunities of citizenship, by a public act of the Governor and Council, after having given sufficient evidence of repentance and reformation.

Sec. 6. *Be it further Enacted:*—That any person or persons punished by fines in any of the courts, and put to public labor to satisfy said fine and costs, shall be allowed the sum of six dollars per month; *provided* if he be a *native* he shall be allowed three dollars per month, until said fine and costs be satisfied.

Sec. 7. Be it further Enacted:—That all persons convicted of any crime punishable by imprisonment and hard labor on the public works, may at the discretion of the court, be ordered to be hired out by the Sheriff of the County, publicly before the door of the court house, on the first Monday after the adjournment of the said court, to the highest bidder, for the term of his or her sentence, on the consideration the said prisoner shall not be allowed to go at large in the street, without being secured by a chain.

Sec. 8. Be it further Enacted:—That any person suffering a prisoner, that may be in his or her possession for the time of such prisoner's serving, to go at large in the streets without being secured by a chain, of sufficient strength to keep the prisoner, he or she shall be subjected to a fine of not less than ten nor more than fifty dollars, at the discretion of the court. And further it shall be the duty of sheriffs and constables to arrest all culprits that may be seen at large in the streets, and to enter prosecution against the person or persons in whose charge such prisoners were. And should any sheriff or constable neglect or refuse so to do, he or they shall be subjected to a fine not exceeding fifty dollars.

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Sec. 8. And be it further Enacted.—That in every instance where a colonist shall seize upon the property of natives without legal process, under the pretence of the said native or natives being indebted to him, it shall be considered an act of ROBBERY, and shall be punished with all the penalties attached to that crime.

An Act Concerning Bastardy.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That if any woman shall be delivered of a bastard child, that shall be or is likely to become chargable to the public, and shall upon examination to be taken in writing upon oath, before any Justice of the Peace in the place, charge any person with being the father of the child, any Justice of the Peace in the place where the person charged is a resident or inhabitant, on application of any citizen of a place wherein such child be born, may issue a warrant to apprehend and bring the person so charged before him, or any other Justice, and such Justice shall commit him to jail, unless he shall enter into bonds with sufficient security in a sum of not less than fifty dollars, for his appearance at

the Court of Quarter Sessions and abide the order thereof:—And if the court upon the circumstances, shall adjudge the person so charged to be the father, and that the child is likely to become chargeable to the public, they may provide for its maintainance, by charging the father with the payment of not less than one dollar per week, payable monthly into the hands of the Treasurer of the Colony, to continue while such child is likely to become chargable to the public; and the father shall enter into recognizance with sufficient surety before the court, payable to the acting Governor and his successor in office, to perform such orders of the court. And if the father shall make default in the payment of such money for six months, or refuse to give such bond, the court shall give judgment and execution, and the sheriff shall proceed to the collection of all such sums as may be due from time to time by the father, his executors or administrators.

Sec. 2. And be it further Enacted:—That if any woman after having been summoned before any Justice of the Peace, should refuse to swear to the parentage of the child, and the child is likely to become chargable to the public, the court may order the said woman to be hired out from time to time, as long as said child may be likely to become chargable to the public.—*Nevertheless*, the mother of a bastard child may give good bonds with surety to be approved by the Governor and court of sessions, for the maintainance of the child.

An Act to prevent corruption and fraud in elections.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*:—That any person or persons who shall be convicted of changing or of causing to be changed, by fraudulent or deceptive means any ticket or tickets in the ballot box, shall for every such offence forfeit and pay a sum of fifty dollars.

Sec. 2. *Be it further Enacted*:—That any candidate for public office who shall either by himself or by others for him, give or cause to be given any treat, entertainment or other consideration to any voter or

voters for the purpose of influencing his or their vote or votes, shall on conviction before any tribunal competent to try the same, forfeit and pay the sum of one hundred dollars, and all persons concerned in violating this section, shall be subjected on conviction as aforesaid, to the like penalty and forfeiture of one hundred dollars.

Sec. 3. *Be it further Enacted*:—That any person or persons entitled to vote at any of the elections who shall be convicted of receiving a present, credit, or other consideration for his or their vote or votes, in favour of any candidate, shall each and severally forfeit and pay for such offence the sum of five dollars, and said vote shall not be counted in making up the returns.

Sec. 4. *Be it further Enacted*:—That no native African or Africans excepting such as may be brought here under the character of recaptured Africans, beyond the sea, shall be entitled to the elective franchise, unless he or they shall have remained in the colony at least three years immediately preceding the election, at which the privilege is claimed, and shall have during that continuous period exhibited an uniform course of civilized life. The standard of decision in such case shall be the solemn declaration of three creditable and disinterested persons, (who shall have had an opportunity of noticing the conduct and life of the party or parties,) that the person or persons so claiming the right to vote, have during the three aforesaid consecutive years, abandoned all the forms, customs, and superstitions of heathenism, and that he or they so claiming to vote, has or have during the period aforesaid conformed to the forms, customs, and habits of civilized life.

Sec. 5. *Be it further Enacted*:—That in all cases where two candidates shall have an equal number of votes, the Legislature at its next session after said election, shall determine the election by ballot.

Sec. 6. *And be it further Enacted*:—That it shall be the duty of the Sheriff or other person acting in his place, immediately on the closing of the Polls to count in the presence of the sworn Judges of the election the number of votes polled for each candidate. He shall write down said number opposite each candidate's name in fair and legible characters, sign it himself with the Judges of the election, to be forwarded immediately under seal to the Colonial Secretary, a copy of said statement authenticated as aforesaid shall be deposited in the office of the County Court.

And the Colonial Secretary shall, immediately on receiving the returns as aforesaid notify the citizens of the result of the election by posting the same up in some conspicuous place or otherwise publishing the same—and give persons elected a separate and official notice of their election.

An Act Punishing Official Misconduct.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That any person holding and exercising the office of Judge, in any court in this Commonwealth, who shall be guilty of shewing favor and partiality in judgment, or giving counsel in its tendency calculated to impede or hinder the right influence of the law, in rendering justice

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to them who seek it, or of erecting, aiding, or abetting any factions or tumults among the people, shall on proof thereof before this tribunal be dismissed from office. But it shall be lawful at any time, for the Executive to suspend such officer, on proof of either of the above offences, until the Legislature can take cognizance of his case.

Sec. 2. *Be it further Enacted:*—That if any Justice of the Peace, shall fail in attending to such complaints, as may be laid before him withholding a precept when required to be issued by him, or give counsel so as to turn aside the right of any person, or perversely render a wrong judgment in any case at issue before him, on proof thereof, made before His Excellency the Governor, he shall be dismissed from office, and be liable to such other penalties as may be attached to the crime for which he is discharged.

Sec. 3. *Be it further Enacted:*—That the Clerks of the several Courts, shall observe with punctual exactness the rules and regulations prescribed by law, for all issues proceeding from their offices so that no writ be subjected to failure of service, and return of "too late to hand." Nor shall they neglect the duties of their office, so as by their neglect thereof or absence therefrom, to obstruct, frustrate or hinder by delay, any person in pursuit of justice, under the penalty of ten dollars for each case of issues not made;—twenty dollars for every case of neglect to subpoena or give notice of decrees or forms and rules ordered in any cases at issue in their several courts;—and fifty dollars for closing their offices, or absenting themselves so that access cannot at all times be thereunto had. Such fines to be levied by execution on the goods and chattles of said clerks, after judgment being had against them.

Sec. 4. *Be it further Enacted:*—That the Sheriffs of the several counties shall be liable to amercement in the sum of fifty dollars for each and every case of failure to make due returns of any precepts, issued out of any of the courts and to them directed. And for all

failure to make returns of monies to the courts issuing out executions to collect the same summarily, judgment shall be entered up against the said Sheriff, and his securities for the amount with charges of the cost accruing.

Sec. 5. Be it further Enacted:—That the Coroner shall be subjected to the same habilities and penalties as the Sheriff in all similar cases of delinquences in the discharge of the duties of his office.

Sec. 6. Be it further Enacted:—That it shall be the duty of all Constables to present to the Court of Quarter Sessions, in a book provided for that purpose, an account of all precepts to them directed with an account of what action has been had on each, under the penalty of twenty dollars, and in default of the proper discharge of their duties they shall forfeit and pay for neglecting to serve a precept in an ordinary action of debt, the sum of ten dollars:—and in all cases of breach of the peace or criminal arrest, he shall be fined at the discretion of any tribunal having cognizance of such malversation in office, according to the magnitude of the offences.

Sec. 7. Be it further Enacted:—That any commissioned or non-commissioned officer, or other person who shall go beyond the limits of the town where he resides, and by force and arms or threats interrupt, interfere with or injure the natives, unless acting under the immediate authority of the Executive power, shall be amerced in the sum of not less than one hundred dollars, and in default of payment shall be imprisoned two years.

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Sec. 8. Be it further Enacted:—That any Clerk or Register who shall fail or neglect to note according to law, all wills and testaments and record inventories, accounts of sales, and accounts current of Executors, Administrators and Guardians, within 30 days after their probate or report, shall be liable to indictment in any court of record of the county, and on conviction fined at the discretion of the court.

Sec. 9. And be it further Enacted;—That all officers not named in the preceding sections, and for whose trial no laws have been made, may be prosecuted before the Court of Quarter Sessions, and on conviction of violation of duty—shall be liable to be displaced from office by the Executive, and subjected to such fines and penalties as such court may impose.

An act to provide against vacancies in certain public offices.

Sec. 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That whenever the office of Councillor, Sheriff, Collector or other office becomes vacant, it shall be the duty of the Acting Governor to fill such vacant office or offices, by an appointment of suitable person or persons under his hand, said appointment to be contersigned by the Colonial Secretary, who shall attach the commonwealth seal thereto. Nevertheless, said appointments shall expire at the next annual election or meeting of the appointing powers of such officers.

Sec. 2. *Be it further Enacted.*—That any person or persons holding an office under this Government, and shall remove to any other colony or state unconnected with this to reside, or shall accept of any office of emolument from any such foreign state or colony, shall be considered vacating said office or offices, and said office or offices shall be filled by the Governor in the manner directed in the first section:—*Provided* this shall not be construed to apply to any person or persons that may be commissioned to any foreign colony on public business.

Sec. 3. *Be it further Enacted* —That in the event of the death, resignation, or other disability of both the Governor and Lieutenant Governor, it shall be the duty of the Colonial Secretary immediately to summon the council, who shall meet and elect a person to fill said vacant office, until the next election, or until superceded by an appointment from the Board of Managers of the American Colonization Society.

Sec. 4 *And be it further Enacted.*—That the Governor, Lieutenant Governor, and all other officers of Government hereinafter named, be sworn into office. That the Governor or Lieutenant Governor administer the oath of office to the Secretary, and that the Secretary administer the oath of office to the Governor, Lieutenant Governor and Council, and record the date of their entering upon office upon the records of the council.

That the Secretary administer the oath of office to the clerks of the courts, and that the clerks of the courts swear all the members of the court. And the oath of office may be administered to a Justice of the Peace by any other Justice of the Peace.

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An Act requiring Public Officers to renew their bonds.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That all

public officers whose duty it shall be to give bond and security, for the faithful performance of the services required of them, shall at the *First* term of the Court of Quarter Sessions occurring after the first day of January in each year, renew their bonds, and give it required increased security thereon, which bonds shall be filed and made matter of record in said court.

An Act regulating the fees of Public Officers.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same* —That the following rates and fees shall be allowed to the officers named herein—and it shall be the duty of the Clerks of the Superior and County Courts, to keep a copy of this bill posted in their offices

The Clerks of the County, Superior, and Supreme Courts, shall receive

For every recognizance,	$	" 20
" " Reference or continuance of cause,	"	" 25
" " Judgment,	"	" 50
" Docketing a case	"	1 00
" Every summons	"	" 25
" " Subpœna for each witness	"	" 25
" " Venire,	"	1 00
" " Execution or order of sale,	"	" 50
" " Bill of costs,	"	" 50
" Swearing jury,	"	" 25
" " " Witness,	"	" 06 1 4
" Copy of record, every 90 words,	"	" 05
" " " Will,	"	" 05
" Proving, recording and filing inventory, account of sales, or accounts current of Executors, Administrators or guardians, if the estate be under $ 200,	"	" 50
If above $ 200 and under $ 1000,	"	" 75
" " $ 1000,	"	1 00
" Noting probate of will, qualifying Executors, making certificates &c.	"	" 75
" Letters of administration, swearing, taking bond &c,	"	" 75
" Marriage license and bond,	"	" 75
" Every search out of court	"	" 10

" Proving and noting acknowledgement of conveyance of land or estates—certifying the same, and order of registration, - - - -	" " 20
" Every commission to take testimony, - -	" " 25

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For every Guardian or other bond in court, -	" " 50
" " Apprentice's indenture, - - -	" " 50
" " Writ of error or appeal with transcript, -	" 1 00
" " Certificate of minutes, - - - -	" " 10
" " Seal of office and certificate - -	" " 25
" Recording mark or brand, - - - -	" " 10
" Enrolling divisions of estates, each lot, - -	" " 10
" Every certificate of license, - - - -	" " 50
" Entering constable's return and levy, - -	" " 50
" " Appeals and entry of pleas or default, -	" " 75
" Every guardian notice, - - - - -	" " 50
" Attendance at court, - - - - -	" 1 00
The Sheriff shall receive	
For every arrest, - - - - - - -	" " 75
" " Bail or replevin bond, - - - -	" " 25
" Service of subpœna with copy of petition, - -	" " 50
" " Of notice to arbitrators, referees or commissioners to take an account, - - -	" " 25
" Every *scirefacias*, - - - - - -	" " 50
" Summoning guardian to renew bond, - -	" " 50
" Serving subpœna for one person, - - -	" " 50
" Each other person named therein, - - -	" " 05
" Every commitment - - - - - -	" " 25
" " Release, - - - - - - -	" " 25
" Each criminal in jail per day, - - - -	" " 25
" Every notice to take deposition, - - -	" " 25
" Summoning jurors to court, - - - -	" " 37 1-2
" Empanneling jury in each case, - - -	" " 10
" Tales men, each juror, - - - - -	" " 10
" Serving writ of Habeas corpus, per diem, -	" 1 00
" Selling estate of intestates per centum, - -	" " 06 1-4
" Executing warrant of distress, or an execution against the body per centum, - - -	" " 06 1-4
" All monies collected by virtue of levy, per centum, or paid by defendant to plaintiff while the execution is in the sheriff's hands, - -	" " 06 1-4

" Every writ of possession, - - - - -	" 1 00
" " Levy by virtue of execution or attachment	" " 75
" Further trouble by moving goods to be assessed by court,	
" Execution and decent burial of any criminal, -	" 10 00
" Apprehending any criminal, - - - - -	" 1 00
" Like services in equity, the like fees,	
" Travelling expenses per mile, - - - - -	" " 10
And in all cases where no fee is allowed the sheriff, he shall when engaged for the Commonwealth, receive per diem, - - -	" 1 50
That the Coroner's fees shall be	
For holding every inquest - - - - - -	" 2 00
" Intering deceased person, if paid by the estate -	" 10 00
" " " " " " " the county, -	" 6 00
" Other services, like fees as the sheriff,	

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Constables shall receive	
For attending Quarterly and Superior Courts, per day,	" 1 00
" Serving warrant, summons, or subpœna, -	" " 25
" Each additional copy - - - - - -	" " 05
" Execution and levy, - - - - - - -	" " 50
" Attachment, levy and advertisement, - -	" " 25
" Every bail bond, - - - - - - -	" " 10
" Serving notice on person failing to render account of taxables - - - - - - -	" " 20
" Attending each trial in Justice's Court, - -	" " 25
" Monies collected per centum, - - - - -	" " 05
Attorneys' fees shall be	
For every suit in equity, - - - - - -	" 10 00
" " " " Superior or County Court, -	" 5 00
" All appeals from Justice's Court, - - -	" 2 00
And commonwealth attorneys may receive	
For conviction of petit larceny or misdemeanor, -	" 2 00
" " " Grand " - - - - - -	" 4 00
Clerks and Masters in Equity may receive,	
For report on an answer - - - - - -	" " 25
On plea or demurrer and answer - - - - -	" " 50
For an affidavit, - - - - - - - - -	" " 10
" Copying report, every 90 words, - - - -	" " 20
" " of proceeding and exemplification -	" " 20

" Taking bond,	"	" 10
" Subpœna, writ or other process,	"	1 00
" Every commission	"	" 50
" Drawing decree, per sheet	"	" 25
" Executing bill or answer,	"	" 20
" Entering plea on demurer,	"	" 20
" Recording deposition to perpetuate testimony,	"	" 20
" Every dismission,	"	" 20
" " Search,	"	" 10
" Taking security in leading process,	"	" 20
" Recording bond,	"	" 20
" Seal of Court, &c,	"	" 25
That the Register shall receive		
For registering a grant or deed for one tract,	"	" 50
" " Every additional tract,	"	" 10
" " " other instrument of writing,	"	" 50
" Every search,	"	" 10
Magistrates shall receive		
For issuing warrant, subpœna or execution,	"	" 25
" Every additional name in subpœna	"	" 05
" Swearing witness,	"	" 05
" Recording judgment,	"	" 25
" Taking written affidavit	"	" 25

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For sitting in County Court per day,	"	1 00
Jurors shall receive		
Petit Jurors for every case	"	" 12 1-2
Grand Jurors per day,	"	" 50
Coroner's Jury	"	" 25
Travelling expenses per mile	"	" 10
Witness shall receive		
Before Justice Court per case,	"	" 12 1-2
" All other courts, " "	"	" 50
For travelling expenses per mile,	"	" 10
Surveyors shall receive per day,	"	2 50
For travelling expenses, " mile,	"	" 10
Committees, Appraisers, Assessors and Overseers, shall receive per day,	"	1 00
For travelling expenses per mile,	"	" 10
Judges and Clerks of election per day,	"	1 00

Clerks of Courts Martial shall be paid out of fines accruing from the military, per day, - - -	" 1 00
Judges of the Superior Courts per term - -	" 37 50
For travelling expenses per mile, - - - -	" " 10
Notaries Public for every protest of bill of exchange, or promisory note or any other protest with seal of office, &c, all services, - - - - - -	" 1 00
The Marshall for all services, shall receive per day, -	" 3 00
The Collector of Customs for Grand Bassa County, on all monies received and paid into the Treasurer's hands shall receive a per centum, - -	" " 12
The Collector for Monsterrado County, - -	" " 10
The Treasurer in each county - - - -	" " 04

In all Commonwealth cases—Clerks, Sheriffs, Constables and Magistrates shall be entitled to half the amount of fees allowed in civil suits, to be paid by the Commonwealth, or the defendant as the prosecution may eventuate.

Sec. 2. And be it further Enacted:—That in all suits hereafter tried and disposed of either in the County or Superior Courts, the party convicted or failing in the action, shall pay a tax fee of one dollar—which shall be collected by the Clerk, and paid over to the County Treasurer within thirty days after the same shall have been received by him.

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An Act Regulating Commerce and Revenue.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That the lawful Commerce of all nations, transacting lawfully their business, and observing the rules and regulations laid down for their government, shall be on equal footing in these colonies and entitled *alike* to all the advantages thereof. But no trading establishment whatever or establishmets, for the purpose of trade shall be formed on the coast within the jurisdiction of this Commonwealth, by any foreigner under the penalty of the seizure of his person and the confiscation of his goods. Nor shall any foreign vessel traffic within the limits of the same except at ports of entry, under the penalties set forth in the regulations of such port of entry.

Sec. 2. *Be it further Enacted:*—That no foreigner shall have the privilege of trading with another foreigner, citizen, or native within

the limits of the colony, or at ports of entry, without the intervention of a Commission Merchant of the Colony—excepting, nevertheless such articles of provision and tackling as may be wanted for ship's use, which may be purchased under the inspection of the Collector or his Deputy, so as to secure the duties. Any violation of the above, shall be punished by fine for the first offence, of one hundred dollars, and the second offence, double the amount—one half to go to the informer.

Sec. 3. *Be it further Enacted*:—That no vessel not immediately owned by the citizens of the colony, shall be allowed to anchor in any of the ports or harbors of the colony, without paying the regular anchorage and light duties.—And the masters of all vessels requiring the protection of Fort Norris Battery, against any piratical or suspected vessel actually in sight, or believed to be hovering in the offing—also all masters of vessels through whose fault it shall become necessary to man the battery for their detention—shall pay one dollar an hour for every hour the battery shall be actually manned for such detention or defence.

Sec. 4. *Be it further Enacted*:—That all foreign vessels shall be compelled either to deposit their papers in the office of the Collector, or, if that be deemed unsafe, give bond or deposite with him property, to the amount of one hundred dollars as security for the payment of his dues:—*And further*, that all vessels before sailing from these colonies, shall receive a clearance from the Collector of Customs, the master or owner thereof paying for the same, the sum of twenty-five cents—which clearance shall entitle the master of any foreign vessel to retake his papers or bond or property deposited as before required.

Sec. 5. *Be it further Enacted*:—That no Captain or Supercargo of any vessel, shall take away any missionary, native, citizen, or other *resident* of this Colony, without a passport to be granted by the Secretary, under the penalty for each and every offence of one hundred dollars. *Provided always* this shall not apply to vessels carrying persons to any of the American settlements.

Sec. 6. *Be it further Enacted*:—That it shall not be lawful for the master or other person to land any goods from on board any boat or vessel without a permit, special or general; and any permit shall be valid only so long as the vessel shall remain in harbor—any vessel having left the harbor shall procure a permit to land any portion of her cargo on her return, and all articles or goods of any kind landed

without such permit, shall be held liable to seizure.

Sec. 7. Be it further Enacted:—That all vessels, boats and people engaged in, or in any wise aiding or abetting the Slave Trade, are hereby forever forbidden to have any intercourse with our water, or our shores;—and should they by distress be driven to anchor in our waters or land on our shores, the circumstances of their case are immediately to be reported to the Governor, Lieutenant Governor, or some person appointed to hear and decide on the merits of the case, and any violation of this law shall subject them to seizure and imprisonment of themselves, and confiscation and sale of their effects &c.

Sec. 8. Be it further Enacted:—That no citizen of this Commonwealth, or any foreigner within the jurisdiction of the same, shall be permitted to act as agent or attorney for any person or persons engaged in the Slave Trade, under a penalty of being six months bound to hard labor in irons:—And further that no person resident within the jurisdiction of this Commonwealth, shall enter into the employ or service of any slave dealer, or of any person in the remotest degree connected with him or them, under the penalty of indictment and fine of fifty dollars; and any person belonging to these colonies being found on board any slave boat or vessel, or in the neighborhood of any slave dealing establishment, shall be deemed accessary to their crime, and suffer the penalty as above—but should any person so implicated show that he or she was by accident or distress thrown into that situation, being satisfied of such fact, His Excellency the Governor may admit the plea in pardon or extenuation, but should he or she fail to make good such representation, he or she shall suffer the penalty last above named.

Sec. 9. Be it further Enacted:—That all vessels hailing from ports, and sailing under the flag of this Colony, are hereby prohibited from any and every species of intercourse with slavers at sea or elsewhere, and forbidden to trade or hold any negotiation with them, under the penalty of the seizure and condemnation of their vessel, and forfeiture of all the articles or the value of them so traded for, and no such vessel above mentioned shall purchase *at sea* from any vessel any goods, wares, or merchandize and land them at any port, or any factory they may be licensed to keep within this Commonwealth, without accounting to the nearest port officer for the amount of duties chargable on said purchase, and paying the legal tariff duties imposed on the articles, under the penalty hereinafter affixed to smuggling in these colonies.

Sec. 10. Be it further Enacted:—That the owners of all sailing crafts belonging to the colony, shall not sail the same outside of the

rivers, without providing them with a colonial flag or broad pennant, and a sailing license or Register from under the hand and seal of the Governor, under penalty of paying one dollar a ton for every ton, such craft may measure, for each unlawful trip—and all such vessels so sailing from any port in these colonies, and trading coastwise under the protection of this government, shall pay a Tax of fifty cents per ton per annum, which Tax shall be paid by the master or owner before the license above named shall be granted.

Sec. 11. *Be it further Enacted*.—That the master or owner of any vessel sailing under the flag of the colony, and registered in said colony shall within twenty-four hours after the arrival of such vessel, within any port of entry in the colony, present to the Port Officer, or Collector of Customs of said port, a correct list or manifest of the cargo on board, and receive from him a permit to land the same, without which it shall not be lawful to break bulk, or discharge any part of the cargo

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of said vessel:—*And further*, That if any master or owner of any such vessel arriving as aforesaid—shall proceed to land or discharge any part or portion of his cargo without first having complied with the above requisitions, he shall for every such offence, on conviction thereof, before the Court of Quarter Sessions, be fined in a sum not exceeding forty dollars nor less than twenty:—and all goods or merchandize thus landed, on which there is a revenue duty to be collected—shall be seized and disposed of by the Collector at public sale—the proceeds of which shall go to the use of the commonwealth, reserving to the Collector or any person making such seizure, a commission of 50 per cent for his services.

Sec. 12. *Be it further Enacted*:—That it shall be the duty of the Collector to board every vessel anchoring in our ports, before such vessel has had any communication with the shore, and on failure thereof shall pay the sum of ten dollars.—It shall be his duty to furnish the master, or commander of said vessel with a copy of the port regulations:—for every neglect whereof he shall pay the sum of five dollars.—He shall suffer no vessel to unlade any part of her cargo without a permit, under the penalty of twenty-five dollars.—He shall also inspect all boats coming from foreign vessels or otherwise, and all goods landed from such boats or vessels which are not enumerated in a permit, shall be seized. He shall keep in a book to be provided for that purpose, an accurate account of all the arrivals and departures of vessels, and of all passengers coming to or going from these ports,

and the exports, and imports shipped away or received. It shall also be his duty to enforce the collection of duties before the departure of any vessel from which any sums may be claimed, and for every neglect he shall forfeit and pay the sum of fifty dollars.—He shall make a full return of all the matters and things connected with his office at the close of each quarter, and pay over to the Treasurer, all and whatever monies may have come into his hands—and in case of failing to make a report, shall forfeit and pay the sum of ten dollars. And on failing to pay over the amount collected, the sum of one hundred dollars.

Sec. 13. *Be it further Enacted*:—That on all ardent spirits, wines and cordials landed in any part of the colony, there shall be collected a duty of twenty-five cents per gallon—and all such articles shall be landed under the immediate observation of the Collector, and by him be gauged or the quantity otherwise ascertained on the spot, and the amount of duties thereon be paid before it is removed from the place of landing, and on failure in either of these particulars the articles aforesaid shall be forfeited to the commonwealth. And there shall be collected a duty of five per cent *advalorem* upon all goods, wares and merchandize, (other than those above enumerated) brought into the colony, excepting goods and merchandize brought in by the missionaries for their *private* use. The *advalorem* duty in all direct importations shall be assessed on the cost of goods—but in the sale of transient traders, the commission merchant's account shall be assumed as the valorem, and the duties computed according to it.

Sec. 14. *Be it further Enacted*:—That each commission merchant, shall pay a Tax of twenty-five dollars per annum; and each retailer shall pay twelve dollars per annum—and it shall not be lawful for any colonist, or other person within the colony, to sell or barter any goods, merchandize, or vendible property, or transact commercial business for any foreign importer, merchant, master, supercargo or owner, on commission without first having obtained a commission merchants license, nor shall any licensed commission merchant, as such, either

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by himself or another, deal, transact or barter, other than in the legal wholesale way—nor shall any commission merchant as such sell or barter any goods wholly or in part, the property of any foreigner, to or with the native inhabitants within the limits of the colony. Nor shall any commission merchant hold goods, wares or merchandize received from foreigners, at other than the rates or prices thereon affixed by the consignor—nor shall he advance upon the prices so affixed with-

out written instructions to that effect, under a penalty of indictment and a fine of one hundred dollars, for every offence under this section:—one half to the use of of the commonwealth, the other half to the informer.

Sec. 15. *And be it further Enacted*:—That no citizen or alien resident in this Colony, shall trade or traffic with the natives of this country out of the bounds of the town wherein he resides, under the penalty of confiscation of every and all the articles of trade, produce, or cattle employed in the transaction. For every second offence he shall be find in addition in the sum of one hundred dollars and costs—and if he be unable to pay he shall be sentenced to hard labor six months on the public works. And for any resistance to the infliction in this section he shall be liable to indictment for misdemeanor and punished by confinement and hard labor on the public works six months. Provided always that the citizens of this commonwealth shall be allowed to establish factories on the sea board any where within the jurisdiction of this colony by paying an annual license of twenty-five dollars.

Sec. 16. *Be it further Enacted*:—That no person or persons whatsoever, shall trade or traffic by buying or selling merchandise for gain within the colony, except those who have obtained a license as by law required. And further that all trade shall be carried on and calculations made in the currency of the colony, for every transgression of this last clause the offender shall be fined in the sum of one dollar with costs at the suit of the Commonwealth before any Justice of the Peace.

Sec. 17. *Be it further Enacted*:—That no person shall sell ardent spirits, wines, or cordials without having first obtained a special license for which he shall pay the sum of twenty five dollars, said license to be renewed on the 1st January in each year. *And further* that the penalty for selling ardent spirits without license in this commonwealth shall be one hundred dollars to be recovered by action of misdemeanor in any court of this commonwealth having competent jurisdiction, one half to the use of the informer and the other half to the use of the commonwealth.

Sec. 18. *Be it further Enacted*:—That it shall be the duty of those who are, or may hereafter be engaged in the sale or trade of spirituous liquors, to have their shops distinguished by a sign board on which the name or names of the owners shall be printed in large capitals, underneath which their special business shall be designated, thus, "A. B. SELLS RUM" and on failing thus to distinguish himself or them-

selves, he or they shall forfeit and pay the sum of one hundred dollars recoverable in any court of competent jurisdiction, to be collected as often as the offender is admonished by any officer of government, and fails to comply with the above requisition.

Sec. 19. *Be it further Enacted*:—That any person wishing to carry on the business of Auctioneer shall pay annually to the commonwealth the sum of five dollars;—and further that there shall be paid on all

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auction sales the sum of one and a half per centum to be called auction duty,—said duty shall be collected quarterly by the sheriff or his deputy and deposited by him in the treasury, on which he shall be allowed the legal per centage for monies collected by him:—and for the safe collection of said duty, shall be empowered to use the means allowed for the collection of other monies.—Nevertheless the tax above shall not be construed to extend to the sales of estates made by executors or administrators.

Sec. 20. *Be it further Enacted*:—That the method of obtaining all licenses, for which payment is made to the commonwealth, shall be by presenting to the County Court during its session the Treasurer's receipt, whereupon the court shall order the clerk to grant the license applied and paid for: And all licenses shall be granted for one year to expire on the 31st December. *Provided* should any person apply for license or licenses after the commencement of the fiscal year, which is understood to commence the first day of January—said person or persons so applying shall be compelled to pay only in a just ratio of the unexpired term of one year—and provided further that any and all persons may obtain license to trade in one or as many places as he or they may choose, but he or they shall have no more than one place of trade in each township or only so many as he or they shall have received license to keep, under the penalty attached to trading without license.

Sec. 21. *Be it further Enacted*:—That any person accused of receiving goods in the jurisdiction of this colony, on which tariff duties have not been paid, or in other words *of smuggling* into these colonies any goods or articles chargeable with duties, shall be subjected to have the said articles seized by the collector, and on conviction thereof the same shall be sold for the benefit of the commonwealth, and he shall also pay four fold the value of the articles so smuggled, or be committed to the common jail, there to be kept in close confinement till the said penalty with all costs of collection shall be paid.

Sec. 22. *Be it further Enacted*:—That any person trading or bartering within this commonwealth with the natives or others, in goods, wares, or merchandize on which the regular duties have not been paid, shall on conviction, forfeit and pay the amount of the goods so sold or bartered contrary to law.

Sec. 23. *Be it further Enacted*:—That any goods, wares and merchandize, which may be landed according to the requirements of this law from foreign vessels for sale, and shall remain unsold, the captain, supercargo or other officer of such foreign vessel, shall upon obtaining a permit from the Collector of Customs, be allowed to reship such goods, wares, and merchandize on board such foreign vessel from which they were landed free of import duty, as respects all but ardent spirits, wines, and cordials.—*Provided* if such goods remain more than thirty days the goods shall not be entitled to the aforesaid exemption.

Sec. 24. *Be it further Enacted*.—That all goods, wares, and merchandize imported into this colony shall be entitled to draw back when exported:—subject, however, to the following provisions:—Said goods, wares, and merchandize must be landed in complete and unbroken packages, and reshipped in the same unbroken packages;—must be exported in the same vessel in which they were imported, and in nine

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months from the date of landing;—each package shall be marked at the time of landing, and the name of the vessel from which it was landed:—for which the Collector shall receive a compensation of three cents on each package from the owner of said goods. The Captain or Supercargo of the vessel in which said goods may be imported, or the owner of said goods with his factor shall pay the amount of duties on said goods, wares, or merchandize at the time they are landed; or shall execute a bond to the Collector for said duties payable in nine months or whenever said goods are reshipped,—if reshipped in less than nine months; and said goods shall not be considered as reshipped unless they are reshipped under the immediate inspection of the collector or his deputy—The Collector shall keep a true and faithful account of said goods with the marks and the date of landing: and in the event of his resignation shall deliver the account to his successor:—*Provided always* that no drawback on ardent spirits, wines, and cordials, shall in any case be allowed.

Sec. 25. *Be it further Enacted*:—That all fines and forfeitures upon civil officers by virtue of this or any other act, when not otherwise

specially provided for, shall be collected under the direction of the Executive or other persons appointed by him within twenty days, by a summary process or distress warrant against the person so amerced—and all monies due the commonwealth from other persons, shall be collected by the Sheriff within forty days, and if not then paid, he shall proceed to levy upon and sell as much of the delinquent's property as will satisfy the demand.

Sec. 26. *Be it further Enacted*:—That in all cases where a Sheriff or other person charged with the collection of money due the commonwealth, shall fail in accomplishing the same, execution shall be issued against him or them, and his or their securities immediately; and all officers neglecting or refusing to pay over monies collected, on account of the commonwealth, shall be subjected to a summary process, for the recovery of double the amount claimed at their hands, to be levied on any goods and chattles in their possession.

Sec. 27. *Be it further Enacted*:—That nothing in the preceeding sections shall prevent any laborer or mechanic from being permitted to exchange the products of his labor—or any farmer, the products of his farm, for articles necessary for the consumption of his family, and also for camwood and ivory, *provided always* such exchanges shall be made at the house of the colonist so making them, or with a merchant at his store.

Sec. 28. *And be it further Enacted*:—That all and any further regulations necessarily growing out of our maritime regulations, shall be subjected to the control of the Chief Executive of this Commonwealth.

An Act to Regulate proceedings in cases of Wreck &c.

Section 1 *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*:—That whenever boats, goods or property of any kind, having been wrecked or lost, and found, it shall be the duty of the finder, to deliver the same into the custody of the Collector or his Deputy, who shall give notice by public advertisement thereof for ten days in the neighborhood of those supposed to be concerned, after which time, unless application be sooner made on the part of the owner or owners of the

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said property, the Collector shall proceed to sell the same to the highest bidder, and after deducting his commission with the salvage herein-

after specified, shall pay over the balance into the Treasury of this Commonwealth. But should an owner appear to claim the said property, he shall be required to pay a salvage of one fourth the value of the articles so found, to be paid or secured to the finder.

Sec. 2. *Be it further Enacted*:—That whenever the Collector as aforesaid, and the owner of wrecked or lost property, shall disagree as to the value to be fixed on any article under the circumstances above mentioned, then it shall be the duty of the parties to have recourse to arbitration according to the rules and customs for the government of such proceedings.

Sec. 3. *Be it further Enacted*:—That upon the decision of the arbitration aforesaid, should the owner or owners be unwilling or fail to secure to those concerned, a ratable proportion of the value so fixed, then he the said Collector, shall proceed to sell the same for ready money to the highest bidder, and after deducting for himself the usual commission of his office, he shall then pay over to the parties concerned, such proportion as shall accrue on the products of the sale

Sec. 4. *Be it further Enacted*:—That should any person finding or picking up any wrecked or drifted property, fail or refuse to submit to the proceedings above prescribed, his claim or claims as finder or any other person for him, shall be abrogated—and he shall further be liable to be proceeded against as in cases of felony, and upon conviction shall suffer the same penalties as for any other act of larceny according to the magnitude of the offence.

Sec. 5. *And be it further Enacted*:—That should the Collector, or his Deputies fail to fulfil the duties resting upon him in making the proper disposal of effects so coming into his hands, himself or his securities shall pay to the parties aggrieved, double the value of such property.

An Act relating to Treaties.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*:—That in all cases of treaties to be made, of which this Government shall be a party, the Governor may appoint Commissioners, who may be clothed with the necessary power, and held bound to depart in no wise from their instructions.—And all treaties, whereof the Commonwealth is one of the contracting parties, shall, from the date of their

publication, become *laws*:—And offenders against their provisions shall be punished in pursuance of judicial sentence.

Sec. 2. *And be it further Enacted*:—That in all treaties and negotiations with the surrounding Head-men or Chiefs of native tribes for land, the settling of questions of boundary, or for the extension of territory, a fair and complete understanding shall be had and obtained, and proper instruments of writing shall be had and made, fully expressing the whole subject matter of agreement or arrangement made and entered into—the full amount paid as the consideration of any bargain, or for any purchase made, together with the real signatures of all concerned in the transaction:—And no Chiefs or Head-men, the

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proprietors of any lands, shall by either force or fraud, be brought to accede to measures—nor shall any construction by implication be given to words, or actions be employed to deprive them of their rights in any respect, and more especially with regard to lands, when they signify an unwillingness to deal in the way of pacific negotiation.

An Act relating to Expatriation.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*:—That any person or persons citizens of this Commonwealth, who shall remove to another Government or Colony and take the oath of allegiance, shall not be entitled to the privileges of citizens in this—and should such persons again return, they shall not be entitled to the elective franchise, until they have again taken the oath of allegiance to this government and have remained in the colony at least twelve months thereafter,

Sec. 2. *And be it further Enacted*:—That should any person or persons who had left the Colony, again return and refuse to take the oath of allegiance, declaring that he or they had not become citizens of any other Government, and there should be any doubt respecting the fact, said person or persons shall be questioned as to the truth of the same before some Justice of the Peace, and his or their answer in the negative shall be recorded by the Register:—And should it be afterwards found that he or they had taken an oath of allegiance to any foreign Government or Colony, all his or their real property in the Commonwealth shall be confiscated, and he or they debared forever from citizenship therein.

An Act regulating the residence of Native Africans within the Colony.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That all Native Africans who may become residents, or remain within the corporate bounds of the several counties of this Commonwealth—whether adults or minors, shall be compelled to wear clothes under the penalty of being fined in a sum not exceeding five dollars, nor less than one dollar.

Sec. 2. *Be it further Enacted:*—That no native youth under the age of eighteen years shall be allowed to dwell in the families of colonists, without being bound for a specified term of years, according to the rules prescribed in an Act concerning apprentices.

Sec. 3. *Be it further Enacted:*—That all male natives from the age of 16 years to 60, resident within the several townships, shall be compelled to work the same number of days directed by law for the citizens; they being ordered out at the discretion of the Commissioners.

Sec. 4. *And be it further Enacted.*—That Liberated Africans incorporated in the Colony, and who shall be deemed capable of managing, shall receive small grants of land.

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An Act Pertaining to Attorneys.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That no person shall be allowed to plead implead or prosecute as an attorney before any of our courts but such as shall be regularly licensed, by the courts: and such license may at any time be withdrawn, where any indecorous language is used by the person towards either the court or jury.

The attorney appointed to manage public prosecutions shall maintain the authority of the laws against all who shall criminally violate them.

That fifteen dollars be paid by each and every attorney for his license, into the public treasury, and fifty cents to the Clerk of the Court for drawing said license, and such license shall be signed by the Judge of the Court and recorded by the Register.

An Act legalizing marriages and legitimating illegitimate children.

Sec. 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That no marriage of colonists or others resident or being in the colony, (natives of the country excepted) shall be lawful without a license previously had from the Clerk of the County Court—and those persons requiring license shall give bond and security in the sum of two hundred dollars that there is no illegal barrier to their entering into the proposed connexion. The parties to any marriage contrary to this section shall be expelled the colony and the person performing the marriage ceremony for unlicensed parties shall be fined discretionary by the Court of Sessions.

Sec. 2. *Be it further Enacted:*—That it shall be the duty of all authorized Ministers of the Gospel, Judges and Justices of the Peace who shall hereafter join together any persons in bonds of matrimony, to make a return, of the marriage license, certifying thereon the intermarriage of the parties and the date of the solemnization thereof, to the Clerk of the Court of Quarter Sessions, who shall enter the same in a book kept for that purpose, and for such entry shall be entitled to receive ten cents which shall be paid when such license is granted—and the register of such marriage or a certified copy thereof shall be admitted as evidence of such marriage in any of the courts of this Commonwealth.

Sec. 3. *Be it further Enacted:*—That all persons who at the time of their arrival in this Commonwealth, shall be living and cohabiting together as husband and wife, shall previous to their admission to the rights and priviledges of citizens, be cited by the Clerk of the Court aforesaid to appear and in his presence and the presence of each other, be required solemnly to acknowledge and declare themselves to be bounden and lawful man and wife—and said acknowledgement it shall be the duty of the clerk to record, to remain thereafter full and sufficient evidence of the marriage of the parties therein named.

Sec. 4. *Be it further Enacted:*—That a certificate of a marriage solemnized by a Minister or other person, according to the laws and usage of the state or country from whence the person or persons may

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have come, shall in all cases be deemed sufficient evidence of the marriage of the parties named therein.

Sec. 5. *Be it further Enacted:*—That no persons who shall be living and cohabiting together in manner aforesaid, and refusing or neglecting to comply with the requisitions of the 2nd or 3d sections of this Act, shall be entitled to draw or hold lands in the colony or enjoy and exercise any of the rights and priviledges of citizens, until or unless, they be solemnized in marriage according to the forms and customs of this Commonwealth.

Sec. 6. *And be it further Enacted.*—That in all cases when any person or persons may have an illegitimate child or children, and desires to make such child or children legitimate, he or they shall make application to the Court of Probate, and said Court shall order their Clerk to make a record of said application, stating the day and date, the names of the parties making such application and the name of the child or children so legitimated—and the said Clerk shall give the parties a certified copy of said record which shall in all cases be deemed full and sufficient evidence of the legitimacy of such child or children.

An Act requiring the Register of Births and Deaths.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That there be a Town Clerk appointed annually in each town, whose business it shall be to keep a record of the births and deaths of all persons occuring therein, specifying the day of each birth and death, and the names of the persons if known

Sec. 2. *Be it further Enacted:*—That parents shall give notice to the clerk of their town, of the births and deaths of their children:—And every householder shall give like notice of every birth and death happening in his or her house.—The oldest person next of kin shall give such notice of the death of his kindred:—And the Sexton of the burial ground in each town shall give notice of the interment of every person and the names of the persons so intered.

Sec. 3. *Be it further Enacted:*—That the Town Clerk shall make semiannual reports to the Probate Court:—And the Clerk of the Court of Probate and the Town Clerk shall receive each the sum of five cents for every birth or death that they may record, which sum shall be paid out of the County funds.

Sec. 4. And be it further Enacted:—That the Probate Clerk shall make annual returns of all such matters and things as come within the view of this Act, to the Colonial Secretary.

An Act concerning the Census.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That whenever he may deem it necessary, His Excellency the Governor, shall appoint one person in each township to take the census of the inhabitants thereof:—And that persons so appointed shall forth-

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with render a just and true account and return, shewing

1st. The name of each head of a family, male or female;

2nd. The ages and number in each family, so as to shew,

3rd. All males over 65 years of age;

4th. All females of that age;

5th. All males over 50 and under 65;

6th. All females of same age;

7th. All males over 21 and under 50;

8th. All females of same age;

9th. All males between 16 and 21;

10th. All females of same age;

11th. All males over 12 and under 16;

12th. All females of same age;

13th. All males over 5 and under 12;

14th. All females of same age;

15th. All males over 1 and under 5;

16th. All females of same age;

17th. All males under one year;

18th. All females of same age;

19th. How many of all ages have been born in the Colony;

20th. All idiots, lunatics and decrepit persons;

21st. The number of horses, jacks, mules, or working oxen, belonging to each and every family—the number of spinning wheels—all or any kind of produce they raise, or manufacture for market—and the number of acres of land cultivated by each and every citizen.

Sec. 2. Be it further Enacted.—That the pay allowed shall be according to the numbers returned, at the rate of one dollar for every hundred souls.

And the representation in the Legislative Council shall be in a just ratio of the population of each county in the Commonwealth.

An Act to Regulate the Militia.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:* —That every able bodied male citizen of this Commonwealth, between the ages of 16 and 50, except those hereinafter enumerated, shall be enrolled in the Militia —And that every male citizen between the ages aforesaid, shall be considered "able bodied," unless he shall produce to the Commander of the Regiment a certificate from a Physician of his inability.

Sec. 2. Be it further Enacted.—That the following named persons shall be exempted from doing military duty, except in cases of invasion or insurrection, or when the public exigency shall demand their services.

Judges of the Superior Courts, Members of the Legislative Council, and Ministers of the Gospel, holding a pastoral charge;—and persons regularly employed on board the vessels of this Colony, as seamen or supercargoes.—And whether belonging to volunteer or militia companies, they shall be exempted when actually engaged in their calling, or about to go to sea on the days of muster, except such as belong to volunteer companies.—*Provided* that persons so claiming to be ex-

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empted shall register their names in the office of the Clerk of the County Court: and on proof being furnished to the Commander of the militia, that any person or persons so registered, shall have been unemployed in his or their calling for three months at any one time, he or they shall be enrolled and compelled to do military duty, the registration of his or their names as aforesaid, notwithstanding.—*And provided further*, that every seaman and supercago so exempted, shall pay monthly into the hands of the County Treasurer, of the County in which the port from which he hails is situated, the sum of twenty-five cents;—to be accounted for by the Treasurer, and applied as the Legislature may direct.

Sec. 3. *Be it further Enacted:*—It shall be the duty of the Commander-in-chief to organize the Militia of this Commonwealth into one Brigade, to consist at present of two Regiments, and as soon as may be complete the organization, by filling up the Brigade;—*Provided,* however, that it shall not ever embrace more than four Regiments, which shall be as equal in point of numbers as circumstances will allow:—*And provided* that no new Regiment shall be formed with less than six companies of forty men each.

Sec. 4. *Be it further Enacted:*—There shall be one Brigadier General, with one aid, whose rank shall be that of Captain; one Brigade Inspector, with the rank of Major; and one Quarter Master with the rank of Captain

To each Regiment there shall be one Colonel, one Lieutenant Colonel, one Major, one Surgeon with the rank of Lieutenant, and two Surgeon's mates with the rank of Ensigns:—one Adjutant and one Quarter Master with the rank of 1st. Lieutenant:—one Sergeant Major, one Quarter Master Sergeant, and one Drum Major with the rank of first Sergeant.

And to every Company there shall be one Captain, two Lieutenants, one Ensign, four Sergeants, four Corporels, and two Musicians.

Sec. 5. *Be it further Enacted*:—That the Commander-in Chief, shall grant a charter to any body of men, as a volunteer company, when he shall have a roll of forty rank and file presented to him for that purpose, which volunteer company, and such as are now chartered, shall have the benefit of the fines accruing from their company parades. The charter of every such volunteer company, shall specify the duty of its members, to arm and equip themselves fully, as hereinafter provided, and to hold themselves ready at all times when notified, for actual service as volunteers.

Sec. 6. *Be it further Enacted:*—That every private and non-commissioned officer in the line, whether attached to volunteer companies or not, shall be bound at all times to appear on parade with a good musket, bayonet and cartridge-box; and when called into actual service with a suitable knapsack—and every volunteer company neglecting to comply with, or actually violating the provisions of its charter, shall be formally cited by notice of at least 26 days, to show cause before the Commander-in-Chief, why it should not be disbanded, and if sufficient excuse is not rendered for such neglect or violation, the Commander-in-Chief, may disband the company, and institute proceedings against the officers of such company before a Court Martial.—*Provided* always,

that every volunteer company shall be disbanded so soon as it is reduced below the number of forty rank and file.

Sec. 7. Be it further Enacted.—That there shall be two regimental

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parades during the year, viz:—one on the first Saturday in March, and one on the first Saturday in September.—Company parades shall be held on the second Saturday in every second month.

The officers and non-commissioned officers of the staff and line, shall be required to parade for drill and other duty two successive days, preceeding each regimental parade, and the whole or any portion of the militia may be ordered on duty at such other times, as the Commander-in-Chief may direct

Sec. 8. Be it further Enacted – That all general orders shall be issued by the commander-in-chief, through one of his Aids—brigade orders shall be distributed by the Brigade Major, and regimental orders by the Adjutant of each regiment

The Brigade Major, shall keep a fair transcript of all returns made to him, in a book, and shall file all such returns in his office—and he shall make a full report of the state of arms, and equipments throughout the brigade, within twenty days after each regimental parade, to the Commander-in-Chief.

Sec. 9 Be it further Enacted.—That there shall be two Regimental Courts Martial held in each county, within twenty days after the regimental parades. The court shall be composed of the commanders of the regiment, where it is held, and at least four other commissioned officers This court shall have cognizance of all military offences within its bounds, committed by officers below the rank of Major, and may impose fines and forfeitures incurred at regimental parades, and from this court, appeals may be had to the General-Court Martial.

There shall be one General Court Martial held at Monrovia, on the second Wednesday in January, of each year, to be composed of a General and two or more staff officers, which shall have cognizance of all military offences committed by any officer above the rank of captain—and from this court, appeals may be had to the Commander-in-Chief.

Sec. 10. Be it further Enacted —That any private failing to attend parade when properly notified, shall be fined in a sum not less than one and a half nor more than five dollars—for appearing without a gun, not less than twenty-five cents nor more than three dollars, and for any and every other article of arms, or equipment which he shall appear

without, not less than twenty-five cents nor more than two dollars.—For every act of disorderly or unsoldierlike conduct, a sum not less than one dollar nor more than ten dollars—and for any act of disobedience or disrespect to officers, not less than two nor more than twenty-five dollars.—Every non-commissioned officer for any of the above offences, shall be fined double the sum imposed upon a private, and also be reduced to the ranks.

Any officer failing to appear on parade at any time when properly warned, shall be fined in a sum not less than three dollars, nor more than twenty dollars, and for failing to uniform himself according to law, shall be fined in a sum not less than ten nor more than fifty dollars, and for any unofficerlike conduct, or disobedience to superiors, may be fined in a sum not less than twenty dollars, nor more than one hundred dollars, and may be further cashiered and reduced to the ranks.

And it shall be the duty of every staff and field officer, and every

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commander of companies, and orderly sergeants to provide themselves with a copy of the most approved work on the tactics and discipline of the United States Army.

Sec. 11. *Be it further Enacted.*—That whenever the militia, or any portion thereof, shall be called into actual service, the pay of a private shall be eight dollars per month, and a daily allowance of one pint and a half of rice, and a half pound of beef or their equivalent in other wholesome provisions:—Corporals shall receive ten dollars per month, and like rations with a private:—Sergeants (except the orderly) eleven dollars:—Orderly Sergeants shall receive fifteen dollars per month:—Ensigns and Lieutenants shall receive seventeen dollars per month, and two rations:—Captains shall receive twenty-two dollars per month, and two rations:—Majors thirty dollars per month, and three rations:—Lieutenant Colonels shall receive thirty-five dollars per month, and three rations:—Colonels thirty eight dollars per month, and three rations.

Brigadier General forty dollars and four rations.

Sec. 12. *Be it further Enacted:*—That the general tactics and discipline of the militia—the police and general regulations when in actual service,—and the forms of proceedings in court martial, and all forms of military process, order of reports, accounts and returns shall be the same as in the United States service.

An Act establishing an Uniform Currency.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:* —That the Engraved Bills of the American Colonization Society, under the control of their Agent, and none other, shall be the currency of this Commonwealth, and that the said Bills shall be at their par-value, a tender in all payments whatsoever.

Sec. 2. *Be it further Enacted:*—That the aforesaid Bills shall at all times be redeemable in Specie, Camwood or Ivory at the following rates;—Camwood at sixty dollars per ton, or 2240*lbs;*—Ivory from one pound to three pounds, fifty cents per pound—from three pounds to nine pounds, sixty cents—from nine pounds to nineteen and three quarter pounds, seventy five cents—and from nineteen and three quarter pounds and upwards, one dollar.

Sec. 3. *Be it further Enacted* —That all and any Bills whatsoever in circulation issued "after the 21st, day of January 1840, on the Credit of the Commonwealth, of the denomination of Five, Three, Two and one Dollars;—Fifty cents, Twenty cents, Ten cents and Five cents, and Redeemable at the Treasury &c ," shall be received in payment for any taxes due to the Commonwealth, or for any debt due to the Colonization Society, or in case they shall not be applied to those purposes, they shall be Redeemable in the notes of the new currency.

Sec. 4. *And be it further Enacted*·—That the above regulations concerning Camwood and Ivory, shall not extend to special contracts or the transaction of business in general, so as to invalidate any contracts or lessen the value of those articles at rates previously obtaining.

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Supplementary Act of the American Colonization Society.

Whereas, it is distinctly and emphatically understood that the American Colonization Society, is the only power having authority through its Board, or the Governor of the Commonwealth of Liberia, to create, regulate, or prescribe a monied currency within said Commonwealth, and its depenpencies; Therefore.

Be it Enacted by the Board of Directors of the American Colonization Society:—That no individual or association of individuals, under any pretence whatever, shall make or issue any note or notes, drafts,

bills, orders or any other evidence of debt, or writing obligatory of any denomination in the nature of a promisory note, intended for circulation, as the representation of money ,nor shall any such note, bill, or representation of money be recoverable in Law by any process, before any legal authority whatever. And if any person or persons shall be convicted on information given in due form of law, before any Justice of the Peace in the Commonwealth of Liberia, of making, issuing, or receiving any such note, or evidece of debt as aforesaid, in addition to the costs of suit, they and each of them shall pay a fine of double the amount of said note or notes, or other evidence of debt;—one half whereof shall go to the informer, and the other half shall be appropriated to the general Treasury of said Commonwealth.

A true copy from the Records of the
Board of Directors of the American
Colonization Society.

S. WILKESON,
President.

W. McLAIN,
Secretary of the Board.

An Act constituting and regulating a Post Office Department.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:* —That there be a Post Office Department for this Commonwealth;— And that the Colonial Secretary be *Ex-officio* Post Master General.

Sec. 2. *Be it further Enacted.*—That a Post Office be established in each of the towns of Monrovia, Marshall, Bassa Cove, Millsburgh, Caldwell and New-Georgia.

Sec. 3. *Be it further Enacted:*—That there be appointed at each place a Post Master, and that a Carrier or Carriers be employed to convey the Mail, containing such letters, newspapers or pamphlets as may be forwarded therein: And that a fixed rate of postage be established, not exceeding twenty-five cents per hundred miles for each single letter, and a proportionate rate for nearer distances, to be collected by the said Post Masters;—monies thus collected shall be applied towards the payment of the expenses of the Department, and the balance of expenses shall be paid out of any money in the Treasury, not otherwise appropriated.

Sec. 4. *Be it further Enacted:*—That the several post masters shall [36] make full and accurate returns on the first Tuesday in each month to the Post Master General, of all letters received at and forwarded from their respective offices, and on the same day (if not otherwise directed) pay over to him all monies in their hands so collected.

Sec. 5. *Be it further Enacted*—That the several Post Masters, excepting the Post Master General, be allowed fifteen per cent on all monies received by them for postage, as a full compensation for their services.

Sec. 6 *Be it further Enacted*—That from and after this date, it shall be the duty of the Collector immediately on the arrival of a vessel, to demand all letters, letter packages and papers which she may have brought, and deposite them in the Post Office, and on each letter thus received, two cents shall be paid to the Captain of the vessel, to be collected from those receiving them:—And that it shall not be lawful for carriers to receive letters to be carried outside of the mail within four miles of any post office.

Sec. 7. *And be it further Enacted.*—That the Post Master General shall have all letters hereafter received or sent by him *free* of postage —as well relating to his office of Colonial Secretary, as Head of this department.

And that the Lieutenant Governor may receive and send all his official letters by the mail *free* of postage.

An Act to provide and regulate Common Schools.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:* —That there shall be established in each settlement, and township in this Commonwealth, at least one common school, and that said schools shall be under the entire control of the several school committees, hereinafter ordained, to be elected—who shall make rules for the government of the same,—visit them at least twice in the year, and be authorized to employ an instructor for each school:—*Provided always* that no one teacher, shall receive for his or her services exceeding four hundred dollars per annum. And *provided further* that each teacher shall at the end of each school term, furnish the committee a report shewing the state of his or her school, number of scholars and their

ages, the time of entrance and by whom entered, and such other matters as may be deemed important.

Sec. 2. *Be it further Enacted:*—That all persons shall be bound by law to send their children between the ages of five and twelve years to school, under the penalty, *without excuse*, of paying, at the suit of the school committee, the sum of three dollars for the benefit of the school.

Sec. 3. *Be it further Enacted:*—That all monies arising from licenses and unappropriated military and court fines shall constitute a general fund to be called the school fund, of the counties of Montserrado and Grand Bassa:—And that all monies thus arising, shall be divided among the several towns and villages in a just ratio of their inhabitants.

Sec. 4. *Be it further Enacted:*—That the several towns and villages, shall in their municipal capacity, elect annually a school committee of five persons, and also, be authorized to impose a tax on the

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male inhabitants over the age of twenty-one years, and all amounts thus or otherwise arising, shall be added to the dividend arising from the general fund, and applied to the sole use of schools.

Sec. 5. *Be it further Enacted:*—That the School Committee in the several towns and villages, shall be empowered to draw quarterly their dividend from the general fund, and apply it with the monies raised by taxes, and the penalties imposed by the second section of this Act, to the erection, purchase, or hire of school houses—payment of teachers, and the purchase of such books as may be necessary for the use of the schools.

Sec. 6. *And be it further Enacted.*—That the elections for the School Committee shall be called by the several town clerks on the first Tuesday in February annually. The polls to be managed as in other elections, and the same pay allowed the Judges and clerks, which pay shall come out of the general fund.

An Act concerning Apprentices.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That the Probate Court shall and may bind out as an apprentice, every orphan child who has no estate, and every illegitimate or vagrant

child till the age of twenty-one years, if a boy, or eighteen years if a girl, to any discreet person applying for or willing to receive such child—who shall covenant to teach him or her some art, trade or business;—also reading, writing and arithmetic, and to pay him or her twelve dollars, at the expiration of the time;—All which with the age of the apprentice, shall be specified in the indenture, which shall be filed in the Clerk's office of said court, and any parent or guardian may bind his or her child, or ward for the same period above mentioned, on reasonable terms, which terms shall with the apprentice's age, be specified in the indenture under the hand and seal of the parent or guardian, and the master or mistress. The indenture shall be filed by the master or mistress, in the Clerk's office aforesaid, within ten days after the execution thereof, under the penalty of twenty dollars, recoverable in an action of debt before the Court of Quarter Sessions. And all such indentures shall remain untransferable, except with the approbation of the said Probate Court.

Sec. 2. Be it further Enacted.—That the Court of Quarter Sessions shall at all times hear and determine in a summary way, all complaints of apprentices, against their masters or mistresses, alledging undeserved or immoderate correction, or insufficient allowance of food, clothing, lodging, or instruction—making such order therein as in the judgment of said court will relieve the party injured—or remove any such apprentice, and bind him or her to other master or mistress, when it shall seem necessary—and said court may also hear and determine in like manner, all complaints of masters or mistresses, against their apprentices for misconduct or desertion without good cause.

Sec. 3. Be it further Enacted —That when the Court of Quarter Sessions is not sitting, any Justice of the Peace on receiving good information of any improper treatment from a master or mistress, to an apprentice shall summon such master or mistress to appear before him, and may require and take of him or her, a recognizance with reasonable and proper security to be forfeited in case such master or mis-

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tress fail to appear at the next Court of Quarter Sessions, to answer and abide the determination of said court, on any complaint of his or her apprentice—Or in default thereof, the said Justice may take away such apprentice, and place him or her under the care of some other proper person, who shall be bound to have the apprentice before the said next court, to abide such determination as shall be made.

Sec. 4. And be it further Enacted:—That any person who shall

knowingly, harbor or conceal any apprentice, who shall have deserted from his master or mistress—besides being liable to an action for damages, shall forfeit and pay to such master or mistress, two dollars for every day of such concealing or harboring.

An Act to prevent fraud in the Management of Intestate and other Estates.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same.* —That from and after the passage of this Act, no person or persons shall meddle or interfere with the estate of any person dying intestate, (except to take true and correct inventories of all the real and personal estate) unless authorized so to do by the Court of Probate, for the county wherein such intestate resided—and any person so doing shall thereby become liable for the payment of all the debts due by the deceased, and for the respective shares of the natural or legal heirs to such estate.

Sec. 2. *And be it further Enacted.*—That when any person shall die intestate it shall be the duty of the Probate Court, to appoint an administrator or administrators who shall give bond and security in double the estimated value of said intestate's estate, for the faithful performance of all the duties connected therewith, viz:—That he shall make a correct statement of all and singular the property and effects of said deceased:—That whatever thereof be perishable, he may sell at auction, after having given notice by advertisement in three of the most public places in the county for the space of twenty days—that such sale may, at the discretion of said administrator or administrators, be made at a credit not to exceed six months, on bond and sufficient sureties for the payment thereof, and that he shall make returns to the next term of the court of this and all other matters and doings connected with said estate. And should it be found that the said deceased was so indebted, as to make it necessary that a further sale of said property should be had, then he shall be ordered by the court to sell any or all of said estate for the payment of such claims:—And again should there not after such further sale be enough to meet all the legal claims—then, and in that case, a *pro rata* dividend shall be made to all the claimants against said estate.

The compensation allowed such administrator or administrators for his or their services shall be a commission not exceeding five per

cent on said estate *Provided always,* that when it may be necessary, in the recess of the Court of Probate, the Chairman of the said court may grant letters of administration and orders of sale as above directed to be done by the Court of which he is Chairman.

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An Act establishing a Committee of Finance.

Sec. 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That there shall be three persons appointed in each county yearly, at the first Session of the County Court, to act as a Committee of Finance—of whose names a record shall be made with the other business of said session;—and who for their services, shall be entitled to the same rates of pay as other Commissioners when actually employed in the service of the Commonwealth.

Sec. 2. *Be it further Enacted:*—That it shall be the duty of said Committee of Finance, to assemble at the court house in each county, at least ten days before the meeting of the Legislative Council, and continue their sitting from day to day until their object is accomplished:—And they shall summon by a notice, to be served by the sheriff, the attendance before them, of all the officers of the Commonwealth (excepting the Governor,) through whose agency the fiscal affairs of the Government is conducted, at which call said officers, shall be bound to attend, and render a comprehensive statement of such matters and things as are connected with the several trusts committed to them:—And a statement of the financial affairs of each county being thus ascertained, publication thereof by advertisement shall be made in each of the townships in this Commonwealth, so as that the condition of the money affairs of the Colony, shall be thereby made known to the people generally.

Sec. 3. *Be it further Enacted:*—That should any officer on being cited as aforesaid, fail to attend and render the accounts required of him, he shall forfeit and pay the sum of one hundred dollars, to be recovered in any court of law, having competent jurisdiction of such offences.

Sec. 4. *And be it further Enacted:*—That the report of the Committee aforesaid shall be evidence in all cases of settlement, with the officers of the Commonwealth:—And in case of their failing to make

one within the time prescribed by law, they shall be fined in a sum not exceeding fifty dollars.

An Act to provide for the Support and Employment of the Poor.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*:—That the support and maintainance of aged widows, destitute orphans, poor persons and invalid poor, shall be born by this Commonwealth, out of any money in the Treasury not otherwise appropriated.

Sec. 2. *Be it further Enacted*—That manual and mechanic labor asylums shall be provided for such classes of individuals as are (whether colonist or native,) named in the first section, in each of the counties of the Commonwealth:—And that a Superintendent be appointed by the Governor and Council, whose business it shall be to superintend and manage the operative concerns of the said institution.

Sec. 3. *Be it further Enacted*:—That all male inmates of these asylums not disabled from disease or otherwise, shall be employed in the cultivation of a farm, which will be connected with the establishment, and the profit arising therefrom shall go to the use of the institution, and any surplus shall be paid into the Commonwealth Treas-

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ury:—Any tracts of land not otherwise appropriated, may be used for the establishment.

Sec. 4: *Be it further Enacted*:—That a number of *cards, wheels, looms, knitting and sewing* needles, shall be provided for the use of all females who reside in the asylum, so that they may be employed in carding, spinning, weaving, knitting and sewing:—And to the end that there be no idlers about the institution:—The requisite quantum of wool, cotton, flax, hemp, and such other materials as may be manufactured into useful articles for the convenience of the country, shall be kept constantly on hand.

Sec. 5. *Be it further Enacted*:—That there shall be a regular Teacher employed to take charge of a school attached to the asylum, whose business shall be to instruct the youths belonging to the institution in all the branches of a common English education.

Sec. 6. *Be it further Enacted*:—That for the improvement of the youth of this institution, Carpenters, Rope-makers, Blacksmiths, and such older mechanics as the improving state of the Colony may demand,

shall be employed in and about the establishment, for the purpose of instructing the youth in these several branches.

Sec. 7. Be it further Enacted:—That the poor of this Commonwealth, shall not be allowed to wander about from one settlement to the other, but shall be taken by the officers appointed for that purpose, and placed under the care of the superintendent of the asylum.

Sec. 8. Be it further Enacted.—That a Board of twelve Commissioners shall be appointed by the Governor and Council annually, seven for the county of Montserrado, and five for the county of Grand Bassa. This board shall regularly inspect these institutions, and make semi-annual reports to the Governor and Council, of the condition thereof,—the health of the inmates and their improvement in moral education, and the mechanic arts—whether they are properly fed and clothed—what the state of discipline—the receipts and expenditures of the asylum—and suggest any plan of improvement they may deem expedient. The board shall include also in their reports, the number of paupers—invalids—aged widows, and destitute orphans, in their respective counties.

Sec. 9 And be it further Enacted—That there shall be kept, a record of the names of the inmates of each asylum, by the superintendent—which record shall be handed to the Commissioners, in time to be included in their reports to the Governor and Council.

An Act for the Relief of Farmers.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That by application of any person whose business is exclusively that of farming, made either to the Governor, or to any agent by him appointed—on the production of a certificate to that effect, from the Agricultural Committee of this Commonwealth, and on such bond and personal security as shall be required, made payable to the Treasurer of this Commonwealth—he shall have loaned to him at the lawful rate of interest in these colonies, the sum of five dollars an acre for each and

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every acre of land by him cleared, and kept in constant cultivation, or that when a crop of one kind is removed, there shall remain to be seen thereupon, such other articles as distinctly mark its possessor, as one devoted to the particular interest and calling of a farmer.

Sec. 2. Be it further Enacted:—That the repayment of the aforesaid sums, shall be made in the following manner, viz:—the interest on the whole sum due to be paid annually—one fourth of the principal at the end of one year—one fourth at the end of two years—one fourth at the end of three years—and the last remaining fourth at the end of four years:—And that the funds to supply the loan as aforesaid, shall be furnished out of any monies in the Treasury, not otherwise appropriated.

Sec. 3. And be it further Enacted—That notice by public advertisement of the provision of the law, shall be given by the Colonial Secretary, in every town, in the counties of Montserrado and Grand Bassa, immediately on the rise of the present Session of the Council, inviting such persons as are within the provision of this act, to make application accordingly.

An Act annulling and forbidding a Statute of Limitation.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same—That the law fixing a limitation in bar of the recovery of claims in this Commonwealth, be and the same is hereby repealed—and that no such law, statute or ordinance, shall be in force previously to the year Anno Domini, 1850.

An Act to prevent the disturbing Religious Congregations.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same—That it shall be the duty of any Justice of the Peace, Sheriff, Constable, or other civil officer, being present when any person or persons shall interrupt or disturb any congregation assembled at any Church, Chapel or Meeting House, or any other place for public worship, during the Divine service, to take the person or persons so offending into custody, or on complaint made by any person under oath, any Justice of the Peace, shall issue a warrant against him or them so offending—and said Justice may impose a fine on such offender or offenders, not exceeding twenty dollars, or commit him or them to the common jail of the county, or the nearest jail, for a term of not exceeding fifteen days.

Sec. 2. And be it further Enacted:—That any officer who shall collect any fine imposed under this act, shall make return of the amount so imposed, and collected to the Clerk of the Court of Quarter Sessions, and pay the same into the hands of the Treasurer, for the use of the county wherein such offence shall have been committed.

An Act to prevent the destroying of Palm Trees.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same.—That it

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shall not be lawful for any person or persons, to cut down or destroy any Palm Trees on lands, for which he or they do not possess a fee simple title:—And that for every such offence, he, she, or they, shall be subjected to a fine of five dollars, recoverable before any Magistrate, for the use of the party sueing for the same.

An Act for the relief of James Benson.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same.—That from and after this date, James Benson shall be entitled to receive out of the funds of the Treasury of this Commonwealth, the sum of twelve dollars per annum—to be paid him on application therefor, at the seat of government, on the first Tuesday in December in each year—and his receipt for the same shall be allowed the Treasurer in the settlement of his account.

An Act for the Relief of James Henry.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That from and after this date, James Henry be allowed an annuity of twenty-four dollars—to be obtained quarterly, on application to the Governor, out of the Commonwealth Treasury.

An Act for the Relief of Harmon Whitfield.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That from

and after the passage of this Act, Hermon Whitfield be allowed an annuity in the sum of forty dollars, to be obtained quarterly, on application to the Governor, out of the Commonwealth Treasury.

An Act restoring Wiley Brown, Edmond Curtis and Andrew Green, to the Privileges of Citizenship.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That from and after the passage of this Act, Wiley Brown, Edmond Curtis, and Andrew Green, be, and are hereby severally restored to the rights, privileges, and immunities granted to all other good citizens of this Commonwealth.

An Act to incorporate the Ladies' Benevolent Society of Monrovia.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*·—That from and after the passage of this Act, that Colinette Johnson,

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Susannah E. Lewis, Melinda Crawford, Frances Teage, Wily-Ann Yates, and all persons who now are or who hereafter may become associated with them, are hereby constituted a body corporate by the name of the Ladies' Benevolent Society of Monrovia, and by that name and style be capable of purchasing, holding and conveying such real estate as the purposes of the corporation shall require:—But the annual income of the real estate to be held by them shall not exceed three thousand dollars.

Sec. 2. *Be it further Enacted.*—That the object of this Society shall be to relieve the distressed, and to administer to the necessities of those whose circumstances render them proper objects of benevolence—to encourage, recommend and diffuse by precept and example, virtuous and honorable sentiments and feeling.

Sec. 3. *Be it further Enacted*·—That the management and disposition of the affairs of the said corporation shall be vested in a Board of Managers to be elected annually in the town of Monrovia, on the second Wednesday in November.

Sec. 4. *Be it further Enacted:*—That the persons named in the first section of this Act, shall be the first Board of Managers of such cor-

poration, and shall hold their office until the next annual election, or until others shall be elected in their place.

Sec. 5. Be it further Enacted:—That the said corporation shall possess the general powers, and be subject to the liabilities imposed on similar institutions in the United States.

Sec. 6. Be it further Enacted:—That the Legislature may at any time alter or repeal this Act.

An Act to incorporate the Ladies' Dorcas Society of the Methodist Episcopal Church.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That, from and after the passage of this Act, Sarah Gripon, Mary Ann Benedict, Rebecca Moore, Malinda Crawford, Mary Ann Prout, Sarah Brown, Cherry Anderson, Amelia Burns, and all persons who now are, or who hereafter may become associated with them, are hereby constituted a body corporate by the name of the Dorcas Society of the Methodist Episcopal Church; and by that name and style be capable of purchasing, holding and conveying such real estate as the purposes of the corporation shall require:—But the annual income of the real estate to be held by them, shall not exceed the sum of three thousand dollars.

Sec. 2. Be it further Enacted.—That the object of this Society, shall be to relieve the poor in Monrovia and elsewhere, as far as means can be obtained by soliciting subscriptions and donations in money, clothing or any other useful article, and to clothe converted natives in the neighbouring towns.

Sec. 2. Be it further Enacted:—That the management and disposition of the affairs and property of the said corporation, shall be vested in a standing committee, and an agent to be elected annually on the second Thursday in January, in the town of Monrovia.

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Sec. 4. Be it further Enacted:—That the persons named in the first section of this Act, shall be the first Board of Managers of said corporation, and shall hold their office until the next annual election, or until others shall be elected in their place.

Sec. 5. *Be it further Enacted:*—That the said corporation shall possess the general powers, and be subject to the liabilities imposed on similar institutions in the United States.

Sec. 6. *And be it further Enacted:*—That the Legislature may at any time alter or repeal this Act.

An Act to incorporate the Union Sisters of Charity of Monrovia.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That Mary L. Johnson, Rebecca M. Harris, Elizabeth Ciples, Marinda Cooper, Rachel Eden, Harriet Eden, Mary Hunter, and all persons who now are, or who hereafter may become associated with them, are hereby constituted a body corporate by the name of the Union Sisters of Charity, and by that name and style, be capable of purchasing, holding, and conveying such real estate as the purposes of the corporation shall require:—But the annual income of the real estate to be held by them, shall not exceed the sum of three thousand dollars.

Sec. 2. *Be it further Enacted* —That the object of the said corporation, shall be to assist to the utmost of their ability, all subjects of charity, by helping the widow and relieving the orphan and needy, clothe, feed, educate, and otherwise provide for such as the corporation may from time to time be enabled to take under its patronage.

Sec. 3. *Be it further Enacted:*—That the management and disposition of the affairs of the said corporation, shall be vested in a standing committee, and an agent to be elected annually, on the third day of November, in the town of Monrovia.

Sec. 4. *Be it further Enacted:*—That the persons named in the first section of this Act, shall be the first Board of Managers of such corporation, and shall hold their office until the next annual election, or until others shall be elected in their place.

Sec. 5. *Be it further Enacted:*—That said corporation shall possess the general powers, and be subject to the liabilities imposed on similar institutions in the United States,

Sec. 6. *And be it further Enacted:*—That the Legislature may at any time alter or repeal this Act.

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GENERAL PORT REGULATIONS FOR THE COLONY OF LIBERIA.

ARTICLE 1. The lawful commerce of all nations shall be on an equal footing in the Ports of the Commonwealth, so far as they shall transact lawfully their business in such ports.

ART. 2. All foreign vessels upon their arrival in the harbor, shall deliver their papers into the office of the Collector, give bond *or* deposite property to the amount of one hundred dollars:—Returnable as soon as a clearance has been obtained.

ART. 3. All foreign vessels coming to anchor in the harbor, shall pay an anchorage and a Light-house duty of fifteen dollars.

ART. 4. No boats shall be allowed to board foreign vessels entering the harbor, until the Port Officer's boat has taken cognizance of the same, and all persons violating this regulation, shall be fined in a sum not exceeding one hundred dollars, at the discretion of the Governor, or the Lieutenant Governor, during the absence of the Governor.

ART. 5. If any vessel commences to unload previously to having been reported, and without having obtained a regular permit from the Port Officer, the master of such vessel will be liable to a fine, not exceeding three hundred dollars at the discretion of the Governor.

ART. 6. Vessels anchoring after sunset, are bound to show their colors on the following morning after day-light, under a penalty of fifty dollars.

ART. 7. None of a vessel's crew shall be discharged and left on shore without the permission of the Governor, under a penalty not exceeding five hundred dollars.

ART. 8. Masters of vessels are prohibited from taking on board, or giving passage to any individuals of this Colony, without a Passport from the Colonial Secretary, unless to be landed at an American settlement, under a penalty of not less than one hundred, nor more than one thousand dollars.

ART. 9. It is not permitted to fire with Guns, Muskets, Pistols or other Firearms in the harbor after sunset, under a penalty of five dollars for each offence.

ART. 10. All vessels engaged in the Slave-Trade, are prohibited from anchoring in the harbor, or having any communication with the

inhabitants of the Colony, except in cases of distress, when the circumstances are to be reported to the Governor for his decision.

ART. 11. Any foreign vessel, trading with natives of the county or other persons, at any place within the jurisdiction of the Colony, (say between Grand Cape Mount, on the Nort West, and New Cesters on the South East,) except at one of the regular ports of entry, and in conformity with these regulations, shall be liable to a penalty of four times the amount of the goods so traded, or to a fine of not less than one hundred, nor more than one thousand dollars, at the discretion of the Governor, or the Court before whom the case may be tried.

ART. 12. No foreigner shall trade with another foreigner or native within the limits of this Commonwealth—or with other colonist than commission merchants, without the intervention of a commission mer-

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chant, under a penalty not less than $100 nor more than $200.

ART. 13. The Collector shall inspect all boats coming from foreign vessels or otherwise, and all goods landed from such boats not enumerated in permit shall be seized.

ART. 14. All registered vessels sailing under the flag and protection of this Government shall present a correct manifest of cargo to the Collector within 24 hours after their arrival.

ART. 15. The Port Officer is entrusted with the execution of the preceding Regulations, and must be obeyed without delay.

ART. 16. Any foreign vessel having complied with the requisition of Art. 3rd, at any one port, shall not be compelled to pay anchorage duty at any other port during the same voyage.

ART. 17. All masters of vessels entering the harbor will receive from the Port Officer a printed copy of the Port Regulations; for which 25 cents are to be paid.

Ratified in Monrovia, by the Governor and Council of Liberia, in Legislature assembled, (January 1841.)

END OF PART FIRST.

PART SECOND.

ABSTRACT OF LEGAL PRINCIPLES AND RULES.

Be it enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same:—That the following principles and rules shall have the force of law in the commonwealth of Liberia.

Passed January 1841.

TITLE I.

Of Injuries.

1. An injury is an unlawful damage done to another, and is the proper subject of an action. It does not, generally, depend upon the intention of the wrong doer whether an act is an injury or not. A bad design is not necessary to the existence of an injury, although it is to the existence of a crime. The object of actions for injuries is to redress the injured party, not, like that of prosecutions for crimes, to punish the guilty.

2. Every act which is prejudicial to the interest of another is an injury, unless it be warranted by some law.

3. An omission is not generally an injury, but where a party is bound by contract, official duty, or law, to do an act, and omits to do it, or where, in consequence of an omission, an act of the same party, otherwise harmless, becomes prejudicial to the interest of another, such omission is an injury, for which an action will lie.

4. Every person is liable to an action for all injuries committed by himself or his wife.

5. Every person is liable to an action for all damages which arise from the negligence, carelessness, or unskilfulness of himself or his wife at any time, or his agents or servants while employed in his business. And also for all damages committed by any animal belonging to him, or under his care or charge, provided such damage be one which such animal was likely to commit, either from the general habits of its species, or from any vicious habits of the particular animal, known to

the owner or other person intended to be charged. All such damages are injuries.

6. Every man is bound to use his own property so as not to damage his neighbour. If any person make use of his own property in a manner prejudicial to his neighbour's interest, it is an injury.

7. Injuries either to the person, reputation or domestic relations of another, are called personal injuries. The breach of a promise to marry, is a personal injury.

8. Domestic relations are those of husband and wife, parent and child guardian and ward, master and servant.

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9. Personal injuries die with the person, and no action for them can be maintained by or against representatives or trustees. A man who has assigned his property for the benefit of his creditors is still entitled to maintain, and liable to actions for personal injuries.

10. Omitting to do an act which a man has contracted to do, or doing an act which a man has contracted not to do, is an injury by means of the violation of a contract.

11. A contract is an agreement entered into by the assent of two of more minds, by which one party undertakes to give some valuable thing, or to do, or omit, some act, in consideration that the other party shall give, or has given, some valuable thing, or shall do, or omit, or has done, or omitted, some act. The consideration of a contract may be anything which is troublesome or prejudicial in any degree to the party, who performs or suffers it, or beneficial in any degree to the other party, an agreement without such a consideration is not a contract but only a promise. The violation of a promise made without a consideration although, most frequently an immoral act, is not an injury for which an action at law will lie.

12. If one party to a contract is guilty of a fraud, which deprives the other party of the whole, or most important part, of the benefit of the contract.—or neglects or refuses to perform the whole of his part of the contract or so nearly the whole thereof, that what he performs is only nominally beneficial to the other party, it is not an injury for such other party to refuse to comply with his part of such contract, and no action will lie against him for so doing. But if the fraud, refusal or neglect to perform, still leave a material and beneficial part of the contract which has been performed by the fraudulent, negligent or refus-

ing party, an action may be maintained by such party for the refusal or neglect of the other party to perform his part of such contract. But in such action the fraud, neglect, or refusal of the plaintiff, to perform any part of the contract, may be shown to diminish the amount of the debt or damages to be recovered. Nevertheless, where parties have stipulated that things shall be done in a particular order, a plaintiff must show that he has performed the act first to be performed by him, or that the defendant has dispensed with the performance thereof, before he can recover damages for the non-performance of a subsequent act.

13. No action can grow out of an immoral or illegal contract. The violation of such a contract is not an injury.

14. All contracts having any connection with the slave trade, however remote such connection may be, provided the parties to the contract are aware of its existence, are with the exception in the next section, both immoral and illegal, and it is no injury to violate such a contract.

15. Contracts tending to the suppression of the slave trade are legal and valid.

16 All bets, and wagers, and contracts for the payment of money, or the delivery or transfer of any valuable thing upon any contingency or event, or upon the decision of any question, dispute or controversy are illegal, except contracts made and intended, by way of insurance or indemnity, from an actual loss or damage, sustained by means of such event, contingency, or decision. All contracts to pay money, or deliver, or transfer any valuable thing which has been won or lost at any game of chance or skill, to pay, or deliver, or transfer money or other thing, in lieu of any money or other thing so won or lost, and in general all wagering and gaming contracts are also illegal. All contracts to indemnity any person from the consequences of any violation or omission of official duty, or other breach of the law, are also illegal. The violation of any of the contracts mentioned and declared illegal in this section, is not an injury.

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17. Contracts to indemnify a public officer from the consequences of a mistake in the execution of a writ directed to him, are not within the meaning of the last section, and the violation of such a contract is an injury.

18. Injuries to property, other than violations of contract may be committed by destroying it, by taking or detaining it from the possession of the owner, by any act, or unlawful omission, which may diminish its value, or lessen its security, or, lastly, by using it without consent of the proprietor.

19. The person in possession of any property, of any description, is to be considered as the owner thereof, within the meaning of the last section, as against all but the true owner. The person in possession of any property, may maintain any action for any injury done to it, or to him, in respect thereof, unless the defendant can show that he has a better title to such property than the possessor thereof.

20. Injuries to persons may be committed by striking, or attempting to strike, by confining, imprisoning, or detaining a person.

21 Any of the acts mentioned in the last section, may be justified if done in self defence, or in the exercise of the lawful authority of a parent over a child, a guardian over a ward, a master or mistress over an apprentice, a public officer over a person in his custody for the purpose of being compelled to work, or of any other lawful authority; provided, that the degree of violence used, is not more than a jury shall deem proper and reasonable under all the circumstances of the case.

22. Injuries to the reputation may be committed by defamation, or by commencing a malicious action, suit, or prosecution, or other proceeding

23. Defamation is an injury offered to the reputation of another, by an allegation which is not true. Defamation may be made verbally, or by signs, which is called slander, or by writing or painting which is called libel.

24. The injury of defamation is committed when the words, signs, or figures used, convey the idea either—1st. That the person to whom they refer, has been guilty of some crime or offence punishable by law. 2nd. That he or she has done some act, or been guilty of some omission, which although not a crime, is of a nature to make people avoid social intercourse with him or her, or lessen their confidence in his or her integrity. 3rd. That he or she has some moral vice, or bodily, or mental defect or disease, that would cause his or her society to be generally shunned. 4th. That his or her general character is such as to make persons avoid his or her society, or lessen their confidence in his or her integrity.

25. It is also the injury of defamation to make use of words or representations, the tendency of which, is to bring upon the person to whom they refer, the hatred, ridicule, or contempt of the public, or to deprive him of the benefit of social intercourse.

26. It is defamation and an injury to assert, or make representations importing that the party referred to, wants the necessary talents or knowledge, or is otherwise incompetent to perform or conduct the office, business, profession, or trade in which he is engaged, or is dishonest in his conduct therein.

27. It is not an injury to make true statements of fact, or express any opinion, whether such opinion be correct or not as to the qualifications of any person for any public office, with an honest intention to give information to those who have the power of appointing or electing to such office. Nor is it an injury to make true statements of facts, or express the opinion which he who gives it entertains, whether correct or not, relative to the integrity or other qualifications to perform the duties of any station, profession, or trade, when it is honestly done, by way of advice to any person who has asked it, or to whom it was a duty arising either from law or social connection, or from humanity, to give such advice. Nor is it an injury to make or publish any criticism or

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examination of any work of literature, science, or art, or to express an opinion, whether correct or not, on the qualifications, merits, or competency of the author of such works in relation thereto, although such criticism, examination or opinion, should produce damage to the party to whom it refers; provided such criticism, or expression of opinion, be not intended to cover a malicious design to injure the party to whom it refers. All statements of facts, made under the circumstances mentioned in this section, shall be taken to be true until the contrary appears, or malice is shown.

28. All those who make, publish, or circulate a libel are guilty of the injury of defamation.

29. He is the maker of a libel who originally contrived it, and either executed it himself, or caused it to be done by others. He is the publisher who executes the mechanical labour, who writes, paints, copies, engraves, or prints it. He circulates a libel who knowing the contents, sells, gives, distributes, reads it to others, or exhibits it.

30. He is not guilty of an injury who only gives or lends a book or paper containing a libel, or reads it to another, after it is already in

general circulation unless some circumstances are shown which prove that it was done with a design to injure, or unless some special damages shall have arisen from his act.

31. No action can be maintained for defamation on account of any thing said or written, whether as judge, party, juryman, witness, or agent for a party, in a court of justice, or in the course of a legal proceeding, or in any investigation or conference preparatory to a legal proceeding; provided, that what is said or written be relevant to the proceeding, investigation, or matter in hand, or preparing for, and is not introduced for the sole purpose of injuring the party to whom it refers.

32. An answer justifying a former libel or slander as true, which has been withdrawn, or on which no question of fact shall have been taken, is not within the protection of the last section, and may be deemed an injury. But as an injury, it shall be considered only the act of the party in the cause, and not of any agent of his or other person.

33. The word 'verbally' used in the definition of slander, means the utterance of words by the voice, and the words 'by signs' comprehend every motion of the fingers or other gesture that is used and understood to communicate ideas.

34. The word 'writing' in the definition of a libel, and the word 'writes' in the twenty-ninth section, comprehend not only manuscript, but printing, engraving, etching, lithography, or any other means now known, or which may hereafter be discovered or invented to make words visible. The words 'painting' and 'paints' include not only the art, so called, but drawing, engraving, etching, lithography, or representing figures in any other way. It also comprehends hieroglyphics, or the representation of words by objects which they signify.

35. It is slander and an injury to repeat the contents of any libel, or the words or substances of any slander, unless in the cases otherwise provided for in the thirtieth section, or unless the defendant state at the time of doing so the name of the person from whom he heard the slander, or unless the defendant show that he was not actuated in so doing by any desire to injure the person defamed. But if special damages can be shewn to have arisen from said repetition, it shall be deemed an injury, notwithstanding any provision of this section.

36. Every false statement is an injury and defamation, if any special damage arise therefrom.

37. Special damage is any loss or inconvenience accruing to the plaintiff, which can be specially traced to the conduct of the defendant. Where special damage is relied upon, it must be stated in the complaint and proven.

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38. A malicious action, suit, prosecution, or other legal proceeding, is one brought against a person for a matter of which he hath been before lawfully acquitted, or finally discharged, or one totally without any reasonable cause or foundation. The essential facts to sustain an action for a malicious action, suit, prosecution, or proceeding, are the absence of reasonable cause for the original action, suit, prosecution, or proceeding, the termination thereof in favour of the party against whom it was brought, and an actual damage of any sort sustained by such party. Although the action for a malicious action, suit, prosecution, or proceeding, is classed among actions for injuries to reputation, any species of damage is sufficient to sustain it. Although called malicious it is not necessary to prove an actual malicious intention; the malice may be infered from the absence of reasonable cause for the proceeding.

39. There is no injury to reputation which is not provided for in the preceding sections, commencing with the twenty-second, and terminating with the last preceding one.

40. Defamation of title is not an injury to reputation, but to property. It consists in falsely alleging that a person has no title, or only a defective title to his property; it is only an injury when special damage, as defined in the thirty-seventh section, can be shown to have followed.

41. Injuries to the domestic relations may be committed by adultery, by the seduction of a wife or daughter, enticing or taking away, detaining or confining the wife, child, ward or servant, of any person, or an idiot or insane person from his or her legally appointed trustee or guardian; by harbouring or assisting any person sustaining the relation of wife, child, ward or servant, who has unlawfully left the protection or service of his or her husband, parent, guardian, master or mistress, or by beating or otherwise injuring the wife of any person, or by beating or otherwise injuring any person sustaining any of the domestic relations, in such a manner as to incapacitate him or her from performing the duties of such relation.

42. Every person is warranted by law, in employing himself and

his property, in any honest business, occupation, or pursuit; although his so doing may be prejudicial to the interest of others, by way of rivalry or competition. Any prejudice or damage sustained by any person in consequence of fair competition in business, is a damage, but not an injury.

43. No man is bound to alter the natural condition of his property, for the benefit or accommodation of his neighbour, or to accommodate his improvements to those of his neighbour. Neither an omission to do so, or any damage arising from such omission, can be regarded as an injury. Provided nothing in this section shall abrogate any part of "An act Regulating Towns and villages."

44. An infant is capable of committing, and responsible for an injury, and consequently responsible for violating a contract made by those whom he represents, or under whom he claims, and which is binding on him as a representative or assignee, or on his property, although he is not capable of making a contract

45. Every person under twenty-one years of age, is an infant.

46. A married woman, is capable of committing an injury, and for every such injury her husband is responsible in an action against himself, although it may consist in the violation of a contract binding on such married woman, as a representative or assignee, or on her property, or made by herself before marriage. A married woman cannot make a contract to bind herself, although she may contract as her husband's agent; he will be bound by every such contract, and the agency may be directly proved or inferred from circumstances and the usages of society. A wife is presumed to be her husband's agent in providing for his family, and clothing herself and his female children, and males under the age of fifteen; but this presumption may be contradicted by

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proof to the contrary.

47. An idiot or insane person is capable of doing an injury, though not of making a contract, or committing a crime, and is responsible for an injury, though not for a crime; he may be responsible for the violation of a contract made by another person whom he may represent, in the same manner as an infant, under similar circumstances, and not otherwise. He shall be also liable for a violation of a contract made by himself before his insanity.

48. No judicial act, done by a judge or other judicial officer, within

his jurisdiction or authority, or any omission to do such act, can ever be deemed an injury, although if the judge or officer act corruptly or maliciously, or wilfully refuse or neglect to do his duty, it is a crime. This section is to be considered as controlled by the provisions of the twenty-third chapter of the second title, on the subject of writs of habeas corpus.

49. No ministerial officer is guilty of an injury in executing any writ directed to him by any authority or tribunal, having jurisdiction over the place where the writ is executed, and having authority to issue similar writs. If the writ shall have been improperly obtained, or the court or other tribunal has exceeded the precise limits of its jurisdiction, a remedy may be had against the person who procured the issuing of the writ

50. A ministerial officer who does any act under or by colour of any writ which such writ does not authorize, is guilty of an injury, if his act produce damage to any person.

51 The object of actions for the redress of injuries, being the indemnification of the injured, and not the punishment of the injurer, it follows that the measure of damages in such actions is the actual amount of loss or inconvenience sustained by the plaintiff, without any reference to the degree of misconduct of which the other party may have been guilty. The only exceptions to this rule are those contained in the next section.

52. Adultery, the seduction of a wife or daughter, illegally taking away or harbouring a wife or a child, ward or apprentice under twenty-one years old, or enticing an idiot or insane person from his or her legally appointed trustee or guardian; the breach of a contract, engagement, or promise to marry; injuries to the reputation for which an action will lie without alleging and proving special damage, and the injuries for which remedies are given by the twenty-third chapter of the second title, are injuries of a peculiar nature, and partake of a criminal character. Actions for the above enumerated injuries partake of the nature of criminal prosecutions. They are exceptions to the rule for the measure of damages laid down in the last section, and a jury in estimating damages in such cases, may take into consideration the misconduct of the defendant, and increase the damages at their discretion for the purpose of punishing him. Other personal injuries are not exceptions to the rule in the last section.

53. In every case of an injury, the condition of the defendant is to

be preferred; that is, the facts must be proved by the plaintiff. Where the right or the wrong are equal, the condition of the defendant or the party in possession of the thing in dispute, is to be preferred.

54. The enumeration of particular injuries, except those to reputation in some of the preceding sections, shall not be construed to exclude from the class of injuries, any particular case not enumerated, which amounts to an injury agreeably to the principles of the first six sections or the tenth section, which contain general principles the others are designed to explain, apply or restrain. But they are only to be restrained by express words, not by mere omissions.

55. All the provisions of this title are to be considered as annexed to, incorporated in, and controlling all the provisions of the second title, except those contained in the twenty-third chapter.

TITLE II.

Of Remedies.

CHAPTER I.

Of Actions.

1. An action is a mode of proceeding to obtain redress of an injury by means of a court of justice.

2. The party who seeks redress in an action, is called the plaintiff, the party against whom the action is brought is called the defendant.

3. Actions are divided into three general classes,—where the injury for which redress is sought is a breach of contract, the action is said to be an action growing out of contract; where it is an injury of any other description, the action is said to grow out of a wrong. The third class, consists of actions growing out of judgments in former actions.

4. Actions growing out of contracts, are subdivided into those in which a specific performance of the contract is sought,—and those which are intended to recover damages for the non-performance of the contract.

5. There are three actions growing out of contract, in which the specific performance of a contract is sought,—debt,—specific perform-

ance of contracts, other than for the payment of money,— and injunction.

6. An action of debt is an action to enforce the payment of a sum of money, which the defendant has contracted to pay to the plaintiff.

7. An action for the specific performance of a contract, other than for the payment of money, is an action in which it is sought, to compel a defendant to do any act other than the payment of money, in pursuance of a contract into which he has entered. It may be briefly called an action of specific performance.

8. An action of injunction, is an action in which the plaintiff seeks to compel the defendant, to permit matters to remain in the present state, either in pursuance of a contract, or because of a right growing out of the general principles of law. It is classed with actions founded on contract as a matter of convenience, although it is capable of being applied in cases, where the wrong is not, precisely, a breach of any contract.

9. An action to recover damages, for the breach of a contract, is an action in which the plaintiff seeks to obtain from the defendant a sum of money, as damages or compensation for the injury he has sustained by reason of the defendant's not performing some contract, into which he, or some person under whom he claims, or whom he represents, had entered. It may be briefly called an action of damages.

10. Whenever a person is bound under a penalty, that himself or any other person, shall do or omit any act, and the obligation is violated, or whenever any person is bound in any sum of money, the obligation to be released or void, on the omission or doing of any act by himself or any other person, in case of a breach of the contract or condition, an action of contract, shall be the proper remedy. In such action the

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plaintiff may recover the amount of the damages sustained by him in consequence of the act or omission complained of, and no more, even although the penalty or sum in which the party is bound, may exceed such amount of damages Against a surety, or the principal party, if sued with the surety, the plaintiff can never recover more than the penalty or sum in which such surety was bound; but he may have a separate action against the principal, either of contract or damages, according to the circumstances, and recover the excess of his damages beyond the penalty.

11. There are three actions growing out of wrongs,—replevin,—ejectment—and the action to recover damages for a wrong.

12. Replevin is an action to recover the possession of moveable property, wrongfully withheld by the defendant from the plaintiff.

13. Ejectment is an action to recover possession of real or immoveable property, wrongfully withheld by the defendant from the plaintiff. A widow may recover her dower in ejectment.

14. The action to recover damages for a wrong, is an action in which the plaintiff seeks to obtain from the defendant, a sum of money, or damages or compensation for the injury he has sustained, by reason of some act of the defendant. It may be briefly called an action of damages. It is the action which lies for every injury, for which there is no other remedy.

15. Besides the action growing out of contracts and wrongs, there is another action of a peculiar nature, growing out of a judgment in some former action. It is called an action of enforcement.

16. Enforcement is an action, in which the plaintiff seeks to have enforced, some judgment of the court formerly rendered, but which, from lapse of time, or change of parties, cannot be enforced by immediate execution.

17. Where the cause of action grows out of a contract, and the plaintiff intends to proceed against several defendants upon the same contract, he must sue them all in one action, unless one or more of them, lie out of the jurisdiction of the court. He is not obliged to join the representatives of deceased persons with living original parties. He may sue each of such representatives separately.

18. No action of ejectment, can be commenced more than twenty years after the cause of action has accrued, nor any action of enforcement more than twelve years after the rendition of the judgment on which it is founded. Actions for the violation of written contracts, must be commenced within seven years; actions for personal injuries within one year; and all other actions within three years after the cause of action accrued, and not after. This section is to furnish no defence, unless expressly relied on in the defendant's answer. If either of the parties be absent from the Colony during any part of the time, or be under age, or insane during any part of the time, such part of the time shall not be reckoned, unless in the case of personal injuries committed without the limits of the Colony.

19. For every personal injury done to a married woman, or a woman who afterwards marries, her husband shall be entitled to an action, which shall survive to her, if he die before it be brought to a conclusion, and she may be made a party in his stead. For every personal injury done by a married woman, or a woman who afterwards marries, an action shall lie against her husband, which may be revived against her, and she be made a party in his stead, if he die before it be brought to a conclusion. In either case, if the husband die before the action be brought, the action may be brought by or against the surviving wife.

20 In every form of action, where the right or the wrong is equal, the condition of the defendant or person in possession of the thing in dispute, is to be prefered.

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CHAPTER II.

Of the mode of commencing actions and bringing defendants into court.

1. Actions are commenced, and defendants brought before the courts, by means of writs.

2. A writ is a written or printed paper, authenticated by the seal of the court, and signature of the clerk, directed to the sheriff or other persons, commanding him to do, or abstain from doing, some act.

3. All actions, except injunction and replevin, shall ordinarily be commenced by a writ of summons, directed to the sheriff (except in Justices' courts,) requiring him to summon the defendant or defendants to appear at a day appointed, to answer the complaint of the plaintiff or plaintiffs, without specifying such complaint. The writ of summons shall also contain a clause requiring the sheriff to have the writ before the court, at the day appointed for the appearance of the defendant or defendants. It shall only be issued on the written direction of the party or his agent.

4. It shall be the duty of the sheriff to produce to the court the writ of summons, with his return endorsed thereon, either that he has summoned, the person or persons directed in the writ of summons to be summoned, or that they cannot be found, as the fact may be. There may be different returns as to different persons named in the same writ.

5. If the sheriff return that the *defendant or defendants, or any of them, cannot be found, a writ of re-summons may be issued as to such defendant or defendants.*

6. A writ of re-summons differs from a writ of summons only by the insertion therein, after the word 'summon' of the words 'as you were before commanded.' It shall be returned as a writ of summons.

7. If the defendant, having been returned summoned on a writ of summons, shall not appear within four days after the time therein appointed for his appearance, or if after the return of a writ of re-summons the defendant shall not appear, within four days after the time therein appointed for his appearance, whatever the return may have been, it shall be the right of the plaintiff or plaintiffs, having first filed his or their complaint, unless the complaint be in ejectment to move for a writ of attachment, which shall be granted as herein after provided.

8. A writ of attachment, is a writ directed to the sheriff, commanding him, to attach the lands, goods, chattels, and credits of the defendant or defendants, to the value of a sum to be expressed in the attachment, and to have the writ before the court at a certain day

9. The sum specified in any writ of attachment, shall not exceed the sum of one hundred dollars, unless in the cases hereinafter otherwise provided for

10. The plaintiff having filed his complaint, and being entitled to move for an attachment under the provisions of the seventh section of this chapter, may—unless the complaint be in an action of damages, for an injury to the person, or reputation of the plaintiff or his wife, or for such other injury as cannot be conveniently estimated in money—make an affidavit or affirmation of the sum due to him, or of the injury he has received, and of the damages he believes he has sustained; and in that case the writ of attachment, shall direct the sheriff to attach property to an amount equal to the amount of the debt or damages so sworn to, and half as much more, so as to answer the interest and cost, as well as the debt or damages.

11. If the complaint be in debt, and the plaintiff shall exhibit to the court, evidence in writing, that any specific property, has been mort

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gaged or pledged as security for the debt, then the writ of attachment shall command the sheriff to attach the specified property so mort-

gaged or pledged, without regard to the value thereof. And such writ may issue without any previous writ of summons having been issued.

12. In all cases of actions of debt or contract, wherein a specific performance, is not sought to be compelled, and in all actions of damages, except those that are excepted in the tenth section of this chapter, the plaintiff may commence by filing his complaint, and the affidavit required in the said tenth section, with an addition to such affidavit, that he fears that the defendant or defendants, cannot be found to be summoned, or will not appear if summoned, and shall thereupon be entitled to an attachment

13. In an action of enforcement, no affidavit or any previous writ shall be necessary to obtain an attachment, except in the case provided for in the fifteenth section If the original judgment was an injunction or ejectment, the costs and as much more shall be regarded as the sum to be specified in the attachment.

14. All writs of attachment issued under the tenth, eleventh, twelfth or thirteenth sections of this chapter, shall contain a clause requiring the sheriff to summon the defendant or defendants, as in a writ of summons

15. In an action of enforcement, if the original judgment were in specific performance, the same rule as to the sum to be mentioned in the attachment, shall prevail, as in the case of a judgment in injunction or in ejectment, unless there be an affidavit of non-performance of the judgment, and of the extent of damages sustained by such non-performance.

16. It shall be the duty of the sheriff, immediately upon the receipt of any writ of attachment, to attach, seize, and take into his hands and possession, if necessary, all the personal or moveable property, of the defendant or defendants named in the writ of attachment, which he shall find in his or her possession, or not in the possession of any other person; and also to attach, seize, or take possession if necessary, of the right, title and interest of the said defendant or defendants, in all fixed and immovable property But if the writ of attachment refer to particular property he is not to meddle with any other.

17. The necessity refered to in the last section, is the necessity of making up the value, of the sum called for in the writ of attachment.

18. In order to ascertain the quantity of property which it may be necessary to attach or seize, it shall be the duty of the sheriff to cause

all property so attached or seized, to be appraised and valued by two disinterested persons, upon their solemn affirmation, to value the same to the best of their skill and ability.

19. It shall also be the duty of the sheriff to cause a list or schedule of all property so as aforesaid seized or taken, and of the appraisement and valuation thereof, to be made out and annexed to the writ of attachment, and to return the said writ 'attached as per schedule.'

20. If, from the peculiar nature of any personal property belonging to the defendant or defendants, it shall be incapable of being taken into the hands and possession of the sheriff, he may nevertheless include it in his schedule, and shall give notice to all persons whose interest may require such notice, that he has so done. Courts may adapt such rules upon the subject, embraced in this section, as may from time to time appear to them proper, and may regulate such notice in the manner they may deem most just.

21. If there is not sufficient property, of the defendant or defendants, liable to be included in a schedule, to produce the amount required by the writ of attachment; or if the plaintiff shall so direct, the sheriff may lay the attachment in the hands of any persons who may be indebted to the defendant or defendants, or any of them, or who may have the care, custody or possession, of any property of such defendant

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or defendants, or any of them, by warning such person or persons that the property of such defendants is attached in his or their hands to such an amount, and summoning such person or persons to appear at court on the day appointed for the return of the writ of attachment, to show cause why the same should not be condemned in his or their hands, towards the payment of the debt or damages sought to be recovered. Provided, that the person or persons so warned and summoned, may deliver up to the sheriff all the property, of which he or they has or have the care, custody or possession, as aforesaid; whereupon the sheriff shall proceed as if he had found the same out of the possession of any person.

22. If the sheriff has proceeded to lay the attachment in the hands of any person or persons, he shall return the writ 'attached in the hands of————.' The person in whose hands the attachment is laid, shall be called 'the garnishee.' A plaintiff may himself be made a garnishee.

23. If the sheriff cannot find any property to attach, or any debtor

or other person in possession of property to warn as garnishee, he shall return on the back of the writ, that 'the defendant has, or defendants have nothing which he can attach.'

24. Upon the return of any writ of attachment, the defendant or defendants may appear and give bail; in which case the attachment shall be dissolved, except in the case provided for in the next section; or the defendant or garnishee, or both, may appear without bail, in which case judgment shall be suspended until the usual steps shall have been taken to bring the case to trial—the attachment standing as a security. But if neither defendant nor garnishee appear, there shall be a judgment by default against both, or against the defendant, if there is no garnishee But there shall be no judgment by default upon an attachment which has not been preceded by a summons, and which has been returned under the twenty-third section.

25. An attachment founded upon a mortgage or pledge, shall not be dissolved unless the defendant shall make oath that the debt is paid, or that the property taken under the attachment, is not that mortgaged or pledged.

26. When an attachment is dissolved the property taken under it, and all persons whatever affected by it, shall be put in the same situation as if it never had existed

27. Upon the return of any writ of attachment, 'attached as per schedule' or 'laid in hands,' if the defendant or garnishee, do not appear within four days, the plaintiff may have judgment by default, and an order that the sheriff shall sell the property taken under the attachment, if any, towards the payment of his debt or damages, when ascertained, according to law.

28. If the complaint be filed in an action of damages, for an injury to the person, or reputation of the plaintiff or his wife, or any other injury which cannot be easily estimated in money, and the plaintiff be not satisfied with a writ of attachment to the amount of one hundred dollars, he may apply to the court, or any judge thereof, and exhibit such evidence of the injury, and of other matters connected with the subject, by his own oath or otherwise, as he may think, proper, and the court or judge may direct such sum as may be proper, to be inserted in the writ of attachment, or if the injury be a personal one, may, in the discretion of such court or judge, order the issuing of a writ of arrest, even although the defendant be an infant under twenty-one years of age.

29. In any other case the plaintiff being in a condition to apply for a writ of attachment, and having made oath or affirmation, that he fears he shall not be able, by a writ of attachment, to obtain security for his debt or damages, may apply to the court or any judge thereof, for a writ of arrest, which may be granted him in the discretion of such court or judge; but a writ of arrest against a defendant, as such, shall

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never issue as a matter of course, nor against an infant under twenty-one years of age, married woman, idiot or insane person, unless under some special provision of law.

30. A writ of arrest, is a writ whereby the sheriff is commanded to arrest the body or bodies of the defendant or defendants, and in most cases to bring it or them before some judge or other person authorised to receive bail, to give security, to answer the complaint of the plaintiff in a sum to be named in the said writ, and to have the said writ before the court at a day to be named therein.

31. The sum to be named in the writ of arrest, for which security shall be taken, is to be always in the discretion of the court or judge, awarding such writ.

32. Every writ of arrest against a defendant, in any action other than injunction, shall be accompanied by a copy of the plaintiff's complaint, attested by the clerk of the court, which it shall be the duty of the sheriff to deliver to the first person arrested by virtue of such writ.

33. Every writ of arrest against a defendant, in any action other than injunction, shall be accompanied by a writ of attachment; and if the defendant will point out to the sheriff sufficient property, liable to be attached as per schedule, to cover the sum mentioned in the writ of attachment, which shall be the same mentioned in the writ of arrest, the sheriff shall not execute the writ of arrest; but as a reason for not so doing, shall return, upon the writ of arrest, that he has executed the accompanying writ of attachment. The two writs shall be considered as commenceing but one action.

34. It shall be the duty of the sheriff immediately on the receipt of a writ of arrest, to arrest every person whom he is thereby commanded to arrest, and to carry him before some person authorised to take bail, unless in the case provided for in the thirty-third section of this chapter, and also, if required by the person before whom he is so carried, to conduct him to prison, there to be detained until discharged by due course of law, and to make return to the court of what he has done in

the matter. Writs of arrest may be continually renewed until the defendant or defendants is or are arrested.

35. In an action of specific performance, or of enforcement founded upon a judgment in specific performance, the plaintiff being entitled to an attachment after a return of 'summoned,' or after two returns of 'not found,' or in an action of enforcement without such return, may exhibit to the court or one of the judges thereof, such evidence of the contract and its circumstances, as he may think proper, by his own affidavit or otherwise, and the court or judge may thereupon order a writ of attachment to issue directing the sheriff to attach any specific property to which it may appear to such court or judge that the plaintiff is entitled under the contract, specific performance of which is sought to be compelled and the property taken under such attachment, shall, whenever a judgment by default or otherwise is rendered in the cause, in favour of the plaintiff, be delivered to the plaintiff.

36. In ejectment there shall be no writ of attachment or of arrest, nor any bail required, but on a return of a writ of summons, the plaintiff, having filed his complaint, if the defendant do not appear, may cause a copy thereof, together with a copy of the writ of re-summons, to be set upon the property claimed, ten days before the return day of the re-summons, and for that purpose may have a writ of re-summons, although the writ of summons may have been returned summoned; and if the defendant do not appear within four days after the said return day, the plaintiff shall be entitled to a judgment by default.

37. An action of injunction, must be commenced by a writ of injunction, to obtain which, the plaintiff must file his complaint verified by his own oath, and by such other evidence as the court or judge may think proper. The court or judge may also require the plaintiff to give

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sufficient security to indemnify the defendant from any injury he may sustain, by means of the writ of injunction; but this is a matter in the direction of the court or judge, as is also the issuing the injunction and the contents thereof.

38. A writ of injunction, is a writ directed to the party, commanding him to abstain from doing some act, which it is alleged he is about to do, and also to appear before the court at a day to be therein appointed, to show cause why the injunction shall be dissolved. Every writ of injunction shall be issued in duplicate.

39. A writ of injunction may be served by the sheriff, or any other

person except the plaintiff, by leaving it or a copy or duplicate thereof, with the person to whom it is directed. The original or its duplicate writ, must be returned to court on or before the day appointed for the defendants appearance accompanied by a solemn affirmation of the service.

40. If the defendant disobeys the injunction, the court on being satisfied of the facts by affidavit, may issue a writ of arrest against him, although privileged under the twenty-ninth section, and punish him by a fine or imprisonment, or otherwise, in their discretion Such writ shall be returnable before the court or a judge thereof only, and shall contain no clause respecting bail or security.

41. An injunction shall not be dissolved, unless the defendant appears and files a sufficient answer to the complaint, verified by oath, it shall not be dissolved merely because he denies knowledge of the facts alleged in the complaints and puts the plaintiff upon the proof thereof.

42. Replevin must be commenced by issuing a writ of replevin, to obtain which, the plaintiff must give sufficient security, in the discretion of the clerk of the court, that he or his representatives, will return the goods about to be replevied, and pay the costs, if any court having jurisdiction in the cause shall so adjudge, and indemnify the defendant, from any injury he may sustain, by means of the writ of replevin

43. A writ of replevin, is a writ directed to the sheriff, commanding him to replevy and deliver to the plaintiff, the goods therein specified, to summon the defendant to appear before the court on a day therein appointed to answer the complaint of the plaintiff, and to have the writ before the court on the said day.

44. It shall be the duty of the sheriff literally to execute the commands contained in the writ of replevin, and to return his doings to the court.

45. If the sheriff cannot find the goods mentioned in the writ of replevin, the plaintiff may either issue another replevin or a writ of re-summons on the former writ, turning the action thereby into an action of damages, in which last case his sureties shall be released. He may also have an attachment for a sum equal to double the value of the goods as ascertained by his own oath, provided he files an affidavit that he believes they are or have been in the defendant's possession.

46. If the sheriff replevy and deliver the goods, and return those

facts to the court, and the defendant do not appear within four days of the day appointed for his appearance, the plaintiff shall be entitled to a judgement by default, which shall operate as a discharge to his sureties and shall entitle him to the goods.

47. No judgment entered in pursuance of any direction contained in this chapter, shall be stricken out after the term, at which it is entered, nor during that term, but on payment of costs and compliance with such other conditions as the court may impose; provided that the court may inquire into the truth of any return, and if they shall be satisfied that any return was false, they may order the officer making such return, to pay the costs, and may make such order as to the defendant's appearance, as may to them seem just.

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48. A term is the space of time comprehended between the legal first day of any meeting of a court, and the legal first day of the next meeting of the same court

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CHAPTER III.

Of Bail.

1. Bail is the security which is given by a defendant for his complying with the judgment of the court

2 Bail can only be had in cases where the plaintiff is entitled to a writ of attachment or arrest, and only to the amount of the sum mentioned in such writ

3 The stipulation into which bail shall enter shall be that the defendant shall perform the judgment of the court, or render his body to the sheriff, under penalty of such a sum.

4. Whenever a defendant is brought before a court, judge, or commissioner of bail, on a writ of arrest, and the court, judge or commissioner is of opinion that the plaintiff is entitled to demand bail, it shall be lawful for such court, judge or commissioner to commit such defendant to prison, if such court, judge or commissioner shall, in the exercise of a sound discretion, deem it proper, until he is discharged by due course of law. Such discharge may be by order of the plaintiff, or some proper authority before whom the defendant has given bail, or before whom he has assigned all his property for the general benefit of his creditors, agreeably to the directions of the law.

5. The remedy against bail, shall be an action of contract, which, however cannot be commenced until after the return of a writ of execution, which has proved wholly or in part ineffectual. The bail shall be discharged by the death of the principals, prior to such return.

6. The same remedy is to be applied in all cases of security mentioned in the second chapter; but the previous return of a writ of execution shall not be necessary, except in the case of bail, nor shall the death of the principal be a discharge in any other case.

7. The measure of damages, in the case of bail, is the amount of the judgment rendered by the court, in the action in which bail was given.

8. Every judge of a court shall have power to take bail, in all actions pending in his court, and every court shall have power to appoint, by standing rules, commissioners of bail, who shall have the same power. The court may by standing rules establish an appeal from a commissioner to a judge, in cases in which they may deem it proper.

CHAPTER IV.

Of the Complaint.

1. Whenever the defendant appears, it shall be the duty of the plaintiff to file his complaint, unless he has done so before. If the plaintiff has not filed his complaint, within ten days after the appearance of the defendant, the defendant may demand to be discharged.

2. The appearance of the defendant is to be accounted as made, when it is entered on the records of the court. This cannot be done until bail has been given, when the plaintiff is entitled to bail, unless

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an attachment hath been laid on the defendant's property, in which case he may appear without giving bail, the attached property standing as a security in lieu of bail.

3. Every complaint must contain a distinct and intelligible statement in writing, of a sufficient cause of action within the scope of the form of action chosen, otherwise the action may be dismissed.

4. Every complaint must commence in this manner, 'A. B. complains that,' and conclude 'all which the said plaintiff is ready to prove.' No

other form is necessary. In no case shall it be necessary to state any fiction of law, or any precise amount of damages or any matter which it is not necessary to prove.

5. If the plaintiff has really several causes of action, against the same defendant, suited to the same form of action, he may include them all in one complaint, separating them from each other by the words, 'and the said plaintiff further complains that.'

6. A complaint in an action growing out of contract, must state the contract and the violation thereof; and if the contract be one merely implied by the law, must state the facts from which the law will imply it.

7. A complaint in an action of debt, must state a written obligation or promise to pay, or it must be in the form prescribed in the next section.

8. A complaint in debt may be in this form, to wit: A. B. complains that C. D. is indebted to him for sundry matters, properly chargable in account, as will appear by the account herewith filed, and has neglected to pay said debt—all which the said plaintiff is ready to prove. Together with a complaint, in this form, there must be filed an account stating specifically, distinctly and intelligibly, the articles with which the plaintiff intends to charge the defendant, so as to give the defendant notice of the facts the plaintiff intends to prove.

9. A complaint in specific performance must state the contract and the refusal of the defendant to perform his part thereof; it should also state that the plaintiff has performed or is ready to perform his part, unless in cases in which the terms of the contract, the part of which specific performance is sought, is to be performed first.

10. The complaint in injunction, should state the contract or other facts, entitling the plaintiff, to demand that the defendants should not do the act, from doing which it is sought to injoin him, and also the belief of the plaintiff that the defendant intends to do such act. The oath of the plaintiff shall be sufficient evidence of such belief.

11. A complaint in contract, shall state the contract, the violation thereof, and the fact that the plaintiff has sustained damage by reason of such violation. But it shall not be necessary to specify any amount of damages.

12. A complaint in replevin, shall state that the defendant detained

certain specified movable property of the plaintiff, enumerating the same.

13. A complaint in ejectment, may state that the plaintiff was possesser of the land sought to be recovered, or that any other person was possessed of it, and that the defendant or defendants detain said land, and if possession thereof in the plaintiff be not avered, such complaint shall contain an averment, that the title of the person in whom possession is avered, hath come to the plaintiff. A widow may recover her dower in the same form.

14. A complaint in ejectment, may state that the defendant detains the lands of the plaintiff, to which he is entitled, under a grant from the society or other authority having power according to law, to grant land in the first instance, or from the defendant himself to the plaintiff, or to any other person who may be named in the complaint, and in the last case, the complaint shall contain an averment that the title of such person hath come to the plaintiff. The allegation of possession, is sufficiently proved by proving title, unless some other person is proved to

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have been in possession, at the time at which it was important, to prove possession, in the plaintiff, or the person under whom he claims

15. A complaint in ejectment may state that a judgment, to be recited in the complaint, was obtained against the defendant, that an execution issued thereon, and that the sheriff or the other proper officer, in pursuance thereof, sold certain lands of the defendants, to the plaintiff, or to any other person, and that the defendant detains the said lands. If the sale by the officer, is not alleged to have been made to the plaintiff, the complaint must also state, that the title of the person, to whom the sale was made, has come to the plaintiff.

16. When an action of ejectment, is brought against a tenant who holds over, it shall be sufficient for the complaint to state the lease or renting to the defendant, and that his time has expired. If the defendant be not the original tenant, or the plaintiff not the original landlord, the title of those parties to the action, who are not parties to the lease, shall be deduced in general terms from the lessor or lessee, as the case may require.

17. When an action of ejectment, is brought to recover property which has been leased, and the interest of the lessee or his assignee, forfeited by the non-payment of rent, it shall be necessary for the complaint, to state summarily the lease, the claims of re-entry, and the

average of a year's rent, whereby the interest of the defendant is forfeited, and that notwithstanding such forfeiture, he detains the land. If the action be not between the original parties to the lease, the title of those parties to the action, who are not parties to the lease, shall be deduced in general terms from the lessor or lessee, as the case may require.

18. The complaint in an action of damages, shall state the injury complained of, and the fact that the plaintiff has sustained damages thereby; but it shall not be necessary to specify any amount of damages.

19. A complaint in damages to real property, must either state that the plaintiff at the time of the injury complained of, was possessed thereof, or that he was formerly possessed thereof, and had parted with the possession thereof, to be reinstated therein at some period, or upon the happening of some contingency, or it must aver the same facts as to some other person, and deduce title like a complaint in ejectment. But no person can maintain an action of damages, for an injury to real property done before his title to the same accrued. The allegation of possession, shall be sufficiently proved by showing title, unless some other person is proved to have been in possession at the time, which it was important to prove possession in the plaintiff, or those under whom he claims

20. A complaint in damages for an injury to personal property, must state that the plaintiff was the proprietor of the goods, which were the subject of the injury, or that he was possessed of them, and shall also state such injury, which may consist in taking, using, damaging, destroying, selling or detaining such goods, or in any act which may diminish the value thereof, or render the possession of them insecure.

21. A complaint in damages, for a personal injury to the person or reputation of the plaintiff, need only state the injury. If the injury complained of, be a malicious or improper suit, prosecution, or other legal proceeding, the complaint must shew that such suit, prosecution, or proceeding is at an end, and has terminated in favour of the present plaintiff

22. A complaint in an action of damages, for an injury to the domestic relations of the plaintiff, must state the relation upon which it is intended to rely, the injury, and also that the plaintiff sustained damage thereby.

23. The plaintiff may once amend his complaint or withdraw it, and
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file a new one at any time before the case is ready for trial, but he must pay the whole costs of the action, incured by both parties, up to the time of such amendment, and if he change his form of action, he shall lose the benefit of bail, if any has been given.

CHAPTER V.

Of the Answer.

1. The defendant may either deny the truth of the facts stated in the complaint, or he may deny that they are sufficient in law to maintain an action, or he may do both, and in so doing, he is not confined to any form.

2 If the defendant deny both the facts and the law, the question of law shall first be disposed of.

3. The defendant may file an answer to the complaint, setting forth new facts to excuse or justify his conduct, every such answer must be in writing, and must contain a distinct, intelligible and sufficient answer to the complaint, or to such parts thereof, as it professes to answer, or judgment shall be given for the plaintiff.

4 Every answer which is not a mere denial of the truth of the facts alleged in the complaint, or of the law assumed in the same or of both, must commence, 'The defendant denies the right of the plaintiff to recover, because,' and conclude, 'And this the defendant is ready to prove.' No other form is necessary.

5. Every answer must be filed within twenty days after the appearance of the defendant, provided that the complaint shall have been filed before the expiration of ten days from the said appearance, otherwise it shall be filed within ten days after the defendant shall have received notice of filing the complaint.

6. If no answer is filed as provided in the last section, the defendant shall be understood to deny the truth of the facts, and to rest on that defence only. Every answer may be once amended or withdrawn, and a new one filed, or an additional answer filed, but this must be done so as to produce no delay in the trial of the cause, and the defendant must

pay all the costs of the action incured by both parties, previous to such amendment.

7. If the defendant have really several answers to the complaint, he may avail himself of them all, separating them by commencing each new answer with the words, 'And also because.'

8. No general denial, whether expressed or implied, shall ever be construed, in an answer or reply, to amount to an affirmation of any fact, such as payment, performance of a contract, inability of a defendant to contract, illegality of consideration, permission of the plaintiff, lapse of time, or other affirmative matter, of the intention to prove which, the other party ought in fairness to have notice. The fundamental principle upon which all complaints, answers or replies shall be constructed, shall be that of giving notice to the other party, of all new facts which it is intended to prove, whether they are consistent with the facts already stated to the court, or being inconsistent with the present existence of such facts, admit or imply their former existance, or show that existing, they can have no legal effect.

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CHAPTER VI.

Of the Reply and subsequent Proceedings.

1 The plaintiff must reply to the defendant's answer, within ten days after he has notice that it is filed, or he shall be obliged to rest his case on the denial of the truth of the answer only, to be construed agreeably to the principles of the eighth section of the last chapter.

2. The plaintiff may in his reply, either deny the truth of the answer, or that it constitutes a sufficient answer to his complaint or both. But if he denies both, the question of law must first be disposed of. Such denial is to be construed agreeably to the principles of the eighth section of the last chapter.

3. The plaintiff may reply new facts, if he thinks proper to do so, subject to the rules laid down for answers. Such reply must commence, 'The plaintiff denies that the answer of the defendant is sufficient to prevent his recovery,' and conclude:—'And this the plaintiff is ready to prove.' No other form is necessary.

4. If the defendant choose to give any other answer, than the denial of fact or law to the reply, he may file a second answer, but this will

seldom be necessary or proper; in like manner, the plaintiff may file a second reply, and so on, until one of the parties rest his case on a denial of the facts stated, or law assumed by the other party, or of both; such subsequent answers and replies, are subject to all the principles, rules and forms above laid down, such alterations being made in the forms, as circumstances may require.

5. Every answer and reply, must contain a distinct, inteligible and sufficient answer in writing, to the complaint, answer or reply to which it purports to be an answer or reply, or to such parts thereof as it professes to answer, and must not depart from the ground taken by the former answers or replies to the same party, or judgment shall be given for the other party.

6. If a party have really two or more sufficient answers or replies, to the answer or reply of his adversary, he may avail himself of them all, separating them by commencing each new answer or reply after the first, with the words, 'And also because.'

7. Amendments may be made in replies and answers, subsequent to the first, upon the terms on which they may in the first answers and replies, and subsequent answers may be withdrawn, and others substituted upon similar terms.

CHAPTER VII.

Of Trial.

1. The trial of all questions of mere law, shall be by the court.

2. The trial of all questions of mere fact, shall be by a jury, if required by either party, and the value of the matter in dispute exceed twenty dollars, unless in cases where the court are expressly authorised or directed by law, to enquire into any matter of fact, not going to the final decision of the case.

3. The trial of all mixed questions of law and fact, shall be by jury, with the assistance, and under the direction of the court, unless where the court could try question, if one of mere fact.

4. A jury shall consist of twelve persons, who shall solemnly swear or affirm immediately before the trial, that they will well and truly, try the issue joined, between the parties, and a true verdict give according to evidence.

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5. The opinion of the court, shall in all cases be the only evidence to the jury of the law of the land.

6. The amount of debt or damage shall, unless otherwise directed by law, be in all cases ascertained by a jury. The jury who try an action of replevin, when the goods are in the 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 duty of the court, to expound to the jury all written evidence, procured 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 case.

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 case; 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 cir-

cumstances 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 court 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 favor 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

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hearing it, which 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, shall be immediately, if the court have time—if not, it shall be at the next term.

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 a seal.

2. Every act of a court unless otherwise directed by law or rule of court, shall be authenticated by the signature of the clerk, and the seal of the court.

3. It shall be the duty of the clerk of every court to keep a docket, or list of the cases pending in the court; which shall exhibit all the proceedings taking place in the cause. To take charge of all records and papers, and on payment of his fees, give copies of them whenever required, to sign all writs and other acts of the court, and to do such other duties as may be required of him by law, or rule of court.

4. It shall be the duty of every court, at each term or session, to dispose of all questions of mere law depending before them, and then to a cause a jury to be provided to try questions of facts and mixed questions.

5. Every court shall have power to cause to be arrested and brought before them by writ of arrest, or otherwise, any person who may interrupt or disturb its proceedings, resist the execution of a writ or writs issued by its authority refuse or neglect to obey its lawful summons, or that of the sheriff to attend upon its sitting, or refuse or neglect to perform the duties, for the performance of which any such person may have been summoned, or who being summoned and having appeared, shall depart from the court without leave. But this section shall not be construed to extend to defendants in actions, who may disobey a summons, in cases in which a writ or arrest is not expressly authorized against them in the second chapter.

6. When any person is brought before the court under the last section, it shall be lawful for the court to punish him or her by fine and imprisonment, or otherwise in the discretion of such court.

CHAPTER IX.

Of Juries.

1. Every jury shall be composed of twelve jurymen, the consent of the whole of whom, shall be necessary to a verdict.

2. Every jury, shall on the demand of either party, be chosen in the following manner. Twenty four names, of persons qualified to be jurors in the case, shall be put into a box, and twenty of them drawn by lot, each party may strike four from the list and the remaining twelve shall try the cause, should the parties strike the same persons, the court shall reduce the number to twelve.

3. The foreman of every jury, shall be appointed by the court.

4. The foreman of every jury, shall deliver their verdict, but any party to the action, may demand the opinion of each jury man, in order that he may ascertain if the verdict is unanimous.

5. Every juryman, immediately before the commencement of the trial, shall make a solemn promise or affirmation, to the effect prescribed in the fourth section of the seventh chapter; or else that he will well and truly inquire of the debt due to,——or the damages sustained by the plaintiff. The latter form applies to inquiries after judgment by default or otherwise.

6. No person can be a juryman in any case in which he has directly or indirectly, a pecuniary interest, or in which any ancestor, descendant, brother or sister of his, or his wife, or the husband or wife of any such ancestor, descendant, brother or sister, has, directly or indirectly, such interest, or in which any uncle, aunt, nephew, niece, or first cousin of himself or his wife, is a party or wife to a party, or in which he has acted as agent or assistant, in any way for either party, or on the merits of which he has expressed any opinion, or in which he has previously acted as a juryman or arbitrator. Either party may object to the name of any person, disqualified from serving by this section, being put into the box, and the facts, if denied, may be proved by the oath of the juryman proposed, or by any other sufficient evidence. The court may also exclude a person from serving on a particular jury, for any reason which in the opinion of triors, affects his impartiality, or on his own application may for similar reasons excuse him. But in cases of exclusion, except for the specific causes above mentioned, the court shall, if required so to do by either party, cause three persons 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 into 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.

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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.

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, except the constable sworn to attend them, unless the court dispense with any part of this section. A jury may, notwithstanding, have food, water, light, and such other necessaries as the court may direct.

11. If the court are satisfied that there is no prospect of the jury 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 jurymen in the

case, without reference to townships 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 shown.

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 shown ever to have existed, the party denying his continued existence, must show 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.

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

11. Hearsay from deceased persons, of ancient facts, of which they, from their situations, were likely to have knowledge, such as marriages, births, deaths and pedigrees, may be received as evidence; but it is evidence of a low grade.

12. General reputation, is evidence of general character, of marriage, of legitimacy ,of death, of a man, having filled or filling a public office in which he has publicly acted.

13. All admissions made by a party himself, or by any agent of his, acting within the scope of his authority are evidence.

14. Whatever has been said by a party himself, is evidence against him.

15. Every agent for the conduct of a cause, shall have authority for making admissions in that cause.

16. The admission of every other agent, in any matter under his control as agent, shall be evidence.

17. Where several parties, have a joint interest, the common interest being proved, the admission of one is the admission of all, but the common interests, cannot be proved by the admission of one or more against those not joining in such admission.

18. All admissions must be taken altogether, the whole document or conversation must be given in evidence, and will be evidence of all qualifications, exceptions and denials contained therein, and of all facts connected with the question stated therein, but evidence may be given of the falsehood of any statements so made. But no document or conversation, can be made evidence by the other party proving any other document or conversation, not referred to, in the document or conversation, first proved.

19. No declaration of any party shall be evidence in his favor, except in the case provided for in the tenth section of the fourth chapter, in the cases provided for in the last section, and such other as may be provided for by law.

20 The directions given, or other words spoken by any person or persons, during the transaction of any matters, are not to be regarded as hearsay, or as the declarations of a party, they may be proved as facts.

21. The admissions or declarations of any person, under whom a

party to a cause derives title, to any property in dispute, in such cause, touching such title or property, made, while the interest of such person in such property continued, shall have the same effect as if made by such party.

22. Printed histories, shall be evidence of notorious public historical facts.

23. Foreign laws are facts, and must be proved like other facts.

24. If a book, pamphlet, paper, painting, or drawing, engraving, etching or other article, shall be sold in an office or shop, where such articles are usually sold, the person for whose account the business of such office or shop is carried on, shall be presumed to have sold such book, pamphlet, paper, painting, drawing, engraving, etching, or other article, until he remove that presumption by contrary proof.

25. Every conversation to which any person was a party, or which was carried on in his presence or hearing, shall be evidence against him, subject to the qualification in the eighteenth section, (in this chapter,) and to the sound discretion of the jury in the application of this rule.

26. The possession of any property, is evidence of title thereto, until the contrary be shown.—Where the actual possession of property is vacant, it shall be deemed to be in the possession of him, who may be the right owner. Yet he may wave this constructive possession and treat it as if in the possession of any other person, who may claim it.

27. All evidence must be relevant to the issue, that is, must have

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a tendency to establish the truth or falsehood of the allegations, and denials of the parties. But in actions for the injuries enumerated in the fifty-ninth section of the first title, it shall be lawful to give evidence of any fact which has a tendency to explain the situation, circumstances or motives of the parties, in aggravation or mitigation of damages, although not properly relevant to the issue.

28. Evidence is divided, into written evidence and oral testimony.

CHAPTER XI.

Of Written Evidence.

1. Written evidence, comprises judgments, verdicts, and other records, deeds, conveyances, wills, bonds, notes, agreements, entries in

books, and other similar documents;—it does not include depositions taken, to be used in a cause, although reduced to writing.

2. All verdicts, judgments, and other records, and all wills, and other documents, which have been recorded in pursuance of any law, and all documents, lawfully deposited in any public office, may be proven by producing copies of such documents or the records thereof, authenticated by the signature of the proper officer, and by his seal of office, if he be required by law to have one. The acts of any court required by law to have a seal, must be authenticated under such seal.

3. All other writings must be proved by the production of the originals, unless in the cases provided for in the ninth section of the last chapter, or in other laws.

4. The loss of documents, or its delivery to the other party, may be proved by the oath of a party to the cause, or other interested witness.

5. Hand-writing must be proved by the oath of a person acquainted with the hand-writing of the party, whose it is alleged to be, either from having seen him write, or corresponded, or transacted business with him; or it may be proved by comparison with undoubted writings of his,—proved not to have been written after the dispute arose, or under other suspicious circumstances.

6. By suspicious circumstances, are meant any circumstances, likely to induce a party to deviate from his usual mode of writing or to cause it to be changed involuntarily.

7. Acts of the Legislature, whether private or public, may be given in evidence from books printed by authority.

8. Foreign laws must in general be proved like other facts, but the printed laws of the United States, and of each of them, published by authority, shall be evidence.

9. The written laws of other countries, must be proved by copies attended in the most solemn manner usual in such countries; and proof must be given as to what is the most solemn manner used in such countries.

10. The judgments of foreign courts and foreign records, must be attested in a similar manner.

11. Acts of the Legislature and foreign laws, shall be admissible evidence against all persons whatsoever.

12. Verdicts and judgments, shall be admissible evidence against all parties thereto, and those claiming under them.—They shall not generally be evidence against any other parties, except for the purpose of shewing their own existence.

13. Where a verdict or judgment, has been rendered against any person in consequence of any act or omission of another person, such

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verdict or judgment, shall be evidence against such other person, in an action by the original defendant to prove its own existence and the amount of damages sustained.

14. A verdict on which no judgment has been given, shall not be evidence.

15. A legal judgment shall be evidence, although not founded upon a verdict.

16. A foreign judgment is evidence, in the same manner as a domestic one, its existence having been first proved and also the existence of the law upon which it is founded. But no proof need be given of the law of nations.

17. A judgment of a foreign prize-court, is not conclusive evidence of any act whatever, but it is some evidence.

18. A foreign judgment in a case in which the defendant did not appear, although a party thereto, shall be no evidence against him But if any person have appeared for his interest, it shall be evidence, unless he shows that the appearance was without his authority.

19. A verdict or judgment, shall be evidence against the party who succeeded in the original action, or those claiming under him, in favor of any person whatever, but it shall not be evidence against the party who failed in the original action, unless it would be also evidence against the party who produced it as evidence.

20. A verdict and judgment in ejectment shall be evidence, but not conclusive evidence of title, but two verdicts in actions between the same parties or those under whom they claim, in favor of the same side, shall be conclusive, unless it is shown that there has been a verdict and judgment the other way, and even in that case, three similar verdicts and judgments shall be final and conclusive.

21. Other verdicts, and judgments, and sentences and decrees of courts of competent jurisdiction, are final and conclusive evidence upon

the same matter, and some evidence to prove any other fact which comes in question in another cause, which they may have any tendency to prove.

22. In all cases where the judgment of a court of limited jurisdiction, or a foreign court, is relied on in evidence, the jurisdiction of such court, must be proved to extend to the case in which the judgment was given.

23. A will regularly admitted to proof, by a court having jurisdiction to do so, is evidence against all mankind, unless in a proceeding instituted for the purpose of setting aside such will or the probate thereof.

24. Letters, testamentary, and of administration, may be read in evidence in all cases whatever, until they have been regularly revoked.

25. Deeds and other writings, shall be evidence against all parties to them, and shall also be evidence of the transfer of all titles or rights transferable by them, against all mankind.

26. A memorandum made by a deceased disinterested person, in the ordinary course of his business, shall be evidence.

27. If a party desire to give in evidence any document, in possession of his adversary, he shall give him reasonable notice to produce it, and the court shall have authority to decide whether the notice is reasonable. But where the proceedings in the cause give notice that one party means to charge another with the possession of an instrument, no other notice shall be necessary.

28. When an instrument is produced under such a notice, the party who requires it, must prove the hand-writing of the party subscribing it, unless where the party producing it claim title under such deed or other instrument.

29. If the party to whom the notice has been given, to produce a deed or other instrument, neglect or refuse to do so, and do not prove that it is not in his power, he shall be taken to admit its authority, and its contents may be proved by a copy, or by the testimony of witnesses.

30. If the party to whom notice has been given, to produce a deed

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or other instrument, shall not produce it, its contents may be proved by a copy, or by the testimony of witnesses.

31. If a party to a cause is fraudulently in possession of an instru-

ment, which does not belong to him, no notice to produce it is necessary, and the contents may be proved without such notice.

32. If a deed or any document, which is wanted to be given in evidence, is not in the power of either party, the party wanting the same, may have a writ of summons directed to the person having custody thereof, requiring him to bring such deed or other document with him to court. Which writ may be enforced in the manner herein before provided for in the sixth section of the seventh chapter.

33. Either party may examine the other upon oath, as to whether any instrument or signature is in his hand-writing, either before or at the trial. If any party refuse or neglect to answer an interogatory to that effect, it shall be considered an admission that it is his hand-writing.

34. If any party shall on such examination, deny that the hand-writing is his, and the instrument has the name of a subscribing witness annexed to it, such witness must be produced, or his absence accounted for, by showing his death, or removal beyond the process of the court, or other fact rendering his attendance impracticable, and in that case it shall be necessary to prove both his hand-writing and that of the party. But if the instrument be produced under a notice, this section shall not apply to the case.

35. When an instrument has been produced under a notice, or the party has not denied on oath that the instrument or signature is his hand-writing, or when there is no subscribing witness, it shall be sufficient to prove the hand-writing of the party. But if reasonable notice has been given to prove the hand-writing of the subscribing witness as well as of the party it must be done. The court shall judge of the reasonableness of the notice.

36. A document more than thirty years old, which is proved to have been found in the possession of a person who may reasonably be supposed to have been possessed of it, supposing it to be genuine, and which is attended by no circumstance tending to throw suspicion over it, shall be deemed to prove itself.

37. It shall be the right of the court, to expound all written evidence.

38. No testimony can be received to explain any instrument of writing, as to any doubt or ambiguity apparent on the face of it, but if in consequence of the introduction of testimony relative to persons,

things or other matters mentioned in any instrument of writing, a doubt arises, such doubt may be cleared up by testimony.

39. No testimony shall be received, to prove that the terms of any written contract or other instrument were different from those therein stated, but testimony may be received to shew that an instrument is fictitious or fraudulent, and testimony may also be received to show that there was an additional consideration, or other stipulation not inconsistent with the terms stated in the instrument.

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.

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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 case, or relation to one of the parties.

6. No person shal 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, or any crime specified in Part 1st, page 12 sec. 5.

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 shown 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 hand-writing, 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.

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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

17. The incompetency of a witness on account of interest, may be proved by his own oath, or in any other manner.

18. The incompetency of a witness on account of his relation to the party, may be proved by the oath of the witness, the oath of the party, or in any other manner. For that purpose a party may be examined at the trial.

19. The resorting to any one mode of proof to establish the incompetency of a witness, shall not preclude the party from resorting to any other.

20. The competency of a witness who is incompetent from interest only, may be restored by releasing or assigning, or offering to release or assign his interest in the matter, which disqualifies him, or by the parties releasing their claims upon the witness, or by offering to do so, and the witness refusing their release.

21. An interest acquired by a witness to disqualify himself, shall not produce that effect.

22. A witness shall be compellable to answer every question which may be asked him, unless he will swear that his answers may subject him to punishment, other than a pecuniary fine, or unless he be the confidential agent of one of the parties in the case, and the question

be one which such party himself, could not be compelled to answer, and the witness have no knowledge of the subject, but what is derived from the confidential communication of the party.

23. A witness must generally be examined in the presence of the court and jury, if possible.

24. Either party may at any time, if he is fearful of losing the testimony of a witness, cause the testimony of such witness to be taken and reduced to writing by a justice of the peace, either in the presence of the opposite party or his agent, or after having given reasonable notice of his intention to do so. The court shall decide what is reasonable notice, according to the circumstances of the case, which, however, shall be never less than twenty-four hours.

25. If a witness resides, or is out of the colony, and a party desires to obtain his testimony, he may file interrogatories in writing, and an application for a commission to some place to be named; naming his commissioner, and serve copies thereof on the opposite party; who shall thereupon within four days file cross interrogatories in writing, and name his commissioner; in default thereof; the commission shall issue to the commissioner of the first applicant, and shall be forwarded without cross-interrogatories. A commission may by consent be issued to one commissioner.

26. It shall be the duty of any commissioners, appointed under the last section, to reduce to writing the depositions and answers on oath of all witnesses, who may appear before them, and send them carefully sealed up, to the court.

27. If the witness reside in a country, where the execution of commissions is not allowed, the court may send interrogatories and cross-interrogatories, with a letter rogatory, addressed to the proper authority, requesting such authority to take the depositions and answers of the witnesses.

28. Depositions taken out of court, can only be used when the witness cannot be produced in court.

29. Leading questions, that is, such as instruct the witness how to answer, shall not be asked.

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30. A witness shall depose to such facts only, as are within his own knowledge and recollection.

31. A witness may refresh his memory by reference to a written memorandum made by himself, or made by another, and examined by himself, while the occurrences mentioned therein were still recent.

32. A witness shall only depose to facts, not to opinions, except in cases of science, or peculiar knowledge which he may possess, from his peculiar studies, occupation, or pursuits; and except in questions of general character.

33. On cross-examinations, leading questions may be put.

34. A witness may be cross-examined as to all matters touching the cause, or likely to discredit himself; but he shall not be asked irrelevant or hyperbolical questions, for the mere purpose of entrapping him.

35. The credibility of a witness, may be impeached, by giving of his general character, or by showing his conviction of particular crimes, producing the record of conviction; but not by proving particular allegations, not before that time judicially established.

36. The credibility of a witness, may be impeached by showing that he has contradicted himself, either in or out of the court,

37. When the testimony of a witness, is attempted to be impeached, his former statements may be given in evidence to corroborate his testimony. This rule does not apply to a witness who is also a party.

38. A party shall not impeach the credibility of his own witness, who is not also a party, although he may contradict him, by the testimony of other witnesses, or by documentary evidence.

39. The court or the jury may, for their own satisfaction, inquire into the credibility of the witnesses on either side.

CHAPTER XIII.

Of Oaths and Affirmations.

1. Parties in action, where an oath is required of them, and witnesses, shall be sworn in the manner hereinafter directed, unless where the court shall be satisfied that the person is conscientiously scrupulous of taking an oath on any occasion; in which case his solemn promise or affirmation shall be substituted for an oath.

2. Jurymen, triors, appraisers, commissioners, interpreters, who

are civilized men, and all other persons who are presumed to be selected on account, in part, of respectability of character, shall only be required to give a solemn promise or affirmation that they will perform their respective duties.

3. When it is necessary to employ an uncivilized man, to interpret a language spoken by uncivilized men, he must be sworn.—All natives of Africa, who are not Christians, Jews, or Mahomedans, are to be considered uncivilized.

4. The manner of administering an oath to all persons, shall be such as those of the religious persuasion, profession, or denomination, of which such person is one, generally esteem the most effectual confirmation, by the attestation of the Divine Being; and all persons holding it unlawful to take an oath on any occasion, shall be allowed to make their solemn promise or affirmation, to be of the same avail as an oath, in all cases whatever, the court being satisfied of the reality of their scruples.

5. Oaths shall be in the following form, unless where a different one is required, by the principles of the last section: You do solemnly promise and swear, in the presence of the Omniscient, and heart-searching God, that [*here insert the substance of the promise,*] as you

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will answer the same to the Great Judge of quick and dead; to which the person sworn shall assent, putting his right-hand on the book and kissing it.

6. The form of a solemn promise or affirmation shall be: 'You do solemnly and sincerely promise and affirm, that' [*here insert the substance of the promise.*

7. The oath or affirmation of a witness shall be—'that the evidence, which he shall give to the court *and jury,* in the matter now depending before them, shall be the truth, the whole truth, and nothing but the truth! Where the evidence is to the court alone, the words and jury' shall be omitted.

8. Where the witness is a party, or only examined to ascertain his competency, the oath or affirmation shall be—'that he shall true answer make to all such questions as shall be asked him by the court or its authority.'

9. The promise of a juryman impannelled to try a question of fact, other than the amount of a debt, or of damages, shall be—'that he will

well and truly try the *issues* joined between A. B., plaintiff, and C. D., defendant, and a true verdict give, according to the evidence.' If there is but one *issue*, that word shall be in the singular.

10. The promise of a juryman impannelled to ascertain the amount of a debt, after an imperfect judgment, shall be,—'that he will well and truly try and assess the debt, due by the defendant to the plaintiff.'

11. The promise of a juryman impannelled to ascertain the amount of debt or damages, after an imperfect judgment, shall be—'that he will well and truly try and assess the *debt due by the defendant to the plaintiff*, in the action in which A. B. is plaintiff, and C. D. is defendant;' except in an action other than one of debt, the words '*damages sustained by the plaintiff*.' shall be substituted for the words '*debt due from the defendant to the plaintiff*.'

12. The promise of a juryman impannelled to ascertain the value of goods in replevin shall be—'that he will well and truly try and ascertain, the value of the goods in question in an action of replevin, wherein A. B. is plaintiff and C. D. defendant.'

13. The whole jury may be affirmed at once.

14. The court may combine or otherwise accommodate the preceding forms of the promise of a juryman, to suit the peculiar circumstances of particular cases.

15 The promise of a trior shall be—'that he will well and truly try whether A. B. stands indifferent between the parties in the cause now depending before the court.'

16. The promise of an appraiser, shall be—'that he will well and truly value and appraise, all articles which he shall be required to value and appraise, during the present service, according to the best of his skill and knowledge.

17. The promise of a commissioner to take testimony, shall be—that 'he will, according to the best of his skill and knowledge, truly, faithfully, and without partiality to any person, take the examinations and depositions of all and every witness produced and examined before him.' In cases of commissions to be executed out of the colony, it shall be sufficient for the commissioners to subscribe this promise.

18. The promise of a clerk to a commissioner, where there is one, shall be—'that he will truly, faithfully, and without partiality, take, write down, and transcribe, the depositions and examinations of all

and every witness examined, before the commissioners named in the annexed commission, so far forth as he is directed and employed by the said commissioners, or any of them, so to do.' In cases of commissions, executed out of the colony, it shall be sufficient either for the clerk to subscribe this promise, or for the commissioners to certify that he was duly affirmed.

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19. The promise of a commissioner of bail, shall be—that 'he will truly, faithfully, and without partiality, execute the office of commissioner of bail.'

20. The promise of an interpreter, shall be—that 'he will truly, faithfully, without partiality, and to the best of his skill and ability, perform the duty of an interpreter in the cause now depending before the court.'

CHAPTER XIV.

Of certain incidental Proceedings.

1. Where goods have been replevied; or goods or other property, taken out of the possession of the defendant, under the provision of the thirty-fifth section of the second chapter; it shall be lawful, for the defendant to move for a return of such goods or other property; and the court shall proceed, without the aid of a jury, to hear such motion, after reasonable notice to the parties, of the time of hearing; and if it shall appear to the court on examining witnesses or other evidence, that the defendant in replevin, did not acquire possession of the goods replevied by force or fraud, or that the plaintiff in specific performance or enforcement, is not entitled to the possession of the property under the contract, sought to be enforced in the action, the court may order a return of the property, without prejudice to the final decision of the cause.

2. Whenever goods taken in replevin, are returned under the last section, the defendant shall give security, to be approved by the court, that he will return the goods to the plaintiff, if the court shall so direct.

3. Whenever goods shall have been attached, which are of a perishable nature, or expensive to keep, the court, or any judge thereof, may, on the application of any party interested, order a sale of such goods, and a writ of sale to be issued.

4. Whenever an answer, verified by oath, is filed in injunction, the defendant may move for a dissolution of the injunction, and the court shall fix a day for the hearing of the same, giving reasonable notice thereof. It shall be heard in a summary way, without a jury, and the court may dissolve the injunction, without prejudice to the final decision of the cause.

5. Whenever a party shall die, or assign his property for the benefit of his creditors, his legal representatives shall be made a party in his stead; and if such legal representative will not voluntarily appear, and prosecute or defend the cause, the other party may issue a summons for such legal representative, and if necessary, a re-summons; and on a return of summoned, or any return to a re-summons, if such legal representative still refuse or neglect to appear, judgment by default may be entered against him Any person may inform the court of the death of a party The provisions of this section, shall not extend to actions for personal injuries, nor to cases in which, by the death of one of several co-parties, his interest in the matter in dispute, in the cause passes to his co-parties When the action for a personal injury, is by or against a man in respect of personal injury, committed by or against his wife, the action will survive to or against his wife, and she may be made a party in the place of her husband, either voluntarily, or in the manner above directed.

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CHAPTER XV.

Of Arbitrations.

1. It shall be lawful for the parties in any action, at any time before verdict or judgment, or for any persons having a dispute, not yet made the subject of an action, to apply for a rule of court, to refer such action or dispute to arbitrators, which rule shall be made, if the court are satisfied that all the parties concerned have consented.

2. The arbitrators named in the rule, may be one, two, or three in number; if two, they shall have power to choose a third.

3. Arbitrators appointed by rule of court, shall have the same authority to summon witnesses, examine them, and administer oaths and affirmations, as the court, making such rule. They may also direct the clerk of such court, to issue commissions to take testimony to be used before them, and may enforce their summons, and compel the answers of witnesses, by writ of arrest and fine, associating with themselves,

for these purposes only, a justice of the peace, who shall sign such writs and orders for fine. Such fines may be enforced by action of debt, in the name of the colony, unless paid without compulsion.

4. Arbitrators may dispose of all questions of costs of the action or arbitration, as incident to their authority, and may make any award which the court can enforce by a judgment.

5. The award must be in writing, and signed by the arbitrators, or a majority of them.

6. The award shall be evidence of all facts stated in it, against all the parties to the arbitration, and shall be conclusive, after a judgment shall have been entered upon it. It shall then be equal to a verdict.

7. Every thing shall be presumed to support the award, until the contrary be proved.

8. No judgment shall be entered on an award, until four days after the party against whom it is rendered, has been served with a copy thereof.

9. Either party to an award, may file his objection in writing, at any time before a judgment is rendered thereon.

10. The objection may be, either corruption in the arbitrators, gross partiality, want of notice of the time and place of proceeding, or error in law, apparent on the face of the ward. In all cases except in the last, the objection must be verified by affidavit.

11. The court shall appoint an early day for hearing such objections, giving reasonable notice to the parties; they shall be heard in a summary way, without a jury, and decided by the court upon the evidence adduced. The court may either confirm the award, or set it aside, as they may deem just; and, if they set it aside, may send it back to the same or other arbitrators, with or without instructions; or may cause the case to be tried by a jury.

12. Whenever a case shall present complicated accounts, not fitted to be unraveled by a jury, the court may, without consent, refer them to arbitrators as aforesaid; but in such cases, the award shall state the particulars of the account on both sides, and whether allowed or rejected by the arbitrators; and either party may except to the allowing or rejecting any item; which exceptions, if required, shall be tried by a jury.

13. The court shall in such case give such jugment, as may be proper, taking into view both the award and finding of the jury.

14. If no objections or exceptions, are filed to an award, it shall be confirmed of course.

15. Whenever an award is confirmed, final judgment shall be rendered thereon, as soon as may be.

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16. Any person may refer any dispute between them to arbitration, in any manner they may think proper; but unless it be done agreeably to the previous provisions of this chapter, the award shall not be the foundation of a judgment, without a new action. Such reference shall be irrevocable, unless by consent of both parties.

17. An action of debt, shall lie on an award for the payment of money only. An action of contract or specific performance, on any other award.

18. In any action brought upon an award, every thing shall be presumed in favor of the award, the reference and the signatures of the arbitrators, being first proved, and the award shall be evidence of all facts stated in it, although liable to be contradicted by other evidence.

19. An award not made in pursuance of a rule of court, shall in all cases be evidence of its own existence, the reference and signatures of the arbitrators, being first proved, and in all cases every thing shall be presumed to support it. It shall be some evidence of facts stated in it against the party in whose favor it is given, and also against the other party, in a contest between them, although liable to be contradicted by other evidence.

CHAPTER XVI.

Of imperfect Judgments and Proceedings after them towards final Judgment.

1. An imperfect judgment, is given when the court, although they see from the proceedings, that one party is entitled to succeed in the case, are not yet informed as to the extent of his right of recovery.

2. Imperfect judgments, are either by default, by confession, or on questions of law, or after an imperfect verdict.

3. Judgments by default, are given in the case provided for in the second chapter, or other parts of this abstract; and whenever a party formally abandons his claim or defence, and refuses to prosecute his case, or to resist the claim of his adversary before a jury is affirmed; after the jury is affirmed there must be a verdict. A plaintiff may, before the jury is affirmed, abandon his claim, reserving, expressly his right to renew his action.

4. Judgments by confession are, where either party confesses that the other is right, and that he is wrong. If the confession stops there, the judgment must be imperfect, but the parties may go on and ascertain the debt or damages, and costs also by confession, and in that case a final judgment shall at once be given.

5. Judgments on questions of law, are given when any action has been decided by the court without a jury, either because the case presented no questions of fact, or because it turned solely upon the existence of a record.

6. Judgments after an imperfect verdict, are given either after a special verdict, in which the jury have neglected to find the debt or damages, or the jury shall have reported their opinions as to the amount of debt or damages to the court, under the provision of the twelfth section of the ninth chapter; and also in all actions of special performance.

7. The form of an imperfect judgment, except in injunction, shall always be—'The court adjudge that the plaintiff is [*or is not*] entitled to recover.'

8. The form an imperfect judgment in injunction may be either 'The court adjudges that the injunction ought to be made perpetual,' or 'The court adjudges that the injunction ought to be dissolved.' If the injunction have been once dissolved on motion, and the court on the final trial should think that it ought to be renewed, the imperfect judg-

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ment may be—'The court adjudges that the injunction ought to be renewed and made perpetual.' If the court shall in any way modify the original injunction, they may modify the imperfect judgment to suit the circumstances of the case.

9. In case of an imperfect judgment for the plaintiff, in an action of debt, in which there is a written instrument or instruments, ascertaining the amount of the debt, or in an action of replevin, where the

goods, at the time of the imperfect judgment, are in the hands of the plaintiff, it shall be the duty of the court to ascertain the debt or damages to be recovered from the defendant.

10. In all other actions of debt or replevin, and in all actions of contract or damages, it shall be the duty of the court, except in the cases hereinafter otherwise provided for, to cause a jury to ascertain the debt or damages.

11. In all actions of replevin, where the goods are in the hands of the plaintiff, and the judgment is for the defendant, the court shall cause a jury to inquire into the value of the goods, if the defendant demand such enquiry, or by consent of parties, the court may ascertain such value themselves.

12. In all cases whatever, it shall be the duty of the court to ascertain the costs, and consequently to complete all judgments for the defendants.

13. In actions of specific performance and injunction, where the plaintiff has recovered, it is the duty of the court to ascertain what is the injunction which ought to be made perpetual, or to what specific performance the plaintiff is entitled; as well as to ascertain the costs, and consequently to complete all judgments in these actions.

14. As there are ordinarily no damages in ejectment, it is the duty of the court to complete all judgments in that action, except in the case provided for in the next section.

15. It shall be lawful for a plaintiff in ejectment, who has succeeded in obtaining a verdict or an imperfect judgment, to file a petition to the court, praying that he may have judgment for the damages he has sustained by the detention of his land, and the court giving reasonable notice to the other party, shall cause a jury to inquire into the extent of such damages, and complete the judgment accordingly. The provisions of this section, shall not be deemed to apply to ejectments, brought for lands forfeited, for non-payment of rent. In such cases the plaintiff can have no damages.

16. In actions of enforcement, the court shall complete the judgment, ascertaining the costs, and doing whatever else is necessary for that purpose. An action of enforcement, is only necessary where a judgment has stood without execution, two years, or a party has died,

17. In imperfect judgments, after an imperfect verdict, the court may either ascertain the debt or damages themselves, or, on the de-

mand of either party, it may be done by a jury; but if such jury cannot agree, the amount of the debt or damages shall be settled by the court.

18. Whenever the services of a jury are necessary, or required to complete an imperfect judgment, the court shall add to such imperfect judgment, an order for their attendance.

19. The court may, by consent of parties, ascertain the debt or damages, and complete imperfect judgments in all cases.

CHAPTER XVII.

Of final Judgments.

1. As soon as a perfect verdict is rendered, or an imperfect judgment completed, the court shall proceed to render a final judgment.

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2. The form of a final judgment in debt for the plaintiff, shall be—'The court adjudges that the plaintiff recover from the defendant the sum of———for his debt, and the sum of———for his costs in this action. Interest, when allowed, shall be computed as part of the debt.

3. The form of a final judgment for the plaintiff in specific performance, shall be—'The court adjudges [*here insert the substance of the judgment*] and that the plaintiff recover from the defendant the sum of———for his costs in this action

4. The form of a final judgment for plaintiff in an action of the contract or damages, shall be—'The court adjudges that the plaintiff shall recover from the defendant the sum of———for his damages, and the sum of———for his costs in this action.'

5. The form of a final judgment for a plaintiff in injunction, shall be—'The court adjudges that the defendant be forever injoined and prohibited from [*here insert the substance of the injunction,*] and that the plaintiff recover against the defendant the sum of———for his costs in this action.'

6. The form of a final judgment for the plaintiff, when he is in possession of the goods in replevin, shall be—'that the plaintiff hold the goods without being liable to be disturbed by any future replevin, and also recover against the defendant the sum of———for his costs in this action.'

7. The form of a final judgment for the plaintiff in replevin, when the goods are in the defendant's possession, shall be—'The court adjudes that the defendant return the goods to the plaintiff, or pay him the sum of———for his damages; and that the plaintiff hold the goods, if returned, without being liable to be disturbed by any future replevin: and recover against the defendant the sum of———for his costs in this action.'

8. The form of a final judgment for the plaintiff in ejectment, shall be—'The court adjudges that the plaintiff shall recover against the defendant, the lands mentioned in the complaint, and the sum of———, for his costs in this action.' When all the lands mentioned in the complaint are not recovered, the judgment shall describe the lands recovered, and add the words 'part of' before the words 'the lands.'

9. Where damages have been ascertained in ejectment, under the provisions of the fourteenth section of the last chapter, the court shall insert in their judgment, after the word 'complaint,' the words 'and the sum of———for his damages.'

10. The form of a final judgment in enforcement shall be—'The court adjudges that the plaintiff may have execution against the defendant, of the judgment mentioned in the complaint, and shall recover against him the sum of———for his costs in this action.

11. Whenever the interval between the ascertainment of the debt or damages and the rendition of the final judgment shall be so great that the interest on the debt or damages shall exceed two dollars, the court may ascertain the amount of such interest, and may, in their discretion, insert in the judgment, after the word 'debt,' or 'damages,' as the case may be, the words 'and the sum of———, for additional debt,' or additional damages, as the case may be.

12. The form of a final judgment for a defendant shall be—'The court adjudges that the complaint of the plaintiff be dismissed, and that the defendant recover against the plaintiff the sum of———for his costs in this action.'

13. If the action be injunction, and the injunction be not dissolved before the final judgment, the words 'and that the injunction be dissolved' shall be added after the word 'dismissed.'

14. If the judgment for the defendant be a replevin, and the goods are in possession of the plaintiff, they may add at the end of the judgment, 'and that the plaintiff return the goods to the defendant, who shall hold the same, without being liable to be disturbed by any future replevin, or pay him the sum of———for the value thereof.'

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15. If there has been no ascertainment of the value of the goods, so much of the judgment in the last section as relates to the value shall be omitted.

16. If the judgment for the defendant be in replevin, and the goods be in possession of the defendant, the court shall add at the end of the judgment in the last section but one, 'and the defendant shall hold the goods, without being liable to be disturbed by any future replevin.'

17. The court may alter any of the preceding forms, so as to accommodate it to the peculiar circumstances of a particular case.

18. All final judgments shall carry interest from the day of their rendition, of which it shall be the duty of the clerk of the court to keep a memorandum. The interest shall be computed upon all sums mentioned in the judgment, whether debt or additional debt, damages or additional damages, or costs.

19. The court, or jury, or arbitrators, shall, in all cases, compute interest at such rate as they may deem proper, not exceeding six per cent, unless there shall be a special written agreement for a higher rate, not exceeding twelve per cent, a special written agreement for a rate of interest greater than twelve per cent, per annum shall be rejected, and interest computed at a rate not exceeding six per cent. Interest on judgments shall be computed at the rate of six per cent, per annum, except in cases where a higher rate upon the original contract, not exceeding twelve per cent, shall have been agreed upon in writing, and the court shall positively direct in the judgment that it shall bear interest at such high rate, and in the case provided for in the next section.

20. Where an appeal shall be taken from any judgment, and such judgment is affirmed, it shall be lawful for the court to which the appeal is taken, in affirming such judgment, to direct, in their discretion, interest thereon, to be calculated at a rate of interest not exceeding twelve per cent, where the judgment bears a lower interest than eight per cent,—and in no case exceeding fifteen per cent.

CHAPTER XVIII.

Of Execution.

1. Immediately after the entering of the final judgment, the successful party may demand a writ of execution. But if either party to the judgment have died, leaving no surviving plaintiff or defendant,

as the case may be, or if the judgment be of two years standing, no execution shall issue without an action of enforcement.

2. A writ of execution shall be directed to the sheriff, commanding him to seize and expose to sale, the lands, goods, and chattels of the party against whom the judgment has been rendered, until he has raised the sum of money named in the judgment, and interest; and if he cannot find any lands goods, or chattels, of the said party, to arrest him, and bring him before the court, or some judge thereof, to be delt with according to law, unless he pays to the said sheriff the said sum of money, and interest, or shows him property, to seize and sell for the same; and when the money is raised, or paid, to pay the same over to the party entitled to receive the same, and to make known to the court how he has executed the said writ, upon a day to be therein named. Any person may, at any time, issue an attachment in enforcement, instead of an execution.

3. The sheriff shall literally execute the commands of the writ of execution, and shall cause an appraisment and schedule of all property seized by him, to be made, as in the case of attachment, and annexed to the writ.

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4. The sheriff may return to the said writ, either that he has made the money, and paid it over to the person entitled to receive it; or that he has it in court, ready to pay over; or that he has seized the property mentioned in the annexed schedule, and that it remains in his hands, for want of buyers; or that he has arrested the party named in the writ, and now has him in court; or that he arrested him and he was discharged by such an authority; or that he cannot find the party, or any lands, goods, or chattels of his.

5. Where the sheriff returns to a writ of execution, that he has property on hand, for want of buyers; or where there is property in the hands of the sheriff, taken under an attachment, in the same case, a writ of sale may issue, commanding the sheriff to sell said property, and pay over the proceeds to the party entitled to receive 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.

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12. If a 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 moveable 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 evidence 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 is, 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 showing sufficient evidence of his title, and that the land 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 proceedings until the object is attained.

17. When property has been attained 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 issue in place of an execution, and such attached property shall be sold under the same. But if the attached property, do not produce sufficient to discharge the judgment a writ of execution may afterwards be issued, for the amount deficient.

CHAPTER XIX.

Of Insolvency.

1. Insolvency is the condition of a man, whose property is not sufficient to pay his debts.

2. Whenever a man is insolvent, all conveyances assignments, transfers and deliveries of his property, shall be void and of no effect, but, conveyances, assignments, transfers, and deliveries of his property, made ninety days before his assignment for the general benefit of his creditors, as hereinafter provided for, to persons ignorant of his insolvency, shall be valid. It shall be presumed that every man is insolvent, for ninety days before he applies for permission to assign his property, for the general benefit of his creditors. Before that time his acts are valid, unless his insolvency can be proved.

3. Every person arrested on a writ of execution, or a writ of arrest, for debt, contract, or damages, not for personal injuries, shall be at liberty to declare himself insolvent, and apply for leave to assign his property for the general benefit of his creditors.

4. The application must be made to the court issuing the writ of execution, or to some judge thereof, and it shall be the duty of the sheriff to take such person before the said court or judge, as soon as he is required so to do.

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5. The court or judge, shall require the applicant to file a schedule of all his money and other property, and of all debts due to, or from him, as far as he can ascertain them, and to verify the same by his oath.

6. The court or judge, shall then appoint some person to take charge of the property, who shall immediately call a meeting of the creditors, to elect a trustee to act for their benefit. In such election, every person shall for each twenty dollars of debt due him, be entitled to one vote. Creditors for less than twenty dollars, shall be entitled to a vote each.

7. As soon as the trustee so elected, has given security before the court or judge, all the property, whether real or personal, of the insolvent, shall by operation of law, be vested in him, as if the insolvent were dead, and he were his administrator, and he shall proceed to take possession of all his property, and to administer the estate in the same manner as an administrator, except that he shall make no difference between real and personal property, and shall account for

his proceedings in the same manner, and to the same authority. The trustee shall, as much as possible, be likened to an administrator in his duties, rights, remedies and liabilities, in the manner of proceeding against him, and the causes for which proceeding may be had, in all respects whatever.

8. The court or judge shall, on the insolvent filing the schedule required in the fifth section, require him to take an oath that he will disclose any property or debts not mentioned in his schedule, which he may hereafter discover, and that he has not secreted any thing belonging to him, and has not in expectation of making that application, done any act to diminish his estate or injure his creditors, or prevent them or any of them, from recovering their just proportion of his property.

9. The court or judge shall require the insolvent to give security, that he will appear when called upon, to answer any allegations or interrogatories which may be filed against him.

10. The court or judge may then discharge the insolvent from arrest, and from all future arrest for any debt he may owe, or actions to which he may be liable at that time. But such discharge shall not extend to any execution, or other writ, founded on an action of damages for an injury to the person, reputation or domestic relations of any person, except the particular execution upon which the defendant is arrested.

11. When an insolvent is arrested upon an execution, founded on an action of damages to the person, or domestic relations of another, he shall proceed in all respects in the same manner as if arrested upon an execution, founded on a judgment in any other action, but the court or judge shall not discharge him unless he has suffered imprisonment, in the discretion of such court or judge, who shall be guided in the extent of the imprisonment, by the amount of the damages, allowing for any imprisonment he may have suffered, under a writ of arrest or execution in the same action.

12. Every creditor or an insolvent, may file at any time within one year of his discharge, before the court discharges him, allegations of fraud, committed either in contracting the debt due to such creditor, or in the application for permission to assign.

13. Every concealment of money, or other property or debts due to the insolvent, every conveyance, assignment, transfer or delivery of

any money, property, or effects, to any person, whatsoever, made without consideration, shall be deemed a fraud.

14. Every conveyance, assignment, transfer or delivery, of any property or effects to any creditor of the insolvent, in payment or diminution of his debt, within ninety days before his application, or at a greater distance of time, with a knowledge of existing insolvency, or with a view of an application, shall be deemed a fraud.

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15. Every transaction fraudalent, within the meaning of the last two sections, or otherwise, shall be void, as against the trustee.

16. The trustee, or any creditor may examine the insolvent on interrogatories, as to all such transactions, or any other matter connected with his insolvency, and his answers reduced to writing, and verified by oath, shall be evidence against him and against all other persons claiming under him, or interested in any transaction, which is pronounced a fraud by the thirteenth and fourteenth sections.

17. Every insolvent convicted of fraud in the contracting a debt, or in his application as aforesaid, shall be imprisoned in the discretion of the court.

18. Every defendant arrested on a writ of arrest, only to secure his appearance in any case, not an action of damages, for an injury to the person, reputation, or domestic relations of another, may proceed in all respects, as if he had been arrested on a writ of execution, and may be discharged in the same manner, and on the same condition, and subject to all the same proceedings and other consequences, and shall then be entitled to appear in the action without bail. Nothing in this section contained, shall apply to any action of injunction.

19. Every insolvent may retain one bed, one table, two chairs, cooking utensils and so much wearing apparel and other articles priviledged from execution as may be absolutely necessary for the present use of the said individual and his family and the title thereto shall not vest in his trustee agreeable to the previous provision on this subject: *Provided,* that a schedule of articles so retained, verified by oath, be produced to the court or judge discharging such insolvent, and filed, and such court or judge may require the articles mentioned in such schedule to be produced, and cause them to be appraised, and may order such of them as such court or jury may deem unnecessary, unreasonable, or not to come under the description of priveleged articles, to

be delivered up for the benefit of the creditors; or such court or judge may allow the insolvent to retain them, becoming debtor to his trustee for the appraisment. This however, to be regarded as an indulgence in the discretion of the court or judge, who shall also have power to determine the length of the credit.

20. Every insolvent may retain so many mechanical tools and agricultural implements as may be absolutely necessary for the present use of the said individual, filing a schedule of them, verified by oath, and procuring them to be appraised under an order from the court or judge discharging; but such insolvent shall be regarded as a debtor to his trustee for the amount of the appraisment. The debt to be paid at the time prescribed by the court or judge. Every insolvent may refuse to take his tools at the appraisment, either before or after the appraisment is made.

21. Every schedule, appraisment, petition or other paper produced before a single judge, in a case of insolvency, or made by order of such judge, shall be filed with the clerk of the court of which such judge is a member.

22. Whenever any person shall have applied for permission to assign his property for the benefit of his creditors, and a trustee shall have been appointed and given bond in the manner herein before provided for, it shall be the duty of the court or judge approving such bond, to cause the same to be transmitted to the clerk of such court, and every clerk of such court shall forthwith record all the papers touching such application and appointment, including said bond, in a book to be kept for that purpose, and shall transmit the original papers to the authority to whom such trustee is bound to render an account agreeable to the foregoing provisions of this chapter: who shall retain the same, and summon the trustee as often as may be deemed proper, to render an account of his trust; and shall keep a docket or list, of all such cases, containing the names of the in-

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solvents, of the trustees, and of the securities of the trustees, and shall note therein the dates of all accounts rendered by the parties, and the balances due from such trustees by such accounts, and shall keep an index to such docket in the name both of the trustees and insolvents.

23. The word imprisonment, whenever it occurs in this chapter, shall be so understood, that the court or judge, authorized to impose the same, may in the exercise of a sound discretion, substitute for im-

prisonment, properly so called labor on the public works, with close confinement at night.

CHAPTER XX

On Appeals

1. Every person against whom any judgment is rendered, shall be entitled to appeal from any decision or opinion of any court, except such court of appeals.

2. These shall be no appeal from any verdict of a jury, in any question of mere fact, except to the court in which the case was tried, for the purpose of setting aside the verdict in the manner herein before provided for.

3. It shall be the duty of the party, who intends to appeal from any opinion or decision of a court, which does not appear upon the face of the ordinary proceedings in the case, to cause such opinions or decisions, with the evidence and prayer or motion upon which it is founded, to be reduced into writing and signed by the judge or judges on the day, on which such opinion or decision is pronounced.

4. The writing required by the last section, shall be called a bill of exceptions, and shall be annexed to the ordinary record, and considered as a part of it.

5. It shall be the duty of the clerk of the court from which an appeal is taken, to make up a record containing all the writs, returns, complaints, answers, replies, verdicts, bills of exceptions, judgments and other proceedings in the cause, and to transmit such record to the court to which the appeal is taken.

6. Every appeal must be taken within sixty days, after final judgment.

7. Every party taking an appeal shall be called 'appellant', and the party against whom it is taken, 'appellee'.

8. Every appellant must give security, to be approved by the court, that he will indemnify the appellee from all injury arising from the appeal, and will comply with the judgment of the court to which the appeal is taken, or any other to which the cause may be removed, or his appeal shall be dismissed.

9. An action of contract, shall lie against the sureties so given, in which the measure of damages shall be the final judgment in the original

cause, and interest or other damages arising from delay, to be computed as the appellate court may direct.

10. The court to which the appeal may be taken shall examine the matter in dispute, upon the record only, they shall receive no additional evidence, and they shall reverse no judgment for any default of form, or for any matter to which the attention of the court below shall not appear to have been called, either by some bill of exceptions, or other part of the record.

11. It shall be the duty of every court, to which an appeal is taken, if the judgment of the first court is reversed, to give such judgment as that court ought to have given, and to ascertain the costs incurred since the first judgment, and to give judgment for them also.

12. When any superior or appellate court, shall reverse any final judgment, and it shall appear to them upon the record that the plaintiff, or the defendant in replevin, in a case where the goods replevied are

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in possession of the defendant, is entitled to recover, and it shall not appear by the record, what sum such party ought to recover, they may proceed to give an imperfect judgment in favor of such party, and by consent of parties, ascertain what ought to be the final judgment, and render such judgment; or if the parties will not consent to such ascertainment, shall order an ascertainment by a jury, at the bar of the court below, of the amount of the debt or damages, or the value of the property replevied, as the case may be, and direct such inferior court, to give final judgment upon such inquiry. If the action be brought to recover a liquidated sum, ascertained by an instrument of writing, signed by the party against whom the imperfect judgment is given, or if the case be one in which the court below, might have ascertained the damages without a jury, such superior or appellate court may assess the debt or damages and give final judgment without the consent of parties.

13. Where it does not appear to the appellate court by the record, on account of the mixture of questions of law and fact, for which party the judgement ought to be given, it shall be the duty of such superior or appellate court, to remand the case to the court in which it was originally tried, to be tried over again.

14. The third, fourth, fifth, twelfth and thirteenth sections of this chapter, shall not be construed to apply to appeals from the decisions of justices of the peace.

CHAPTER XXI.

Of Justices of the Peace.

1. Justices of the Peace, shall have jurisdiction out of court without a jury, of all actions where the value of the thing in dispute does not exceed twenty dollars, except specific performance, injunction and ejectment, and actions for injuries to the reputation or domestic relations.

2. The third, fourth, fifth, sixth, ninth and nineteenth chapters, of this title, so much of the seventh, eighth, and twentieth, as relates to juries, new trials, and records, shall not apply to cases tried before justices of the peace.

3. So much of the twelfth chapter as relates to issuing commissions to take testimony without the colony, shall not extend to justices of the peace; but either party may petition the court to which an appeal from a justice lies, for a commission; and such court may, if they think proper, issue a commission, and stay the proceedings of the justice until it can be executed.

4. Writs of execution, may be issued by a justice of the peace, returnable before a superior court; and such court or any judge thereof, shall have jurisdiction to proceed according to the directions of the nineteenth chapter.

5. No justice of the peace, shall have authority to issue a writ of arrest, against a defendant in an action, as such, or a writ of execution containing a clause of arrest, except writs of execution issued under the last section, and agreeably to its provisions.

6. Courts shall have concurrent jurisdiction, with justices of the peace in all actions for personal injuries, in which a justice of the peace has jurisdiction.

7. If an action, not for personal injury, be brought in a court, which ought to have been brought before a justice, the court shall, if the plaintiff establish a claim, deduct from the debt or damages, the whole costs incurred by the defendant, and give judgment for the balance, without any costs; or if the costs of the defendant, equal or exceed the debt or damages, shall give judgment for the defendant, either without costs, or for the excess of his costs, as the case may

require. If the plaintiff fails, the court shall give judgment for the defendant, for full costs.

8. An appeal shall be from every decision of a justice of the peace, to the most inferior court having jurisdiction at the place, at which such justice lives, or to such other court as may be designated for that purpose, by law. No judgment of a justice of the peace shall be set aside for error in form; but all appeals from justices, shall be taken up by the court to which they are made, anew, and upon the merits, and such judgment given as the justice ought to have given.

9. A justice of the peace, shall have the same power as a court in preserving order in his own presence, while engaged in his public duties, and also in punishing those who obstruct the execution of writs issued by him, or who disobey his summons, or refuse to perform the duties for the performance of which they are summoned. In all such cases, he may issue writs of arrest, fine and otherwise punish. But he shall issue no writ of arrest, on pretence of any provision contained in the second chapter of this title. And all persons imprisoned by him may, in the discretion of any court or judge, be discharged.

CHAPTER XXII.

Of Officers.

1. All writs issued by a court, unless in cases otherwise provided for by law, must be directed to the sheriff. But if the office of sheriff is vacant, or if the sheriff be a party to the cause, or otherwise interested, and there be no coroner, the writ may be directed to an officer, selected for the occasion by the court, called an elizor.

2. An elizor is to be considered as sheriff, in respect of all writs directed to him. When the office of sheriff is filled, or the interested sheriff goes out of office, the elizor shall hand over to the new sheriff all writs and other papers, and all money or other property in his hands as elizor, and the same proceedings may be had against him as against a sheriff under similar circumstances.

3. All writs issued by a justice of the peace, except executions, sales, and attachment, may be directed either to the sheriff or to a constable. Executions and attachments must be directed to the sheriff, unless the party prefer that the word 'land' should be omitted, and the writ directed to a constable, which in that case may be done, but a constable shall not be authorized to seize or sell lands in execution. Writs of sale, must be directed to the officer having possession of the property. Writs of execution returnable before a court, must be directed to the sheriff.

4. If the sheriff, as such, is entitled to the possession of any property, which is in the possession of his predecessor, or of an elizor, or of the representative of either, which the party in whose possession it is, refuses to deliver over, the court may, on motion, and being satisfied of the fact, issue a writ of possession, directed to an elizor, requiring him to put the sheriff in possession of such property.

5. Every late sheriff, elizor or other person against whom such writ is issued, may give security, to be approved by the court, or some judge thereof, that he will produce, the property mentioned in such writ of possession, whenever a writ of replevin is issued, if it be personal or moveable property, and make oath that he does not believe the sheriff is, as such, entitled to the possession of the same; in which case the writ of possession shall be quashed, and the property

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returned to him. The sheriff may then maintain an action of replevin for such property, in which it shall be sufficient for him to shew a right to the possession thereof as sheriff. If the property be real or fixed, no security need be given, but the party may file his affidavit, as above directed, and thereby put the sheriff to his ejectment, which he may maintain by averring in his complaint, and proving the facts which entitle him to the possession.

6. Every sheriff, clerk, elizor, trustee, constable, or other ministerial officer, is liable to an action of damages, for any official misconduct.

7. If an elizor, or trustee dies, or is removed, having property in his hands, the same proceedings may be had against him or his legal representative, as against a late sheriff or his legal representative.

8. When judges, justices of the peace, or other officers, are judges of a particular court in rotation, those only whose turn it is to sit in court at any time, are to be considered as judges during such term. The word term is defined for the purpose of this section, in the forty eighth section of the second chapter of this title.

CHAPTER XXIII.

Of the Writ of Habeas Corpus.

1. The writ of *habeas corpus,* is a writ directed to the sheriff, or other person who may have the custody, legally or illegally, of any

person, directing such sheriff or other person, to have the body of the person, who is in custody before the court or judge named in the writ, for the purpose of enabling such court or judge to inquire into the cause of the confinement or detention of such person, and to discharge such person from such detention, confinement, or custody, if it should appear to be proper so to do. The person to whom the writ is directed, is called the defendant; the person whose body is directed to be produced is called the prisoner.

2. The form of the writ of *habeas corpus,* shall be the following; but changes may be made in the gender and number of the pronouns, and such similar alterations, as the circumstances of each case may render necessary or proper. Several persons may be included in one writ.

Liberia, to [*insert the name of the defendant*] Greeting:

You are hereby commanded to have the body of [*insert the name of person*] now in your custody, before [*insert the name of the court or judge, and, if the latter his official style*], on [*insert the time*] at [*insert the place*] together with this writ, and the day and cause of his detention, in order that he may be discharged from detention, confinement, and custody, if it shall appear to the said court, [*or judge*] proper that he should be so discharged. Hereof fail not at your peril. Given under my hand [*and the seal of court*] *this* [*insert date*]. Issued in duplicate.

The writ shall be signed by the clerk of the court, or by the judge who issues it, with his name and official style, and the clerk shall, if he sign it, annex the seal of the court. No writ of *habeas corpus* shall ever be quashed for any defect of form, nor shall any advantage ever be taken or allowed, in any way, on account of any such defect.

3. Every court of record, having any other jurisdiction whatever, 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.

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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

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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 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 prisoner, and the probable intentions of the intended defendant; and may, in the exercise of a sound discretion, issue a compulsory writ of *habeas corpus,* if such court or judge shall think proper so to do, and may direct the same either to the sheriff or an elizor.

13. The form of a compulsory writ of *habeas corpus,* shall be as follows; but all the regulations of the second section, with respect to the ordinary writ of *habeas corpus,* shall apply to it, except that it need not be issued in duplicate.

Liberia, to [*insert the name and style of the sheriff or elizor*] greeting:

You are hereby commanded to compel [*insert the name of the defendant*] to have the body of [*insert the name of the prisoner*] now in his custody, before [*insert the name of the court or judge, and, if the latter, his official style*] on [*insert the time*] at [*insert the place*] together with the day and cause of his detention, in order that he may be discharged from detention, confinement, and custody if it shall appear to the said court [*or judge*], proper that he should be so discharged. And if the said [*insert name of the defendant*] shall refuse so to do, you are to bring the bodies, both of the said [*insert the name of the defendant*] and of the said [*insert the name of the prisoner*] before the said court, [*or judge*] at the time and place aforesaid. And for the better execution of this writ, you are authorized to use force, and to require the aid of all good citizens. You are also required to make known to the said court [*or judge*] how you shall execute this writ, and to return the same at the time and place aforesaid. Given under my hand [*and the seal of the court*] this [*insert the date*]

14. It shall be the duty of every male above the age of sixteen years, to give aid and assistance to a sheriff or elizor, in executing a compulsary writ of *habeas corpus,* whenever he shall be required so to do. And it shall be the duty of such sheriff or elizor to provide a sufficient force, to secure the execution of every such writ.

15. Whenever the defendant and prisoner, in pursuance of any writ of *habeas corpus,* appear before any court or judge, it shall be lawful for such court or judge, to examine the defendant, without oath, and the prisoner and any other persons or persons, upon oath or affirmation as the case may require. And if it shall appear proper so to do, such court or judge may either discharge, bail, or remand the prisoner, and may also commit, or otherwise secure the defendant, to answer for slave trading, or any other crime, offence or injury, of which such court or judge may suspect him to be guilty.

16. An action of damages, shall lie against any sheriff or elizor, or defendant, who shall make a false return, to any writ issued in pursuance of any provisions of this chapter, and against any person, who shall do any act tending to obstruct or defeat the full effect of any writ of *habeas corpus* whether common or compulsory, and against any person who shall omit to do any act, which he shall have been bound by law, or promised to do, and which, if not omitted, would have tended to promote the execution or effect of any writ of *habeas corpus*

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common or compulsory. Such action may be maintained, either by the person applying for the writ of *habeas corpus,* or any person intended to be benefited thereby.

17. If any person shall violate any duty imposed upon him by this chapter; an action of damages may be maintained against him, either by the person applying for the writ of *habeas corpus,* or by any person intended to be benefited thereby.

18. In any action given by any provision of this chapter, it shall be lawful for the court, in which such action is brought, or any judge thereof, to issue a writ of arrest without requiring the oath or other proceedings, required in other cases, and such writ of arrest, and all writs of arrest given by this chapter, may issue against a person privileged under the twenty ninth section of the second chapter. All such writs of arrest shall be discretionary with the court or judge; who may require the case to take the ordinary course, and even then, refuse the writ of arrest as in other cases.

19. No jury shall give less than three hundred dollars damages, in any action grounded on this chapter, except for an omission, nor in that case, against a judge, sheriff, or elizor or other public officer, or any defendant named in any writ of *habeas corpus.*

20. If several actions, be brought by several parties, against the same person, for the same act or omission, and the jury on the trial of the first tried action, shall have given a verdict for three hundred dollars or more, the jury in the subsequent actions may give as low damages, as they may think proper; Notwithstanding the provisions of the last section.

21. Whenever an idiot or insane person, shall be arrested upon any writ, either of arrest, execution, or other whatsoever; such idiot or insane person, may be brought either by or without a writ of *habeas corpus,* before any court or judge, and such court or judge, shall thereupon enquire by the best ways or means in the power of such court or judge, taking the aid of a jury, if necessary; into all the facts and circumstances of the matter, and if the fact of idiocity or insanity, shall be established, shall discharge such idiot or insane person from custody under such writ; and may make such disposition of the person of such idiot or insane person, as may be most expedient under all the circumstances, with reference to the safety and comfort of such idiot or insane person, and may also make such disposition of the property

of the idiot or insane person, as may be just, with regard to the interests of his creditors, and his or her own comfort; and may declare such idiot or insane person insolvent, and may call a meeting to appoint a trustee, and make an order, transfering to such trustee, the property of such idiot or insane person. Such a trustee shall have the same rights and duties, with trustees appointed under the provisions of the nineteenth chapter.

22. Whenever it shall be alleged, that any person brought before any court or judge, by virtue of any writ of *habeas corpus* as an idiot or insane person, although such person may not have been arrested upon any writ whatever, the court or judge may proceed in the manner authorised in the last section, and do all acts thereby directed or authorised, in order to ascertain the fact, and may make such disposition of the person and property of the person, as may be proper, with reference to his or her safety or comfort, and the security of his or her property, and may appoint a trustee to take charge of the property and require security of such trustee, and shall notify that fact to the tribunal before which administrators and guardians account, who shall call such trustee to account before them, and shall treat such trustee, in all respects as a guardian of an infant. Such a trustee, shall as much as possible be likened to a guardian, in his duties, rights, remedies and liabilities, in the manner of proceeding against him, and the cause for which proceeding may be had, and in all other respects

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whatsoever.

23. A writ of *habeas corpus* may be always issued by any court or judge, as a foundation of the proceedings, authorized by the last section, on an affidavit that any person is believed to be an idiot or insane, and may be directed to the person, in whose care such an alleged idiot or insane person may be, without any evidence or allegation, that such idiot or insane person is confined.

SAMUEL WILKESON,
President of the Board of Directors.

APPENDIX OF FORMS.

Form of a Commission of Guardianship.

Commonwealth of Liberia to *Henry Honest* Greeting:

You are hereby appointed Guardian of *Mary Ancient*, orphan of *Adam Ancient*, and are to take charge of her person and property, as soon as an appraisement and inventory of the property can be made, and to take care of the same for her benefit, rendering accounts of your doings according to law

Given under my hand, this . day of . . . in the year one thousand ————

Clerk of the Orphans Court.

For the Commission of Appraisement, use the form on the next page, only say, *the property of Mary Ancient, orphan of Adam Ancient*, instead of, *the 'estate of Adam Ancient lately deceased.'* Make a similar change in the inventory, and say '*Guardian of the said Mary Ancient,*' instead of '*administrator of his estate.*' Make a similar change in the signature

Form of a Guardian's Bond.

Know all men, that we, *Henry Honest, Samuel Surety and Frederick Friendly*, do bind ourselves to *Mary Ancient*, orphan of *Adam Ancient*, that the said *Henry Honest*, shall well and faithfully perform the office of guardian of the said *Mary*, and that we will indemnify her against any injury, damage or loss, she may sustain by reason of the misconduct of the said *Henry Honest*, as such guardian.

Witness our hand, this day of in the year one thousand, —

Henry Honest,
Samuel Surety,
Frederick Friendly.

Witness, Thomas Testify
Bond Approved by

Chairman of the Orphans Court.

Form of a Letter of Administration.

Commonwealth of Liberia to *Henry Honest,* Greeting:

You are hereby appointed Administrator of the lands, goods, chattels and estate, of *Adam Ancient,* lately deceased, and are, as soon as an appraisement and inventory of the same can be made, to take possession thereof, and administer the same according to law, for the benefit of his heirs and creditors.

Given under my hand, this . . day of . . in the year one thousand ———.

Clerk of the Orphans Court.

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Form of an Administrator's Bond.

KNOW all men that we, *Henry Honest, Samuel Surety and Frederick Friendly,* do bind ourselves to the heirs and creditors, and all other persons interested in the estate of *Adam Ancient,* lately deceased, and to each of them, that the said *Henry Honest,* shall well and faithfully perform the office of administrator, of the estate of the said *Adam Ancient,* and that we will indemnify all persons against any injury, damage or loss they may sustain by reason of any misconduct of the said *Henry Honest,* as such administrator

Witness our hands, this . . . day of . . . in the year one thousand——.

HENRY HONEST,
SAMUEL SURETY,
FREDERICK FRIENDLY.

Witness, THOMAS TESTIFY.
Bond approved by

Chairman of the Orphans Court

Form of a Commission of Appraisement.

Commonwealth of Liberia to Samuel Skilful and Philip Prudent Greeting:

You are hereby appointed Appraisers of the estate of *Adam Ancient,* lately deceased, and are, as soon as conveniently may be, to value and appraise the same according to the best of your skill and knowledge.

Clerk of the Orphans Court.

The Appraisers affirm that they will so value and appraise the said estate according to law, this . . day of . . ., in the year one thousand . . before
SAMUEL STRICT,
Justice of the Peace.

Form of an Inventory of a Deceased Man's Estate

An Inventory of the lands, goods, chattels, money and property of *Adam Ancient,* deceased, so far as they have come to the hands or knowledge of *Henry Honest,* Administrator of his estate, appointed by virtue of the annexed commission.

1. One own lot of the following description [*insert description,*] valued at - - - - - - - - $

2. One pair of oxen, valued at - - - - - "

[And so go through the whole.]

Valued and appraised by us, on this . . . day of . . ., in the year one thousand.———

SAMUEL SKILFUL,
PHILIP PRUDENT.

And taken possession of by

Henry Honest, Administrator.

On this . . . day of . . , before the subscriber appeared *Samuel Skilful, Philip Prudent* and *Henry Honest,* and were severally affirmed

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according to law, that the above written inventory of the estate or *Adam Ancient,* is just and true, and includes all the property of the

said *Adam Ancient*, of which they have any knowledge, and that if they should discover any additional property, they will disclose the same.

Affirmed before

SAMUEL STRICT,
Justice of the Peace.

Form of a Writ of Re-summons.

Commonwealth of Liberia, to . . . . Sheriff of the County of . . . Greeting:

You are hereby commanded to summon [as you were before commanded,] *Daniel defendant* to appear before the . . . . . for this . . . on [*insert the time,*] to answer the complaint of *Peter Plaintiff*, and have you there this writ.

Issued this . day of . . ., in the year one thousand———.

{ Place of the seal } PHILIP PENMAN,
Clerk of said Court.

A writ of summons is in the same form omitting the words, '*as you were before commanded.*:

Form of a Writ of Attachment.

Commonwealth of Liberia, to . . . Sheriff of the County of . . . Greeting:

You are hereby commanded to summon, [*as you were before commanded,*] *Daniel Defendant*, to appear before the . . . . for this . . . on [*insert the time,*] to answer the complaint of *Peter Plaintiff*, and also to attach the lands, goods, chattels and credits of the said *Daniel Defendant*, to the value of [*insert the sum,*] and certify your doings to the said court, at the said day, and have you there this writ.

Issued this . . . day of . . ., in the year one thousand———

{ Place of the seal } PHILLIP PENMAN,
Clerk of said Court.

The words '*as you were before commanded,*' to be omitted whenever an attachment is issued without a previous summons.

When the attachment is against specific property, the description thereof is to be inserted instead of the words 'the lands, goods, chattels and credits of the said Daniel Defendant,' and all mention of value is to be omitted.

Form of an Affidavit to obtain an Attachment in Debt.

Peter Plaintiff makes oath according to law, [*or else solemnly, sincerely and truly affirms.*] that *Daniel Defendant* is justly indebted to him, the sum of . dollars, and that he fears the said *Daniel Defendant* cannot be found to be summoned.

Sworn before HENRY HONEST Justice of the peace,
On this day of ,in the year one thousand———.

What follows the word 'dollars' to 'sworn before' is only to be inserted when an attachment is wanted without a previous summons, and
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the plaintiff may if he will exchange it for '*and that he fears the said Daniel Defendant, will not appear if summoned.*' Where the affidavit is to be filed in an action of damages, the nature of the injury must be specially stated, and also the amount of damages in a form something like what follows, but adapted to each particular case.

Form of an Affidavit for an Attachment in Damages.

Peter Plaintiff makes oath according to law, [*or solemnly, sincerely, and truly affirms*] that *Daniel Defendant* detains from him, the said *Peter Plaintiff*, one pair of oxen, and that he is thereby damaged to the value of [*insert the sum.*] and that he fears the said *Daniel Defendant* cannot be found to be summoned

Sworn before H. H Justice of the peace,
On this day of ., in the year one thousand———.

Form of a Schedule under an Attachment.

Schedule of the lands, goods, and chattels of *Daniel Defendant*, seized and taken at the suit of *Peter Plaintiff*, under a writ of attachment, issued out of the . . . . . for this . . . . . on the [*insert date of writ.*] that is to say:

One town lot . . in the town of . . . . .

Of the following description, [*insert description*]
appraised at $

[*And so on until all things seized are scheduled.*]

Appraised by HENRY HONEST, SAMUEL SKILFUL, } Appraisers.

Property taken and appraisers affirmed, by DAVID DILIGENT Sheriff.

Form of a Writ of Arrest.

Commonwealth of Liberia, to . . Sheriff of the county of . . . Greeting:

You are hereby commanded, to arrest the body of *Daniel Defendant*, and bring him before some judge or other person authorized to receive bail, to give security in the sum of . . . . . that he will appear before the . . . . . for the . . . . . ., on the [*insert the time,*] to answer the complaint of *Peter Plaintiff* herewith sent, unless he shall shew you property liable to be attached under the accompanying writ of Attachment, sufficient to cover the said sum, and make known your doings to the said court, at the said day, and have there this writ.

Issued by special order of the court (or of John Just, one of the judges of the court,) this . . . day of . . ., in the year one thousand—.

{ Place of the seal } PHILIP PENMAN, Clerk of said Court.

Form of a Writ of Injunction.

Commonwealth of Liberia, to *Daniel Defendant,* Greeting:

You are hereby commanded and enjoined to abstain and desist altogether from [*insert the matters to be prohibited*] until further order is taken in the premises, and you are further commanded to appear before the . . . . . for the . . . . . on [*insert the time*]

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to answer the complaint of *Peter Plaintiff*, and to shew cause why this injunction should be dissolved.

Issued in duplicate and by special order [*of the court, or of John Just, one of the judges of the court,*] this . . . day of . . .,in the year one thousand———.

{ Place of the seal } PHILIP PENMAN,
Clerk of said court.

Form of a Writ of Arrest for disobeying an Injunction.

Commonwealth of Liberia, to . ., sheriff of the County of . . . Greeting:

You are hereby commanded to arrest the body of *Daniel Defendant,* and bring him before the . . for &c., or some judge thereof, immediately, to answer for disobeying an injunction issued by the said court, on the complaint of *Peter Plaintiff.*

Issued by special order *of the court, or of John Just, one of the judges of the court,*) this . day of . . . , in the year one thousand——.

{ Place of Seal. } PHILIP PENMAN,
Clerk of said Court

Form of a Replevin Bond.

KNOW all men, that we, *Peter Plaintiff, Samuel Surety and William Wealthy,* bind ourselves to *Daniel Defendant,* that the said *Peter Plaintiff,* or his administrator, or other representatives, will return the goods, which may be replevied by virtue of a writ of replevin, which he the said *Peter Plaintiff* is about to issue out of the . . . . . for the .....against the said *Daniel Defendant,* for the purpose of obtaining possession of the following goods, that is to say, [*insert the list of goods,*] and will also pay all the cost of the said replevin, if any court having jurisdiction of the cause, shall so adjudge, and will also indemnify the said *Daniel Defendant,* from any injury he may sustain by means of the said writ of replevin.

The penalty of this bond is . . dollars.

Witness our hands, this . . day of . . ., in the year one thousand———.

PETER PLAINTIFF,
SAMUEL SUBETY,
WILLIAM WEALTHY.

Witness, PHILIP PENMAN,
Clerk of said Court,

Form of a Schedule under a Writ of Replevin.

Schedule of goods replevied and delivered to Peter Plaintiff, by virtue of a writ of replevin issued out of the . . . . . ., for the . . . . . at the suit of the said . . . against *Daniel Defendant*, on the . . day of . . . ., in the year one thousand——.

One pair of oxen, appraised at - - - $

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(And so on until all things replevied are scheduled.)

Appraised by HENRY HONEST } Appraisers.
SAMUEL SKILFUL }

Property replevied, and } Appraisers affirmed by } Sheriff of said County

Received the above property from the Sheriff,
PETER PLAINTIFF.

Form of a Writ of Replevein.

Commonwealth of Liberia, to . . . Sheriff of the County of . . Greeting:

You are hereby commander to replevy out of the possession of *Daniel Defendant*, the following goods, that is to say, [*insert list as in hand*,] and deliver the same to *Peter Plaintiff*, and summon the said *Daniel Defendant*, to appear, &c. as in a writ of summons.

Form of a Bail Bond.

KNOW all men, that we, *Daniel Defendant* and *Benjamin Bail*, do bind ourselves to *Peter Plaintiff*, that the said *Daniel Defendant*, will perform the judgment of the . . . . . for the . . . of . . . . . in an action of debt, brought by the said *Peter Plaintiff*, against the said *Daniel Defendant*, on the . . . day of . . ., in the year one thousand . . . . ., and the judgment of any court, to which an appeal from such judgment may be taken, or that he will deliver his body to any Sheriff, to whom an execution on any such judgment may have been directed, under a penalty of . . dollars.

Witness our hands, this . . day of . ., in the year one thousand ———.

DANIEL DEFENDANT,
BENJAMIN BAIL.

Witness, JOHN JUST.

Form of a Commitment.

Commonwealth of Liberia, to . . . Sheriff of the County, of . . . Greeting:

Receive into your custody and prison, the body of *Daniel Defendant,* and him safe keep, to answer the complaint of *Peter Plaintiff* in the *court,* [*insert style of course,*] until he shall be discharged by due course of law.

JOHN JUST,
One of the judges of the said court,
[*or Commissioner of Bail.*]

Form of a Complaint in an action of Damages.

Peter Plaintiff, complains that *Daniel Defendant,* contracted with him in manner following, that is to say, [*state the contract,*] and that he has not performed the said contract in this, that is to say, [*state the acts of omission complained of,*] whereby the said plaintiff hath sustained damages to the amount of———.

All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

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Form of a Complaint in an Action upon a Written Contract.

Peter Plaintiff, complains that *Daniel Defendant,* contracted with him in the manner set forth in a written contract, a copy whereof is herewith filed, and that he has not performed the said contract in this, that is to say, [*state the act or omissions complained of, whereby the said plaintiff hath sustained damage*] All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

If there are several written contracts, say as to the first, after the word '*filed,*' '*marked No.*' . . repeat the complaint as often as there are contracts, in the manner directed in the section 5th, page 15, Part second; distinguishing each contract by its No.

Form of a Complaint in Debt on a Written Instrument.

Peter Plaintiff, complains that *Daniel Defendant,* is indebted to him by virtue of the written instrument, a copy of which is herewith filed, as will appear thereby, and has neglected to pay said debt. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in debt on a Written Instrument, where the debt does not appear on the fact of the instrument alone.

Peter Plaintiff, complains that *Daniel Defendant,* is indebted to him by force of the written instrument, a copy of which is herewith filed; because he says that, [*insert facts necessary to establish the debt,*] and the said *Daniel Defendant* has neglected to pay the said debt. All of which the plaintiff is ready to prove.

PETER PLAINTIFF.

N. B. The mere lapse of time bringing a debt due, is not a fact which renders it necessary to have recourse to the last form.

For the form of a complaint in debt on an open account, see sec. 8, page 15.

Form of a Complaint in an Action of Specific Performance.

Peter Plaintiff, complains that *Daniel Defendant,* contracted with him in the manner set forth in an instrument of writing, a copy whereof is herewith filed, and although the said *Peter Plaintiff* hath performed his part of the said contract, yet the said *Daniel Defendant,* refuses to perform his part thereof in this, that is to say, [*state the acts or omissions complained of*] All which the said plaintiff is ready to prove, wherefore he prays judgment of specific performance of the said contract.

PETER PLAINTIFF.

Form of a Complaint in Injunction.

Peter Plaintiff, complains that *Daniel Defendant,* intends to [*state the act which it is intended to injoin,*] and that the said *Daniel Defendant,* ought not to do the said acts, which he intends to do as aforesaid,

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because the said plaintiff says that [*insert the facts and circumstances which are relied upon as the ground of the injunction.*] All which the said plaintiff is ready to prove; wherefore he prays that the said *Daniel Defendant,* may be enjoined to abstain and desist from doing the said acts which he intends to do as aforesaid.

PETER PLAINTIFF.

Peter Plaintiff, makes oath according to law, that the facts stated in the above complaint, are true to the best of his knowledge and belief Sworn before me.

HENRY HONEST,
Justice of the Peace.

Form of a Complaint in Replevin.

Peter Plaintiff, complains that *Daniel Defendant*, detained one pair of oxen belonging to the said plaintiff, being the same replevied in this action. All of which the said plaintiff is ready to prove

PETER PLAINTIFF.

Form of a complaint in Ejectment, on the Possession of the Plaintiff.

Peter Plaintiff complains that he was possessed of a certain piece of land, of the following description, [*insert description,*] and that *Daniel Defendant* unlawfully detains the said land from him. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in Ejectment on the Possession of Another.

Peter Plaintiff complains that *George Grantor*, was possessed of a piece of land of the following description, to wit, [*insert description,*] that the title of the said *George Grantor*, hath lawfully come to him, the said plaintiff, and that *Daniel Defendant* unlawfully detains the said land from him. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in Ejectment for Dower.

Priscilla Plaintiff, widow of *Peter Plaintiff*, complains that she was married to the said *Peter Plaintiff*, and that the said *Peter Plaintiff*, is dead, and that during the marriage, the said *Peter Plaintiff*, was possessed in absolute property of a certain piece of land of the following description, [*insert description.*] By means of all which the said *Priscilla Plaintiff*, is entitled to dower in said land, which dower *Daniel Defendant*, unlawfully detains from her. All of which the said plaintiff is ready to prove.

PRISCILLA PLAINTIFF.

Form of a Complaint in Ejectment upon Title.

Peter Plaintiff, complains that he is entitled to a piece of land, of the following description, [*insert description,*] by virtue of a deed

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herewith filed, from *Daniel Defendant*, to him [or to *George Grantor*, whose title hath lawfully come to the said plaintiff,] and that the said

Daniel Defendant, unlawfully detains the said land from him. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in Ejectment upon title derived from the Sheriff.

Peter Plaintiff, complains that a judgment was heretofore obtained by *Paul Purser,* against one *Daniel Defendant,* in the court of . . . . in an action of debt, as will appear by a copy thereof, herewith filed, than an execution was issued thereon, directed to *David Diligent,* Sheriff of the . . . . . and that the said sheriff in pursuance thereof, sold certain lands of the said *Daniel Defendant* to *Peter Purchaser,* whose title hath since lawfully come to the said plaintiff, and that the lands so sold, are of the following description, [*insert description,*] and that the said *Daniel Defendant* detains the said lands from the said plaintiff. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in Ejectment against a Tenant who holds Over.

Peter Plaintiff complains that he was possessed, of a piece of land of the following description, that is to say, [*insert description,*] that he leased the same to *Daniel Defendant,* for a term which expired on the . . . day of . . . last and that the said *Daniel Defendant* unlawfully detains the said land from him. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF

Same by an Assignee of the Landlord against an Assignee of the Tenant

Peter Plaintiff complains that *George Grantor* was possessed of a piece of land of the following description, that is to say, [*insert description,*] that the said George Grantor leased the same to one *Richard Rentor,* for a term which expired on the . . . day of . . . last, that the title of the said *George Grantor* in the premises, hath since come lawfully to the said *Peter Plaintiff,* and that of the said *Richard Rentor* to one *Daniel Defendant,* and that the said *Daniel Defendant,* unlawfully detains the said land from him. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in Ejectment against a Tenant who has forfeited his lease by nonpayment of Rent.

Peter Plaintiff, complains that he was possessed of a piece of land of the following description, that is to say, [*insert description,*] that he leased the same to *Daniel defendant,* by an instrument of writing, which [*or a copy of which,*] is herewith filed, and which contains a stipulation that in case the rent shall at any time be due, behind and unpaid, for the space of after the day of payment, provided for in the said instrument, that the said plaintiff shall have a right to re-enter upon the said land. That on the . . . day of . . . in the year one thousand . . . one years rent of the land became due, and is still

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due, behind and unpaid, at this time, being more than . . . after the said day of payment, by means whereof the said *Daniel Defendant* hath forfeited all title to the said land, notwithstanding, which the said *Daniel Defendant* unlawfully detains the said land from him, the said plaintiff. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Same where the Interest has been Assigned.

Peter Plaintiff complains that *George Grantor* was possessed of a piece of land of the following description, that is to say, [*insert description.*] that the said *George Grantor* leased the same to *George Renter,* by an instrument of writing, which [*or a copy of which,*] is herewith filed, and which contains a stipulation that in case the rent shall be at any time due, behind and unpaid for the space of . . . after the day of payment, provided for in the said instrument, that the said *George Grantor,* or his assigns, should have right to re-enter upon the said land. That on the . . day of . . . one thousand . . . one years rent of said land became due, and is still due, behind and unpaid, at this time, being more than . . after the said day of payment. That the title of the said *George Grantor* in the premises, hath lawfully come to the said *Peter Plaintiff,* and that of the said *Richard Renter,* to *Daniel Defendant,* who has not paid the said rent, by means whereof he has forfeited all title to the said land, notwithstanding which, the said *Daniel Defendant* unlawfully detains the said land from him the said *Peter Plaintiff.* All of which he is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in Damages to Real Property.

Peter Plaintiff complains that he was possessed of a piece of land of the following description, that is to say, [*insert description,*] and that *Daniel Defendant* came upon the said land and cut down ten trees, [*or pulled down a house, or consumed the grass with his cattle, or whatever else the injury may have been,*] by means whereof the said plaintiff hath sustained damage to the amount of . . . . All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in Damages to Real Property not in Actual Possession of the Plaintiff.

Peter Plaintiff complains that he was possessed of a piece of land of the following description, that is to say, [*insert description*] and rented the same to *Richard Renter,* for a term of . . . that during the said term, and while the said *Richard Renter* was in possession of the said land, under the said renting, *Daniel Defendant* came upon the said land and cut down ten trees, [or carried away, or as the damage may be,] by means whereof the said plaintiff hath sustained damage. All which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in Damages to Personal Property.

Peter Plaintiff complains that he was possessed of [*or owned*] a pair of oxen, and the *Daniel Defendant* took the same out of his pos-

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session, and *still detains them,* whereby he hath sustained damage. All of which the said plaintiff is ready to prove.

PETER PLAINTIFF.

Form of a Complaint in Damages for Injuries to the Domestic Relations.

Peter Plaintiff complains that *Daniel Defendant* beat *Philip Plaintiff,* the son [*or servant*] of said *Peter Plaintiff,* so severely that the said *Philip* was unable to render to the said *Peter* his accustomed services, as by reason of the relation subsisting between them, he ought to

do, whereby the said plaintiff hath sustained damage. All of which he is ready to prove.

PETER PLAINTIFF.

N. B. The preceding forms of complaints are only models or specimens, and may be changed or modified, or new ones invented upon similar principles, to be used in cases not herein provided for.

Form of an Answer denying the Facts of the Complaint.

Daniel Defendant denies the truth of all the allegations in the complaint of *Peter Plaintiff* against him.

DANIEL DEFENDANT.

Form of an Answer, denying the Legal Right of the Plaintiff to Recover and also denying the truth of the Facts alleged in the Complaint.

Daniel Defendant, says that supposing all the allegations, contained in the complaint of *Peter Plaintiff* against him, to be true, yet the said *Peter Plaintiff* has no legal right to recover against him in his action, (*) and he also denies the truth of all the allegations contained in the said complaint.

DANIEL DEFENDANT.

The words after the asterisk (*) are to be omitted, when it is intended to admit the facts.

Specimen of an Answer showing new facts, Constituting two Defences.

Daniel Defendant denies the right of *Peter Plaintiff* to recover in this action, because he says that after the occurring of the facts stated in the complaint, it was agreed between the said Daniel Defendant, and the said Peter Plaintiff, that the said Daniel Defendant should give . . . and the said Peter Plaintiff receive . . . dollars, . . . cents in satisfaction of the injury complained of in said complaint, and that the said Daniel Defendant had actually paid, and the said Peter Plaintiff received the said sum of money.

And also because the injury complained of in this complaint, was committed, and the cause of action accrued more than . . . years before the commencement of this action. All of which the said defendant is ready to prove.

DANIEL DEFENDANT.

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Form of an Answer Alledging payment.

Daniel Defendant, denies that Peter Plaintiff is entitled, to recover in this action against him, because he says that he hath paid the debt in the complaint mentioned, to the said Peter Plaintiff. And this the said defendant is ready to prove.

DANIEL DEFENDANT.

Form of an Answer alledging Performance of a Contract.

Daniel Defendant, denies that Peter Plaintiff, is entitled to recover against him in this action, because he says that *he* has performed whatever he was required to perform, by virtue of the contract, in the complaint mentioned. And this the said defendant is ready to prove.

DANIEL DEFENDANT.

If the defendant be only a surety, or the defendants be several, sued together, for the default of one, instead of *he* in *italics*, say the said *Daniel Defendant*, or whatever else may be the name of the party charged with a default.

Form of an answer alledging Illegality of Consideration.

Daniel Defendant, denies that *Peter Plaintiff*, is entitled to recover against him in this action, because, he says, that the contract in the complaint mentioned, had relation to the Slave Trade, in this, that it was a contract to funish rice to a vessel employed in the Slave Trade, and that the parties to the contract well knew that such was the case And this the defendant is ready to prove.

DANIEL DEFENDANT.

Form of an Answer relying on Lapse of Time.

Daniel Defendant, denies that *Peter Plaintiff*, is entitled to recover against him in this action, because, he says, that the cause of action in the complaint mentioned, accrued more than . . . before the commencement of this action. And this the defendant is ready to prove.

DANIEL DEFENDANT.

Form of a general Reply.

Peter Plaintiff, denies that the allegations contained in the answer of *Daniel Defendant*, to his complaint, furnish a sufficient defence to this action, *and he also denies the truth of the said allegations.*

PETER PLAINTIFF.

Specimen of a Reply of new Facts.

Peter Plaintiff, denies that the answer of *Daniel Defendant*, is sufficient to prevent his recovery, because, he says, that he said *Peter Plaintiff*, was out of the county of . . . . during part of the time which elapsed between the accruing of the cause of action in the complaint mentioned and the commencement of this action, and that the remainder of the time which so elapsed does not amount to . . . . And this the plaintiff is ready to prove

PETER PLAINTIFF.

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N. B. All replies, complaints, and answers, must be endorsed on the back with the name of the case, in the manner of the orders on page 62.

Form of a Writ of Arrest, for not obeying a Summons.

Commonwealth of Liberia, to . . Sheriff of the County of——— Greeting:

You are hereby commanded to arrest the body of Charles Careless, and bring him before the . for the immediately to answer for disobeying a writ of summons issued out of this court, and duly served on him, requiring him to appear before the court as a witness in a case between Peter Plaintiff and Daniel Defendant [or for disobeying your summons to attend this court as a juryman, or additional juryman,] and have you there this writ.

Issued by the special order of this court, this day of ... in the year one thousand———.

{ L. S. }

PHILIP PENMAN,
Clerk of said Court.

The above form may be easily changed to apply to any other of the cases mentioned, page 20, sec. 5.

Form of a Summons for a Witness.

Commonwealth of Liberia, to Charles Careless, Greeting:

You are hereby summoned to appear before the . . . . . on the . . day of . . . next, to testify in a case between Peter Plaintiff and Daniel Defendant.

Issued this . . day of . . . in the year one thousand———.

{ L. S. } PHILIP PENMAN,
Clerk of said Court.

Form of a Summons to produce a Paper.

Commonwealth of Liberia, to Charles Careless Greeting:

You are hereby summoned to appear before the . . . for the . . . . on the . day of . . to testify, if necessary, in a case between Peter Plaintiff, and Daniel Defendant, and you are commanded to bring with you, [insert description of paper wanted,] to be used as evidence in said cause.

Issued this . . day of . . . in the year one thousand———.

{ L. S. } PHILLIP PENMAN,
Clerk of said Court.

Form of a Commission to take Testimony.

Commonwealth of Liberia, to Charles Careful, named by the Sheriff, and Phillip Prudent, named by the Defendant, Greeting:

You are hereby authorized to take and reduce to writing, the exam-

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inations and depositions of all witnesses, who may be produced before you by either party, in a case wherein Peter Plaintiff, is plaintiff, and Daniel Defendant, is defendant, now pending in the . . . . . for the . . . . . and send the said testimony with all papers mentioned therein, or connected therewith, and this writ to the said court, as soon as conveniently may be.

Issued the . . . day of . . . in the year one thousand———.

{ L. S. } PHILIP PENMAN,
Clerk of the court.

Commissioners' Promise.

We and each of us, do solemnly, sincerely and truly promise, and affirm, that we will truly, faithfully and without partiality, take the examinations and depositions, of all witnesses adduced and examined before us, by virtue of the annexed commission.

CHARLES CAREFUL, }
PHILIP PRUDENT, } Commissioners.

Clerk's Promise.

I do solemnly, sincerely, and truly promise and affirm, that I will truly, faithfully, and without partiality take, write down, and transcribe the depositions and examinations, of all and every witness examined before the the Commissioners named in the annexed commission, so far as I am directed and employed by the said Commissioners or any of them so to do.

THOMAS TRUSTY,
Clerk to the Commissioners.

Form of Letter Rogatory.

Commonwealth of Liberia, to . . . . Greeting:

You are hereby most respectfully requested to cause to appear before you, [insert names of witnesses,] and to examine them upon the interrogatories and cross-interrogatories herewith sent, and to cause their examinations and depositions to be reduced to writing, and send the same with all papers mentioned therein or connected therewith, to the ..... as soon as conveniently may be, to be used as evidence in a case in the said court, depending between . . plaintiff, and . . . defendant, and upon occasion we shall gladly render you the like service.

Issued the . . . day of . . in the year one thousand———.

{ L. S. }

PHILLIP PENMAN.
Clerk of said Court.

N. B. Any other form more agreeable to the authority to whom this request is addressed may be adopted.

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Form of a Bond to return Goods taken in Replevin and restored to the defendant on motion.

KNOW all men, that we, *Daniel Defendant,* and *Samuel Surety, do* bind ourselves to *Peter Plaintiff,* that the said *Daniel Defendant,* or his administrators, will return to the said *Peter Plaintiff,* or his administrators, the goods which have been or may be restored to the said *Daniel Defendant,* by virtue of an order of the court . . . . made on, ... in a case wherein the said *Peter Plaintiff* was plaintiff, and the said *Daniel Defendant,* defendant, if any court having jurisdiction on the said cause shall so direct. The penalty of this bond is . . . . dollars.

Witness, PHILLIP PENMAN.

DANIEL DEFENDANT.
SAMUEL SURETY.

Form of an Order of Court to restore the Goods.

Peter Plaintiff vs. *Daniel Defendant.*	Action of replevin in the . . . . . for the . . . . . of . . . . .

In this case, it is ordered, that the Sheriff restore to the defendant, the goods heretofore delivered to the plaintiff, by virtue of the writ of replevin in this case, the defendant having first given security in the usual manner. By order of the court.

[L. S.]

PHILIP PENMAN, Clerk.
PHILIP PENMAN, Clerk
DANIEL DEFENDANT.

The security has been given,
Received the following goods. [*insert the list,*]

Form of a rule of Court referring a case to Arbitration.

Peter Plaintiff,
vs.
Daniel Defendant.
} Action of . . . . . in the . . . . . for the . . . . . of

On the application of the parties in this cause it is ruled and ordered, that the same be referred to *Philip Prudent*, and *Henry Honest*, as arbitrators under the law regulating arbitrations.

[L. S.] PHILIP PENMAN, Clerk.

Form of an Order for the sale of Perishable Property.

Peter Plaintiff,
vs.
Daniel Defendant.
} Action of in the . . . . . for the . . . . . of

It appearing that the following goods [*insert description,*] which have been taken by virtue of the attachment in this cause, are of a perishable nature, [*or expensive to keep,*] and that it is therefore for the interest of the parties, that the same should be sold, it is ordered that they be sold, and that a writ of sale be issued for that purpose.

JOHN JUST,
Chairman of the Court.

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Form of a Petition for a rule to Arbitrate, where there is no case in Court.

The undersigned respectfully pray the . . . . for the . . . of . . . that a rule of court may be made, referring all matters in dispute between them, to *Philip Prudent* and *Henry Honest* as arbitrators, under the law regulating arbitrations, and that a case may be docketed in said court, for the purpose of confirming the award of the said arbitrators by a judgment, in which *Peter Plaintiff* may be made plaintiff, and *Daniel Defendant*, defendant.

PETER PLAINTIFF,
DANIEL DEFENDANT.

Form of the rule in the same case, to be Endorsed on the Petition for Arbitration.

Peter Plaintiff,
vs.
Daniel Defendant

The court having seen and considered the within petition, it is therefore ruled and ordered, that a case be docketed, as in the margin, and that all matters of dispute between *Peter Plaintiff* and *Daniel Defendant,* shall be referred as therein prayed. By order of the court.

{ L. S. }

PHILIP PENMAN,
Clerk.

Form of a Writ of Arrest issued by Arbitrators and an Order of Fine.

Commonwealth of Liberia, to . . . Sheriff of the County of——— Greeting:

You are hereby commanded to arrest the body of *Charles Careless,* and bring him before us immediately to answer for, [*insert the offence,*] and have there this writ.

Issued this . . . day of . . . in the year one thousand———.

PHILIP PRUDENT,
HENRY HONEST.

Arbitrators under a rule of Court between . . . and . . . . . .
Approved,

SAMUEL STRICT,
Justice of the Peace.

Return.

I have arrested the body of *Charles Careless* by virtue of the within writ, and now have him before the arbitrators.

DANIEL DILIGENT,
Sheriff

Ordered, that *Charles Careless,* pay a fine of .... dollars for his offence within named.

PHILIP PRUDENT,
HENRY HONEST. } Arbitrators as within.

Approved, SAMUEL STRICT.
Justice of the peace.

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Form of an Award.

Peter Plaintiff,
vs.
Daniel Defendant,
} In the . . . . . for the . . . . . of . .

The undersigned, having been appointed arbitrators in this case by rule of court, having given due notice, of the time and place of meeting, to the parties, and having heard and duly considered the allegations and proofs on both sides, do award and determine that a judgment be entered, in favor of . . . for . . . and also for . . . the costs of this arbitration, and all the costs of court.

PHILLIP PRUDENT,
HENRY HONEST,
} Arbitrators.

Form of an Objection to an Award.

Peter Plaintiff,
vs.
Daniel Defendant,
} In the . . . . . for the . . . . . *Daniel Defendant,* objects to the award filed in this case for the following reasons, that is to say,
[*insert reasons,*]

Daniel Defendant, makes oath, according to law, that the facts stated in the above instrument of writing are true, to the best of his knowledge and belief.

Sworn before me,

SAMUEL STRICT,
Justice of the Peace.

Form of an Order to set aside an Award.

Peter Plaintiff,
vs.
Daniel Defendant,
} In the . . for the . . . . . .of . .

The court having heard, and duly considered the allegations and proofs of the parties in this case, and having considered the award, and the objections thereto, do order that the said award be set aside, and that the case be referred to arbitrators with instructions, that, [*insert instructions,*] or [*that the case be tried by a jury.*]

By order of the Court.

{ L. S. }

PHILLIP PENMAN, Clerk.

N. B. If there be no issue in the case, the court may direct the parties to make up one.

Form of a Rule of Reference without consent.

Peter Plaintiff,
vs.
Daniel Defendant, } In the . . . . . for the . . . . . of . . . . . .

This case, presenting complicated accounts, not fitted to be unravelled by a jury, it is ruled and ordered by the court, that it be referred to *Philip Prudent* and *Henry Honest,* as Arbitrators, under the law regulating arbitrations and references. By order of the court.

{ L. S. }

PHILIP PENMAN, } Clerk.

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Form of a Writ of Execution.

Commonwealth of Liberia, to . . . Sheriff of the . . . Greeting:

You are hereby commanded to seize and expose to sale, the goods and chattels of *Daniel Defendant,* until you have raised the sum of . . . with interest thereon, at the rate of . . . per. cent, from the . . . day of . . . . in the year . . . until payment shall have been made, and the sum of - - - costs, and if you cannot find any goods or chattels of the said *Daniel Defendant,* to arrest his body and bring him before the . . . or the judge thereof, to be dealt with according to law, unless he will pay you the said sum of money, and interest as aforesaid, or shew you property to seize and sell for the same, and as soon as the said sum of money, is paid, or raised, you are to pay over the said sum to *Peter Plaintiff,* in satisfaction of a judgment he has obtained against the said Daniel Defendant in the said court, [*if issued by a justice of the peace, say before me,*] in an action of . . . and how you shall execute this writ, you shall make known to the said court, on the - - - in - - - in the town of - - - when its next session will be held, and have you there this writ.

Issued the . . . day of . . . in the year one thousand———.

{ L. S. }

PHILIP PENMAN,
Clerk of said Court.

N. B. The form of a schedule under a writ of execution is exactly that under an attachment, substituting the writ of '*execution*' for that of an '*attachment.*'

Form of a Writ of Sale.

Commonwealth of Liberia, to . Sheriff of the . . . Greeting:

You are hereby commanded, to sell, to the best bidder, the property now in your hands, by virtue of a writ of execution [*or attachment*] issued out of the . . . at the suit of *Peter Plaintiff* against *Daniel Defendant* or so much thereof, as will produce the sum of . . . with interest, after the rate of . per cent, per annum, from the . . . day of . . . in the year until payment is made, and the sum of . . . as costs, and to pay over the said sums, or the proceeds of said sale, if sufficient, to the said *Peter Plaintiff;* and how you shall execute this writ make known to the said court, at its next session, to be held on the . . . in . . . in the town of . and have you there this writ.

Issued this . . . day of in the year one thousand——.

{ L. S. } PHILIP PENMAN,
Clerk of said Court.

Form of a Writ of Sale of perishable or expensive goods, under an order in the form, on page 63.

Commonwealth of Liberia, to . Sheriff of the . Greeting.

You are hereby commanded to sell the following perishable [*or expensive*] goods, [*insert the list*] now in your hands, by virtue of a writ of attachment, issued out of the . for the . at the suit of *Peter Plaintiff*, against *Daniel Defendant*, and to have the proceeds thereof, and this writ before the said court, as soon as conveniently may be, and at least, on the in when the next session of said

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court will be held in the town of . .

Issued this . . day of in the year one thousand——.

{ L. S. } PHILIP PENMAN,
Clerk of said Court.

Form of a Writ of Possession.

Commonwealth of Liberia, to . . Sheriff of the . . . Greeting:

You are hereby required, to put *Peter Plaintiff*, in possession of the following named property, [*insert the list*] which is now in pos-

session of *Daniel Defendant*, and to the possession of which the said *Peter Plaintiff* is entitled, by virtue of a judgment of the . . . for the . . . in an action of . . . in which . . . was plaintiff, and . . . defendant, which judgment was rendered at . . . term, in the year eighteen hundred and . . . and how you shall execute this writ, make known to the said court, on the . . . in . . . when the next session of said court will be held, in the town of . . . and have you there this writ.

Issued this . . . day of . . . in the year, one thousand——.

{ L. S. } PHILIP PENMAN,
Clerk of said Court.

Form of a Writ of possession, in favor of a purchaser at Sheriff's sale, directed to a Coroner, or an Elizor

Commonwealth of Liberia, to *Thomas Trusty*, Coroner, (or Elizor,) Greeting:

You are hereby commanded to put *Paul Purchaser*, in possession of the following named property, [*insert the list,*] now in the possession of *David Diligent*, sheriff of the county of . . . which the said *Paul Purchaser*, has bought at a sheriff's sale, held by the said David Diligent, by virtue of a writ of . . . issued out of the . . . for the . . . in a case wherein . . . was plaintiff, and . . . defendant, and how you shall execute this writ, make known to the said court, on the . . . in . . . when the said court will hold its next session in the town of . . . at the hour of . . . o'clock, and have you there this writ.

And you are hereby authorised to act with the powers of a Sheriff, in the premises. Issued by the special order of this court, this . . . day of . . . in the year one thousand——.

{ L. S. } PHILIP PENMAN,
Clerk of said Court.

Same, directed to a Sheriff.

Commonwealth of Liberia, to . . . Sheriff, of the . . . Greeting:

You are hereby commanded to put *Paul Purchaser* in possession of the following named property, [*insert the list*] now in possession of *Daniel Defendant*, which the said *Paul Purchaser* has bought at a sheriff's sale, held by him the said . . . sheriff, by virtue of a writ of

. . . issued out of the . . . for the . . . in a case wherein . . . was plaintiff, and the said *Daniel, Defendant* defendant, and how you shall execute this writ, make known to the said court, on the . . . in . . . in the town of . . . when its next session will be held, at the hour of . . o'clock.

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Issued by special order of the court, this . . . day of . . . in the year one thousand——.

{ L. S. } PHILIP PENMAN, Clerk.

Form of a discharge of an Insolvent

Daniel Defendant, having complied with the law relative to insolvent debtors, is hereby discharged from arrest, and from all future arrest, for any debts he may now owe, or in any action to which he may now be liable, except actions for injuries to the person, reputation, or the domestic relations at any person.

Dated the - - - day of - - - in the year one thousand——.

JOHN JUST,
Chairman of the Court.

Form of an appointment of a temporary Trustee, for the benefit of the Creditors of an insolvent debtor.

Daniel Defendant, an insolvent debtor, having been discharged, *Henry Honest,* is hereby appointed, to take charge of his property, and call a meeting of his creditors to elect a Trustee to act for their benefit.

JOHN JUST,
Chairman of the Court.

Form of a certificate of the election of a Trustee,

To JOHN JUST, Chairman of the Court of . . . . . .
These are to certify, that at a meeting of the creditors of *Daniel Defendant,* an insolvent debtor, discharged by you, called by *Henry Honest,* the temporary trustee, by you appointed, *Henry Honest* was duly elected trustee for the benefit of said creditors.

PETER PLAINTIFF,
CHARLES CREDITOR, } Creditors present.
HENRY HONEST,

Form of a Trustee's Bond.

KNOW all men, that we, *Henry Honest,* and *Samuel Surely,* do bind ourselves to the creditors of *Daniel Defendant,* an insolvent debtor, and to each of them separately, that the said *Henry Honest,* shall and will, well and faithfully perform the duties of trustee, for the benefit of the creditors of the said *Daniel Defendant,* and that we will indemnify them, from all loss which they may sustain, by reason of any misconduct of the said *Henry Honest,* as trustee as aforesaid. The penalty of this bond is . . . dollars.

Witness our hands, this . . . day of . . . in the year one thousand———.

Witness,

JOHN JUST,

HENRY HONEST,
SAMUEL SURETY.

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Form of Order Confirming Trustee.

Henry Honest, having been duly elected trustee for the benefit of the creditors of *Daniel Defendant,* an insolvent debtor, and having given bond and security according to law, all the property, real and personal, of the said Daniel Defendant, is by operation of law, vested in the said *Henry Honest,* as if the said *Daniel Defendant* were dead, and the said *Henry Honest* were his administrator and the said *Henry Honest,* is hereby ordered, to take possession of the said property, and administer it, in the same manner as an administrator, except that he shall make no difference between real and personal property.

JOHN JUST,
Chairman of the Court.

Form of an Oath of an Insolvent Debtor.

You, *Daniel Defendant,* do solemnly promise and swear, in the presence of the Omniscient and heart searching God, that the schedules which you have produced before me, contain a just and true account of your debts and property, and of the debts due to you, as far as you can at present ascertain them, and that you will disclose any property or debts, not mentioned in your said schedules, which you may here-

after discover, and that you have not in expectation of making the application, which you have this day made, for a discharge as an insolvent debtor, done any act to diminish your estate, or injure your creditors, or to prevent them, or any of them, from obtaining their just proportions of your property, as you will answer the same to the Great Judge of the quick and dead.

I swear to the above oath, the - - - day of - - - in the year one thousand————.

DANIEL DEFENDANT.

Subscribed by *Daniel Defendant*, and sworn to, the day above written, before me

JOHN JUST,
Chairman of the Court.

Form of a Bond for the Appearance, of an Insolvent Debtor.

KNOW all men, that we, *Daniel Defendant* and *Frederick Friendly*, do bind ourselves to the creditors of the said *Daniel Defendant*, an insolvent debtor, and to each of them separately, that the said *Daniel Defendant* shall, and will upon due notice, appear in the - - - - - - - at any time within - - - - - - hereafter, to answer any allegations or interrogatories that they, or any of them, may file against him, and in default, that we will pay all the debts of the said *Daniel Defendant*, not exceeding the whole penalty of this bond. The penalty of this bond is - - - dollars.

Witness our hands this - - - day of - - - in the year one thousand ————.

DANIEL DEFENDANT,
FREDERICK FRIENDLY.

Signed in my presence and approved,

JOHN JUST,
Chairman of the Court.

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Form of a Writ of Assistance, requiring the Sheriff to Summon all Persons to Suppress a Riot.

Commonwealth of Liberia, to . . . . Sheriff of - - - - - - - - Greeting:

Whereas it hath been made to appear to the undersigned, two justices of the peace for, - - - - - - that there is *danger* of a riot in the township of - - - - - - now, therefore, you are required to summon a

sufficient number of male persons to your assistance, and immediately to quell and suppress all riots and unlawful assemblies, and maintain the authority of government, in the said township.

SAMUEL STRICT,
HENRY HONEST,
Justices of the Peace.

Form of a Warrant of Arrest Against an Offender.

Commonwealth of Liberia, to *Thomas Trusty* Constable for the County of - - - - or any other constable for said county:

You are hereby commanded to arrest the body of *Charles Careless,* charged upon the oath of *Thomas Testify,* with [*insert description of the offence,*] and bring him before me, or some other Justice of the Peace for the county aforesaid, to answer for the said offence, and for so doing, this shall be your warrant.

Issued this - - - day of - - - in the year one thousand———.

SAMUEL STRICT,
Justice of the Peace
for the county of - -

If the offence be one, which the justice has power to try, and dispose of finally, he is to do so, and endorse the conviction or acquital, on the warrant.

Form of a Conviction.

Charles Careless, is convicted of the within offence, and sentenced to [*insert sentence,*] this - - - day of - - - in the year one thousand———.

SAMUEL STRICT,
Justice of the Peace.

Form of an Acquittal.

Charles Careless, is acquitted of the within offence on this - - - day of - - - in the year one thousand———.

SAMUEL STRICT,
Justice of the Peace.

If the offence be one, which the justice hath not jurisdiction to try, and finally dispose of, and he is satisfied that there are not sufficient grounds, to hold the accused to bail he is to endorse on the warrant, '*warrant discharged,*' and sign as above. If he thinks that there are sufficient grounds to hold the accused to bail, he is to require him to execute a bail bond, with sufficient security, in his discretion, in the following form.

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Form of a Bail Bond to answer a Criminal Accusation.

Know all men by these presents, that we *Charles Careless* and *Frederick Friendly,* do bind ourselves to the Commonwealth of Liberia, that the said *Charles Careless* will appear before the . . . for the . . . . on the . . day of . in the year one thousand . . . to answer a charge of [*insert description of offence as in warrant,*] and will remain in said court until duly discharged, and will, if convicted of the said offence, surrender himself into the custody of the sheriff of the county of . to undergo the sentence of the law. The penalty of this bond is dollars.

CHARLES CARELESS,
FREDERICK FRIENDLY.

Witness,
SAMUEL STRICT.

If the offence be capital, or the accused cannot find proper bail, the justice of the peace must commit him.

Form of a Commitment to answer a Criminal Accusation.

Commonwealth of Liberia, to . . Sheriff of the county of . . . Greeting:

Receive into your custody, the body of *Charles Careless* herewith sent, and him safe keep, so that you have his body before the . . . . . for the . . . . . to be held on the . . . day of . . . in the year one thousand . . . to answer a charge of [*insert description of offences as in warrant,*] unless the said *Charles Careless,* shall have been before that time, discharged, out of your custody, in due course of law, and for so doing, this shall be your sufficient warrant.

Issued this . . . day of . . . in the year one thousand———.

SAMUEL STRICT,
Justice of the Peace.

If the justice has doubts of the propriety, of fully committing, or finally discharging the accused, he may commit him for further examination.

Form of a Commitment for further Examination.

Commonwealth of Liberia, to . . . Sheriff of the county of - - - Greeting:

Receive into your custody, the body of *Charles Careless,* herewith sent, charged on oath of *Thomas Testify,* with, [*insert description of offence,*] and him safe keep, until he is discharged out of your custody, in due course of law, so that he may be brought before the proper authorities, for further examination touching the said charge, and for so doing, this shall be your sufficient warrant,

Issued this - - - day of - - - in the year one thousand———,

SAMUEL STRICT,
Justice of the Peace.

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THE END.

ACTS

OF THE

GOVERNOR AND COUNCIL OF LIBERIA, IN LEGISLATURE ASSEMBLED,

PASSED AT THEIR SIXTH SESSION

MARCH, ANNO DOMINI, 1844.

(Printed by Authority.)

AT THE HERALD OFFICE, MONROVIA.

HILARY TEAGE—PRINTER

(From an original in the possession of former President Edwin Barclay).

[1]

ACTS

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GOVERNOR AND COUNCIL OF LIBERIA, IN LEGISLATURE ASSEMBLED,

PASSED AT THEIR SIXTH SESSION

IN MARCH, ANNO DOMINI, 1844.

(Printed by Authority.)

An Act to amend An Act, supplementary to An Act, entitled "An Act to provide and regulate common schools,"

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*— That the sum of eight hundred dollars per annum be added to the "school fund of the Counties of Montserrado and Grand Bassa." Said amount to be paid from the Commonwealth Treasury, out of any monies not otherwise appropriated, and to be apportioned among the different settlements according to the number of inhabitants in each.

An Act to provide a set time or day on which the annual election of members of the Colonial Council shall take place.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*— That the election of members of the Colonial Council shall take place on the last Tuesday in November of each year.

Sec. 2. *Be it further Enacted,*—That the Colonial Legislature shall meet annually in Monrovia on the first Monday in January.

An Act to amend the 9th section of the 9th, Chapter of the "Abstract of Legal Principles and Rules."

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—

That from and after the passage of this Act, the 9th section of the IX Chapter on page 22 of the "Abstract of Legal Principles and Rules;" be so altered as to read, every juryman must be 21 years of age, and of good moral character.

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An Act to repeal that part of the 11th section of the Judiciary Act passed 1839, giving the Supreme Court original jurisdiction.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*— That so much of the 11th section of the Judiciary Act, passed 1839, as gives to the Supreme Court original jurisdiction be, and the same is hereby repealed.

An Act authorizing the Executive to call extra sessions of the Colonial Council.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*— That whenever, in the opinion of the chief Executive officer of this Commonwealth, the public interests require a convocation of the Legislature, said chief Executive officer shall have power, and he is hereby invested with authority to convene the legislature in such cases of emergency.

An Act Supplmentary to An Act on Elections.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*— That for elections for Lieutenant Governor and members of the Colonial Council there shall be appointed for each settlement or place in which the election may be held, three persons who shall be styled Judges of the election: One of whom shall be President of the board. It shall be the duty of this board to take the supervision of the election—to receive and count the tickets, and to see that they are properly registered, and that the election is conducted according to the provisions of the law in the case. There shall also be two Clerks appointed for each of the settlements or places as aforesaid—whose duty it shall be to register the votes under the direction of the board of Judges herein appointed.

Sec. 2. Be it further Enacted,—That the sheriff or his deputy shall organize the election by administering the oath usually taken on the like occasions to the president of said election, and that the said president be thereby fully authorized to administer the usual oath to the other judges and clerks:—And should any judge or clerk so appointed, fall in his or their attendance at the time and place, at which such election is to be holden, that it shall be lawful for the judges then present to nominate and appoint any one or more respectable citizens as the case may be, to act in case of such vacancies, as fully and lawfully as if the appointment had been originally made by the court.

Sec. 3. And be it further Enacted,—That the election be holden but one day; and that the polls be opened at 9 o'clock A. M. and closed at 6 o'clock P. M.

An Act to regulate the sales of Commission Merchants.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That from and after the passage of this Act, all goods, wares and merchandize, brought into this Commonwealth for sale on commission,

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shall be exhibited on a list with prices annexed in some conspicuous place,—so as to give to all who may wish it an opportunity to inspect it:—And no sales of said goods shall be made until the expiration of one half hour after said list shall have been so exhibited. The Collector shall determine the time of the exhibition of the list.

Sec. 2. Be it further Enacted,—That no commission merchant or merchants, shall make sales of any goods, wares or merchandize, he or they may receive to sell on commission, at any other place but at that where he or they may be authorized by his or their license to make commission sales.

Sec. 3. And be it further Enacted,—That no person or persons shall take from any commission merchant or merchants, under any pretence whatever, goods, wares or merchandize for sale on account of captains or supercargoes without having first obtained a license to do commission business, to be entitled commission license. Any person or persons violating this Act, will be subject to the penalty imposed by law for violation of the act regulating revenue and commerce.

An Act to make an additional Marshall and Notary Public.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled and it is hereby enacted by the authority of the same:*—That from and after the passage of this Act, the 11th section of an Act incorporating, bounding and regulating counties and towns, appointing "one Marshall, and one Notary Public," be so altered as to read, two Notary Publics and two Marshalls:—One of each to be appointed for the County of Montserrado, and one for the County of Grand Bassa, any law to the contrary notwithstanding.

An Act to put the settlement of "Greenville" Sinoe," in a state of defence.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That the sum of three hundred dollars be, and the same is hereby appropriated out of any money belonging to the Commonwealth, deposited in the treasury at Greenville, Sinoe, not otherwise appropriated, to put said settlement in a state of defence.

An Act incorporating the inhabitants of the town of Monrovia into a Body Politic.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That the inhabitants of the town of Monrovia be, and the same are hereby constituted a body politic and corporate, by the name and style of Selectmen: and by their corporate name, may sue and be sued, implead and impleaded, and grant and do all other acts as are usually done by such corporate bodies, for the exclusive benefit of the said town, and may have and use a town seal, which may be broken or altered at pleasure.

Sec. 2. *Be it further Enacted,*—That the town Council or Selectmen shall consist of seven members, residents of the town of Monrovia, to constitute a body politic; one of whom shall be president of the board:—

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They shall have power to take and hold real and personal property for the benefit of the town, make and fulfil contracts, and levy all such taxes as may be necessary for town purposes.

Sec. 3. Be it further Enacted,—That the corporation aforesaid shall have full power and authority to pass all necessary municipal laws and ordinances for said body politic, they shall have the power to settle their rules of proceedings, to appoint their own officers, to regulate their respective fees, and to remove them at pleasure for disorderly behaviour, or mal-conduct in office. Nevertheless no laws or regulations shall be made incompatible with the general laws of the Commonwealth.

Sec. 4. Be it further Enacted,—That the ordinances and acts passed by the said body corporate, shall be subject to the approval of the president, and when approved by him, shall have the force of law: But should the president refuse his assent, he shall within three days, state to the selectmen in writing, the reason for his objections. Then, should the board of selectment, or three fourths of them present at a meeting, concur in the passage of the ordinance, the same shall have all the force and validity as it would have with the assent of the president. Provided, however, the council shall not prevent its return by the term of their adjournment.

Sec. 5. Be it further Enacted,—That the first election of members of the town council, shall be held on the 3rd Monday in April next, and in every year thereafter at such place as the judges of the election may prescribe.

Sec. 6. Be it further Enacted,—That the selectmen shall be elected annually by ballot on a general ticket, by the male adults who reside in said town. The justices of the county of Montserrado, resident in the town of Monrovia, or any three of them to preside as judges of the election, with such associates as the council may from time to time appoint.

Sec. 7. And be it further Enacted,—That all laws, regulations and ordinances, relating to towns and villages, town-commissioners, as regards the town of Monrovia be, and the same are hereby repealed, except such laws or ordinances as provide for common schools, and the appointment of civil officers.

An Act authorizing the Executive to purchase a set of books for public records and to have such of the records as require it transcribed.

Sec. 1. *Be it Enacted by the Governor and Council in Legislature Assembled and it is hereby enacted by the authority of the same:—*

That His Excellency the Governor be, and he is hereby fully authorized to procure, or cause to be procured a set of suitable books in which the said records may be transcribed.

Sec. 2. And be it further Enacted,—That His Excellency draw on the Commonwealth Treasury for the amount required to pay for the books which he may procure for the aforesaid purposes:—And that he further draw on the Commonwealth Treasury for the sum of one hundred dollars to defray the expenses of transcribing the said records, should he deem it necessary to have said records transcribed.

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An Act regulating the Collectors fees.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That from and after the passage of this Act, the Collectors of Customs, shall be allowed a commission of only eight per centum on the revenue collected by them.—Any law or usage heretofore existing to the contrary notwithstanding.

An Act authorizing commissioners to have a canal cut near the Cape to run from the Montserrado River into the sea

Whereas it is deemed highly expedient—as well as that it would be greatly conducive to the public interest to have a canal for boats and small crafts to connect the Messurado River and the ocean between Kroo-town and the Cape—and whereas a survey has been made of the route, and a plan with an estimate of the probable cost, has been laid before the Governor, by Mr. D. B. Warner—therefore:

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That two Commissioners be appointed by the Governor and Council, to contract with Mr. D. B. Warner or some other person or persons, to cut and secure a water passage of six or more feet wide, to admit vessels drawing at least five feet water, agreeable to Mr. Warner's survey; and that the sum of eight hundred dollars be, and the same is hereby appropriated to be paid out of any monies in the Commonwealth Treasury not otherwise appropriated, for the construction and completion of said canal.

An Act to amend the 4th section of An Act entitled An Act regulating towns and villages.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted the authority of the same*:—That from and after the passage of this Act, so much of the 4th section of An Act regulating towns and villages, as subjects the inhabitants to work on roads and streets twelve days annually, be so altered as to read eight days in each year.

The town of New Georgia shall be excepted from this rule. The number of days the inhabitants of New Georgia shall be required to work on their streets and roads, and all other regulations necessary to secure this object, shall be determined by their town meeting to be holden annually on the first Tuesday in October.

An Act providing ways and means to put the Townships of Berley, Bassa Cove and Edina in a state of defence.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That the sum of five hundred dollars be, and the same is hereby appropriated to put the Guns and Gun-carriages in order, and to purchase amunition and other munitions of war for the settlements aforesaid, and that the same be paid from the commonwealth Treasury in Grand Bassa, out of any monies not otherwise appropriated.

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An Act repealing an Act establishing a Committee of Finance.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That the Act establishing the Committee of Finance, be and the same is hereby repealed.

An Act Supplementary to an Act on Commerce and Revenue.

Sec. 1. *Be it Enacted by the Governor and Council in Legislature Assembled and it is hereby enacted by the authority of the same*:—That from and after the passage of this Act, there be appointed at each port of entry an officer of Customs to be denominated Wharfinger. It shall be the duty of said Wharfinger to be in attendance upon—and

superintend the landing of all goods, wares, and merchandize, at any Wharf or place where said goods, wares, or merchandize may be landed—to note the marks, number, weight or measure as the case may be, of all casks, bales, bundles, crates or other packages in a book to be furnished for the purpose. Said book kept as aforesaid to be delivered to the Governor for his inspection immediately after the close of the sales or the departure of any vessel or vessels which shall have landed goods.

Sec. 2. *And be it further Enacted,*—That each of said officers or wharfinger shall be allowed, as compensation for his services so rendered, two per centums on the amount of revenue accruing at the port where his services are rendered.

An Act repealing a part of the 4th Sec. of an Act entitled Judiciary Act.

Sec. 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That so much of the fourth section of the judiciary act as allows the chairman of the court of common pleas and quarter sessions only twenty dollars per annum be, and the same is hereby repealed, and that the said Officer be allowed thirty dollars per annum for his services.

An Act to repeal an Act entitled Limitation Act passed in 1841.

Sec. 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:*—That the Act of the Legislature annulling the statute of limitation in bar of recovery of claims in this Commonwealth—and forbidding any such law, statute or ordinance to be enforced previously to the year 1850 be, and the same is hereby repealed.

(The following Act was omitted in the last compilation of the laws.)

Be it Enacted by the Agent and Council,—That in two years from and after this date all open accounts shall be closed by note or otherwise, and that all accounts originating from and after this date shall be closed by note or otherwise in two years from the date of the creation of the account—otherwise said accounts shall be invalid in law. Passed at Monrovia, January 12 1835.

An Act Creating an Agency in the County of Grand Bassa.

Sec. 1. *Be it Enacted by the Governor and Council in Legislature Assembled and it is hereby enacted by the Authority of the same;—*

[7]

That His Excellency the Governor be, and he is hereby authorized to appoint a superintendant in and for the County of Grand Bassa, under the control, and during the pleasure of His Excellency the Gov. of this Commonwealth. Said officer to be allowed as a compensation for services, at the rate of one hundred dollars annually to be paid out of the Commonwealth Treasury in the County in which said services may be rendered. The duties of the superintendant, shall be to audit all public accounts superintend the public works, and attend to such other matters relating to the Commonwealth as the Governor may assign to him.

An Act for the Establishment of a Court of Admiralty.

Sec. 1. *Be it Enacted by the Board of Directors of the American Colonization Society*:—That there shall be and the same is hereby constituted a Court of Admiralty in the Commonwealth of Liberia, which shall have, possess, and exercise jurisdiction over all piracies as so declared by and existing at this time under the laws of nations, or which are declared and held to be piracies under the constitution and laws of the United States.

Sec. 2. The said court shall be constituted in manner following, that is to say—The Governor of said Commonwealth or whoever, for the time being shall be in the lawful Exercise of the Supreme executive power, shall be President of said Court, and the Judges, or one of the Judges if both do not attend, shall be his associates, who shall appoint the times and place or places for holding the same, and shall appoint such officer or officers as may be necessary to discharge the duties required by said court, and the fees of said officers and pay of jurors shall be the same as allowed by law in the District Courts of the United States.

Sec. 3. The proceedings in said court for the trial of all such offenders found or brought within the limits of said Commonwealth of Liberia, and all other proceedings shall be in accordance with the laws and practice of the District Courts of the United States, having and exercising similar jurisdiction—an excellent summary of said practice

and forms of proceedings in said court may be found in Dunlaps Admiralty practice.

Sec. 4. That upon the conviction of any citizen or resident inhabitant of said Commonwealth of Liberia for any said offence of piracy the offender shall suffer the punishment of death, or imprisonment at hard labour for life at the discretion of the court, and the punishment of all other persons so convicted as aforesaid shall be by a fine not exceeding five thousand dollars and imprisonment at hard labour not exceeding five years, at the discretion of the court.

Sec. 5. In all cases of piracy as aforesaid, the said court shall have jurisdiction to award process against the vessels, apparel, furniture and cargo, and to award sentence of condemnation of the same.—Distribution to be made of the proceeds of said condemnation as is provided by and under the existing laws of the United States of America, and in cases where seizures as aforesaid shall be made by persons not entitled under such laws to any distributive share, the said court shall have power in its discretion to award such share or proportion as may be deemed proper to such person or persons making such seizure—Provided that in each distribution the Commonwealth of Liberia shall be entitled to such share as is by said laws awarded to the United

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State, and provided further that in no case whatever, shall the Judges of said court be entitled to any share of such prize money.

Sec. 6. The jurisdiction of said court shall be, and the same is hereby extended to all cases of fraud or attempts at fraud upon the Revenue laws of said Commonwealth, and shall decree such penalties, forfeitures or confiscations as are provided in the several acts of congress of the United States of America, concerning the revenue thereof.

Sec. 7. The said court shall have exclusive cognizance of all civil causes of Admiralty and maritime jurisdiction, including all seizures under the laws of impost, navigation or trade of said Commonwealth where the seizures are made on tide waters, which are navigable from the sea by vessels of ten or more tons burthen within the said Commonwealth, as well as upon the high sea—saving to suitors in all cases the right of a common law remedy where the common law is competent to give it—and shall also have exclusive original cognizance of all seizures on land or other waters than as aforesaid made, and of all suits for

penalties and forfeitures incurred under the laws of said Commonwealth.

Sec. 8. Said court shall have power from time to time to alter and amend said rules of practice as may be proper for the orderly transaction of its business.

Attest. SAMUEL WILKESON,
President of the Board of Directors,
Of American Col. Society—and
Chairman Ex. Committee.

Passed by the Board of Directors of the Am: Col: Society, in 1841.

ACTS

OF THE

GOVERNOR AND COUNCIL

OF

LIBERIA:

Passed at their session held in the Council Hall, in Monrovia, January 1845:

(Published by Authority.)

PRINTED AT THE HERALD OFFICE.

MONROVIA, LIBERIA —WEST AFRICA.

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(From an original in the Archives of the Department of State, Washington. D. C.)

ACTS

OF THE

GOVERNOR AND COUNCIL

OF

LIBERIA:

Passed at their session held in the Council Hall, in Monrovia,

January 1845:—(Printed by Authority.)

An Act providing for removing guns to Fort Norris and other purposes.

Section 1. *Be it Enacted by the Governor and Council of Liberia in Legislature Assembled, and it is hereby enacted by the authority of the same*:—That six of the guns that are at Central Fort, be removed to Fort Norris, and that the remainder of them be carried to the jail-yard in this town, and put under a shelter.

Sec. 2. *Be it further Enacted*,—That the street leading up to Fort Norris be cleared out, and as far as practicable, be kept open and clear from all impediments.

Sec. 3. *Be it further Enacted*,—That the sum of three hundred dollars be, and the same is hereby appropriated out of any money in the commonwealth treasury, not otherwise appropriated, to carry into effect the first two sections of this Act

Sec. 4. *Be it further Enacted*, That Central Fort be taken down, and the rocks of which it is composed be put into convenient lots, and sold to the highest bidder; excepting so much of said rocks from sale, as may be required for the purposes mentioned in the next section.

Sec. 5. *Be it further Enacted*,—That a convenient market house be erected in the town of Monrovia, and the materials for the purpose, as far as they may be adapted for it, be taken from Central Fort.

Sec. 6. *Be it further Enacted*,—That when the said market house shall have been completed, it shall be leased to the Corporation of Monrovia, for an annual rent to be agreed upon by persons appointed by the Governor, and the Corporation for that purpose: The annual rent so agreed upon shall be paid into the commonwealth treasury for the benefit of the commonwealth. When the amounts so paid in shall equal the amount expended in erecting said market house, then all income from said market shall for ever thereafter be paid into corporation treasury for the benefit of the corporation.

Sec. 7. Be it further Enacted,—That should the corporation refuse to take the said market as directed in the 6th section, then the Governor shall be authorised to lease or hire said market house to any

[2]

person or persons, who may be disposed to lease said market house at an anual rent, to be agreed upon as aforesaid, for a certain number of years; at the expiration of the term of the lease, should the amount so paid, not equal the expenditure, then the said house shall again be leased as above directed, and so on until the amount of lease paid into the commonwealth treasury shall equal the expenditure of building. Then on the expiration of the lease, the said market house shall be turned over to the corporation of Monrovia, to be its own property for its own proper use and behoof.

Sec. 8. Be it further Enacted,—That in the event that no lease can be effected, then the Governor shall be, and he is hereby empowered to appoint three commissioners, to take charge of the said market house, and the proceeds arising from the rent, shall be paid into the commonwealth treasury, for the benefit of the commonwealth.

Sec. 9. Be it further Enacted,—That the corporation officers, or other persons who may lease said house, be allowed and they are hereby allowed to lay such charges on all articles sold in the said market house, as they may deem expedient and just, and that the leasee or leasees keep said market house in order and good repair.

Sec. 10 Be it further Enacted,—That should the monies arising from the sale of the rocks of the fort, not be sufficient to complete the market house, then and in that case, the sum of one hundred dollars be, and the same is hereby appropriated to be drawn from the commonwealth treasury, for that purpose, out of any money not otherwise appropriated. That all the work directed by this Act shall be done by the lowest bidder, and the method of offering shall be by tender to the Colonial Secretary, he having given notice to that effect, to be directed thus, "tender for removing the guns," or "tender for building the market house," as the case may be. Bond and sufficient security shall be demanded of the contractor or contractors, for the faithful performance of his or their contract in both materials and the execution of the work. One third of the stipulated amount shall be reserved in the treasury, until the work contracted for shall be pronounced complete by inspectors appointed for that purpose

An Act to provide pay for the Lieutenant Governor.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—

That from and after the passage of this Act,—the Lieutenant Governor shall be paid annually out of the commonwealth treasury, at the rate of six hundred dollars when engaged in the services of the Commonwealth, when exercising the office of Governor.—Provided however the American Colonization Society refuse to pay him for his services, when actually engaged as above stated.

Sec. 2. And be it further Enacted.—That the Lieutenant Governor be paid for his services for the last year, at the same rate.

An Act to appoint Associate Judges for the Courts of Common Pleas and Quarter Session, and to raise the fees of the Judges of the said Court—Also to raise Auctioneers' License.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—*

[3]

That from and after the passage of this Act, the style of the presiding officer in the Court of Quarter Sessions and Common Pleas, shall be altered to Judge of the Court of Quarter Sessions and Common Pleas.

Sec. 2. Be it further Enacted,—That there shall be three associate Judges appointed for each of the courts of common pleas and quarter sessions in this commonwealth who shall hold their office during good behaviour, two of whom shall set alternately, and when the presiding Judge shall be interested in a case then one of the associate Judges whose turn is not to set, shall preside during the adjudication of his matters, and so likewise with the associate judges.

Sec. 3. Be it further Enacted.—That the fees of the Judges of the Courts of Common Pleas and Quarter Sessions shall be fifteen dollars per session.

Sec. 4. Be it further Enacted,—That the fees of the Judges out of court, as Judges of the Probate Courts, shall be for probating a will one dollar—granting letters of administration one dollar—order of sale seventy five cents.

Sec. 5. Be it further Enacted,—That the fees of the associate judges shall be for each associate judge per term ten dollars.

Sec. 6. Be it further Enacted,—That the nineteenth section of an Act regulating Commerce and Revenue be, and the same is hereby, repealed.

Sec. 7. And be it further Enacted,—That any person or persons wishing to carry on the business of an Auctioneer, shall pay annually into the Commonwealth treasury the sum of twenty dollars.

An Act to amend an Act, to provide a set time or day on which the annual election of members of the colonial council shall be held.

Be it Enacted by the Governor and Council in Legislature Assembled and it is hereby enacted by the authority of the same.—That from and after the passage of this Act, the annual election for Lieutenant Governor, and members of the Colonial Council, shall take place on the second Tuesday in October in each? year, any law to the contrary notwithstanding

An Act supplementary to An Act entitled An Act on the Judiciary.

Section 1 Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That from and after the passage of this Act, the Courts of Common Pleas and Quarter Sessions shall have original jurisdiction in all cases of offences against the Commonwealth; presentments whereof shall be made by a grand jury on information given them of existing cases, or by commitments made by justices of the peace

Sec 2. Be it further Enacted,—That in the cases refered to in the preceding section, the Courts of Common Pleas and Quarter Sessions, shall possess all the powers and functions that have been hitherto possessed by the Superior Courts in said cases

[4]

Sec. 3. Be it further Enacted,—That so much of the judiciary Act or Acts, supplementary to the judiciary Act, as gives to the Superior Courts jurisdiction in cases affecting the peace of this commonwealth, or in any wise conflicts with the true intent and meaning of the first and second sections of this Act be and the same is hereby repealed.

Sec. 5. Be it further Enacted,—That his Excellency the Governor be authorised to instruct one of the justices from either of the settlements of Monrovia, Millsburg or Caldwell, to visit the settlement of New Georgia, once in two weeks, to assist the magistrates of New Georgia in the determination of such cases of either a civil or criminal character, which may fall within reach of a justice's decision and final determination, as may from time to time be brought under the notice of justices there: That it be left to the discretion of the Governor whether

he will fix any particular day for the session of said justice court, in said settlement of New Georgia, or whether he will send said justice by notification, or, whether he will assign it as the exclusive duty of any particular magistrate.

Sec. 6. Be it further Enacted,—That nothing in the foregoing section shall be construed to prevent the resident magistrates or justices of New Georgia from arresting offenders against the laws of this commonwealth, or of suppressing disturbers of the public peace; in such cases the said magistrates shall have all the authority which they have hitherto possessed.

Sec. 7. And be it further Enacted,—That the Governor be, and he is hereby authorized to pay the justices so sent to New Georgia, for each and every trip so made, the sum of two dollars from the public treasury, and that the magistrates of New Georgia be allowed in all the cases in which they may be lawfully engaged in determing the same, the fees that they are now entitled to.

An Act entitled an Act Regulating deposits in public Treasury.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same: —That any person or persons who may wish to deposit monies in the commonwealth treasury, shall be at liberty to make such deposit on the responsibility of the commonwealth, subject however to the following conditions. First for every such deposit, a certificate or receipt shall be given by the commonwealth treasurer, to the individuals making the deposit, stating the amount deposited and the date of the deposit. If the person or persons so depositing, desire the amount held subject to his or their agents order, to be withdrawn at any indefinite time, then such fact shall be expressed in the certificate or receipt to be given by the treasurer. On such a deposit no interest shall be allowed to accrue, but no charge shall be made on said amount by the commonwealth or the treasurer for receiving or delivery of said money. Second on every deposit made for a term of three years, four percentum shall be allowed, on every deposit for four years five per centum shall be allowed, and on every deposit for six years or more six per centum shall be allowed: In every case of deposit where a definite term is intended, the treasurer of the commonwealth shall grant a

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certificate or receipt stating in full the amount and date of deposit, and

the name or names, if there be more than one, of the party or parties making the deposit, and shall register the same in a fair and legible hand, in a book to be provided and kept for that purpose.

Sec. 2. Be it further Enacted—That whenever monies are deposited in the commonwealth treasury for either of the definite terms or spaces of time expressed in the first section no charges for receiving or paying out shall be made by the commonwealth or treasurer on the amount so deposited, but the interest shall be clear over and above the amount so deposited

Sec. 3. Be it further Enacted.—That the interest accruing on said deposits shall if demanded by the party or parties making the deposits, or by his or their agents be paid semiannually; and in every case of payment of said interest, the party or parties receiving said interest, shall give to the treasurer a receipt for the same stating not only the amount received, but the amount on which said interest accrued, the time at which it became due and the date of the deposit on which the interest accrued

Sec. 4. Be it further Enacted.—That no monies deposited in the commonwealth treasury under the provisions of this Act, shall be entitled to be drawn out until three months previous notice has been given of an intention, to withdraw it, any thing to the contrary in this Act notwithstanding.

Sec. 5. No monies shall be deposited in the commonwealth treasury under the provisions of this Act, except in the Treasuries of Grand Bassa and Monrovia.

Sec. 6. The treasurers of the commonwealth, shall be allowed the same per centage on amounts deposited under this Act as on the money of the commonwealth, they shall be equally bound by themselves and surities for their safe and faithful keeping, and their bond shall be increased to meet the provisions of this Act.

An Act appropriating Money for building a Jail and Court House in Grand Bassa County.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That the sum of fifteen hundred dollars be, and the same is hereby appropriated from any monies in the commonwealth treasury not otherwise appropriated, to be drawn from the treasury in Grand Bassa County, to erect a jail and a court house in the county of Grand Bassa.

Sec. 2. And be it further Enacted.—That the jail and court house to be erected under this Act, shall be of stone or brick, and that the work shall be given out to the lowest bidder, and that the method of offering for said work shall be by tender.

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An Act to provide for the mounting of two guns and building a bridge at Millsburg.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same: —That from and after the passage of this Act, the Governor be and he is hereby authorised to draw a sufficient sum out of any monies in the commonwealth treasury, not otherwise appropriated, to mount two guns at Millsburg on suitable carriages.

Sec. 2. And be it further Enacted,—That the sum of thirty dollars be appropriated to the settlement of Millsburg, to aid its inhabitants in erecting a bridge across the creek in the lower part of the said settlement, and the overseers of the settlement aforesaid are hereby authorized to draw on the Governor for that amount when said bridge shall have been completed.

An Act for Garrisoning Fort Norris.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same: That the Executive be authorized to employ a detachment to consist of one Sergeant and five privates as a garrison for Fort Norris Battery, Signal Hill, and that the pay and rations of said officer and men be the same as are allowed to the Militia of the Commonwealth, when called into actual service.

Sec. 2. And be it further Enacted,—That the police and general regulations of the garrison shall be under the control of the Executive who may adopt as far as practicable the regulations provided for the government of Forts in the United States, and shall assign from time to time to the garrison or any part thereof such duties as may best serve the interest of this Government.

A C T S

OF THE

GOVERNOR AND COUNCIL OF LIBERIA,
IN LEGISLATURE ASSEMBLED.

PASSED AT THEIR EIGHT SESSION

JANUARY 1846.

(*Printed by Authority.*)

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ACTS

OF THE

GOVERNOR AND COUNCIL OF LIBERIA,

IN LEGISLATURE ASSEMBLED.

PASSED AT THEIR EIGHT SESSION

JANUARY 1846.

(*Printed by Authority.*)

An Act to Amend the Judiciary Act.

Section 1. *Be it Enacted by the Company and Council in Legislature Assembled, and it is hereby enacted by the authority of the same,* —That so much of the present Judiciary system as gives to Judges of the Superior Courts Equity powers, be and the same is hereby repealed.

Sec. 2. *Be it further Enacted,*—That the Governor of the Common wealth of Liberia be, and he is hereby constituted exofficio Chancellor of this Commonwealth.

Sec. 3. *Be it further Enacted,*—That the Judge of the Superior Court of Grand Bassa, and the Judge of the Superior Court of Montserado county, be and they are hereby constituted and declared to be exofficio Vice Chancellors of this commonwealth. The Vice Chancellors shall be associated with the Chancellor in the decision of all cases which may be brought into the Court of Chancery, in the manner which may be directed by the laws of the colony.

Sec. 4. *Be it further Enacted,*—That the Court of Chancery shall hold its session in Monrovia on the second Monday in December in each year.

Sec. 5. *Be it further Enacted,*—That the Court of Chancery shall not interpose in cases which can be determined in a court of law, nor interpose after a decision of a court of law in the same controverted points.

Sec. 6. *Be it further Enacted,*—That the Clerk of the Superior Court of the county of Montserado shall be master in Chancery. He shall be qualified and authorized to administer Oaths, receive and file

bills and answers, and shall within twenty days after a bill has been filed in his office, give notice to the parties concerned that such a bill has been filed.

Sec. 7. *Be it further Enacted,*—That every bill filed in the office of the master in Chancery setting forth a complaint and asking for remedy shall be filed at least six months before the session of the court. The master in Chancery shall note in a book to be kept for the purpose the date of the filing of every such bill of complaint.

Sec. 8. *Be it further Enacted,*—That the method of proceeding in the Court of Chancery shall be by bill and answer, the bill of complaint shall set forth distinctly and intelligible the cause of complaint, and shall be verified by the Oath of complainant. The answer shall contain a full and distinct reply as far as respondent may deem it necessary to reply to complaint of complainant, and shall also be verified by the Oath of respondent to the best of his knowledge and belief.

Sec. 9. *Be it further Enacted,*—That when no rules are laid down by the laws of this commonwealth for the government of the proceedings in the Court of Chancery, the rules as established in Great Britain. shall be adopted by this court, so far as they are applicable to the condition of the colony.

Sec. 10. *Be it further Enacted,*—That when a case has been once settled in a court of Chancery, it shall be final, and irreversable.

Sec. 11. *Be it further Enacted,*—That the following Fees shall be paid to the master in chancery, for the benefit of the commonwealth. If the sum in litigation be under one hundred dollars five dollars shall be paid, if over one hundred and under one thousand dollars, ten dollars shall be paid, if over one thousand and under two thousand dollars, twenty dollars shall be paid, if over two thousand dollars, and under three thousand dollars, fifty dollars shall be paid, if over three thousand and under four thousand seventy dollars shall be paid, and for every thousand dollars over four thousand an additional twenty dollars shall be paid. The said amounts shall be paid before the bill is filed, and shall be immediately by the master in chancery paid over to the Treasurer of the commonwealth, said Fee shall be regarded as so much cost to be repaid by the defendant to the complainant should the case be determined in favor of the plaintiff.

Sec. 12. *Be it further Enacted,*—That in cases when estates are insolvent widows shall be entitled to one third of their late husband's

personal estate, which they shall hold in their own right to them, their heirs, executors, administrators forever. They shall also be entitled to one third of their late husband's real estate, to be held, possessed, and enjoyed by them during their natural lives. At their death that portion of their estate so held by them during their life, shall revert to the creditors of the estate, to be sold for the general benefit of those who held claims against the estate, anticedent to the death of their husband.

Sec. 13. Be *it further Enacted,*—That the fifteenth section of the Act, entitled an Act, regulating commerce and revenue, be and the same is hereby repealed.

Sec. 14. Be *it further Enacted,*—That the fifteenth section of the nineteenth chapter of the second part of the compilation of the laws of this commonwealth, be so amended as to read every transaction fraudulent within the meaning of the two last sections or otherwise, and established by a jury shall be void as against the trustee.

Sec. 15. *And be it further Enacted,*—That the twenty third section of the chapter referred to in the fourteenth section of this Act, be and the same is hereby repealed.

An Act Regulating Fees.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same,*—That from and after the first day of February next the Sheriffs be allowed twenty cents per day for finding, and maintaining prisoners, any law to the contrary notwithstanding.

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Sec. 2. *Be it further Enacted,*—That the following be the fees of Vice Chancellors and master in Chancery. The Judge of the Superior Court of Grand Bassa, setting as Vice Chancellor shall for every case tried in the Court of Chancery have to be paid out of the Commonwealth Treasury the sum of $20. The Judge of the Superior Court of Montsurado, county setting as Vice Chancellor shall for every case tried in the Court of Chancery have the sum of $10 to be paid out of the Commonwealth Treasury. The master in Chancery for every bill of complaint filed shall have to be paid by persons filing bill the sum of $3 for every answer filed to be paid by respondent $3, for every case

tried $3, for administering an Oath 25 cents, for copying bill or answer or other wrighting for every ninty words 5 cents.

Sec. 3. *Be it further Enacted,*—That the Fees of the master are to be ultimately paid by the party loosing the case.

Sec. 4. Be *it further Enacted,*—That the Judges of the Superior Court be allowed the sum of $20 for every term, and that the law allowing said Judges the sum of thirty seven dollars and fifty cents each term, be and the same is hereby repealed.

Sec. 5. Be *it further Enacted,*—That Petit Jurors shall receive the sum of twelve and a half cents each, to be paid by the commonwealth per day during their attendance on the court. This shall be considered in addition to the present Fees as is now regulated by law.

Sec. 6. *And be it further Enacted,*—That the commonwealth Attorneys shall be allowed half pay for all cases they may prosecute by indictment when the defendant shall be acquited, any law to the contrary notwithstanding.

An Act to bring Defendant into Court.

Be *it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same,*—That from and after the passage of this Act, that any defendant who shall be summoned and served with a copy of the plaintiff's complaint fifteen days previous to the first day's session of court, he shall be compelled to answer the plaintiff at that court, unless it shall appear to the court that defendant have not had sufficient time to prepare for defence.

An Act Regulating Commerce and Revenue.

Section 1. Be *it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same,* —That from and after the passage of this act, that so much of the 2nd Section of the act regulating Commerce and revenue as relates to captains or supercargoes of foreign vessels being bound to do their bussiness through the intervention of commission merchants be repealed, and it be optional with captains or supercargoes to do their own busi-

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ness under the inspection of the collector. This however shall not be so

construed as to prevent captains or supercargoes from employing any commission merchant if they prefer doing so.

Sec. 2. Be *it further Enacted,*—That that part of the 20 section of the above act which reads that all "licenses shall commence with the first of January" be so altered that the fiscal year shall commence with the second Monday in Feb.

Sec. 3. Be *it further Enacted,*—That captains or supercargoes of foreign vessels shall be required before they commence doing business in the Commonwealth to execute a bond with good sureties to the Collector in behalf of the Commonwealth in the sum of five hundred dollars, to secure the duties and other claims which may have been contracted by such Capts. or supercagoes, with any citizen, or citizens of this Commonwealth, and that all Captains when settling with the Collector, shall make oath before said Collecter, that he has rendered a true account of all the goods he has landed.

Sec. 4. Be *it further Enacted,*—That Captains or Supercargoes, who may wish to land, and leave goods in either of the ports of entry of this Commonwealth, either for sale or storage, shall be permitted to do so under the following regulations The Collector shall personally superintend the landing of all such goods, mark, or otherwise note the Packages, and record in a book the marks, and contents of each Package, as soon as said goods are landed, the full amount of duties shall be paid on said articles. Provided however, that if the said articles are unsold, and reshiped in unbroken packages, and sent beyond the limits of the colony within three years from the date of landing. The Collector shall give a certificate to the shipper, certifying the same which certificate when presented to the Commonwealth Treasury, shall entitle the shipper to receive back three fifths of the duties paid on the goods so shipped beyond the limits of the colony. The Collector shall be entitled to a fee of one dollar and fifty cents per diem for all services rendered under the provisions of this section.

Sec. 5. Be *it further Enacted,*—That all goods, wares, merchantdize, Books, and scientific apparatus, that may be brought into the colony to promote the cause of education, shall be exempted from duties.

Sec. 6. Be *it further Enacted,*—That the prices of Licenses to transact commission business, shall be fifteen dollars per annum, and the price of license to retail ardent spirits in any quantity less than one gallon, shall be five hundred dollars per annum, and for one gallon, or

any quantity above one gallon shall pay for license the sum of one hundred dollars.

Sec. 7. *Be it further Enacted,*—that any person not having a license to retail less than one gallon of spiritous liquors, and who shall issue, or deliver at any one time less then one gallon, or suffer any spiritous liquors to be drank in there shop or store, shall on conviction be fined in any sum not less than $25, nor more than $100 for the first offence, and double the amount of fine for the second.

Sec. 8. *Be it further Enacted,*—That captains, supercargoes, or commission merchants for them, shall be allowed to sell as small a quantity as one gallon of spiritous lipuors, without obtaining a license for the same when the vessel is in harbor.

Sec. 9. *Be it further Enacted,*—That all trading on board foreign vessels in any of the harbours of this Commonwealth shall be consid-

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ered unlawful, unless under the inspection of the collector, or his deputy, persons convicted of violating this section, shall forfeit and pay to the Commonwealth double the amount of the article so sold. Notification of the provision of this section shall be inserted in the Port Regulations a copy of which shall be left on board of every merchant vessel entering the ports of this Commonwealth.

Sec. 10. *And be it further Enacted,*—That the second section of the Act entitled an act regulating commerce and Revenue, be and the same is hereby repealed.

An Act to Provide for Common Schools.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same,* —That from and after the passage of this Act. The sum of one thousand dollars be appropriated annually out of the Treasury of the several counties, to be apportioned to each town according to the number of its inhabitants for the exclusive, purpose of assisting to educate the youths of this Commonwealth

Sec. 2. *Be it further Enacted,*—That in towns or villages where schools are supported by benevolent institutions for the purpose of educating the youths of this Commonwealth, the superintendants or directors of such schools, may draw quarterly, semiannually, or annu-

ally, on the Governor of the Commonwealth, for the amount appropriated and apportioned to such schools.

Sec. 3. Be it further Enaced,—That a committee of three persons be appointed by the Governor in each town, whose business it shall be to report annually to the legislature the state of the school in their town, the number of children taught, and other prospects connected with the school.

Sec. 4. Be it further Enacted,—That in towns or villages where schools are not supported by benevolent institutions, the Governor of the commonwealth may apply the amount apportioned to that town or village in the best manner to secure the education of the youths of said town or village.

Sec. 5. And be it further Enacted,—That any law conflicting with the above Act, be and the same is hereby repealed.

An act for the Relief of the Poor.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same, —That the Governor of this Commonwealth be instructed and authorized, and he is hereby instructed and authorized to assign in each county of the Commonwealth from any unassigned lands, a tract of land not less than five acres in each assignment. And that he cause to be erected on each assignment immediately a sufficient house or number of houses to contain the poor of each county, said house or houses to be in the best style as to durability and comfort of native workmanship, and to be as secure and comfortable as that character of houses, will admit of.

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Sec. 2. Be it further Enacted,—That persons applying for relief from the public funds and who may be regarded as proper objects of public bounty by the officers appointed to take cognizance of such cases, shall be relieved only on condition that they go to the houses erected in persuance of the first section of this act, and only while actually residing on said assignments.

Sec. 3. Be it further Enacted,—That all persons who shall thus become public beneficiarys by residing on these assignments shall be compelled when bodily health will admit to employ themselves in any

way which may be directed by the officers authorized to direct them. Persons who may be regarded capable of laboring refusing to do so as directed, shall be expelled from the premises, and no longer enjoy the public bounty.

Sec. 4. *Be it further enacted,*—That said premises shall be furnished with all suitable tools and impliments for cleaning and cultivating the land, and as soon as circumstances will warrant it with knitting kneedles, spinging-wheels, looms and cotton, for the purpose of manufacturing cloth &c.

Sec. 5. *Be it further enacted,*—That the physicians in each county be requested to visit by turns the said establishments, render medical aid and advice to those who may need such assistance. That a proper and suitable person be employed to reside on each of these assignments, to whose care the inmates of the establishments shall be consigned, they shall afford all necessary aid and attention to the sick and infirm and superintend the operations of those who may be put to labour.

Sec. 6. *Be it further Enacted,*—That in addition to the overseers of the poor all ready appointed six persons shall be appointed in each county of this Commonwealth through whom persons wishing to avail themselves of the beneficial provisions of this act may make application whenever, such application is made any three of said Committee of six persons concurring in the justness of the applicants claim to relief, shall have authority to admit said applicant into the premises by note to that effect to the superintendant. It shall be the duty of one of this Committee to assign the labor of those who may be fit to labor, to visit every week the said establishment to ascertain the condition of the inmates, and to enquire whether the superintendant discharges fully the duty assigned to him.

Sec. 7. *Be it further Enacted,*—That the sum of twelve hundred dollars be appropriated, and the said sum is hereby appropriated to carry out the provisions of this act, which shall be divided among the three counties of this Commonwealth in a just proportion of its population.

Sec. 8. *Be it further Enacted,*—That the Governor be authorized to make from time to time such other regulations as may seem best adopted to carry out to the fullest extent the humane, and benevolent objects of this act.

Sec. 9. And be it further Enacted,—That the property of paupers who may die on the premises shall be chargeable with the amount which may have been expended on said deceased pauper. No person who may avail himself or herself of the benefits of said establishment shall have the privilege of disposing of their property, either real or personal, by bequest, or otherwise, so as to prevent said property from being responsible for the amount expended on said pauper.

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An Act Securing to Farmers a certain portion of Land.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same,* —That when a man is actually engaged in agricultural pursuits twenty five acres of his farm lands and the improvements thereon shall be exempted from seizure and sale for debt. And in order still further to encourage the cultivation of the soil.

Sec. 2. *Be it further Enacted,*—That the person so in debt shall have the privilege of selecting from any portion of his farm or estate the twenty five acres thus privileged from seizure.

Sec. 3. *And be it further Enacted,*—That where persons engaged in agriculture shall not possess more than twenty five acres of farm lands their whole estate in farm land shall be exempted from seizure for debt.

An Act Apprenticing Recaptured Africans.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same,* —That Recaptured Africans landed here by American Cruisers, under the authority of the Government of the United States of North America, or seized and brought into the colony under the operation of the laws of this Commonwealth, may be apprenticed out to colonists under the following regulations: Boys under the age of fourteen years shall be bound until the age of twenty-one years: over fourteen years they shall be bound for the term of seven years: girls under the age of eleven years shall be bound until the age of eighteen years: over eleven years they shall be bound for the term of seven years.

Sec. 2. *Be it further Enacted,*—That every person or persons to whom such recaptured Africans may be bound, shall give to every such

male recaptured African annually, three shirts, three pairs of trousers, one jacket with one hat or a cap: girls and women shall be suitably and decently clothed. They shall be kindly and humanely treated, and all proper diligence and means shall be required of those to whom they may be bound to instil into them the principles and initiate them into the habits of civilized life.

Sec. 3. Be it further Enacted,—That in each county a committee of three judicious men shall be appointed at this present session of the Council, who shall be styled superintendants of recaptured Africans. It shall be their duty to go around as often as may be necessary, and examine into the condition of said apprentices, and ascertain if they are treated according to the spirit and intent of this Act. If they the said Africans should be insufficiently fed, or clothed, or overworked, or otherwise mistreated, said superintendants shall immediately report the same to the Judge of the Orphan Court, who shall apply the same remedy which is directed in the case of American apprentices.

Sec. 4. Be it further Enacted,—That the former apprentice Acts of this Commonwealth, and such as are now in force at the time of the passage of this Act, shall apply to recaptured Africans apprenticed under the provisions of this Act only so far as relates to ill treatment on the part of the master and refractory or bad conduct on the part of the apprentice.

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Sec. 5. Be it further Enacted,—That so soon as the superintendants appointed under this Act shall have been commissioned by the Governor, they shall proceed on a tour of inspection, they shall determine the ages of the several apprentices situated in all the villages and towns, except Monrovia and Bassa Cove: they shall make a list of said apprentices, affix the age of each one over and against his or her name, and present the same to the Orphan Court at its next session in February.

Sec. 6. Be it further Enacted,—That said commissioners shall be paid by the Governor by order on the Treasury at the same rate per diem when actually engaged in performing these duties as for other services involving similar labour and trouble.

Sec. 7. Be it further Enacted,—that all recaptured Africans under the age of eighteen years brought into this colony and apprenticed to citizens of this Commonwealth, shall have during the term of their apprenticeship at least one month's tuition every year.

Sec. 8. And be it further Enacted,—That persons having recaptured Africans indentured to them by the Orphan Court, shall not be required to have separate deeds for each apprentice, but the names of all indentured to them shall be inserted in a single deed, and the clerk shall receive his usual fee for the first therein named, and ten cents for every additional name.

An Act to Amend an Act Entitled an Act to Regulate the Malitia.

Section 1. Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same, —That the seventh section of the above named Act be so amended as to read there shall be four regimental parrades during the year, to be held on the first Saturday in the months of February, May, August, and November, and that the commissioned and non-commissioned officers be required to parade for drill two days preceeding such regimental parades.

Sec. 2. Be it further Enacted,—That the 9th section of the Act be so altered as to read, there shall be a Regimental Court Marital within twenty days after each Regimental parade.

Sec. 3. Be it further Enacted.—That the 10th section be so amended as to read that the fine of privates when not present at the call of the Roll, be not less than fifty cents nor more than one dollar, and that any officer not being present at the call of the Roll, shall be fined in a sum of not less than one dollar, nor more than two dollars.

Sec. 4. Be it further Enacted,—That companies shall be only required to parade at such times as is named in their respective charters.

Sec. 5. Be it further Enacted,—That the companies of Millsburg, Caldwell, and New Georgia, in the county of Montserado, shall not be required to come to Monrovia at the regimental parades of February and August, and the companies of Bexley in the county of Grand Bassa, shall not be required to come to Edina at the regimental parades of February and August, and the company of . . . in the county of Sinoe, shall not be required to come to Greenville at the regimental parades of February and August, but shall parade in their respective

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settlements on the day of those parades, and the officers of such companies, shall be required to drill two days in their respective settle-

ments, previous to the day of the regimental parades above named, and the Governor may appoint an officer to parade them on those days.

Sec. 6. And be it further Enacted,—That whenever any person be elected by his Company to any office, he shall be examined by a board of officers appointed by the Governor, and if found competent, he shall be recommended by them to be commissioned by the Governor.

An Act to Repeal Certain Sections of an Act Defining Certain Crimes, and Relating to the Punishment of Crimes.

Section 1 Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same, —That from and after the passage of this Act, that the first, third, and ninth, sections of an Act defining certain crimes and relating to the punishment of crimes, be and the same is hereby repealed.

Sec. 2 Be it further Enacted,—That so much of the fifth Section of the same Act that reads as follows, "that no person who shall have been convicted of theft, or any other misdemeanor punishable by imprisonment, shall be suffered to set on a Jury" be and the same is hereby repealed.

Sec. 3 Be it further Enacted,—That in every case when the defendant has been convicted of petit larceny, he shall be fined in any sum not exceeding the cost of the conviction, and make restitution to the person robbed four times the value of the article stolen, and if unable to pay the fine and make restitution according to this section he may be adjudged by any three Magistrates concurring, to have not less, than five, nor more than twenty lashes, well laid on his naked back by the Constable. In cases of grand larceny, the Court before which such defendant shall have been convicted, shall have authority to order the prisoner to have not less than twenty-five, nor more than thirty-nine lashes, to be well laid on his naked back by the Constable in addition to other penalties as are now, inflicted by our laws.

Sec. 4. And be it further Enacted—That section fourth of the Act entitled an Act defining certain crimes, and relating to the punishment of crimes, be so amended, as to read, that theft in which the property stolen shall not be more than three dollars, is petit larceny.

An Act to Incorporate Sinoe into a Distinct County.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same—That the settlement of Sinoe shall be incorporated into a distinct county, to be stiled, the county of Sinoe, the boundaries of which to be subsequently determined, and that it be entitled to one representative, to be constituted in conformity to the provisions in the colonial statutes.

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An Act Appropriating Money to Build a Jail in the County of Sinoe.

Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same:—That the sum of three hundred dollars be and the same is hereby appropriated out of the Treasury of the county of Sinoe, to building a Jail in said county.

An Act to make an additional Appropriation of Money to open a Canal near the base of the Cape to Connect the Messurado River with the Sea, and to appoint Commissioners to Superintend the same.

Section 1. *Be it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*:—That the sum of four hundred dollars be added to the former appropriation of eight hundred dollars, for the purpose of cutting the above canal, and that three commissioners be appointed and authorized to employ a suitable number of hands to execute the said work, and that said eanal be commenced immediately.

Sec. 2. *And be it further Enacted*:—That said commissioners shall act collectively, only when a difficulty may arise, and the council of all be required, and that said commissioners shall receive for their services one dollar and fifty cents a day when actually engaged in superintending said work, and that said commissioners bo authorized to draw weekly on the Treasury of the commonwealth, for monies to pay laborers and other incidental expenses.

An Act to Amend an Act Entitled an Act Incorporating bounding and Regulating Counties and Towns.

Section 1. Be *it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*:—That the eleventh section of the Act, entitled an Act, incorporating bounding and regulating counties and towns, be and the same is hereby repealed.

Sec. And be it further Enacted:—That the Legislature shall appoint from time to time a sufficient number of officers for the different counties so as best, to suit the convenience of the people, and to meet the demand of Justice.

A special Act for the Purposes herein Mentioned.

Be *it Enacted by the Governor and Council in Legislature Assembled, and it is hereby enacted by the authority of the same*.—That all persons in this commonwealth who obtained Licenses in the year eighteen hundred and forty five to Retail Spirituous Liquers, may on application to the Court of Quarter Sessions obtain Licenses to Retail Spiritous Liquors until the last day of March next issuing, at the former rate of twenty-five dollars a year The said License shall date from the first of January, and shall be paid for in a just ratio of the time to the whole year

[11]

An Act to amend an Act Regulating Towns and Villages.

Be *it Enacted by the Governor and Council in Legislature Assembled and it is hereby enacted by the authority of the same*:—That that part of the fourth section of the above Act authorizing the appointment of three overseers of Police be so altered, so far as it relates to the towns of Millsburg, Edina, Bassa Cove, and Bexley, to read one overseer instead of three, any law to the contrary notwithstanding.

Resolution of the Legislature Defining the Thirteenth Section of an Act Regulating Commerce and Revenue.

Resolved,—That the word "Missionaries" in the thirteenth section of the Act regulating commerce and revenue is applicable only to persons coming from beyond the seas, under the appointment of some Missionary Board, and who are not citizens of this Commonwealth.

THE END.

ACTS

of the

GOVERNOR AND COUNCIL OF LIBERIA,

Passed at their Ninth Session

January 1847

(Text of Acts reprinted from Liberia Herald, January 15, 1847. Also in African Repository, XXIII, 155, 156. It is doubtful whether the Acts were ever printed in pamphlet form, by Authority.)

LIBERIA HERALD

January 15, 1847

(Also African Repository 23, 155-156)

AN ACT *making provisions for a convention.*

WHEREAS the people of this Commonwealth did on the 27th day of October, 1846, solemnly determine by vote that there shall be a convention held for the purpose of forming a constitution for the government of the Commonwealth of Liberia.

Sec. 1. Therefore—*Be it enacted by the Governor and Council in Legislature assembled, and it is hereby enacted by the authority of the same,*—That there be a convention held conformably with the wishes of the people, as expressed by their votes taken October 27th, 1846.

Sec. 2. *Be it further enacted,*—That the convention shall consist of eleven delegates, and shall be appointed in the following manner: for the county of Monrovia six delegates shall be appointed, and for the county of Grand Bassa four delegates shall be appointed, and for the the county of Sinoe there shall be one delegate appointed.

SEC. 3. *Be it further enacted,*—That the third Tuesday in February next shall be set apart for the purpose of electing delegates to said convention, and the polls shall be opened in the different settlements in the counties of Montserrado, Grand Bassa, and Sinoe, and be conducted in the same manner and form as annual elections for Councillors are conducted, and the Judges of the Courts of Quarter Sessions and Common Pleas, as the February term of 1847, shall ap-

point judges and clerks for the said election, and said judges and clerks shall be entitled to the same pay as judges and clerks for the annual election of Councillors, and the returns of said election shall be made to the *Colonial Secretary*, and the delegates elected shall be notified in the same manner as the members of the Legislative Council.

SEC. 4. *Be it further enacted,*—that the persons who may be elected to said convention, shall meet in the Town of Monrovia on the first Monday in July, 1847, and shall be entitled to the same pay per day, including travelling expenses when in the service of the Commonwealth, as is paid the members of the Legislative Council.

SEC. 5. *Be it further enacted,*—That the convention be authorized to appoint its own officers and fix their pay to be drawn by an order from the Commonwealth Treasury in the usual manner of disbursing Commonwealth moneys, but in no case shall such pay exceed the amount paid such officers belonging to the Legislature.

SEC. 6. *Be it further enacted,*—That they shall lay the same before the Governor as early after their adjournment as possible, and the Governor shall cause five hundred copies of the draft of the Constitution to be printed, and the same be laid before the people as early as possible, and the people in their respective towns shall decide by solemn vote on the last Monday of September, 1847, whether the draft of the constitution so submitted shall be adopted or not; those voting in the affirmative shall express on their tickets, yea; those voting in the negative shall express on their tickets nay.—The Polls shall be conducted as aforesaid,—and the sheriff of the different counties shall immediately transmit the result of said election to the Governor, and should there be a majority of votes in favor of adopting the constitution, the Governor shall immediately on ascertaining the fact declare the same by proclamation to be the law of the land.

SEC. 7. *And be it further enacted,*—That in case there be a majority for rejecting the constitution, the Governor as soon as he is assured of the fact shall order the *Colonial Secretary* to give immediate notice to the delegates to meet again in convention, who shall proceed to prepare another draft or make such amendments as will best suit the wishes of the people: and the convention shall be entitled to the rights as are provided by law. The new draft shall be laid before the people as aforesaid for their adoption or rejection, and should it be rejected the second time, the Governor shall pursue the same course to have it amended and laid before the people as above, and so on until it shall be adopted.

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Slaughter, Rev. Philip: The Virginian History of African Colonization. Richmond, Macfarlane & Ferguson, 1855. xx, 116 p.

Starr, Frederick: Liberia; Description, History, Problems, Chicago, 1913. xiv, 277 p. fold. map.

Stetson, George Rochford: The Liberian Republic as It Is. Boston, A. Williams &. Co., 1881. 27 (i.e. 28) pp.

Stewart, Thomas McCants: Liberia: the Americo-African Republic. Being some impressions of the climate, resources, and people, resulting from personal observations and experiences in West

Africa. By T. McCants Stewart. With an introduction by Dr. G. W. Samson. New York, E. O. Jenkins' Sons, 1886. 107 p. illus.

The Twentieth Century Calendar & Handbook of Liberia for . . . . Liverpool, J. A. Thompson & Co., ports., fold. map. Editor: 1907 —S. D. Ferguson.

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United States Agency for Liberated Africans: Reports of John Seys, 1856-63. 37th Cong. 3d Sess. Ho. Ex. Doc. 28. Washington, 1863 20 p.

U. S. Commission to Liberia: . . . Affairs in Liberia. Message from the President of the United States, Transmitting a Letter of the Secretary of State Submitting a Report of the Commission which Visited Liberia in Pursuance of the Provisions of the Deficiency act of March 4, 1909, "to investigate the interests of the United States and its citizens in the Republic of Liberia, with the consent of the authorities of said Republic . . " Washington, Govt. print. off., 1910. 37 p. (61st Cong., 2d sess. Senate. Doc. 457 March 25, 1910).

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Wadstrom, Carl Bernhard: An Essay on Colonization, Particularly Applied to the Western Coast of Africa. Also Brief Descriptions of the Colonies in Africa, including those of Sierra Leone and Bulama. In two parts. London, Printed for the author by Darton and Harvey, 1794. 4 p. l., IV, 196, (2), 363, (24) p. 1 front. 6 fold. pl. (incl. maps, plans)

—— German tr: Leipzig, 1796. French tr.: Paris 1798 by C. J. Pougens. Also his "Adresse au Corps legislatif.—de la republique francaise (au sujet des colonies de Sierra Leona et Boulama) Paris 1795, and the Rapport of the Commission Charged with Its Examination, Paris 1798.

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Walker, Thomas Hamilton Beb: History of Liberia. Boston, The Cornhill Publishing Company, 1921. xx p., 1 l., 175 p. incl. front plates, ports.

Walker, Thomas Hamilton B.: The Presidents of Liberia. A Biographical Sketch for Students. Containing biographies of the presidents and some of the leaders in the making of the Republic. With portraits by Thos. H. B. Walker. Jacksonville, Fla. (Mintz printing Co.) 1915. 4 p. l., 11-96, (7) p. incl. plates, ports.

Westerman, Diedrich: Die Kpelle, ein Negerstamm in Liberia, dargestellt auf der Grundlage von eingeborenen-Berichten, mit zwei Nachtragen: Texte in der Golasprache und Kpelle-beiträge von H. Rohde, nebst einer kartenskizze. Leipzig, J. C. Hinrichs, 1921. xvi, 552 p. fold. map.

Wilkeson, Samuel: A Concise History of the Commencement, Progress and Present Condition of the American colonies in Liberia. Washington, Printed at the Madisonian office, 1839. 1 p. l., 88 p.

Williams, George Washington: History of the Negro Race in America from 1619 to 1880 Negroes as Slaves, as Soldiers, and as Citizens. Together with a Preliminary Consideration of the Unity of the Human Family, an Historical Sketch of Africa, and an Account of the Negro Governments of Sierra Leone and Liberia. Popular ed. New York & London, G P. Putnam's Sons, 1882. 2 v. front. (port.)

Williams, Samuel: Four years in Liberia. A Sketch of the life of the Rev. Samuel Williams With Remarks on the Missions, Manners and Customs of the Natives of Western Africa. Together with an Answer to Nesbit's book Philadelphia, King & Baird, 1857. 66 p.

Woodson, Carter Godwin: African Heroes and Heroines, Washington, D. C, The Associated publishers, inc. (1939) 6 p. l., 249 p. illus. Bibliography: p. 227-240.

Work, Monroe Nathan: A Bibliography of the Negro in Africa and America. New York, The H. W. Wilson Company, 1928. XXI, (1) p., 1. l., 698 p. Classified with author index.

Yancy, Ernest Jerome: Historical Lights of Liberia's Yesterday and Today. Xenia, Ohio, Aldine Publishing Company, 1934. IX—323 p. (port.)

Young, James Capers· Liberia Rediscovered. Garden City, N. Y. Doubleday, Doran & company, 1934. x p., 1 l., 212 p. front., plates, ports. Maps on lining papers. Liberia, Documents Relating to the Plan of Assistance Proposed by the League of Nations. p. (131)-212.

Periodicals

(Prior to 1860)

Liberian Publications

Information regarding Liberian publications is extremely meagre. Starr (*Liberia*, p. 30, 31) gives a tentative list, confessedly incomplete, and not always accurate. A further list is contained in the Chicago Historical Society's bibliography, p. 21, 22.

The first printing press was sent to Liberia in 1826; the first printing press in Maryland in Liberia was installed at Fair Hope in December, 1835.

Liberia Herald. 1826

Several numbers were published by the printer, Force. This publication has no connection with the Liberia Herald established by John B. Russwurm in 1830. No copy traced.

Liberia Herald. 1830-1862?

First number published at Monrovia, March 8, 1830. The last number to which a reference has been found is that of January, 1862. The paper was published with practically no interruptions for about thirty-two years. It was issued usually as a monthly, but for a short period as a semi-monthly. Altogether about 400 issues. The largest collection, about 140 numbers, is in the Papers of the Maryland State Colonization Society on deposit with the Maryland Historical Society, Baltimore. Other American libraries possess only a few numbers. The *Liberia Herald* received direct and indirect subsidies from the American Colonization Society and the Liberian Government. Editors: John B. Russwurm, 1830-1835; Hilary Teage, 1835-1847; E. W. Blyden.

The files of the *Liberia Herald* contain valuable source material for the history, laws and economic conditions of early Liberia.

Liberian Star. 1830

Listed by Starr. No copy traced.

The Amulet. 1832

Listed by Starr. No copy traced.

Africa's Luminary. 1839-1846?

Published by a committee, for the Missionary Society of the Methodist Episcopal Church. Monrovia, Liberia, M. E. Mission Press, 1839-1846?

Began publication as a semi-monthly, March 15, 1839, and continued until 1846? Editors: John Seys, 1839-1845; Rev. Mr. Burns, 1845-? Was the organ of the Methodist Episcopal Church in Liberia. John Seys used the publication to further the interests of his own political party and to attack the Colonization Society and Governor Buchanan.

Vols. 1 and 2 contain indices. Yale University Library has Vols. 1 and 2. American libraries have only a few numbers of Vol. 3 and later volumes.

Liberia Sentinel. 1854-1855?

Commenced publication August 1854. Last number traced, June 2, 1855. Monrovia. Editor: Edward J. Roye.

Liberian Official Gazette

Monrovia, 1892-current. At first a monthly. Now published only as required. Government notices. Appointments. Proclamations. Statistics. Trade mark registrations, etc.

AMERICAN PUBLICATIONS

The African Intelligencer

v. 1, no. 1; July 1820. Washington, J. Ashmun, 1820. 32 p. Includes proceedings, correspondence, etc. of the American Colonization Society. Only number published.

The African Repository

Published by the American Colonization Society. V. 1-67, 68 no. 1; Mar. 1825-Jan. 1892. Washington, 1826-92. 68 v. Illus., plates, maps. Monthly, 1825-74 (Feb. 1839-Feb. 1842, semi-monthly); quarterly, 1875-92 (July 1880-June 1881, monthly).

Vols. 1-25 have title: *The African Repository and Colonial Journal.* Edited by R. R. Gurley and others. Alphabetical Index—from volume one to volume ten, both inclusive. Washington, Printed by J. C. Dunn, 1835. 51 p. Superseded by *Liberia.*

Liberia Bulletin

No. 1-34; Nov. 1892-Feb. 1909. Issued by the American Colonization Society. Washington, D. C., 1892-1909. 34 v. illus., plates, ports, maps. Semi-annual. J. O Wilson, editor. Supersedes the *African Repository.* No more published.

Christian Statesman

Dedicated to African colonization and civilization, to literature and general intelligence. V. 1 (no. 1-28); Aug. 9, 1851-Mar. 13, 1852. Washington, D. C., 1851-52. 1 v. Weekly. Organ of the American Colonization Society. R. R. Gurley, D. R. Goodloe, editors.

The Colonizationist and Journal of Freedom

Apr. 1833-Apr. 1834. Boston, G. W. Light, 1834. 384 p. front. (port.) Monthly.

Maryland Colonization Journal

Baltimore Published by the Maryland State Colonization Society. At first quarterly, then bi-monthly, then monthly, then for a short time, semi-monthly.

Old Series, May 16, 1835-May, 1841; New Series, 1841-1861 (X, 24).

Contains Annual Reports of the Maryland State Colonization Society, reports from Maryland in Liberia, local laws enacted in the Colony. Editor, 1841-1858, James Hall.

Complete set only in Library, the Maryland Historical Society No other American library has the Old Series.

The Cape Palmas Packet

Published by the Maryland State Colonization Society, 1838-1845. No copy traced.

The Colonization Herald and General Register

Philedelphia. Began April 4, 1835, as organ of the Young Men's Colonization Society of Pennsylvania. After the fusion of this Society with the Pennsylvania Colonization Society, the journal was published by the latter Society, March, 1837-March, 1859. During its existence the journal appeared variously as a monthly (semi-monthly) publication. Contains reports of the two Pennsylvania Societies and articles on Liberia.

New York Colonization Journal

New York. December, 1850-December, 1858. (12). Published by the New York State Colonization Society. Monthly. Editor: Rev. John B. Pinney, 1850-1858.

The African Observer. 1827-1828

Philadelphia. Monthly. Edited by Enoch Lewis.

Virginia Colonizationist

Richmond. About 1855. Editor: Rev. P. Slaughter. No copy traced.

The New Republic and Liberian Missionary Journal

Harrisburg, Penna Monthly. 1856-? Editor: John Wolf.

The Abolitionist.

Or Record of the New England anti-slavery society Edited by a committee. V 1, Jan.-Dec., 1833 Boston, Printed by Garrison and Knapp, (1833) Cover title, 192 p. monthly.

The Liberator

V. 1-35; Jan. 1, 1831-Dec. 29, 1865 Boston, W. L. Garrison and I. Knapp, (etc.) 1831-65 35 v illus Weekly Edited by William Lloyd Garrison, the leader of the anti-Colonization movement and of the opponents of the American Colonization Society

The Journal of Negro History

Lancaster, Pa, and Washington, D C The Association for the Study of Negro Life and History, Inc, 1916-current. Quarterly Editor Jan. 1916- C G Woodson Contains some valuable articles on Liberian history

COLONIZATION SOCIETIES

Connecticut

African Colonization Committee: Report of the joint select committee to whom was referred the subject of African Colonization. May: 1852. New Haven. Osborn and Baldwin, prtrs 1852. 8 pp (Doc. 15).

Indiana

Indiana State Board of Colonization: Report of the Reverend John McKay, colored agent of the State Board of Colonization, on Liberia. Indianapolis, A. H. Brown, 1854. 41 pp.

Governor's Message delivered to the General Assembly. 1855. (Includes a recommendation for continuing the annual appropriation to

aid the colonization of Liberia.) Indianapolis A. H. Brown, 1855. 23 pp.

Massachusetts

Massachusetts Colonization Society. American Colonization Society, and the Colony at Liberia. Published by the Massachusetts Colonization Society. Boston, Peirce & Parker, Printer, 1831, 16 p.

Mississippi

Mississippi Colonization Society. McDonogh correspondence in manuscript is in Howard Tilton Memorial Library, Tulane University.

New York

New York State Colonization Society. Emigration to Liberia. One thousand applicants for a passage to Liberia in 1848. An appeal in behalf of two hundred slaves liberated by Captain Isaac Ross. A brief history of the Ross slaves. New York, 1848. 36 p.

African Colonization. Proceedings of the New York State Colonization Society, on its second anniversary; together with an address to the public from the managers thereof. Albany, Webster and Skinners, Printer, 1831. 36 p.

Pennsylvania

Pennsylvania Colonization Society. Three volumes of minutes covering the following periods: January 2, 1838 to December 11, 1849; July 15, 1856 to October 10, 1864; April 10, 1877 to October 10, 1887 In Lincoln University, Penna.

Young Men's Colonization Society of Pennsylvania Organized April 1834. Account of first meeting in 11, *African Repository*, 90-94.

History

Manuscript Sources

1. In Papers of the American Colonization Society, on deposit in the Manuscripts Division, Library of Congress, Washington, D. C.:

Origin, Constitution and Proceedings of American Colonization Society, vol. 1.

Minutes of Proceedings of the Board of Managers: vol. I, 1817-1828.

———, vol. II, 1828-1833.
———, vol. III, 1834-1842.
———, vol. IV, 1842-1869.

Journal of Proceedings of the Executive Committee of the American Colonization Society. December 13, 1838—February, 1845.

———, April 17, 1845—December 8, 1854.
———, January 12, 1855—January 15, 1858.

Letters from Liberia, 1832-1837.

(Note: Letters from Liberia 1822-1832 cannot be traced.)

———, 1839-1842.

Miscellaneous Correspondence with Gurley, Roberts, McLain and Lugenbeel, 1843-1844.

Dispatches from Governor Buchanan, 1839-1841.

Dispatches from Governor Roberts, 1840-1848.

One of the most important manuscripts in the Papers is the Code of Laws at Liberia, regarding which see Chapter IX This Code is published for the first time in the Appendix of Laws Bound in with the Code are five folio pages, entitled Liberia Land Records being a list of allotments, giving name of grantee, description and area of land, and date of allotment, 1823-1827—the first land register of Liberia.

Letter press books and the domestic letters received contain valuable materials.

There is a vast quantity of unclassified material, including a number of treaties of cession of territory by native chiefs. Some treaties appear to be lost, including that of the Treaty of Mesurado, December 15, 1821. The letters and reports of the Agents, prior to 1833, cannot be traced, but some were published by the Society in the Annual Reports and the *African Repository*. The Agents also transmitted from time to time copies of the Colonial Journal. These also appear to be lost.

The archives contain the original letters of credence signed by President Roberts, and dated respectively April 1, 1848, and April 23, 1850, appointing William McLain as minister plenipotentiary and the instructions to McLain.

2. In the Papers of the Maryland State Colonization Society, on deposit in the Library of the Maryland Historical Society, Baltimore,

Md. (And see William D. Hoyt, Jr., The Papers of the Maryland State Colonization Society, in *Maryland Historical Magazine*, XXXII, 247-271 (1937):

Records of the meetings of the Board of Managers, 1831-1902, 7 vols.

Proceedings of the Executive Committee, 1831-1832. 2 vols.

Letter books. 28 vols. Contains the letters received, 1827-1871.

Foreign letter books. 2 vols. Contain letters and reports from Maryland in Liberia, 1834-1843.

Letter press books, 1854-1861

Latrobe letter books. 2 vols. 1833-1852. Contain the letters and instructions to the Agents in Maryland in Liberia.

Census records of Maryland in Liberia for various years, 1837-1843. Vital statistics, trade and shipping.

Record of emigrants. Contains list of all emigrants, 1831-1852.

The archives further contain the originals of all treaties or deeds of cession of territory, and many other valuable documents, books of account, etc.

3. In the Records of Naval Rolls and Library, Department of the Navy, now in the National Archives, Washington, D. C.

Record of Letters to the Agents appointed under Act of Congress prohibiting Slave Trade, 1820-1856.

Contains also some communications from the Agents.

African Squadron Letters. January 5, 1819-December 5, 1823. 385 fol. p.

Contains reports of Agents and naval officers.

African Letters, November 3, 1823-December 31, 1825.

———, January 1, 1826-November 18, 1828

———, January 5, 1829-March 10, 1841.

———, July 7, 1832-April 25, 1836.

Miscellaneous Letters.

Vol. 6, et seq. 1820 et seq.

4. In the Archives of the Department of State, Washington, D. C., there are letters relating to early (1818) negotiations regarding a site for free Negroes and recaptured Africans. Some of the correspondence with Great Britain, especially in 1842-1844, is published in various documents, sometimes only in extracts. Resort must be had to the originals.

5. Of the manuscripts in Liberia, the most important from an historical point of view is the Colonial Journal. Ashmun on his arrival in August, 1822, reported to the Society that he had found no documents or books defining the limits of the territory or the duties of the agent. He opened a Colonial Journal to record important events. Copies of the Journal were transmitted to the Society from time to time, and a few extracts were published by the Society. These copies cannot be found among the Papers of the Society and appear to have been lost, along with the letters from Liberia, prior to 1838.

In 1842 Governor Roberts reported that he had found by accident a part of the Journal kept by Ashmun, and in 1860 a Resolution was passed by the Legislature (Acts 1857-61, p. 67) authorizing the Secretary of State to cause to be transcribed the Colonial Records from the origin to the Declaration of Independence, and appropriating $650 for this purpose. This work was actually completed, but never published; the manuscript is now in private hands.

Some years ago a great wind storm destroyed a part of the building where the National Archives were kept. Documents and books were scattered over the streets and surrounding lands and were drenched by rains. Among the lost objects were a number of the older laws.

Messages of the Governors

Governor Buchanan

Message of August 29, 1839. In *Africa's Luminary*, September 6, 1839.

Message of September 5, 1839. In *Africa's Luminary*. October 4, 1839; *African Repository*, XVI, 34, *Maryland Colonization Journal* (O. S.) I, No. 36.

Governor Roberts

Message of April 4, 1842. In *Liberia Herald*, April 29, 1842.

Message of January 9, 1843. In *Liberia Herald*, February 21, 1843; *African Repository*, XIX, 176; *Colonization Herald*, May 24, 1843; *Kennedy Report*, 151.

Message of March 14, 1844. In *African Repository*, XXI, 233; *Colonization Herald*, June 12, 1844.

Message of January 5, 1845; In *Liberia Herald*, January 24, 1845; *African Repository*, XXI, 129; *Colonization Herald*, April 23, 1845.

Message of January 5, 1846. In *African Repository,* XXII, 155; *Colonization Herald,* May 20, 1846.

Message of January 4, 1847. In *Liberia Herald,* January 15, 1847; *African Repository,* XXIII, 146; *Colonization Herald,* May 1847; *Maryland Colonization Journal,* III, 377.

Foreign Affairs

General

Treaties and Conventions concluded between the Republic of Liberia and Foreign Powers, 1848-1892. Published by the Department of State. Monrovia, 1907. Cover title. 64 p.

Nnamdi Azikiwe: Liberia in World Politics. London, A. H. Stockwell, Ltd., 1934 (i.e. 1935), 406 p.

Bibliographies, especially valuable for references to periodicals.

Relations with the United States

Documents relating to the United States and Liberia in *American Journal of International Law,* 1910, Suppl., (188-229).

Contents.—Act of March 3, 1819, relative to the slave trade.—Message of President Monroe of December 17, 1819.—Constitution of the Commonwealth of Liberia.—Report on African colonization, from the Committee on Commerce, House of Representatives, February 28, 1843.—Colonization Society to Mr. Webster, December 22, 1842.—Mr. Webster to Mr. Everett, March 24, 1843.—Extracts from state papers showing interest of United States in Liberia.

United States Department of State. Conditions in Liberia. Message from the President of the United States, transmitting a Letter from the Secretary of State Relative to the Appointment of a Commission to Inquire as to Conditions in Liberia . . . (Washington, Govt. Print. Off., 1909) 6 p. 60th Cong., 2d sess. Senate. Doc. 666.

Roland Post Falkner: The United States and Liberia. In *American Journal of International Law,* 1910 IV, (529) 545.

United States Department of State: Report of the Secretary of State, Communicating the Report of the Rev. R. R. Gurley, Who was Recently Sent Out by the Government to Obtain Information in Respect to Liberia. September 14, 1850. (31st Cong., 1st sess. Senate. Ex. Doc. 75.) 116 p. plates, fold. map.

United States Commission to Liberia: Affairs in Liberia. Message from the President of the United States, Transmitting a Letter of the Secretary of State Submitting a Report of the Commission

which Visited Liberia in Pursuance of the provisions of the deficiency act of March 4, 1909, "to investigate the interests of the United States and its citizens in the Republic of Liberia, with the consent of the authorities of said Republic . . ." (Washington, Govt. print. off., 1910). 37 p. (61st Cong., 2d sess. Senate. Doc. 457).

United States Department of State: Liberian Reform. (Confidential Ser. B., No. 6, Lib. No. 2. n. p. n. d. (Washington, 1910.) Correspondence, November 26, 1909-August 17, 1910.

United States Department of State: The Present Situation in Liberia. (Confidential Ser. B. No. 3, Lib. No. 1. n. p. n. d. Washington, 1910) 6 p.

Correspondence, February 25, March 29, 1910.

Robert T. Keiser. A Report on the Relations Between the United States and the Republic of Liberia. Washington, Government Printing Office, 1928, 371 p. (Secret Series B. No. 1. Liberia No. 1.)

A reprint of documents. About 50 numbered copies were for confidential circulation.

Kennedy, Melvin: Relations between the United States and Liberia, 1816-1920. Ms. (1930, 145 p.)

Thesis. Ms. in Clark University Library, Worcester, Mass. Contents: The Colony, 1816-1838; The Commonwealth of Liberia; The Problems of the Republic; The Sierra Leone—Liberia boundary; (a) the Sierra Leone Boundary Dispute, 1860-1865; (b) The Kaure-Lahun dispute, 1903; (c) The Cadell incident; The Franco-Liberian boundary; Foreign Loans before 1910; (a) The Loan of 1870; (b) The Loan of 1906; (c) The Tripartite Agreement of 1908; The United States and Liberia, 1847-1910; American Influence, 1908-1920; Financial assistance; Germany and Liberia; American Assistance in the Kru Rebellion; Liberia and the World War. Bibliography; notes on bibliography.

United States. Senate: Independence of Hayti and Liberia. Speech of Hon. Charles Sumner Washington, Congressional Globe Office, 1862. 14 p.

Gooch, Daniel Wheelwright: Recognition of Hayti and Liberia. Speech of Hon. D. W. Gooch, of Mass., delivered in the House of Representatives, June 2, 1862. (Washington, McGill, Witherow & Co., printers, 1862). 8 p.

Biddle, Charles John: Speech of Hon. Charles J. Biddle, of Pennsylvania. Delivered in the House of Representatives, June 2, 1862. (Washington, L. Towers & Co., Printers, 1862. 8 p.)

Samson, G. W.: The United States Government, the Founder and Necessary Patron of the Liberian Republic. An address . . . before the American Colonization Society, January 18, 1881, Washington City, 1881. 12 p.

Lindsay, Arnett G.: Diplomatic Relations between the United States and Great Britain bearing on the Return of Negro Slaves, 1783-1828. In *Journal of Negro History*. See Adelaide Rosalie Hasse: Index to United States Documents Relating to Foreign Affairs, 1828-1861. Washington, 1914-21, 3 vols. Also United States Foreign Relations, 1861-date.

Relations with Great Britain

England and Liberia. Printed for private circulation. N. p. n. d. (1862 ?)

Great Britain. Foreign Office. Historical Section: Liberia. London: H. M. Stationery Off., 1920. 4 p. l., 56 p.

Harris, John M.: Annexations to Sierra Leone and Their Influence on British Trade with West Africa. London: G. Berridge & Co., 1883. 66 p., map.

(Handbooks . . . no. 130) Peace Handbooks, vol. XX (No. 9) Authorities: p. (55)-56. Appendix. p. (52)-54, Extracts from treaties relating to Liberia.

Great Britain. Foreign Office: Papers Concerning Affairs in Liberia, December 1930-May 1934. Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty. London, H. M. Stationery Off., 1934. 98 p. [Liberia no. 1 (1934)]. Parliament. Papers by Command. Cmd. 4614.

Great Britain. Consulate, Monrovia: Memorandum from H. B. M.'s Government on the Subject of Reforms in Liberia. (January 14th, 1908. (Monrovia? 1908). (4) p. 4. Addressed to President A. Barclay by Braithwait Wallis, H. B. M.'s consul.

Despatches in Connexion with the Visit of the President of Liberia and Sierra Leone. Sierra Leone Sessional Papers, 1925.

Liberia und Sierra Leone Grenze, in Petermann's geographische Mitterlingen, 1888, p. 248.

Peacock, Die Grenzen von Sierra Leone, *Ibid.*, 1890, p. 302.

Despatches relating to the frontiers between Sierra Leone and Liberia. Sierra Leone Sessional Papers, 1924.

Relations with France

France versus Liberia. A Statement and an Appeal from the Citizens of Maryland County, Republic of Liberia. Freetown (1893). 15 p. Against the treaty fixing the frontiers of Liberia.

L. Jore: La Republique de Libéria. Paris, L. Larose et L. Tenin, 1911. 2 p. l., 220 p. fold map. Thése—Univ. de Paris, "Bibliographie": p. (191)-194. Franco-Liberian boundary treaties.

Message of the President of the Republic of Liberia Communicating Matters and Things in Reference to the French System of Emigration on the Liberian Coast, January 6, 1859. Monrovia, 1859.

La Frontiere Franco-libérienne, in Bulletin mensuel du Comité de l'Afrique Francaise, XIX, No 4, April, 1910.

Relations with Germany

M. Dinklage: Liberia in seiner Bedentung fur Deutschlands Handel und zukunftige Versorgung. Hamburg, C. Boysen Vertag, 1918, 43 p.

League of Nations

Request for Assistance Submitted by the Liberian Government. League of Nations Publications, VII, Political, 1832, VII, 7. Off. No. C. 469. M 238 71 p

Request for Assistance Submitted by the Liberian Government. Dr. Mackenzie's Mission to the Kru Coast League of Nations. Publications VII, Political, 1832, VII, No. 10. Off No. C. 662. M. 319. 14 p.

United States Department of State Liberia—Documents Relating to the Plan of Assistance Proposed by the League of Nations. Washington. Government Print Off. 1933. 58 p.

LAW

Constitutions and Laws*

Colonial Period

* Items marked with an asterisk are reprinted in the Appendix of Laws.

Constitution of the African settlement at . . Washintgon, 1820. 200 copies were ordered to be printed. No copy traced.

*Constitution, Government and Digest of the Laws of Liberia, as Confirmed and Established by the Board of Mangers(!) of the Amer

ican Colonization Society, May 23, 1825. Washington City, printed by Way and Gideon, 1825. 11 p.

*Code of Laws at Liberia, (1828). Fol. ms. Binder's title: Laws & Land Records of Liberia. In Papers of American Colonization Society in Library of Congress. Contains laws and treaties, 1820-1828, See Chap. IX.

*(Compiled Acts of Colonial Council ?) (Monrovia? 1838?) At the January, 1836, session, the Colonial Council authorized the compilation and publication of all acts of the Council. The work is described in Alexander, *History of African Colonization*, p. 509. No copy traced.

*Statute Laws of the Commonwealth of Liberia, and Plan of Civil Government. (Monrovia? 1841?). Cover-title, 16 p. Plan of Civil Government for the Colony of Liberia adopted by the American Colonization Society. Contains synopses of part of Colonial Acts, 1823-1838.

Commonwealth Period

*Constitution and Laws of the Commonwealth of Liberia, Including an Abstract of Legal Principles and Rules, with an Appendix of Forms. Published by order of the Legislative Council, in two parts, Monrovia, Liberia, 1843, Hilary Teage, printer. 46 + 81 p. Part First contains the laws of the Colonial period, and the Acts of the Commonwealth, 1839-1842, still in force. Part Second contains the Abstract of Legal Principles and Rules. With an index to both parts. See Ch. XIX.

*Acts of the Governor and Council of Liberia in Legislature Assembled, passed August and September, 1839. By authority. N.p n.d 36 p.

Acts of the Governor and Council of Liberia in legislature assembled, passed August and September 1839. By authority Printed at the Herald Office. Monrovia: J. C. Minor, Printer. 2 + 42 + 1 p.

Another edition of the preceding item, with a different title page.

*Acts of the Governor and Council of Liberia, passed January 1840. (By authority.) Printed at the Herald Office, Monrovia,—J. C. Minor. 1840. 11 p.

*Acts (in part) of the Governor and Council of Liberia, in Legislature Assembled. Passed at their session in January, Anno domini

1841. (Printed by Authority.) Printed at the Herald Office, Monrovia —J. C. Minor Printer. 1841. 18 p.

Acts of the session of 1842. These were never published separately. Insofar as then still in force they are included in Constitution and Laws of the Commonwealth, 1843. (*Supra.*) Note. Some Acts of this session were not published until 1843. They are set out at the end of the Acts of 1843. (*Infra.*)

*Acts of the Governor and Council of Liberia, in Legislature Assembled. Passed at their Fifth Session. January, 1843. (Printed by Authority.) Printed in Monrovia, at the Herald Office. L. D. James, printer. 1843. 14 p.

*Acts of the Governor and Council of Liberia, in Legislature Assembled. Passed at their sixth session, March, Anno Domini, 1844. (Printed by Authority.) at the Herald Office, Monrovia. Hilary Teage —Printer. 8 p.

*Acts of the Governor and Council of Liberia: Passed at Their Session Held in the Council Hall in Monrovia, January 1845. (Published by Authority.) Printed at the Herald Office. Monrovia, Liberia, West Africa. Hilary Teage, Printer, 6 p.

*Acts of the Governor and Council of Liberia in Legislature Assembled. Passed at their Eight Session January, 1845. (Printed by Authority.) Printed at the Herald Office, Monrovia, L. D. James, printer, 1846. 11 p.

(Acts of the Governor and Council of Liberia, passed at the Extra Session, July 13-15, 1846.) Query, whether ever published in pamphlet form.

*(Acts of the Governor and Council of Liberia, passed at their Ninth Session, January 1847.) Query, whether ever published in pamphlet form. The Acts reprinted in the Appendix of Laws are from the *African Repository.*

Republican Period

Constitution of 1847. Monrovia, 1847. 500 copies were ordered to be printed. A few copies were sent to the United States. See Ch. XXII, note 17. No copy traced.

The Independent Republic of Liberia, its Constitution and Declaration of Independence. Address of the Colonists to the Free People of Color in the United States. (With other documents). Philadelphia: William F. Geddes, printer, 1848. First publication of complete text in the United States.

Constitution of the Republic of Liberia with the Laws of the Republic Enacted by the Senate and House of Representatives, at Their First session Held in Monrovia, January and February, 1848. Printed at the Herald Office, by authority, March, 1848. 30 p.

No sessional pamphlet laws covering the period, 1849-1857 have been traced. Reference must be had to the compilations published during this period, which, however, contain only the laws not considered obsolete The laws passed at the 1855 session were published by authority in the *Liberia Herald*, January, 1855; reprinted in *African Repository*, XXXI; 179, 204.

Declaration of Independence and Constitution as Amended of the Republic of Liberia, Printed by Authority. J. A. Azariah Howard, printer: Howard's Printing Office, Monrovia, 1908 42 p.

Hilary Teage: Compilation of Laws. Monrovia 1852. (Title?) The work gives the laws in a classified form, and was prepared by the Attorney General. (*Colonization Herald*, February, 1852). The *Liberia Herald*, October 6, 1852, announces that the compilation "has been issued." No copy traced.

H. W. Erskine: Compilation of Laws, Monrovia, 1853 (Title?) Referred to by President Benson in his Annual Message, December 9, 1858. No copy traced.

The Statute Laws of the Republic of Liberia, Carefully Compiled from the Laws of the Commonwealth, and the Laws of the Republic; with the Declaration of the Independence, and the Constitution of the Republic of Liberia with its Amendments, Also the Several Treaties of Amity and Commerce, Concluded Between this Republic and Other Governments; Including Numerous Forms and a Copious Index. Published by Authority. Monrovia, G. Killian, printer, 1856 (i.e., 1857?). 311 (i.e., 310) p. Compiled by H. W. Erskine. Pages 305-310 incorrectly numbered 306-311.

The Acts of the Legislature of the Republic, Passed at the Session, December 1856, and January 1857; also the Acts of the Legislature, at the Called Session, April 1857: p. (183)—225. "Fees": p. (292)--295. The Act incorporating Liberia College was not included in this

compilation nor does it appear in the 1879 edition. The omission is supplied in an Act of 1858. (Acts, 1857-1861, p. 41).

The Statute Laws of the Republic of Liberia, Passed by the Legislature from 1848 to 1879, Together with the Constitution and Amendments. Reprinted According to an Act approved December 28, 1878, with a Copious Index Monrovia, T. W. Howard, Government Printer, 1879. 239 + 32 p A *verbatim* reprint of the 1856 edition, except that the treaties are omitted. The title page is misleading. The Book Contains no Laws passed After the Called Session of 1857. 500 copies were ordered to be printed

Acts of the Legislature of the Republic of Liberia Passed During the Session Commencing in December, 1857, Monrovia, Printed by G. Killian, 1858. 19 p.

Acts of the Legislature of the Republic of Liberia Passed During the Session Commencing in December, 1857-58 inclusive. Monrovia: G. Killian, Liberia Herald Office, 1859. 52 p.

Acts Passed by the Legislature of the Republic of Liberia During the Sessions 1857-1860, Inclusive, (properly 1861). Monrovia: G. Killian, Printer, Liberia Herald Office, 1861. 93 p.

Acts Passed by the Legislature of the Republic of Liberia 1862—current. Monrovia, 1862-. Titles vary slightly. The laws are usually published annually. The Acts passed at called sessions sometimes appear separately. There has been no compilation of these session laws, but the Revised Statutes aim to give in classified form, the laws, 1848-1911.

COMMENTARIES

Harris, Deserline T Commentary on the Constitution of Liberia. (Query, whether ever published). This work was announced for publication in October, 1852 (Liberia Herald, quoted in *Colonization Herald*, December, 1852).

Stewart, T. McCants. Commercial Laws of the Republic of Liberia (with a translation into German, by Dr. Siegfried Goldschmidt) in *Commercial laws of the world* (German edition). R. v Decker's Verlag, Berlin (1910). 1 + 15 p.

Karnga, Aboyomi Wilfred. A Guide to the Criminal and Civil Procedure. Monrovia, 1914, 53 p.

Wauvermans. Liberia—Histoire de la Fondation d'un Etat Nègre Libre. Bruxelles: Institut national de Gêographie, 1885. 271 + (1) p. Important contribution to the problem of international law and the sovereignty of the Colony and Commonwealth of Liberia.

Jore, La Rêpublique de Libéria. Paris: Librairie de la Sociêté du Recueil Sierey, 1911. 220 p. Bibliographie. Translation into French of the Declaration of Independence and the Constitution of 1847. Ch. III: Political, administrative, and economic organization of Liberia; comparison of constitutions of the United States and Liberia.

Barclay, Edwin J. (Comp.) The Local Government of Montserrado County, Monrovia, College of West Africa Press, 1909. 16 p.

Joint Resolutions, 1908-09. 10 p.

Joint Resolutions, 1909-10. 20 p.

Karnga, Abayomi Wilfred: (Comp): Index to the Statutes of the Republic of Liberia (1857-1907) n. p. n. d. 11 p.

Act Incorporating Liberia College, and By-laws of the Trustees of the College Monrovia, 1864. 11 p.

The Laws of Liberia College in Monrovia, Liberia. Enacted by the Board of Trustees. Cambridge, U. S. J. Wilson and Son, 1882. 16 p.

Revised Statutes of the Republic of Liberia; Being a Revision of the Statutes from the Organization of the Government in 1848 to and Including the Acts of the Legislature of 1910-1911, with Forms of Conveyance and Procedure. Made under the authority of the Government of Liberia by T. McCants-Stewart (Paris, Etablissements Busson, 1928). 2 v. Vol. I, 2 + 890 p.; Vol. II, XXVII + 716 By an act of the legislature, approved December 9, 1929 (Acts, 1929, c. 7, p. 9, it is provided that "from and after the passage of this Act, Volumes 1 and 2 of the Revised Statutes of the Republic of Liberia be and they are hereby adopted and legalized as the Statute Laws of this Republic to all intents and purposes, except in such parts thereof where they effect the original unrepealed Acts of the Legislature and Statutes upon which they were revised."

Criminal Code 1914. (Monrovia, Liberia, College of West Africa Press, 1919. 3 p. l. 58 p. At head of title: Republic of Liberia. Adopted by an Act approved October 14, 1914 Acts, 1914, p. 34, and comprises the Revision of the Criminal Code of 1906, authorized by an

Act approved January 19, 1914 Acts, 1913-1914, p. 10. The commission that drew up the Code consisted of Justice F. E. R. Johnson, of the Supreme Court, Judge E. J. Barclay, of the Circuit Court, and the Attorney General, T. W. Haynes. The Code went into effect as a law, June 15, 1919.

Karnga, Abayomi Wilfred: The Postal Laws of Liberia. Monrovia: Government Printing Office, 1912. 21 p.

The Revised Criminal Code. Declared to be the law of the land (Acts, 1914, p. 34). This Code was superseded by the Criminal Code, 1914.

The Criminal Code of Procedure. Declared to be the law of the land Law of October 14, 1914 (Acts, 1914, p. 34).

The Civil Code of Procedure. Declared to be the law of the land. Law of October 14, 1914 (Acts, 1914, p. 34).

Departmental Regulations. Supplementary and Revising Existing Regulations Governing the Administration of the Interior of the Republic of Liberia 21 pages. Monrovia, Liberia, January 1929.

McCants Stewart, T.: Code of Justices of the Peace, 65 p. Monrovia, 1907.

——: Customs Code, Monrovia, 1907.

Rules and Regulations for the Circuit Courts of the Republic of Liberia. Edited by James A Toliver, Chief Justice of Liberia, July, 1912. 13 p.

Consular Regulations

Consular Regulations of the Republic of Liberia Monrovia: Government printing office, 1906, 8 p.

Consular Regulations of the Republic of Liberia. Formulated by the Department of State. Monrovia: R. A. Phillips, 1908.

Regulations as to Precedence and Etiquette, for Diplomatic and Consular Officers Department of State, Monrovia: R. A. Phillips, 1908 8 p.

Consular Regulations, 1922 Monrovia, 1922. 80 p.

Reports and Opinions of the Attorney General

Office of the Attorney General, Report of L. A. Grimes, Attorney of Liberia, Submitted to the 4th session of the 34th Legislature of the

Republic of Liberia and Opinions Filed by the Attorney General During the year 1922, with Index. (Monrovia) 1922. n.p.n.d. 98 p.

Report and Opinions of L. A. Grimes, Attorney General of Liberia. (Monrovia) 1923. 68 p.

Report and Opinions of L. A. Grimes, Attorney General of Liberia. Third Annual Series with Appendices 1, 2 and 3. (Monrovia) 1924. n.p. 84p.

Report and Opinions of L. A. Grimes, Attorney General of Liberia, Fourth Annual Series, with Appendices 1 and 2. (Monrovia) 1925. n.p. 88 p.

Reports and Opinions of the Honourable L. A. Grimes, Attorney General of Liberia. Volume I, Series 1-6 inclusive, 1922-1927. By authority. Central Book Company, 1947.

Bar Associations

Liberian National Bar Association: Inaugural meeting of the National Bar Association in the Senate Chamber, Monrovia, January 2, 1907. Being the Proceedings and Addresses, Monrovia, Liberia, College of West Africa Press, 1907, 27 p. Second Annual meeting of the Liberian National Bar Association in the Executive Mansion, Monrovia, February 5, 1908. Monrovia, Liberia, College of West Africa Press, May, 1908. 51 p. The National Bar Association has continued to hold meetings from time to time. No published proceedings have been traced.

Bar Association of Montserrado County: Proceedings Montserrado Bar Association: Discussion: Should the evidence of parties to an action be excluded? By Attorney George W. Ellis (et al) Monday, June 24, 1907. Monrovia: College of West Africa Press, August, 1907. 22 p.

Reports of Cases

Supreme Court Reports, Vol. I. Cases Argued and Determined in the Supreme Judicial Court of the Republic of Liberia. January, 1861—January, 1907. Boston, The Boston Book Company, 1908. IX, 556 p. At head of title: Republic of Liberia. Editor: 1861-1907, James Jenkins Dossen. This is the earliest report of cases.

Liberian Law Reports, Vol. II. January, 1908-November, 1926. By authority. Central Book Company, 1947.

Rulings, Opinions, and Decisions of the Supreme Court of Liberia, January 1908—January, 1909. Annual Series No. 1. Published by authority. College of West Africa Press, Monrovia, Liberia, 1909. 5 + 40 + 1 p. At head of title: Republic of Liberia. Includes period January 1909—January 1910.

(The same.) Cases decided at the January term, 1911. Annual Series No. 2. Official publication. 1911 50 p.

(The same.) Annual Series No. 3. January and July terms, 1912. Government Printing Office, 1912, 56 p.

(The same.) January term, 1913. Semi-Annual Series. No. 1. Government Printing Office, 1913, 53 p.

(The same.) June term, 1913. Semi-Annual Series No. 2. 1913. 37 p.

(The same.) December term, 1913. Semi-Annual Series No. 3. 1913. 36 p.

(The same.) April term, 1914. Semi-Annual Series No. 4. 1914. 62 p.

(The same.) April term, 1915. Semi-Annual Series No. 5. 97 p.

(The same.) October term, 1916. Semi-Annual Series. No. 6. 1916. 74 p.

Opinions, 1916-1933. These have not been published in full. Dr. Huberich used manuscript materials for this work. Since his death, however, the *Reports and Opinions* for the period 1908-1926 have been published.

Opinions delivered by the Honorable the Supreme Court of the Republic of Liberia. In cases decided during its November Term, A. D. 1933, and its April Term, A. D. 1934, New Annual Series Number 1. Printed by Authority at the Government Printing Office, Monrovia, Liberia, Frank Tarr Grimes, Sr., Printer, VII + V + 198 p.

Opinions Delivered by the Honourable the Supreme Court of the Republic of Liberia in Cases Decided During its November Term, A. D. 1934, and its April Term, A. D. 1935. With Appendices 1 and 2. New Annual Series Number 2. Printed by Authority at the Government Printing Office, Monrovia, Liberia. Frank Tarr Grimes, Sr., Chief Printer. (2) + XIII + (1) + 322 p.

Opinions delivered in the November term, 1935, and April term, 1935. n.p. 1936. 184 p. No title page, no index. The book was printed at Freetown, Sierra Leone, but owing to its typographical appearance and errors was never placed on sale. A few copies were distributed privately.

Opinions delivered in the November term, 1936—(in progress) 84 p. + . Advance copies of two of the opinions and judgments of the Honourable the Supreme Court of Liberia, delivered during the November term of Court, A. D. 1936, with a foreward by the Hon. Arthur Barclay * * * The Methodist Mission Press, Monrovia, Liberia, May, 1937. 32 p.

TRIALS

Collector of Customs v. *Superintendent of Liberia Mission*: Trial of the Suit Instituted by the Collector of Customs for the Port of Monrovia against the Superintendent of the Liberia Mission of the "Missionary Society of the Methodist Episcopal Church," Before the Supreme Court of Liberia, in session at Monrovia, September 4th and 5th, 1840, with most of the pleadings published by request as reported for Africa's Luminary. Monrovia: M. E. M. Press, W. P. Joyne, Jr., 1840. 18 p. Reprinted (in part) in Ch. XVIII.

Clay-Ashland, Liberia, Plaintiff: Injunction Case. Court of Quarter Session and Common Pleas, March term 1858; His Hon. Judge Moore, presiding. Extraordinary judicial proceeding and remarkable decision. Monrovia; G. Killian, Printer, 1858 44 p.

Roberts v. *Benson*: Proceedings in an Action on the Case for Libel, before the Court of Common Pleas and Quarter Sessions, Montserrado County, March Term, 1864. Monrovia: T. W. Howard, Printer, 1865. 56 p.

John Hazlehurst Boneval Latrobe: The Regina Coeli. Correspondence between the Hon. James H. Hammond and John H. B. Latrobe, Esq., President of the American Colonization Society. Baltimore: printed by J. D. Toy, 1858. 47 p. Reprinted from the *Baltimore American*, December 20, 1858. Appended (p. 39-47) is a letter by J. J. Roberts, ex-president of Liberia, to Benjamin Coates, upon the sentiment of the Liberians with reference to the slave trade and the case of the Regina Coeli The action of the Liberian authorities was approved in a Resolution of the Legislature. (Acts, 1857-1861, p. 25).

Trial of James Thomson: Documents Relating to the Trial of James Thomson in 1837, with the Original of Thomson's Own State-

ment. Thomson was Accused of Adultery with Native Girls while Connected with the Episcopal Mission, and Confessed, but was Acquitted for Lack of Evidence. Ms. in Papers of the Maryland State Colonization Society, in Library of Maryland Historical Society.

Case of Reverend Mr. Griswold: Correspondence between Governor Russwurm, Captain Ramsey of the U. S. S. *Vandalia* and Others Relative to the Case of the Rev. Mr. Griswold, and Robberies Committed by the Natives. Ms. in Papers of the Maryland State Colonization Society, in Library of Maryland Historical Society.

Commonwealth v. *Jackson*: Trial of Jackson, a British Subject, Master of the Brig Guineaman, Before the Supreme Court, February, 1841, for Violation of the Customs and the Laws Regarding Trade with the Natives. Defense, that laws could not be applied to British subjects because of lack of sovereign powers in Commonwealth to affect foreigners. Threat of intervention. Jackson was convicted. Reported in *Africa's Luminary*, February 19, 1841, and reprinted in part, Ch. XVIII.

Arbitration Award in re the case Fischer and Lemcke vs. Houston Bros. and Co., Monrovia Monrovia: R. A. Phillips, Printer, Govt. Print. Off., 1907. 30 p Signed: Hamburg, 27th April, 1906. Decision rendered as to whether in the case of *Fischer & Lemcke vs. Houston Bros & Co.* the law applicable thereto was seriously violated by Liberian officials or courts, etc cf. p 19.

MARYLAND IN LIBERIA

Constitution and Laws of Maryland in Liberia; with an Appendix of Precedents. Published by Authority of the Maryland State Colonization Society. Baltimore: John D. Toy, Printer, 1837. (2) + 168 p.

Second edition, 1847, 212 p Contains ordinances enacted since 1837. The remainder of the text is identical with that of the 1837 edition. 500 copies were printed.

Constitution of 1853 (Caption title: The Declaration of Rights and the Constitution of the State of Maryland in Liberia) No. t.p. n.p. n.d. Harper(?), 1853(?) 32 pp. Only known copy in Papers of Maryland State Colonization Society, in Library of Maryland Historical Society. The Declaration of Rights is printed on blue paper, the Constitution is printed on white paper.

Some of the local Acts adopted by the Governor and Council are published in the *Maryland Colonization Journal, passim.*

TABLE OF CHIEF MAGISTRATES

Colony and Commonwealth of Liberia

In 1819, the Society sent to Africa the Reverend Samuel John Mills and the Reverend Ebenezer Burgess to explore the West Coast of Africa for a suitable site for colonizing American Free Negroes. The first Agent of the Society, Samuel A. Crozer, was appointed December 19, 1819. About the same time the United States Government appointed the Reverend Samuel Bacon and John P. Bankson as Government Agents for Recaptured Africans. Thereafter the same person was usually appointed to both offices. By an understanding between the Government and the Society, when the Agent of either party was absent his duties could be performed by the other. The physicians appointed by the Society or by the Government at times acted as Agents when all Agents were absent.

In the following list the persons who acted as chief magistrates of the Colony are set out; those appointed as Agents of the Society are printed in regular type, the Government Agents and the physicians who served as Agents of the Society appear in italics. After 1836, the principal Agent of the Society bore the title of Governor. The Vice Agent, chosen by the electors, bore the title of Lieutenant Governor, and acted as Governor upon the death, removal or incapacity of the Governor.

The following list is based on the one published in the Memorial of the Semi-Centennial Anniversary of the American Colonization Society, with some additions and corrections. Biographical sketches of most of the persons named appear in the present Work. An asterisk is prefixed to the names of Chief Magistrates who were white men.

Agents of the Society

1820-1839

* Dr. Samuel A. Crozer. Instructions dated December 10, 1819; appointed December 19, 1819; sailed February 6, 1820; died April 15, 1820.

* *Reverend Samuel Bacon.* Appointed January 8, 1820; sailed February 6, 1820; died May 2, 1820.

* *John P. Bankson.* Sailed February 6, 1820; died May 13, 1820.

* Reverend Daniel Coker, emigrant. Appointed by Dr. Crozer, just before his death; he was the Society's Agent at Campelar and at Fourah Bay, Sierra Leone, where he remained when the other colonists removed to Cape Mesurado.

* *Reverend Ephraim Bacon.* Sailed January 23, 1821; returned 1821.

* *Jonathan B. Winn.* Sailed January 23, 1821, died August 25, 1821.

* Reverend Joseph Andrus. Sailed January 23, died July 28, 1821.

* Christian Wiltberger. Sailed January 23, 1821; returned June 4, 1822.

* Dr. Eli Ayres. Appointed July 25, 1821; acquired Cape Mesurado December 15, 1821, and removed the colonists thither; appointed United States Government agent, May 12, 1822; returned June 4, 1822; sailed again May 24; and returned December, 1823. Resigned February 18, 1824.

Frederick James, emigrant. Placed in charge of the transfer of the emigrants from Perseverance Island to Cape Mesurado April, 1822, and in control of the New Settlement until the appointment of Elijah Johnson, June 4, 1822.

Elijah Johnson, emigrant. Appointed by Dr. Ayres as Society's agent during his absence, from June 4, 1822

* Reverend Jehudi Ashmun. (Appointed temporary Principal Agent August 8, 1822 Appointed Assistant Agent June 2, 1823). Agent for the Society and the Government, sailed May 20, 1822; appointment confirmed under the new Constitution, August, 1824; sailed, on his return, March 25, 1828; died August 25, 1828.

* Reverend R. R Gurley. Agent of the Society and of the Government, arrived August 13, 1824, confirmed Ashmun's authority, under a new Constitution, and returned August 22, 1824.

* *Dr. John W. Peaco.* Arrived March 26, 1826; returned 1826. Died May 24, 1827.

* *Dr. George P. Todsen.* Appointed June 1827, afterwards appointed Society's physician, November 17. 1830, to 1834.

Reverend Lott Cary, emigrant. Vice-agent, administered from Mr. Ashmun's departure, March 25, 1828; died November 8, 1828.

Reverend Colston M. Waring, emigrant. From November 8 to December 22, 1828.

* Dr. Richard Randall. Appointed by the Society September 8, and by the Government October, 1828; arrived December 22, 1828; died April 19, 1829.

* Dr. Joseph Mechlin, Jr. Appointed Assistant Agent and Physician October 17, 1828; succeeded Dr. Randall April 19, 1829; appointed Agent September 14, 1829; appointed Government agent to succeed Dr. Randall September 21, 1829 by Andrew Jackson. Appointed Assistant Government Agent, October 18, 1828; returned May, 1830; sailed again October, 1830; returned July 1832. Resigned September 10, 1833.

* Dr. J. W. Anderson. Appointed Assistant Agent and physician January 6, 1830; arrived February 27; died April 20, 1830.

Anthony D. Williams, emigrant. Vice-agent, administered in Dr. Mechlin's absence in 1830, and after his departure in 1832. Died 1861.

* Reverend John B. Pinney. Appointed October 24, 1833; from ill health, transferred his duties to Dr. Skinner in the summer of 1834.

* Dr. Ezekiel Skinner. Sailed as Society's physician June 21, 1834; appointed Agent January 26, 1835; left Liberia September 25, 1836. Appointed physician October 27, 1837.

Anthony D. Williams. Formerly vice-agent, succeeded Dr. Skinner September 25, 1836. Acted until March 15, 1839.

Governors of the Commonwealth

* Thomas Buchanan. Appointed Governor, December 14, 1838, on the union of the settlement of the New York and Pennsylvania Societies with the Commonwealth of Liberia. Also United States Government Agent. Arrived April 1, 1839; died September 3, 1841

* *Dr. J. W. Lugenbeel*, Society's physician and Government Agent. Appointed by the Society July 27, 1843; sailed September 16, 1843; returned May, 1849.

Joseph J. Roberts, emigrant. Succeeded Governor Buchanan, as Lieutenant-Governor, September 3, 1841; appointed Governor January 20, 1842; administered till the organization of the Republic, January 3, 1848.

PRESIDENTS OF THE REPUBLIC

1848-1945

Joseph J. Roberts, 1848 to 1856.

Stephen A. Benson, 1856 to 1864.

Daniel B. Warner, 1864 to 1868.

James Spriggs Payne, 1868 to 1870.

Edward James Roye, 1870 to 1871 (deposed).

James S. Smith, Vice-President, became President, 1871 to 1872.

Joseph J. Roberts, 1872 to 1876.

James Spriggs Payne, 1876 to 1878.

Anthony William Gardner, 1878 to 1883. (Died in office).

Alfred F. Russell, Vice President, became President, 1883 to 1884.

Hilary Richard Wright Johnson, 1884 to 1892

Joseph James Cheeseman, 1892 to 1896. (Died in office).

William David Coleman, Vice President, became President, 1896-1898.

William David Coleman, 1898 to 1900 (Died in office).

Garretson Wilmot Gibson, Secretary of State, became President, 1900 to 1902.

Garretson Wilmot Gibson, 1902 to 1904.

Arthur Barclay, 1904 to 1912.

Daniel Edward Howard, 1912 to 1920.

Charles Dunbar Burgess King, 1920 to 1930. (Resigned).

Edwin Barclay, then Secretary of State, became President upon the resignation of President King. He was elected President for a term of four years in 1931 and re-elected President and served the regular term of eight years beginning January 1, 1936 and ending January 1, 1944.

William V. S Tubman was elected President for a term of eight years beginning January 1, 1944.

Governors of Maryland in Liberia

1833-1857

* Dr. James Hall. Founder and first Governor. Appointed by the Maryland State Colonization Society, October, 1833; Reverend John Hersey was appointed Assistant Agent. Hall sailed November 23, 1833; purchased Cape Palmas, the site of the Colony, by treaty, February 13, 1834; resigned, and returned July, 1836. Dr. Hall had been Assistant Physician in Liberia from October 1831, to June, 1833. As early as 1832 he urged the appointment of colored Governors.

Dr. O. W. Holmes, temporary Agent, a few months from February 4, 1836.

John B. Russwurm, emigrant. Appointed 1836; died June 9, 1851.

Dr. Samuel F. McGill, Assistant Agent, 1836-1857, Vice Agent (elected), emigrant. Succeeded Governor Russwurm in 1851; administered to June, 1854.

William A. Prout, emigrant. Elected Governor under the new Constitution of the Colony as an independent State. Inaugurated June 6, 1854; administered till April, 1856.

Boston J. Drayton, emigrant. As Lieutenant Governor, he succeeded Governor Prout in April, 1856, and administered till the annexation of the State to the Republic of Liberia, March 3, 1857. Was Chief Justice of Liberia (1861-1864). Died 1866.

Governors at Bassa Cove

1835-1839

* *Reverend Rufus Spalding.* While he was on his voyage to Liberia as a missionary, the Colonization Society of the City of New York, December 13, 1833, appointed him as their special agent to plant a new settlement under their auspices. He arrived at Monrovia December 31, 1833; ordered the erection of mission buildings at Bassa Cove, but was unable, because of sickness, to visit that place. He returned in May, 1834.

* *Israel W. Searle.* Appointed by the Colonization Society of the City of New York as sub-agent, February 17, 1834. He was instructed to consult with Mr. Spalding as to a location for the proposed settlement, and to direct attention to Cape Mount and Bassa Cove. He sailed on the *Jupiter*, June 21, 1834, and died a few months after his arrival, October 18, 1834.

* Edward Y. Hankinson. Appointed by the Young Men's Colonization Society of Pennsylvania. He sailed October 26, 1834, and arrived on December 9, 1834, with emigrants to found a colony at Bassa Cove. Returned to United States on the Ruth, arriving December 6, 1835. The two Societies agreed to unite in the administration of Bassa Cove.

* Thomas Buchanan. Appointed by the united Societies, arrived at Monrovia, January 1, 1836.

* Reverend John J. Matthias. Appointed by the united Societies; arrived August 4, 1837; returned, landing at New York June 17, 1838.

* Dr. Wesley Johnson. Assistant Physician. Succeeded Governor Matthias as Acting Governor; administered until Bassa Cove became a part of the Commonwealth in 1839.

Governors of Mississippi in Africa

1837-1841

Daniel Johnston, emigrant. Appointed temporary Agent by the agent of the American Colonization Society, at the request of the Mississippi Colonization Society, to acquire a territory at the mouth of the Sinoe River. He purchased a territory of about 2,000 square miles and proceeded with 20 laborers from Monrovia to build houses and prepare the site for the prospective settlers.

* Reverend Josiah P. C. Finley. Appointed by the Mississippi Colonization Society; sailed April, 1837; robbed and murdered by natives, while on a journey about September 10, 1838 The settlement was united with the Commonwealth of Liberia in 1841, under an arrangement whereby the Governor of the Commonwealth was to be Governor of Mississippi in Africa. Soon thereafter the Mississippi Society ceased all activities and the Settlement became a part of the Commonwealth.

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CHRONOLOGY

A Table of Important Events
From the Earliest Settlements on the West Coast of Africa
to the Establishment of the Republic

631 B. C—Founding of Cyrene by the Greeks (1)

520-470 B. C—Hanno the Carthaginian's voyage to the West Coast of Africa (1)

146 B. C—Conquest of Carthage by the Romans (1)

1364-5—Coast of Liberia reached by Norman merchants from Dieppe (2)

1461—Pedro de Cintra of Portugal reached Liberia at a point near the modern Marshall He named Cape Mount and Cape Mesurado (2)

1682—The Brandenbergers built a fort called Fredericksburg at Cape Three Points (3)

1720—The Dutch acquired the Brandenberg forts (3)

1726—P Grandpierre recommended the country around the River Cestos as the appropriate site of a colony (3)

1727—Chevalier des Marchais presented with the island called Bushrod's Island by King Peter, lord of the Mesurado (3)

1759—January 17—Birth of Paul Cuffe (55)

1776—Ulwik Nordenskiold of Sweden proposed a scheme for the colonization of Cape Mount and Cape Mesurado (3)

1783—December 5—Birth of Simon Greenleaf (849)

1785—(Circa)—Birth of Daniel Coker Date of death unknown (144)

1786—Dr Henry Smeathman published his memorable *Plan of Settlement* (7)

1786—Publication of Granville Sharp's *Short Sketch of Temporary Regulations for the Intended Settlement on the Coast of Africa near Sierra Leone.* Second edition in the same year, third edition in 1788 (11)

1787—Swedish commission headed by Wadstrom, and including the scientists Sparrman and Arrhenius, set out to establish a Swedish colony on the West Coast (4)

1787—February 22—Sailing of three transports and 411 settlers from Plymouth Sound to Sierra Leone Colonists landed May 14 (8, 10)

1788—August 22—Sierra Leone granted to Great Britain by King Naimbanna (10)

1789—Destruction of the Sierra Leone settlement by the Timinis (13)

1790—Organization of the St George's Bay Company, Sierra Leone, as a result of Granville Sharp's efforts (13)

July 22—Birth of Samuel Bacon (92)

1791—July—Charter granted the Sierra Leone Company (13)

Henry Hew Dalrymple appointed governor by Sierra Leone Company. Differences with Company cause him to form the Bulama Association (16)

1792—January 15—The first vessels are sent out by the Sierra Leone Company and Freetown is settled (14)

April 26—Birth of Hugh Davey Evans (735)

June 29—Island of Bulama ceded by Kings Jalorum and Belchor to Great Britain (16)

August 3—Island of Arcis and adjoining mainland acquired by Great Britain (16)

1794—April 21—Birth of Jehudi Ashmun (292)
September 27—French shell and pillage Sierra Leone colony (14)

1797—May 26—Birth of Ralph Randolph Gurley (323)

1799—October 1—Birth of John Brown Russwurm (437)

1800—September 25—Nova Scotians revolt against Sierra Leone Company and declare a new constitution in force (15)

1802—Birth of Hilary Teague (848)

1806—November 25—Birth of John B Pinney (428)

1808- Birth of Samuel Benedict (847)
September 19—Birth of James Buchanan (727)

1809—March 15—Birth of Joseph Jenkins Roberts (770)

1812—Sierra Leone examined and reported upon by Paul Cuffe (20)

1815—February 3—Birth of Edward James Roye (1258)

1817—American Colonization Society formed as a voluntary association (23)
September 9—Death of Paul Cuffe (20)
November 5—Burgess and Mills appointed Agents of American Colonization Society to explore the West Coast of Africa for a settlement site (57)
December 19—Georgia Act allowing American Colonization Society to redeem "people of color" (277)

1818—November 21—Mills' plan of colonization delivered and published (68)

1819—January 8—Samuel Bacon appointed Principal Agent of the Government, and John P Bankson, Assistant Agent (23)
January 17—Bacon received instructions from Secretary of the Navy (73)
March 3—Act of Congress of the United States authorized President Monroe to deliver "persons of color" taken from slave ships to agents in Africa (68)
December 10—Instructions to Dr Samuel A Crozer, first Agent of the American Colonization Society, adopted They represent the first code of laws for the Settlement (95)

1820—March 8—"Elizabeth Compact" (145)
March 12—Bacon makes formal report to the Secretary of the Navy of his voyage to Sierra Leone (83)
March and April—The harrowing days at Campelar and Yonne, the darkest page of Liberia's history (106)
March 31—Dr Crozer makes his first report to the American Colonization Society (97)
April 15—Death of Dr Samuel A Crozer (76)
May 2—Death of Samuel Bacon (93)
May 13—Death of John P. Bankson (134)
June 26—Second set of Instructions, together with the Constitution of 1820 sent to Crozer, setting forth the social and economic bases upon which the settlement was to be erected (103, 146)
December 23—Rev. John R Andrus and Christian Wiltberger appointed Agent and Assistant Agent respectively of the American Colonization

Society. At the same time Rev Ephraim Bacon and Jonathan B. Winn were appointed Government Agents (156, 157)

1821—July 25—Dr Eli Ayres appointed principal Agent of the Society, replacing Andrus (182)

July 28—Death of agent Joseph R Andrus (182)

August 25—Death of agent Jonathan B Winn (182)

November 13—First law enacted in the Settlement (183)

December 15—Cape Mesurado purchased by Ayres and Stockton from King Peter and his associates (195)

1822—Frederick James, first Negro Governor of Liberia (214)

April 25—American flag hoisted as formal possession of the Mesurado territory is token (211)

May 12—Eli Ayres, appointed Principal Agent of the Government (218)

June 24th to August 8—Elijah Johnson administers the Settlement (220)

August 8—Arrival of Jehudi Ashmun (220)

1823—June 2—Ashmun appointed Assistant Agent of the Society (289)

December 5—First exercise of the right to petition for redress of grievances (299)

1824—February 18—Ayres resigned as Principal Agent of the Society, but continued to act as Principal Government Agent (221, 222)

June—Rev Ralph Randolph Gurley appointed Provisional Government Agent (317)

August 22—Adoption of the Plan of Civil Government and the beginning of self-government by the settlers (152, 319)

September 22—Treaty of Amity Trade and Right of Passage concluded between Ashmun and native kings (261)

1825—May 23—*Constitution Government and Digest of the Laws of Liberia* published (331)

May 25—American Colonization Society purchased St Paul's territory (339)

October 27—Sesters Territory acquired under perpetual lease (260)

1826—October 2—Incorporation of the first public utility company in Liberia (360)

October 11—"Solemn Compact" with the Chiefs of the Junk Territory (260)

November 20—Deed to St John's River Territory conveyed to Ashmun (260)

November 20—Factory Island conveyed to Ashmun by Joe Harris of Grand Bassa (260)

1827—First of several annual appropriations of Maryland Legislature to the American Colonization Society made (22)

January 16—Treaty of Peace between Liberia and King West (358)

June 24—Treaty of August 3, 1792 confirmed by Benagre, King of the Biafras, ceded Bulama to England (16)

October 23—Revised Plan of Civil Government, constituting Ordinance XIV, adopted (362)

October 25—Ordinance XVII authorizing the compilation of the first Biennial Code of Laws (1828) (729)

December 15—Bushrod Island acquired by Ashmun (261)

1828—April 4—Warranty deed conveys St. Paul's River Territory to Lott Cary (261)

August 25—Death of Jehudi Ashmun (293)

October 22—Plan of Civil Government as revised by Ashmun adopted (455)

November 10—Death of Lott Cary. Colston M. Waring, Vice Agent, assumes administration (372)

December 22—Richard Randall arrives in Africa and succeeds Ashmun as Agent of the Society. He was appointed to this post on October 1, 1828 (376)

1829—April 19—Death of Richard Randall (380)

September 14—Dr Joseph Mechlin appointed Agent of the Society, succeeding Randall. On September 21, he was also appointed Government Agent (382)

1830—January 6—Dr. John Wallace Anderson appointed Assistant Agent and Colonial Physician. He died April 12, 1830 (388)

March 6—*Liberia Herald* published by John B. Russwurm (344)

April—Anthony D Williams succeeded Anderson and continued in office until Mechlin's return, December 4, 1830 (389)

October 1—Report on Public Schools (421)

1831—February 24—American Colonization Society Incorporated (27)

Colonization Society of the City of New York organized, incorporated in 1855 as the New York State Colonization Society (576)

Colonization Society of Virginia formed Chief Justice John Marshall was the first president (21)

June 1—Mississippi State Colonization Society organized and a Constitution adopted (599)

1832—February 13—Report on Colonial Currency (423)

1833—September—George R McGill assumes administration on departure of Mechlin for the United States (430)

October 24—Rev John B Pinney appointed Temporary Colonial Agent (432)

December 13—Rev Rufus Spalding appointed Special Agent of the Colonization Society of the City of New York; Israel W Searle appointed Sub-Agent, February 17, 1834 (577)

1834—February 27—Mechlin's resignation officially accepted (433)

April—Young Men's Colonization Society of Pennsylvania organized (569)

April 10—John B. Pinney appointed Agent of the Society, and Governernment Agent (446)

Edward Y. Hankinson appointed Vice Agent by the Pennsylvania Colonization Society (578)

The massacre at Port Cresson (578)

1835—January 25—Society appoints Ezekial Skinner Colonial Agent (480)

May—Nathanial Brander succeeds Pinney on withdrawal from official activity (472)

August 5—Colony divided into electoral districts. This law repealed in 1836 as "being unconstitutional" (487)

1835—August 12—Arrival of Ezekial Skinner, new Agent of the Society, terminates administration of Brander (477)
Thomas Buchanan appointed Governor by the New York and Pennsylvania Societies (584)

1836—September 25—Anthony D Williams succeeded Ezekial Skinner, with the official title of Lieutenant Governor (517)

1837—Charter granted Colonization Society of Virginia (21)
Publication of the *Constitution and Laws of Maryland in Liberia* by the Maryland Colonization Society Second edition published in 1847 (733)
Period of great missionary activity in Liberia (519)
March 14—New charter granted American Colonization Society (28)
Rev. Josiah P C Finley appointed Governor by the Mississippi Society to replace Daniel Johnston, temporary Agent (601)
Rev John J Matthias appointed by the United Societies as Governor to succeed Buchanan (591)
March 4—Report on Proposed Federal Union and presentation of Suggested Constitution (550)

1838—March 27—Lott Cary took over Administration of the Colony (368)
September 25—Convention of Societies having colonies on the coast of Africa and submission of the *Articles of Association* (560)
December 14—Thomas Buchanan appointed Governor of the Colonies or settlements in Liberia by the American Colonization Society (666)

1839—January 5—*Constitution of the Commonwealth of Liberia* adopted by American Colonization Society (649)
March 15—"Monrovia Draft" Constitution published in *Africa's Luminary*
April 1—Arrival of the new Governor Thomas Buchanan, ends the administration of Lt -Governor Williams (565)
April 5—First Session of the Colonial Council (655)

1840—January 4—Second Session of the Colonial Council (720)
January 24—Act Establishing an Admiralty Court and Defining Piracy (678)
Publication of the *Statute Laws of the Commonwealth of Liberia* containing a digest of Colonial enactments August 13, 1823-July 7, 1838 (730)

1841—January 4—Third Session of the Colonial Council (724)
February 9—Case of *The Commonwealth of Liberia* v *John G. Jackson, Master of the Br Schooner Guineaman*, determining the right of foreigners to trade within the jurisdiction of the Commonwealth (691)
March 29—Treaty of Peace with the Fishmen (703)
May 31—*Plan of Union* between American Colonization Society and Mississippi State Colonization Society approved (609-611)
September 3—Death of Gov Thomas Buchanan (724)

1842—April 5—Fourth Session of the Colonial Council (736)

1843—January 9—Fifth Session of the Colonial Council (746)

1844—March 4—Sixth Session of the Colonial Council (759)

1845—January 6—Seventh Session of the Colonial Council (772)

1846—January 5—Eighth Session of the Colonial Council (785)
July 13—Extra Session of the Colonial Council (805)

1847—January 4—Ninth Session of the Colonial Council (807)
July 5—Constitutional Convention delegates assemble (821)
July 26—Declaration of Independence signed (828)
July 29—Date of the Resolution adopting the Flag and Seal (837)
August 24—New flag of the Republic unfurled (841)
September 27—Draft Constitution submitted to the Electors. Official text published March, 1848 (844, 852)
September 27—Gov Roberts elected the first President of the Republic (846)

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Errata

p. 478, second line from bottom: "Pinney" for "Penney"

p. 495, line 29: "session" for "cession"

p. 501, first line: "propriety" for "propreity"

p. 514, eighth line: "opinion" for "opinoin"

p. 514, line 29: "political" for "politcial"

p. 596, fourth line. "Bassa Cove" for "Basso Cove"

p. 719, line 25: "Council" for "Conucil"

p. 729, third line from bottom: "have been" for "has been"

p. 1051, ninth line: "State" for "States"