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**PART SECOND.**

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## 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.

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 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. 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 refusing 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 indemnify 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.

## OF INJURIES.

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

