this fund was not designated, because it rests the remuneration of public servants upon the delinquencies of its citizens. Additional duties may, from time to time, be thrown upon them, which will balance this stipend.

(22.) The jurisdiction of the Supreme Court is expressed nearly in the words of the constitution. It was wished, that where the United States were sued, the cause could be confined to the Supreme Court, as is the case with a particular State. But it is doubtful whether this, being one of the instances in which the Supreme Court is declared to have appellate jurisdiction, it can have original jurisdiction also, under the words of the constitution.

The formation of writs is a branch of judicial duty. Rules of practice belong to the authority of every court, and their other incidental powers add to that authority. The transition from these to the superintending of the whole course of proceedings will not, therefore, be considered as too great. But it is advisable, that every system of practice throughout the States should be consulted, in order that the general proceeding should be accommodated to the habits of the different States, as nearly as may be. The judges of the Supreme Court have already had some experience on this head, and can, therefore, better execute the work than any other persons. It would not be difficult for an individual to offer a scheme apparently good. But he would probably feel too great a bias to the practice to which he had been accustomed; and the House would also be under some perplexity how to reconcile the usages of the States.

(23.) Bail is not needful, except in cases of original juridiction. Of these, the number in the Supreme Court is small, and they will scarcely ever be of such vehemence, as that the postponement of a question of bail, until the court can be moved, should be injurious.

(24.) The plaintiff in error is limited to errors in law. This is agreeable to the practice which has so much influence on our judicial proceedings. For, after a jury have pronounced the facts in issue, and a new trial has either not been solicited, or has been rejected, on the principles of the common law, no court or jury ought to agitate the same facts, unless the judgment should be reversed by a superior court. On the other hand, in equity and admiralty cases every fact, as has been already observed, is before the superior court, in the same manner as it was before the inferior, and may therefore be submitted with propriety to the superior court.

New facts, and new proofs on appeals, are here discarded, on account of the numberless frauds which may be covered under the admission of them.

(25.) Upon an equal division of an appellate court, it is presumable that the inferior court was right. Without this rule, an appeal or writ of error may be hung up in the Supreme Court for many years.

(26.) The constitution, laws and treaties of the United States, are the supreme law; that is, they will control, on federal subjects, every other law.

They will particularly control the laws of the several States; whether consisting of their own original legislation, the common law, or the statute law, expressly or tacitly adopted.

Such is the extent of mere power. But it may be affirmed, that it will not be exercised, because it ought not, where the claim of a plaintiff, or the defence of a defendant, rests upon a valid law of a State.

This may happen—1. In personal rights; 2. Rights of property; 3. Torts; and 4. Sometimes even in offences, upon the merits, the evidence, or a limitation of time.

But, besides these, are three other points, not tinctured by the particular cases, but governed only by the class of actions, to which the individual case belongs: pleadings, with the exception of limitation; trial, with the exception of evidence; and executions.

The common law is confessedly incompetent on these topics. The alternative, then, is between the State laws and the statutes.

The latter have the advantage in uniformity, which the judiciary of the United States ought to cultivate; and, without it, a citizen who is a debtor in one State, may, although a creditor to an equal amount in another, possibly be ruined.

But some cases will not be influenced by State laws; to wit, those of a foreign and transitory nature, as a bond executed in Europe. The supreme law may also be silent. The *lex loci* will then be admitted in its customary degree; and, where it ends, the common law and statutes aforesaid will enter into the question.

But the Attorney General considers these expedients as merely temporary; because he trusts that the necessity of a federal code is too striking to escape the attention of the House. That it must be a work of time and difficulty is an exhortation immediately to commence it.

Upon so grand an undertaking, the practice of nations has been variant; some having directed the materials of a code to be reported in the first instance, and others a complete digest. As too much leisure and reflection cannot be bestowed on such a composition, the former mode is preferable, especially since the freedom of correcting the matter may be fettered by the solemnity of a law, when connected with a great whole.

But arduous as this effort must be, it is not boundless. It would probably be pointed to the following leading objects: 1. The provisions which already exist by the constitution and the federal laws: 2. Such laws as may still be necessary for the further execution of the constitution, and the completion of federal policy: 3. The common law and statutes: and, 4. The laws of the several States, as involved in questions arising therein.

These preliminaries having obtained the sanction of Congress, the reducing of them into laws will become more easy and accurate.

1st CONGRESS.] No. 18. [3d SESSION.

COINAGE, WEIGHTS, AND MEASURES.

COMMUNICATED TO THE SENATE, JANUARY 18, 1791.

SIR: PHILADELPHIA, *January* 17, 1791.

I have the honor to enclose you a postscript to the report on measures, weights, and coins, now before your House. This has been rendered necessary by a small arithmetical error detected in the estimate of the cubic foot proposed in that report. The head of superficial measures is also therein somewhat more developed.

Nothing is known, since the last session of Congress, of any further proceedings in Europe on this subject.

I have the honor to be, with sentiments of the most profound respect, sir,

Your most obedient and most humble servant,

TH: JEFFERSON.

The PRESIDENT *of the Senate.*

POSTSCRIPT.

It is scarcely necessary to observe, that the measures, weights, and coins, proposed in the preceding report, will be derived altogether from mechanical operations, viz: a rod, vibrating seconds, divided into five equal parts; one of these subdivided, and multiplied, decimally, for every measure of length, surface and capacity, and these last filled with water, to determine the weights and coins. The arithmetical estimates in the report were intended only to give an idea of what the new measures, weights, and coins would be nearly, when compared with the old. The length of the standard or second rod, therefore, was assumed, from that of the pendulum; and as there have been small differences in the estimates of the pendulum by different persons, that of Sir Isaac Newton was taken, the highest authority the world has yet known. But if even he has erred, the measures, weights, and coins proposed will not be an atom the more or less. In cubing the new foot, which was estimated at .978728 of an English foot, or 11.744736 English inches, an arithmetical error of a unit happened in the fourth column of decimals, and was repeated in another line in the sixth column, so as to make the result one ten-thousandth, and one-millionth of a foot too much. The thousandth part of this error (about one ten millionth of a foot) consequently fell on the metre of measure, the ounce weight, and the unit of money. In the last it made a difference of about the twenty-fifth part of a grain troy, in weight, or the ninety-third of a cent in value. As it happened, this error was on the favorable side, so that the detection of it approximates our estimate of the new unit exactly that much nearer to the old, and reduces the difference between them to thirty-four instead of thirty-eight hundredths of a grain troy; that is to say, the money unit, instead of 375.64 troy grains of pure silver, as established heretofore, will now be 375.98934306 grains, as far as our knowledge of the length of the second pendulum enables us to judge; and the current of authorities since Sir Isaac Newton's time gives reason to believe that his estimate is more probably above than below the truth; consequently, future corrections of it will bring the estimate of the new unit still nearer to the old.

The numbers in which the arithmetical error before mentioned showed itself in the table, at the end of the report, have been rectified, and the table reprinted.

The head of superficial measures, in the last part of the report, is thought to be not sufficiently developed. It is proposed that the rood of land, being one hundred feet square (and nearly a quarter of the present acre,) shall be the unit of land measure. This will naturally be divided into tenths and hundredths, the latter of which will be a square decad. Its multiples will also, of course, be tens, which may be called double acres, and hundreds, which will be equal to a square furlong each. The surveyor's chain should be composed of one hundred links of one foot each.

THOMAS JEFFERSON, *Secretary of State.*

January 10, 1791.

[NOTE.—The original report (No. 16) has been corrected as above directed.]

1st CONGRESS.] No. 19. [3d SESSION.

MANNER OF AUTHENTICATING PRINTED EDITIONS OF THE LAWS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 7, 1791.

FEBRUARY 5, 1791.

The SECRETARY OF STATE, to whom was referred the memorial of Andrew Brown, printer of Philadelphia, has had the same under his consideration, and thereupon makes the following report:

The memorialist states that he has in contemplation to publish a correct edition of the laws, treaties, and resolutions of the United States, and prays that such measures may be adopted for giving a public authentication to his work, as may ensure its reception throughout the United States.

The Secretary of State observes, that there exists, at present, but a single edition of the laws of the United States, to wit, the one printed by Childs and Swaine; that this edition is authentic, the proof sheets thereof having been carefully collated by sworn clerks with the original rolls in his office, and rendered literally conformable therewith; that the first volume of this edition can now rarely be found, the copies originally printed being mostly disposed of.

That it is desirable that copies of the laws should be so multiplied throughout the States, and in such cheap forms, as that every citizen of the United States may be able to procure them; that it is important, also, that such publications be rendered authentic, by a collation of the proof sheets with the original rolls by sworn clerks, when they are printed at the seat of Government, or in its neighborhood, and by a collation of the whole work, when printed at a distance, and a certified correction of its typographical errors annexed to each volume.

That this, however, if done at the public expense, would occasion an inconvenient augmentation of the number of clerks, as the act of collation requires the presence of three clerks, one to hold the roll, a second a printed copy already authenticated, and a third the proof sheet.

That it would be more reasonable that persons of confidence should be employed at the expense of the editor, to be named and sworn as clerks for the special occasion.

That, in this way, he is of opinion it will be advantageous to the public to permit that the laws to be printed by the memorialist be collated with and corrected by the original rolls, and that a certificate thereof by the Secretary of State be annexed to the edition.

TH: JEFFERSON, *Secretary of State.*