

3d CONGRESS.]

No. 60.

[2d SESSION.]

## WEIGHTS AND MEASURES—DEFECTS IN THE JUDICIARY SYSTEM IN THE NORTH-WESTERN TERRITORY.

COMMUNICATED TO CONGRESS, JANUARY 8, 1795,

By message from the President of the United States, of which the following is an extract:

“The minister of the French republic having communicated to the Secretary of State certain proceedings of the Committee of Public Safety, respecting weights and measures, I lay them before Congress.”

“The letter from the Governor of the Western Territory, copies of which are now transmitted, refers to a defect in the judicial system of that Territory deserving the attention of Congress.”

*Jos. ph Fauchet, minister plenipotentiary of the French republic near the United States, to Mr. Randolph, Secretary of State of the United States.*

[TRANSLATION.]

PHILADELPHIA, 15th Thermidor, (August 2, 1794,) old style.

SIR:

*2d year of the French republic, one and indivisible.*

You have doubtless been informed of the tedious and constant efforts which have been made in Europe, and particularly in France, for some years past, in order to substitute for the uncertainty which reigns in the instruments employed in comparing or measuring physical quantities, a certain system taken from nature, and of course as immutable as nature itself. The learned alone were long occupied with it as mere matter of speculation. France was the first to place those researches among the cares of Government. America, if I mistake not, has since followed the example; for I think I have heard that the present Government were engaged in the same changes, and even waited the result of the operation made in France on this subject, for the purpose of commencing the reform. The national assemblies have given great activity to those researches. The convention, which is constantly occupied in invigorating the arts, has caused them to make a rapid progress, and, at length, has lately adopted the methods resulting therefrom.

The Committee of Public Safety of the National Convention, convinced that an enlightened and free people would receive with pleasure one of the discoveries of the human mind, the most beautiful in theory, and the most useful in application, had expressly charged the citizen Dombey, a learned natural philosopher, to come and communicate to you the first types of the new mode of mensuration which has been adopted. You will observe, by the decree of which I enclose you a copy, the motives and express order for this mission. Dombey had likewise received from the Board of Weights and Measures the instruction of which I also send you a copy. The American vessel in which he had embarked put into Montserrat, where he died. His papers, and the models which he had received in order to deliver to the Government, have luckily come to my hands. I hasten, sir, to forward the whole to you, regretting that the patriot Dombey could not enjoy the honor of fulfilling his mission, and of communicating perhaps some instructions in detail interesting to the learned to whom you may consign the examination of the new system.

To you, sir, I shall not dissemble that, as to myself, I see in the adoption of the new measures by America a mean of cementing the political and commercial connexions of the two nations. I see, moreover, therein, a great step towards the destruction of those customs, more or less absurd and arbitrary, which shackle the relations of nations with each other. Persuaded that the Government takes an equal interest itself in both these objects, I cannot entertain a doubt of its sanctioning with its authority the introduction of the new method.

If you desire, sir, to avail yourself of the instructions about to be prepared by order of the National Convention, in order to facilitate in practice the use of the new instruments and the understanding of their relation to the old, I shall with pleasure undertake to make an express application for them in France.

Accept, sir, my esteem.

JH. FAUCHET.

[TRANSLATION.]

*Decree of the Committee of Public Safety of the National Convention, on the 21st day of the month Frimaire, (December 11, 1793,) 2d year of the French republic, one and indivisible.*

The Committee of Public Safety, considering that it may be important to make known to the people with whom the republic may have relations, the new system of weights and measures which it has adopted, decrees, that the Board of Weights and Measures cause to be sent to citizen Dombey, who departs for North America, a measure in copper, and a weight divided in the form decreed for the standards, the expense of which shall be defrayed out of the funds allotted to this work.

Done at Paris, the 21st Frimaire, 2d year of the French republic one and indivisible.

Signed, in original, Robespierre, Carnot, C. A. Prieur, Barrère, Billaud Varennes, and R. Lindet.

Extract signed C. A. Prieur, Carnot, R. Lindet, and Billaud Varennes.

True copy:

JH. FAUCHET.

[TRANSLATION.]

The Board of Weights and Measures, in execution of a decree of the Committee of Public Safety, has transmitted to Citizen Dombey a measure in copper, and a weight decimally divided, both being conformable to standards which will soon be in use throughout the republic.

According to the decrees of the National Convention, our measure ought to be equal to the ten millionth part of the 4th part of a terrestrial meridian, which is the unit taken in nature, to which all our measures are referred; and our weight ought to be equal to the weight of a cubic measure of distilled water, having for its side the tenth part of the measure, (this water being supposed to be weighed in the open air, and in the temperature of melting ice.)

We already know very nearly the length of the fourth part of a meridian from the measures of several terrestrial arcs made in the last and present century by different astronomers. It results, from these measures, that the 45th degree of latitude contains 57.027 toises of France. Now, in supposing the earth to be an elliptical spheroid of small eccentricity, the 45th degree is very nearly the mean term between all the other degrees,\* it will hence follow that, by multiplying 57.027 toises by 90, we shall have the length of the fourth part of a meridian, which will be found equal to 5,132,430 toises, and, consequently, its ten millionth part, in which the measure will be equal to 3 French feet  $11 \frac{44}{100}$  lignes. It is thought that the error of this determination does not exceed the tenth of a ligne.

The standard of the measure has been regulated by this precise length of 3 French feet  $11 \frac{44}{100}$  lignes to the temperature marked by  $10^{\circ}$  of the thermometer of Reaumur or by  $54\frac{1}{2}^{\circ}$  of that of Fahrenheit, which is the constant temperature observed either in summer or winter in the cellars of the observatory of Paris.

The standard of weight has been determined from experiments on the weight of distilled water made by the Board of Weights and Measures, and referring the volume of the body, which was used in the experiments, to the cubic measure, which has for its side the tenth part of the measure.

Although the determination of these two models be already of more than sufficient exactness for the ordinary necessities of commerce, still, however, it is regarded as provisory only, and the investigation will not be definitively decreed until the measure of the terrestrial arc, which is now making, shall be entirely accomplished. It is hoped that this measure, which comprehends  $9\frac{1}{2}$  degrees of the meridian, and which is the greatest operation of the kind that has been undertaken, will be completed by the end of this year; then the length of the measure being fixed, as well as the weight of the unit of weights, the provisory models will be corrected if they require it, and shall be executed in *platina*, a single model of each kind, which shall be deposited in the place of residence of the National Assembly, and will serve to verify, from time to time, at fixed periods, those which shall be scattered throughout the republic.

It is thought that the National Convention will, in like manner, cause to be executed in *platina* other models, which will be sent to the nations with whom France may be connected in commerce; these models shall be absolutely similar to those which are to be preserved in the place of residence of the National Assembly, and the identity such as that each nation may regard those she possesses as the prototypes of all the others.

The standard of measure and that of weight are divided into decimal parts. This system of division, which is uniform and similar to that of our arithmetical scale, will be established generally in all kinds of measures; in those of length, superficies, and of capacity, as well as in weights and money, and, in short, in astronomical, geographical, and nautical measures.

Already our livre tournois, or numerical livre, is divided into dimes and cents; and the public accounts will immediately be kept conformably to this new division. The small moneys which are coined are equally subject to this system, and are decimal parts of the weight.

As to measures which interest the sciences, the decimal division has been executed in the instruments which are used to measure the terrestrial arc contained between Dunkirk and Barcelona. In these instruments the fourth of the circle is divided into 100 degrees, the degree into 100 minutes, and the minute into 100 seconds. It is also attempted to reduce all the astronomical tables to the new division.

In like manner, astronomical clocks divided into decimals have been made. The whole length of the day, from one midnight to the other, is divided into 10 hours; the hour into 100 minutes, and the minute into 100 seconds, which make each day to consist of one hundred thousand seconds instead of 86,400 as formerly computed; so that the new second will be but about  $\frac{2}{3}$  of the ancient, and the length of the new pendulum for seconds will be equal to 2 pi. 3 po. 7 li. instead of 3 pi. 8 $\frac{1}{2}$  li.

Several pocket watches have been made according to the decimal division, and, in short, the division of the year decreed by the National Convention adheres as nearly as possible to this new system.

NOTE.—The standards of measures of capacity have not been added, because it is sufficient to say that our elementary unit of capacity, or our pint, will be equal to a cubic measure having for its side the tenth part of the measure; hence it will be seen that the unit of weight is the weight of a pint of distilled water.

True copy:

JH. FAUCHET.

MARIETTA, December 15, 1794.

SIR:

By the ordinance of Congress establishing the Government of the Western Territory, the supreme judicial authority is vested in three judges, two of whom were necessary to form a court, with power to decide in all matters, without appeal; and, by a law of Congress, one of those judges is made competent, also without appeal. Many representations, sir, have been made to me on this subject; the people, very generally, think it an unsafe situation which they are in; and, indeed, taking the matter abstractedly, it cannot be thought very eligible that the whole property of a country which may be the subject of legal dispute should be governed by the determination of a single judge, without the possibility of having that determination revised. But circumstances exist at present that render it dangerous for them. The principal settlements have been made on tracts of land purchased by certain companies or associations of persons. The first of these is the Ohio Company, and the next that of the Miami. In both those associations, the management of the directors and agents is thought to have laid the foundation of endless disputes. General Putnam has been the active director in the first association, and Mr. Symmes the principal if not the sole agent in the second; and they are both judges of the supreme court. Every land dispute will be traced to some transaction of one or other of those gentlemen in those capacities, and they are to sit in judgment upon them. It must be acknowledged that this is not a groundless cause of apprehension; for, though they are both of very fair character, and delicacy would prevent their judging in any case where they are themselves parties, interest hangs an insensible bias on the minds of the most upright men; and, in the matters that are most likely to be litigated, in whichever of the associations they happen, there must necessarily be so great a similarity, that deciding in one by a judge who has no direct interest in the cause, may, nevertheless, have as direct and certain an effect in another wherein he is interested as if he had determined in his own cause. I believe, sir, it would therefore be well if the law empowering one judge to hold the court could be repealed, and that some

\* In like manner, if we measure an arc of the meridian, divided into equal parts by the 45th degree, we shall have the fourth of a meridian by multiplying the given length of this arc by 90, and dividing the product by the number of degrees measured.

The terrestrial arc contained between Dunkirk and Barcelona, which the Board of Weights and Measures is instructed to measure in order to ascertain the length of the meridian, is found to be divided into two parts by the 45th degree; in fact, the two parts are not equal, but they differ so little that the ratio of the arcs to which our attention is called in the calculation will not be sensibly influenced by the result.

mode were prescribed for bringing the decisions of the supreme court here before the federal court, either by direct appeal or by writ of error, or both, as cases may require. It appears to me, sir, to be necessary for rendering the people easy and safe. And there are also political ends that would clearly be served by it; for there is perhaps nothing that contributes more to induce an affectionate submission to any power, than the habit of looking up to that power as the depository and dispenser of justice in the last resort. I have thought it my duty to make you acquainted with the fears and wishes of the people upon this subject;

And have the honor to be, with great respect, sir, your most obedient servant,

ARTHUR ST. CLAIR.

The Honorable EDMUND RANDOLPH, *Secretary of State.*

3d CONGRESS.]

No. 61.

[2d SESSION.]

### FEES OF COURTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 12, 1795.

SIR:

PHILADELPHIA, *January 8, 1795.*

In obedience to the resolve passed on the 5th of last June, I have the honor to report to the House of Representatives of the United States "such tables of fees and regulations relative to the same, as, on a comparative view of the fees taxable in the several States, are, in my opinion, proper to be established for the courts of the United States;" and I have thrown the whole into the form of a bill, as the most convenient method of making a report on this subject.

It may, however, be proper to observe, that the comparative view which I have taken of the tables transmitted to me by the clerks of the district courts, did not in general furnish a standard to ascertain the amount of the fees proper to be reported. Whenever it appeared that many of the States prescribed the same, or nearly the same fee, for any specific service, *that* has been adopted; but, in most instances, the tables transmitted differ so widely from each other, that no common measure could be collected from them. Attention has, therefore, been principally paid to the fees heretofore established by Congress; to the nature of the suit; to the stage of the cause in which the service is to be performed, and to the frequency with which it may occur; and in some instances to a mean sum between the highest and lowest of the State fees. After all, sir, as the price of labor, the quantum of business, and the course of practice, are very different in different districts, I am apprehensive that those fees, which in one part of the Union may be a bare compensation to the officer for his trouble, may, in another, be deemed excessive. This inequality might, perhaps, be removed, by adopting a method established in some places, of directing the fees to be paid into the Treasury, and allowing the officer a stated compensation, proportioned to the nature and extent of his duties, and to the price of labor in the district.

May I be allowed, sir, to suggest, that such a mode of compensation appears to be peculiarly proper for the marshal and attorney of the district? The former of these officers is frequently obliged to perform services exceedingly expensive to himself, for which no adequate fee can be established without rendering the costs of a suit burdensome to the parties; and from the representations made to me, it is apparent that, in several of the districts, even very liberal fees would not afford to men properly qualified a sufficient compensation for the trouble, hazard, and expense to which they are exposed. As to the attorney of the district, his duties are not merely those of an attorney. He is the counsel and advocate of the United States in all criminal and civil suits in the circuit or district court, in which the United States are concerned. It has also been in practice for the officers of the customs, and other officers of the United States, in the several districts, when they could not have recourse in time to the head of the department, to call on the attorney of the district for his opinion on points of real difficulty and importance. For services like these, which necessarily require men of talents, a stated compensation, beyond the mere attorney fee, is usual in almost every State in the Union; and is perhaps a more economical method of making compensation than that of paying counsel fees in every cause that occurs.

I have thought it my duty, sir, to hazard these few observations on this subject; but as the resolve of your honorable House does not appear to warrant a report of any compensation for these officers but by *fees*, I have endeavored to mark out a method in which it may (for one of them at least) be secured.

I have only to add, that the 4th of next March is reported as proper for the commencement of a new act, because that of the 1st of March, 1793, will expire, by its own limitation, with the present session of Congress. If a further day should be deemed proper, or if Congress should not continue in session till that day, a clause to continue that act will be necessary.

I have the honor to be, with sentiments of the most perfect respect, sir, your most obedient servant,

WM. BRADFORD.

The Honorable the SPEAKER of the *House of Representatives.*

*A draught of an act to establish fees and compensations for the officers of the courts of the United States and others.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the third day of March next, the fees and compensations of the several officers and persons hereinafter mentioned, for the services to be done and performed by them, respectively, shall be as follows; that is to say:*