

Mr. DORSEY resumed, in reply. If he was asked his private opinion, he would reply that, if, in the cases stated, the repealing clause was inserted in the new act, the previous law would be repealed. Or if the amendments conflicted with each, they would be ineffectual in their operation. And if the repealing clause was not inserted, the pre-existing laws which had been omitted in the codified and re-enacted law would remain in full force.

The amendment does not say that the whole of the laws are to be re-enacted, but only that parts of the law shall be examined and re-enacted, and published at length. He could see no advantage which would be derived from thus re-enacting and publishing these parts of the law, which may have been rescinded by the amendment; and he thought it ought not to be done—that it would lead to endless confusion.

He believed the gentleman from Washington, (Mr. Schley,) did not design to employ any other than competent lawyers in the performance of this task. One of his great objections to a change in the system, was that the instability of laws render them of less efficiency.

On the subject of special pleading, he referred to the change which had been made in that branch of the practice in New York. He had heard it said that the new system worked well there. But it was the very last system (for reasons which he a few days ago had advanced to some,) that he would adopt. From all he had seen or known of its operation, he was on every ground opposed to it. Certainly it would not do in the State of Maryland, to increase the costs of litigation to more than ten times their present amount.

Mr. SCHLEY explained that he had no desire to abolish special pleading. So far as his own opinion went, he would much prefer to see it made still more special.

Mr. DORSEY entirely agreed with the gentleman from Washington there. It requires to be made more special. He referred to the simplicity of the present practice in cases where *non assumpsit, non cul, &c.*, were the proper pleas; and argued that it was scarcely necessary to have included special pleading in the amendment of the gentleman from Washington.

It was not necessary to appoint commissioners at a great expense to the State, to change a course of practice which the legislature had it in their power, at any time, to change without putting the State to any expense.

He then explained the nature and object of special pleading. The length, the expenses and all the characteristics of this system of practice in Maryland, differed widely from what they were in the States which were enthusiastic on the subject of progress. Justice was here administered as cheaply as it was in any State where justice is administered in the same way. He put some cases for the purpose of showing how the New York system would work in Maryland. New York had abolished special pleading, and would not permit a defendant to put in the simple plea of "not guilty," or *non assump-*

sit; but in lieu of this, the plaintiff and defendant are required to put in a brief statement of facts, and that brief statement has led to more litigation than any other mode which has been devised. If the plaintiff or defendant fail to insert every thing required in his statement or answer, his loss is ten times greater in New York than in Maryland.

He read one of these statements, of which a gentleman had furnished him with a copy; and the reading furnished much amusement to the House. He then read the bill of costs appended to the statement from which it appeared that the costs to the defendant for an unsuccessful resistance to a suit—nay, where there was no resistance, no trial, but judgment by default, no jury being required—for \$296, amounted to \$96 75; while in Maryland they would only have been \$6 or \$7.

He had also understood that in one case in New York, the answer put in by the defendant covered six thousand pages. And this is under the reformed system by which special pleading has been abolished, and legal proceedings have been simplified.

Mr. SCHLEY repeated that he had not attempted to abolish special pleading.

Mr. DORSEY said, it was a mistake of his. It was the gentleman from Queen Anne's.

Mr. SCHLEY said, the proposition of the gentleman from Queen Anne's was not before the House. He desired to state that his amendment looked only to amending and modifying the present system of special pleading, by which he meant to make it more special, merely stripping it of its antiquated forms and superfluous verbiage.

Mr. DORSEY replied, if such were his object his amendment was not limited to its accomplishment. The amendment opened the door to the abolition of all special pleading.

Mr. THOMAS said:

There was certainly nothing in the present amendment which contemplated the abolition of the system of special pleading. It looked only to the appointment of commissioners to revise and modify the present practice and pleadings. No man would deny that some change was necessary in the old laws which had become liable to great abuses. The first proposition was to codify the laws and submit the work to the legislature; and the second was to revise the system of special pleading and practice, and report the result to the legislature.

He, for one, had never joined in the cry against special pleading. On the contrary, he thought the establishment of the present system one of the greatest efforts of human wisdom. It was probable that so the commissioners would report to the legislature. But he might also be of opinion, that the system had not kept pace with the changes of circumstances, and the progress of public sentiment; and can it be said that we are on dangerous ground, when we desire only to make such changes as will adapt it to the present advanced state of human intellect? He was not, however, going into that branch of the subject. But it could not be denied that puerili-