secured to the chancellor during the continuance of his commission. The *faith* of the State was, as he was thus led to believe, publicly and

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have, in this respect, been always graduated; estimating the labour of a law judge in each of the six judicial districts, into which the State was divided, as being for some time more than equal, and as being for some years past not far short of being equal to double the amount of that of a judge of the court of last resort. Delay, vacillation, or obscurity in the proceedings and adjudications of a court of ultimate resort, to which a suitor may, without restraint, appeal, cannot fail very considerably to retard the administration of justice; to render it extremely expensive, and oppressive to the poor; and very injuriously to disturb its course in every inferior branch of the judicial department. (*Debates N. York Conv.* 1821, *p.* 607.) It was with a view to prevent these evils, that the various statutes of amendment and jeofail have been made; that the forms and ceremonies of judicial proceedings have been adjusted, so as not on the one hand altogether to disappoint the eagerness of a plaintiff for an expeditious termination of his suit, while on the other, an honest defendant might be secured from oppression by allowing him a reasonable time to prepare his defence, and to have the merits of his case deliberately discussed in the court of first resort; and that so many limitations and checks have been imposed upon the range of the right of appeal.

Considering these as the true causes of greater salaries having been always given to the judges of the courts of original jurisdiction; they shew, that the right of appeal should be kept within its proper range; that the court of last resort should be permitted to exercise no original jurisdiction whatever; and that any material departure from these principles, which have every where, and at all times, been regarded as fundamental, would sink the courts of original jurisdiction into the condition of mere preparatory tribunals, or ministerial agents of the court of appeals, thereby depriving the litigants of the important benefit of a *first*, full, and open discussion, with a succeeding careful and critical revision of their controversy as contemplated by the constitution, and finally turn awry and subvert the whole judicial department of our government.

But although this comparative view of the requisite amount of the skill and labour of the judges, of the original and appellate tribunals, may sufficiently account for the difference, which has always been made, in the salaries of the judges of those courts; yet, considering the court of chancery as one of original jurisdiction, it will be necessary to advert to other circumstances to account for the difference between the salaries of the chancellor and of the judges of the common law courts of *first resort*; and even between the salaries of the judges of whole districts of such courts, and that of the chancellor.

Our code of laws is, in many respects, very peculiar in its principles; but, its great, and principal peculiarity arises from the judicial machinery by which it is administered.

That part, called the common law, as contradistinguished from equity, is administered by courts composed of a judge and a jury. It is presumed, that the judge knows the law; but, that the jury do not; and, therefore, it is the province of the judge to expound and declare the law to the jury, who are called upon to say, by their unanimous verdict, whether, by applying the law, as thus declared, the plaintiff should obtain what he asks or not. But a jury, being composed of twelve men, not lawyers, gathered from the people for the occasion, the whole matter in controversy must be reduced to a single point, or so presented as to place it in their power to put their unanimous verdict into the form of a *general* affirmative or negative *response*. A learned and experienced judge might find no great difficulty in so framing his judgment as to grant relief, in every way, suited to the most complicated case, that could be presented to him; but twelve men, unlearned in the law, would, in the same case, find it exceedingly perplexing, or altogether impracticable, *unanimously*, to