

Laws of States
rules of deci-
sion.

Parties may
manage their
own cause.

Attorney of
the U. S. for
each district.

His duties.

Compensation.

of the United States in the district to take the same, it may be taken by any judge of the supreme or superior court of law of such state.

SEC. 34. *And be it further enacted*, That the laws of the several states, except where the constitution, treaties or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply. (a)

SEC. 35. *And be it further enacted*, That in all the courts of the United States, the parties may plead and manage their own causes personally or by the assistance of such counsel or attorneys at law as by the rules of the said courts respectively shall be permitted to manage and conduct causes therein. And there shall be appointed in each district a meet person learned in the law to act as attorney for the United States in such district, who shall be sworn or affirmed to the faithful execution of his office, whose duty it shall be to prosecute in such district all delinquents for crimes and offences, cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned, except before the supreme court in the district in which that court shall be holden. And he shall receive as a compensation for his

(a) The 34th section of the judiciary act of 1799, does not apply to the process and practice of the courts. It merely furnishes a decision, and is not intended to regulate the remedy. *Wyman v. Southard*, 10 Wheat. 1; 6 Cond. Rep. 1.

In construing the statutes of a State, infinite mischief would ensue, should the federal courts observe a different rule from that which has long been established in the State. *M'Keen v. Delancy's lessee*, 5 Cranch, 22; 2 Cond. Rep. 179.

In cases depending on the statutes of a State, and more especially in those respecting the titles to land, the federal courts adopt the construction of the State, where that construction is settled or can be ascertained. *Polk's Lessee v. Wendall*, 9 Cranch, 87; 3 Cond. Rep. 286.

The Supreme Court uniformly acts under a desire to conform its decisions to the State courts on their local law. *Mutual Assurance Society v. Watts*, 1 Wheat. 279; 3 Cond. Rep. 570.

The Supreme Court holds in the highest respect, decisions of State Courts upon local laws, forming rules of property. *Shipp et al. v. Miller's heirs*, 2 Wheat. 316; 4 Cond. Rep. 132.

When the construction of the statute of the State relates to real property, and has been settled by any judicial decision of the State where the land lies, the Supreme Court, upon the principles uniformly adopted by it, would recognize the decision as part of the local law. *Gardner v. Collins*, 2 Peters, 58.

In construing local statutes respecting real property, the courts of the Union are governed by the decisions of State tribunals. *Thatcher et al. v. Powell*, 6 Wheat. 119; 5 Cond. Rep. 28.

The courts of the United States, in cases depending on the laws of a particular State, will in general adopt the construction given by the courts of the State, to those laws. *Elmendorf v. Taylor*, 10 Wheat. 152; 6 Cond. Rep. 47.

Under the 34th section of the judiciary act of 1789, the acts of limitation of the several States where no special provision has been made by Congress, form rules of the decision in the courts of the United States; and the same effect is given to them as is given in the State courts. *M'Cluny v. Silliman*, 3 Peters, 277.

The statute laws of the States must furnish the rules of decision to the federal courts, as far as they comport with the laws of the United States, in all cases arising within the respective States; and a fixed and received construction of these respective statute laws in their own courts, makes a part of such statute law. *Shelby et al. v. Guy*, 11 Wheat. 361; 6 Cond. Rep. 345.

The Supreme Court adopts the local law of real property as ascertained by the decisions of State courts; whether those decisions are grounded on the construction of the statutes of the State, or from a part of the unwritten law of the State, which has become a fixed rule of property. *Jackson v. Chew*, 12 Wheat. 153; 6 Cond. Rep. 489.

Soon after the decision of a case in the Circuit Court for the district of Virginia, a case was decided in the court of appeals of the State, on which the question on the execution laws of Virginia was elaborately argued, and deliberately decided. The Supreme Court, according to its uniform course, adopts the construction of the act, which is made by the highest court of the State. *The United States v. Morrison*, 4 Peters, 124.

The Supreme Court has uniformly adopted the decisions of the State tribunals, respectively, in all cases where the decision of a State court has become a rule of property. *Green v. Neal*, 6 Peters, 291.

In all cases arising under the constitution and laws of the United States, the Supreme Court may exercise a revising power, and its decisions are final and obligatory on all other tribunals, State as well as federal. A State tribunal has a right to examine any such questions, and to determine thereon, but its decisions must conform to those of the Supreme Court, or the corrective power of that court may be exercised. But the case is very different when the question arises under a local law. The decision of this question by the highest tribunal of a State, should be considered as final by the Supreme Court; not because the State tribunal has power, in such a case, to bind the Supreme Court, but because, in the language of the court in *Shelby v. Guy*, 11 Wheat. 361, a fixed and received construction by a State, in its own courts, makes a part of the statute law. *Ibid.* See also *Smith v. Clapp*, 15 Peters, 125. *Watkins v. Holman et al.*, 16 Peters, 25. *Long v. Palmer*, 16 Peters, 65. *Golden v. Price*, 3 Wash. C. C. R. 313. *Campbell v. Claudius*, Peters' C. C. R. 484. *Henderson and Wife v. Griffin*, 5 Peters, 151. *Coates' executrix v. Musc's adm'or.*, 1 Brocken's C. C. R. 539. *Parsons v. Bedford et al.*, 3 Peters, 433.