

* our special attention. It is declared, "that salaries liberal but not profuse ought to be secured to the Chancellor and the Judges." The authors of this Article were perfectly well acquainted with the condition of this country under the colonial monarchy. The Declaration of Independence had proclaimed, that "he (the British king,) has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out

The Judge should not be liable to be removed from his office according to the caprice of that power. The regular payment of his salary should not depend upon the good will, or even upon the good economy of that power.— (*Smith's Wea. Nat. b. 5, c. 1, pt. 2.*)

It seems to be a generally received opinion, that the Chancellor and Judges have, each of them, an estate, or a vested interest in their respective salaries, (*Whittington v. Polk*, 1 H. & J. 236; *Coop. Just.* 599.) This estate in a judicial salary is, however, one of a very peculiar character; it is not subject, before it becomes due, to be disposed of at the pleasure of the holder. It is like a limited and qualified estate in an annuity. As where an annuity charged upon land was granted by Oliver to Emsonne, in consideration of his, Emsonne's, giving his counsel to Oliver; it was held, that the trust and confidence which Oliver reposed in Emsonne for his advice, being incidental to the cause for which the annuity was granted it could not be assigned to another or forfeited. (*Oliver v. Emsonne, Dyer*, 1 b.; 1 H. Blac. 627, note; *Maund's Case*, 7 Co. 112; *Co. Litt.* 144 b, note 1.) So that looking to the peculiar cause of the grant it appears, that even in the case of an annuity granted by one person to another, the grantee may have vested in him nothing more than an inalienable and qualified estate.

But in deciding upon the nature of a public grant, the great object of public policy in making the grant must be attended to. The general intent pervades the whole; and each yearly payment of the salary must be subject to it. The public has a deep interest in the due and appropriate application of judicial salaries as well as in their regular continuance and payment; because they are given for services rendered to the State of the most precious nature, by a class of the most important "trustees of the public." Such salaries are granted to support the dignity of the State, and the administration of justice; and therefore no judicial salary can be sold, assigned, mortgaged, or transferred, either by the act of the party, or by operation of laws as in cases of insolvency; because the public policy by which any such voluntary or involuntary alienation is prohibited is incidental to the cause for which it is granted; and cannot be separated from it. One of the special objects in giving such a salary is to enable the Judge continually, and at all times to discharge his duties to the public without interruption from any pecuniary embarrassment; for, although mere insolvency cannot be considered, in all cases even as a deviation from duty, much less a crime; yet if a Judge, because of his insolvency, be restrained from performing the labors assigned to him, such a failure of duty may be deemed a misbehavior in office within the meaning of the Constitution. (*Griesly's Case*, 8 Co. 82; *Crouch v. Martin*, 2 Vern. 595; *Mithwold v. Waldbank*, 2 Ves. 238; *Flarty v. Odlum*, 3 T. R. 681; *Ledderdale v. Montrose*, 4 T. R. 248; *Barwick v. Reade*, 1 H. Blac. 627; *Arbuckle v. Cowtan*, 3 Bos. & Pul. 322; *Stone v. Ledderdale*, 2 Antr. 533; *Monys v. Leake*, 8 T. R. 411; *Ex parte Parnell*, 1 Swan. 436; *Pow. Mort.* 80, note C; 1814, ch. 113, s. 4; Act Cong. 18th March, 1818, ch. 18, s. 4; *Lowe v. Moore*, 1 McCord, 243.)