

should be just in amount, and declaring, that it shall be secured, the term and duration of that security is distinctly specified, in a manner which it is utterly impossible to pervert, or to misunderstand. The English statute of the year 1700, as we have seen, had declared, that the Judges' salaries should be "ascertained and established." Had this Article said nothing more than, that the salary should be "secured," it might have been considered as ambiguous; and there might have been found some grounds on which plausibly to contend, that the salary was sufficiently "secured," if it were fixed by the Legislature from one term of years to another, or from year to year. But all such obscurity has been completely removed by this distinct specification of the duration of the security intended. The security and certainty of the salary is to be co-extensive with that of the commission; or, in the words of the Article, which cannot be made plainer, the salary is to be secured to the Chancellor "during the continuance of his commission." Let us proceed again with our commentary. (*l*)

(*l*) In England there are two modes of constituting a Chancellor, either by letters patent, which is rarely used, or by delivery of the great seal, which delivery is to be entered upon record. But it must be recollected, that if the great seal be delivered by the King, although the person to whom it is so delivered is thereby constituted Chancellor, yet he cannot alone seal writs therewith, or at all; except in the presence of some of the masters in Chancery, until he has regularly taken the oaths of office. And it is said, that it is not inconsistent for the Lord Chancellor also to hold at the same time the office of Chief Justice of the King's Bench.—(1 *Har. Pra. Chan.* 68; 1 *Newl. Chan.* 1; *For. Inst.* 87; 3 *Blac. Com. by Chitty*, 47.)

"In all the King's Governments so called, (of the colonies, said Governor Pownall in 1768,) the Governor, or the Governor and Council are the Chancellor, or Judges of the Court of Chancery. But so long as I understand that the Governor is, by his general instruction, upon sound principles of policy and justice, restrained from exercising the office of Judge or Justice in his own person, I own I always considered the Governor, taking up the office of Chancellor, as a case laboring with inexplicable difficulties. How unfit are Governors in general for this high office of law; and how improper is it that Governors should be judges, where perhaps the consequence of the judgment may involve Government, and the administration thereof, in the contentions of parties. Indeed the fact is, that the general diffidence of the wisdom of this Court thus constituted, the apprehension that reasons of Government may mix in with the grounds of the judgment, has had an effect that the coming to this Court is avoided as much as possible, so that it is almost in disuse, even where the establishment of it is allowed. But in the charter Governments, (New England and Pennsylvania,) they have no Chancery at all." "This introduced a practice, (in New England,) of petitioning the legislative Courts for relief, and prompted those Courts to interpose their authority. These petitions becoming numerous, in order to give the greater despatch to such business, the legislative Courts transacted such business by orders or resolves, without the solemnity of passing Acts for such purposes; and have further extended this power by resolves and orders, beyond what a Court of Chancery ever attempted to decree, even to the sus-