

But, upon the present occasion, it is that portion of the provisions of this article, relating to judicial *salaries*, which alone claims

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not to be assessed for the support of government; but every other person in the State ought to contribute his *proportion* of public taxes, for the support of government, according to his actual worth, in real or personal property within the State; yet fines, duties, or taxes may properly and justly be imposed or laid, *with a political view*, for the good government and benefit of the community."—(*Sloane v. Pawlett*, 8 Mod. 18; *Vattel*, b. 2, s. 240, 252.)

Under the clause, which declares, that no Chancellor or Judge ought to receive fees or perquisites of any kind, it is evident, that at least as regards them, justice must be administered *gratis*, however much or improperly it may be otherwise encumbered with costs and expenses. But, as has been said, it was not so much to diminish the expense, as to prevent the corruption of justice, that the judges were prohibited from receiving any present, or fee from the parties. For, upon the impartial administration of justice depends the liberty of every individual, the sense which he has of his own security. In order to make every individual feel himself perfectly secure in the possession of every right which belongs to him, it is not only necessary, that the judicial should be separated from the executive power; but that it should be rendered as much as possible independent of that power. 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 law 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