

vided, that two-thirds of all the members of each house concur in such address. That salaries, liberal, but not profuse, ought to be secured to the Chancellor and the Judges, during the continuance of their commissions, in such manner, and at such time as the Legislature shall hereafter direct, upon consideration of the circumstances of this State. No Chancellor or Judge ought to hold any other office, civil or military, or receive fees or perquisites of any kind."

The objects contemplated by this Article are the personal qualifications of an individual. It looks altogether to a man as a moral agent; and proposes to sustain and fortify these excellencies and capacities which fit him to be entrusted with judicial power; and to provide against those passions and frailties which may occasion an abuse of such power. This general character of this Article will be more distinctly understood by contrasting it with some other provisions of the Constitution, which speak of collective bodies, of divisions, and of departments of power.

Thus, it is declared, "that the legislative, executive and judicial powers of government, ought to be forever separate and distinct from each other." In this there is no reference to personal and moral qualities; it speaks merely of the artificial political divisions of power; and directs each one of them to confine itself within its own proper sphere. Again, it is said "that no aid, charge, tax, burthen, fee or fees ought to be set, rated, or levied under any pre-

619 tence, without the consent of the Legislature; (*h*) that * no law to attaint particular persons of treason or felony ought to be made in any case, or at any time hereafter; that excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted by the Courts of law." These restrictions relate to the executive, legislative, and judicial powers respectively; they refer to masses of power, or modes of authority; and declare, that they shall be restricted to a certain extent, and confined within certain boundaries.

This thirtieth Article does not speak of the quantity, quality, or extent of judicial, or any other sort of power; laying aside every

(*h*) This peculiar expression in the twelfth Article of the Declaration of Rights, refers to that controversy which originated in the year 1770, between the Proprietary Governor Eden, and the House of Delegates, as to the power claimed by the Governor and Council to settle the rate of officers' fees by proclamation without the consent of the people through their Delegates. This claim of the last Provincial Governor was strikingly analogous to that set up by the mother country to levy taxes by Act of Parliament without the consent of the representatives of the colonists. It is to this claim of settling the fees by proclamation, that the first legislative enactment of the republic upon the subject of fees alludes by declaring, that officers' fees can be rated, regulated and established by Act of Assembly only.—(October, 1777, ch. 10: *Biog. Sign. D. Inde. Life of Carroll.*)