

thought upon those subjects, it gives us to understand, that be the extent and nature of the judicial power what it may, it is of vital importance to have suitable agents to execute it. This Article contemplates the moral and intellectual qualities of the man who is the public agent. "The independency and uprightness of Judges;" that is, the firmness, the honesty, the skill, and the resolution with which the men appointed to fill judicial stations, will resist all threats, temptations, and undue influence. It is these personal and moral qualities which "are essential to the impartial administration of justice, and a great security to the rights and liberties of the people." To sustain these qualities, and to prevent a deviation from these moral principles, is the sole object of this Article; and is that which gives to it its peculiar features and character.

After having thus distinctly indicated the human excellencies which are required for judicial stations, this Article then proceeds to prescribe the mode in which those excellencies shall be sustained. It directs the manner in which deviations from them may be corrected and punished; and then concludes by removing from about the judicial office one class of the temptations by which it had been previously beset. That is, the Judge is to be supported in the firm, independent, and impartial discharge of his official duty, by being commissioned during good behavior; and also by having his salary secured to him during the continuance of that commission; he is to be punished for misbehavior by removal; and he is not, as formerly, to be exposed to the temptation to go astray by being allowed to receive fees or perquisites of any kind. (*i*)

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(*i*) It is said, that during the rude ages of all nations those intrusted with the administration of justice were compensated for their trouble by fees and perquisites paid by the suitors, (*Smith's Wea. Nat. b. 5, c. 1, pt. 2.*) This mode of remunerating the Judges for their services still continues to a great extent in England, although they have for a long time past had certain salaries allowed them by Act of Parliament.

But all exactions or fees paid by the suitor, in whatever form they may be imposed, are, in truth, taxes; and taxes of the most unequal and unjust kind. Dr. Franklin in his examination before the House of Commons in 1766, in answer to the question, Is the American stamp Act an equal tax on the country? said, he thought not, because the greatest part of the money must arise from lawsuits for the recovery of debts, and be paid by the lower sort of people, who were too poor easily to pay their debts. It is therefore a heavy tax on the poor and a tax upon them for being poor. And further, that such a tax would not be a means of lessening the number of law suits; because as the costs all fall upon the debtor, and are to be paid by him, they would be no discouragement to the creditor to bring his action, (*4 Frank. Wor. 128; Smith's Wea. Nat. b. 5, c. 2, app. to art. 1 & 2.*)

The Congress of 1774 in their address to the King, among other things, complain, that the Judges of Admiralty and Vice-Admiralty were empowered to receive their salaries and fees from the effects condemned by themselves, (*Jour. Cong. 26th October, 1774.*) The ground of this complaint