

No one can look over, and meditate upon the condition and circumstances of Maryland during the first nine years of the Republic, and say that it would have been entirely safe, and proper and just, either to the State, or the officer, to have, at once unchangeably secured to the Chancellor and the Judges their salaries, during the continuance of their commissions. Nor can any one, after attentively perusing the before recited messages and acts of the General Assembly, assert, that the Legislature, previous to the year 1785, ever intended to claim, in any way, any discretionary power whatever, to unsettle, to diminish, or to withhold, the whole or any part of the salary of the Chancellor or of a Judge.

On the contrary, these two positions are most clearly and incontrovertibly established: first, that the salaries of the Chancellor and Judges were not secured during that period, because, and only because, of the then circumstances of the State. And secondly, that the Legislature always expressly admitted the full force of the constitutional obligation; but alleged the circumstances of the State as the only reason for their not securing those salaries as they were required. Therefore, any legislators who would now assume all, or any of that discretionary power, then exercised over the salaries of the Chancellor and the Judges, most produce reasons as cogent, an excuse as self-evident, and show the present operation of causes as powerfully overruling and imperative as those which then existed.

The Act of 1785, ch. 27, carefully recites the provision of the Declaration of Rights respecting judicial salaries; distinctly recognizes the constitutional obligation the Legislature were under to secure to the Chancellor and the Judges salaries, during the continuance of their commissions; and then gives to the Chancellor a \*salary of six hundred and fifty pounds per annum during the continuance of his commission. The appropriation, or **646** provision made for the payment of this salary is to be found in the third section of this Act, and is expressed in these words; "the said salaries shall be paid quarterly, out of the supplies raised every year, until the General Assembly shall make other provision for payment; and the said salaries, for the ensuing year shall be paid out of the arrearages of taxes due for the year seventeen hundred and eighty-five." By the Act of 1792, ch. 76, it was

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Judges without any properly settled salaries during this period of public distress. In a letter of the 23d of February, 1782, to G. Clinton, Governor of New York, from John Jay, he says: "Mr. Benson writes me that your Judges are industriously serving their country, but that their country had not, as yet, made an adequate provision for them. This is bad policy, and poverty cannot excuse it. The Bench is at present well filled; but it should be remembered, that although we are told that justice should be blind, yet there are no proverbs which declare that she ought also to be hungry." (2 *Jay's Life*, 93.)