

* It may, therefore, be laid down, from the whole course of the government; and from these solemn and well considered Acts of the Legislature, as a firmly established constitutional principle, that the Chancellor's salary is a debt due to him from the State; guaranteed, not by any Act of Assembly, but by the Constitution; the appropriation for the payment of which is to be made by the Legislature; that is, the amount being fixed, it is to be paid, to use the words of the Declaration of Rights, "in such manner, and at such times as the Legislature shall hereafter direct." Bearing in mind these three important, and settled distinctions, between the amount, the duration, and the appropriation for a judicial salary, let us now proceed cautiously to consider the Act under which the present Chancellor claims his salary. 659

The council proceedings will show, that on the sixteenth day of August, eighteen hundred and twenty-four, the present Chancellor was unanimously appointed by the Governor and Council; and, that, on the eighteenth day of the same month, he took the oaths

them so long as their commissions should remain in force. And then it was further enacted, "That such salaries of Judges as are now or shall become payable out of the annual rent or sum granted for the support of his Majesty's household, and of the honor and dignity of the Crown, shall, from to time, after the demise of his Majesty, or any of his heirs and successors, be charged upon and paid and payable out of, such of the duties or revenues granted for the uses of the civil Government of his Majesty, his heirs and successors, as shall be subsisting after every such demise respectively, until some further or other provision be made by Parliament for the expenses of civil Government, and from and immediately after the making of such provision, and during the continuance thereof, such salaries shall be paid and payable out of all or any of the moneys which shall be applicable to such uses and expenses as aforesaid."

Lord Coke, in speaking of the Court of Exchequer, informs us, that "the Chief Baron is created by letters patent, and the office is granted to him *quamdiu se bene gesserit*, wherein he hath a more fixed estate (it being an estate for life,) than the Justices of either bench, who have their offices but at will: and *quamdiu se bene gesserit* must be intended in matters concerning his office, and is no more than the law would have implied, if the office had been granted for life. And in like manner are the rest of the barons of the Exchequer constituted, and the patents of the Attorney-General and solicitor, are also *quamdiu se bene gesserit*."—(4 *Inst.* 117.)

But notwithstanding what is here said by Coke, it would seem that any of these officers might have been removed at the pleasure of the King, without the institution of any judicial proceeding, or the interposition of Parliament; for all the lawyers and historians of England speak of the constitutional independency of the Judges as an improvement which was not finally established until the year 1700, long after the death of Coke, (*ante* 615, *note* (h); 3 *Hal. Const. Hist. Eng.* 262; *Smollet's Hist. Eng.* ch. 6, 14 & 16.) It is most likely, that the provision of our original Constitution, (Art. 40.) which declares "that the Chancellor, all Judges, the Attorney-General, &c. shall hold their commissions during good behavior," &c. was suggested by what is here said by Lord Coke; which provision as to the Attorney-General has however, been since altered, 1816, ch. 247, confirmed by 1817, ch. 69.