astray by being allowed to receive fees or perquisites of any kind.(*j*)

(*j*) 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 lawsuits; 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.* 26*th October*, 1774.) The ground of this complaint was not merely, that those judges were permitted to take fees from suitors, for that was then allowed to almost all the judges of the colonies; but that those fees, being taken from the property condemned by themselves, gave an undue bias to their minds, and the authority to take them operated as a continual temptation to condemn where there was no sufficient cause.

Under the Provincial Government of Maryland a great variety of fees were allowed and directed to be paid to the chancellor, which must have formed a very considerable portion of the annual emoluments of his office.—(1715, *ch.* 25, *s.* 2; 1763, *ch.* 18, *s.* 88.)

After the Declaration of Independence, the General Assembly recite, that "whereas it is inconsistent with the Declaration of Rights, that the chancellor or judge of the admiralty should take fees or perquisites of any kind; and it is apprehended, that private individuals who have business done for them in the chancery court or court of admiralty, or who may have the great seal affixed to any patent commission, or other paper, for their benefit, should pay for the same;" and then enact, that certain fees in chancery, and for the great seal, should be paid, and that the register should every half year pay the same to the treasurer for the use of the public.—(*October* 1777, *ch.* 13; *November* 1779, *ch.* 25, *s.* 22.)

It is remarkable, that the fees collected under this law should always have been accounted for as so much money arising from *seals and taxes;* that fees thus levied should have been at all times regarded by the English authorities as *taxes* which formed a part of the public revenue, (*Smith's Wea. Nat. b.* 5, *c.* 1, *pt.* 2; *Warrington v. Mosely*, 4 *Mod.* 320;) that the people of Maryland in their then late controversy with Governor Eden, respecting his claim of settling these same kind of fees by proclamation, should have insisted, that they could be considered in no other light than as *taxes;* and yet, that in the passage of this law, directing them to be collected and paid into the treasury for no avowed or conceivable *political purpose*, it should not have occurred to them, that this partial mode of taxation was in direct violation of that article of the Declaration of Rights which declares, "that the levying taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought