

clearly and distinctly, claim, recognise, and reserve to the General Assembly a complete discretionary power over the *appropriation*, the mode of making provision for payment.

By the act of 1792, ch. 76, it is declared, that the chancellor's salary shall be paid to him "during the continuance of his commission." And, by the third section of the same act, it is declared, that to "secure the punctual payment of said salary," certain taxes on proceedings in chancery and in the land office should be levied and collected; and, if they should not bring into the treasury a sufficiency, "the deficiency should be made up out of any moneys in the treasury arising, or to arise from the sale of vacant lands." And then, by the fifth section, it is declared, that "the said taxes shall be collected and paid for *five years* after the end of the present session of Assembly, and *no longer*." This, then, is a clear instance of the express constitutional continuance of the salary, and the actual *limitation* of the fund, out of which it was to be paid; of a salary given during the continuance of the commission, and of a *temporary appropriation* for its payment.(v)

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(v) This distinction between the duration of a judge's salary and an appropriation for its payment, is also strikingly exemplified by the last act of parliament passed in the year 1760, (1 *Geo.* 3, c. 23,) in relation to the commissions and salaries of the English judges; by which, after reciting, that the king had declared, that he looked upon the independency and uprightness of judges as essential to the impartial administration of justice, as one of the best securities to the rights and liberties of his subjects, and as most conducive to the honour of his crown; it was enacted, that the commissions of judges should continue in full force during their good behaviour notwithstanding the demise of the king; provided that it should be lawful for the king to remove any judge upon the address of both houses of parliament: And that such salaries as were settled upon judges by act of parliament, and also such as should be granted to them by the king should be paid to 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 honour and dignity of the crown, shall, from time 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