

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.

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 of office, had the great seal of the State delivered to his keeping, and entered upon the duties of his office. What was then the salary assigned to the chancellor, he contends does now, constitutionally, belong to him; on the ground, that whatever was then declared, by law, to be the *amount* of the chancellor's salary, was, by force and operation of the Declaration of Rights, *secured* to the chancellor, who then came into office, *during the continuance of his commission*.

The present chancellor claims his salary under and by virtue of the act of 1798, ch. 86, and the *thirtieth* article of the Declaration of Rights. This act of Assembly is entitled "A supplement to the act entitled an act for establishing and securing the salary of

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 behaviour," &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.