

thing for which the chancellor and Senate contend, is admitted. But it seems, there is a nice distinction between the *repealing of a law*, and the suffering of a law to *expire*. What is it? Does it amount to any thing more than a distinction between an act of *commission*, and an act of *omission*? The law, having declared the *amount* of the chancellor's salary, the legislature cannot constitutionally diminish it by *repealing* that law; but they may do so by suffering it to *expire*:—that is, the legislature *commit* a violation of the constitution, if they do pass an act to *diminish* the salary; but if they *diminish* it by *omitting* to pass an act, they do not violate the constitution. This opinion, then, can have no other foundation, than the distinction between an act of *commission* and *omission*. Let us examine it.

The great object of the constitution is judicial independency; and, therefore, it is commanded by the Declaration of Rights, that the chancellor's salary shall be secured to him during the continuance of his commission. The *mode* of obeying this command is a matter of no importance; and therefore, the *mode* is submitted entirely to the discretion of the legislature. But any act, either of *commission* or of *omission*, which disobeys this command, and which prevents the attainment of the object contemplated, is alike a violation of the constitution. Suppose the legislature should, by an act, without making any provision whatever for payment, fix the *amount* of the salary of the chancellor; and then, by another act, provide a fund for its payment; and, afterwards, were to *repeal* the latter act, without making any other provision for payment. It is presumed, that no one could hesitate in pronouncing such conduct a gross violation of the constitution. Then suppose, the act, making provision for payment, were limited to two years; and the assembly were to *neglect* to continue it, or to make any other provision for payment; such legislative *omission*, would have precisely the same effect as the act of *commission*; and, therefore, the violation of the constitution would be no less palpable. The salary of the chancellor is to be secured to him; that is, it shall not, at any time, on *purpose*, or by *neglect*, be withheld or diminished, during the continuance of his commission. This, the constitution has declared, shall not be *directly* and *purposely* done by the General Assembly; and surely, what is prohibited, and, therefore, cannot be *directly* done, can never be accomplished by any *contrivance* or indirect movement; and it would be hopeless to attempt to maintain, that what cannot be