

It will be seen that from the provisions of the Constitution of 1851 and 1864, the judicial salaries as fixed could neither be increased nor diminished by Legislative action. When the present Constitution was adopted, the inhibition upon the increase of salaries was omitted, and that upon a diminution was alone retained. The natural and reasonable construction of the provisions of the present Constitution looking to the prior constitutional requirements is, that the General Assembly may increase these salaries to such a sum as it may deem proper, as the only restraint imposed upon it is that it shall not make them less than the sum named in the Constitution.

A reference to the debates upon this subject in the Convention of 1851, will make it very clear that when the Legislature is only forbidden to diminish the salary, it has the power to increase it. When the Convention which formed the Constitution of 1851 met, the entire subject had been within the control of the Legislature, which could fix, and did fix at different times, the salaries of the Judges. As reported from the Judiciary Committee, the proposed Article on salaries, closed as follows:

‘And shall not be diminished during their continuance in office.’ (Debates, 1st vol., p. 239.)

This was amended so as to read:

“And shall not be increased or diminished during their continuance in office.” (Debates, 2nd vol., p. 557.)

A motion was made to reconsider the vote of the convention by which the words “increased or” had been inserted. This motion was made by Mr. William A. Spencer, of Queen Anne’s county, and on the specific ground that he was in favor of the Legislature having the power to increase the salary, and was opposed to the restriction which would be placed upon it, by these words. The argument was, that by striking out the prohibition on the Legislature to increase the salaries, it left the power to make the increase when it should think proper, and would place it precisely as it was under the old Constitution.

He said: “It seems to me that if you fix it so that it shall not be diminished while in office, and give the