

tion *pro tanto* of the general language of section 35, of Article 3, the reply is that this last section is explicit in its terms, and does not provide that salaries shall neither be increased nor diminished, except as *otherwise provided* in the Constitution, but prohibits absolutely their increase or diminution; so that if this section is applicable to Judges at all, it makes the prohibition against a diminution of salary absolutely useless, and so far as the Judges of the Supreme Bench are concerned, it is in direct conflict with that clause of the Constitution providing for an increase of their salaries.

It would, therefore, seem to follow that the construction of this section 35, of Article 3, would not include Judges, in reference to the diminution of whose salaries special provision is made in those parts of the Constitution providing for their compensation. This view is strengthened by the consideration that the Constitutions of 1851 and of 1864 contained the same provision as section 35, of Article 3, of the Constitution of 1867; and yet we find in the Constitution of 1851, that the salaries of the Judges of the Court of Appeals and of the Circuit Courts should neither be *increased* nor *diminished* during their continuance in office. And the same provision is made in the Constitution of 1864, as to the Judges of the Circuit Courts. With this language of the previous Constitutions before the Convention of 1867, it is impossible to suppose that they left out the words "shall not be increased," and retained the words "shall not be diminished" accidentally, or without some reason. Can any other reason be assigned than the obvious one that they meant to do exactly what is done by the language used, to wit: to prohibit a decrease but not to prohibit an increase of the salaries of these particular officers, leaving that matter to the sound discretion of the General Assembly.

As to section 1, of Article 15, a perusal of the whole section will clearly show that its provisions are applicable only to officers whose compensation is derived from fees. But even supposing that its prohibition against a compensation of more than \$3,000 was not intended to be restricted to officers paid by fees, by its very terms it would have no application to the