name the salary and make it a part of the organic
law, if its future continuance is to be at the disposal
of the Legislature? The office accepted by the Judge,
according to the provisions of the Constitution,
becomes a matter of contract between him and the
State; he has the duties of it to perform, the State the
obligation and duty to pay. The Constitution in itself
makes the necessary appropriation, and no legislative
action is required to enforce it. The office becomes,
during the term, the property of the Jndge, to be used
for public purposes, and he cahnot be legislated out
of it or deprived of any part of the salary attachsd to
it. The salary being fixed by organic law, working in
itself the necessary appropriation to meet it, is equally
beyond the power of the Legislature to increase it.
Neither the Legislature or the State is engaged in the
work of bestowing or granting gratuities; if so, dis-
crimination would be exercised, and they would not
fall, like the dews of heaven, equally on the deserv-
ing and undeserving, the just and the unjust. The
Judge takes the office *cumonere*, agrees to dis-
charge its duties for the salary attached to it. Any
increase of salary during the term would be in the
nature of a gratuity, not contemplated or provided for
in the organic law of this State, but expressly ne-
gatived by the positive provision of the Constitution
fixing the salary at so much.

It will be asked, then, why did the framers of the
Constitution provide that the salary named should
not be diminished and omit to say that it shall not be
increased?

Does not the provision that it shall not be di-
minished evidence the fact that the framers of the
Constitution intended that it might be increased?
That they apprehended or understood that in the ab
sence of the prohibitory attachment or clause it might
be diminished, and therefore understood and intended
that in the absence of a similar prohibitory attach-
ment or clause to the increase it might be increased
at Legislative will.

The implied power to increase could only rest in
some such argument as this.