of a judge, not amounting to an impeachable offence, for which he should be liable to be removed. Their constitutions themselves have vested from that of the United States, and rendered their judges liable to be removed upon the address of *two thirds* of each branch of the legislature. Does it not strike every mind, that it was the intention of those constitutions to have judges independent of a *majority* of each branch of the legislature; and I apprehend whether it may be fairly inferred, that it was therefore in those states, where this constitution was framed, that even two thirds of each branch of the legislature would not have the power to remove a judge whole tenure of office was during good behaviour, which power was expressly given to them by the constitution. I cannot conceive that a thing more skilled in an instrument designed to last for centuries and to meet the various evilsons of every, than to fortify one pillar of judicial independence, and to leave another totally exposed to be against the violence of Legislative power.

It has been urged by the gentleman from Virginia, that our admission this Congress has a power to remove a judge of a judge, leads to the conclusion, that they have the power to abolish the office. Consequently, *giving* such a power they may at length reduce them to a nullity, and leave no one to hear and to commodate as a court of impeachment. The office of a judge confirm of judicial powers which is in opposition to executive. Every law which is passed in opposition to constitutional principles, so far modifies the office; say it is compatible for the legislature to prescribe additional duties or to depend on the necessitiy services, which are connected with the office of the judges. Such a power has its bounds. You may modify the office to any extent which does not affect the independence of the judge. The judge is to hold the office during good behaviour; now modify as you please, so that you do not infringe this constitutional provision.

Do you all use to draw a line and say, thus far you can go and no farther. I admit no line can be drawn. It is an affair of found and *bona fide* discretion. Because a direction on the subject is given to the legislature, may we upon the mode of that direction in adopting a principle subversive of all legitimate power.

The constitution is predicated upon the assumption of a certain degree of integrity in man. It has trusted powers liable to enormous abuse, it all political knowledge affirmeth. The legislature is not limited in the amount of the taxes which they have a right to impose, nor as to the objects to which they are to be applied. Does this power give us the property of the country, so that by taxes we might draw it into the public coffers, and then on the contrary we may divide the plunder? Is there any power in respect to which a precise line can be drawn, between the legitimate exercise and the abuse of it.

I am only by therefore on this subject, that every man is acquitted to his own conference who *bona fide* does not intend, and who therefore does not believe, that by the law which he is about to pass, he interferes with the judges holding their offices during good behaviour.

I know brought, Mr. Chairman, to take notice of some remarks which fell from the gentleman from Virginia, which do not belong to the subject before us; but are of sufficient importance to deserve particular attention. I do not ever attention a very impertinent manner to the face of gentlemen in this house at the time when the act of the last session pulled. He deserves no in a state of blood preserving, therefore, differing the nature or tendency of the resolution we were pursuing. The majority of the house were struggling to counteract the expedition of the public will, in relation to the person and was to be the chief magistrate of the country.

I did suppose, Sir, that this business was at an end, and I did imagine that as gentlemen had accomplished their end, they would have been satisfied. But as the subject is again renewed, we shall be allowed to justify our conduct. I know not what the gentleman calls an expedition of the public will, but I know were two candidates for the office of President, who were preferred to the Heads of Representatives with equal suffrages. The continuation gave us the right and made it our duty to elect that one of the two whom we thought preferable. A public man is to serve the public will as constitutionally expressed. The gentlemen from Virginia and many others may have had their preference, but that preference of the public will did not appear by its constitutional expression. Sir, I am not certain, that either of their candidates had a majority of the country in his favour. Rockbridge the state of South-Carolina, the country was equally divided. We know that parties in that state were greatly equally balanced, and the choice which the candidates were supported by in other parts of the country, the public will, than our official returns of votes. Those votes are very imperfect evidence of the true will of a majority of the nation. They resulted from political intrigues, and artificial arrangements.

When we look at the votes we shall hypocritical every man in Virginia voted that year. Their votes were not recorded as a correct expression of the public will. We know, that if the votes of that state were appointed according to the general votes of the people, at least fifteen out of twenty-one, would have been opposed to the Democratic candidates. It was the proposition of the will of one third of Virginia, which enables gentlemen now to say that the preferit third imagining to the rest of the people. I conclude that the public will, which is to be expressed in constitutional organs. To that will I bow, and I hope, I shall always, when manifested, give to the House of Representatives, the choice of the two men whom the Constitution of that was to be one whom I wished to make President, and my colleagues, was confined by the constitution to one of the two, and I gave my vote to the one who I thought was the preferable man. Thus was I acted, I repeated, and in that vote I should have acted, if I had not been a member from it, by imperious necessity. The prodigal conceded of the vote being effective, I should have acted in the manner of taking one man for President, or hyperbolical, and I should, as I doubt, as I then thought, the lesser evil.

From the force in this house, the gentleman from Virginia to one in the state. I should think, Sir, for the honor of the country, could I suppose that the constitution of the state, was so fitted to support in that body to the motives of the gentlemen, I should wish, that the age delineated to be conveyed, not only deeply implicates the integrity of indefinite and the honor of the state of Virginia, who was then the chief magistrate. The gentleman from Virginia, I presume, has mentioned the names of members of that body, to whom committees illegal in office may be created by the bill before them, but which that bill by the constitution of Virginia, is to be the under vacant. He has conferred the classical of the constitution, as separated by the Legislature, the distinction of office actually vacant, upon the have performed the duties of the office, become vacant, by the incumbents accepting commissions, for higher office which were defined in their office. The gentleman has particularly dwelt upon the indecent appearance of the Legislature, in conferring commissions, in lieu of different persons at the same time, for the same office.

I have never seen it be understood, that I mean to give no opinion as to the expediency of the appointment to the judicial offices, upon the probability of a vacancy, before it is actually vacant. Nor will I be allowed to try that to much doubt attends the points, that an opinion on the subject is not a matter of subject. I believe, Sir, it has been the practice to confirm the acceptance of judicial commissions, by the state of the commission. The officer is allowed his office, and the state, upon the principle that the commission is a grant of the office, and the title commences with the date of the grant. This principle is certainly liable to abuse, but where there is no abuse, it is a principle the legislature government would depart from its. Admitting the office to pass by the, commission, it is the duty of the legislature to indicate, it then does not appear very in the course of the circuit of a vacancy for the office of a circuit judge, granted to a district judge, is the acceptance of the commission for the former office relates to the date of the commission, to confirm the first office, and to the second office at the same time. The offices are incompatible. You cannot fuppose the same person to hold two offices in the same time. For the moment, therefore, that you confirm the second office, you have filled the person who holds the commission of district judge, you must confirm the office of district judge, which judge vacated. The grant is contingent. If the contingency happens, the office will from the date of the commission, if the contingency does not happen the grant is void. If the contingency be found, it is not irregular in the late administration, after the commission to confirm a district judge, for the place of a circuit judge, to make a grant of the office of the district judge, to the person, who has been appointed to the office of a circuit judge, for the place of a circuit judge, to make a grant of the office of the district judge, to the person, who has been appointed to the office of a circuit judge. I have search, Sir, in this point of the charge, which was personal in its nature, and of infinitely the most serious import. Sir, I have search, I have sought, I have ask, *is it true?* If it be true, it cannot be accounted, it cannot be palliated, it is the profligate corruption, which every breath mind will execrate. But, Sir, we have a right to demand, that the evidence of the fact. If the offence be true, the man must be ought to be plenary. I will confider the evidence of the fact, upon which the honorable member has rested, and I will then ask, by what authority of it is stronger case, that it is a fact, which is proven nothing.

Let me first state the principal cases. The gentlemen of the Senate, Mr. Read of South-Carolina, and Mr. Green of Rhode-Island, who voted in favor of the law of 1801. Each, each received an appointment to the place of difficult judges, which was designed to be vacated by the promotion of the difficult judge to the office of circuit judge. The gentleman conveyed to an absolute impossibility of his attitude, that there was no understanding between their gentlemen & the President, and that the offices were the promotion of their votes.

I perceive, Sir, the gentleman will have more charity, in the case of Mr. Read, than to mention, and he will for once admit that public men ought not to be condemned, upon the conclusion drawn from so general presumption.

Sir, I have, in the course of my career, one once more to the force of the President-elect. I should not have recollected it on this debate, but it not been called up by the honourable member from Virginia. I was, Sir, in the company, it was a part not barren of incidents, and it was a part of superfluous, which cannot easily depart from my collection. I know who were rendered vote to counteract the expedition of the public will of the two men, and I gave my vote to the one who I thought was the preferable man. Thus was I acted, I repeated, and in that vote I should have acted, if I had not been a member from it, by imperious necessity. The prodigal conceded of the vote being effective. Consequently, I should have acted of taking one man for President, or hyperbolical, and I should, as I doubt, as I then thought, the lesser evil.

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