conviction, that the grant of a parliamentary constitution to a colony, framed after the English pattern, does not militate against the exercise, by the local executive, of the powers they possess under the Act of 1782, for investigating complaints against the judiciary. These powers remain unimpaired, under every existing form of colonial constitution with the important security against a possibly unfair or illegal decision by the local tribunal, that the defendant can always appeal to the Crown in Council.

Trials before a Governor and Council have one great advantage over the parliamentary method of investigation, namely, that they are capable of speedy determination. Whereas, proceedings undertaken in a local legislature are unavoidably subjected to delay. For it is essential that they should be conducted with due formality and regard to constitutional precedent, such as is uniformly observed, in similar cases, by the Imperial Parliament. The omission of ample notices to all parties concerned, or the neglect of regulations framed for the purpose of ensuring a just and impartial decision, would necessarily invalidate the proceedings, and compel the Crown to refuse compliance with an address for the removal of a Judge.

On the first occasion of resort by the Imperial Parliament to this statutory method of dealing with an offending judge, the prosecution was compelled to be abandoned, after protracted enquiry, which extended over three sessions of Parliament, because it turned out that certain erroneous methods of procedure had been followed.* And in South Australia —a colony in complete possession of the rights of local self-government, upon an attempt, for the first time, in 1861, to obtain the removal of a judge by the constitutional method of a Parliamentary address, the question was found to be attended with similar and insuperable difficulties. Addresses were passed by the Colonial Parliament in 1861, and again in 1866, for the removal of Mr Justice Boothby, but neither of them proved effectual. The Imperial Government attached such vital importance to the principle of judicial independence that they felt it to be their duty to institute a special enquiry into the proceedings had in this case, before advising a compliance with the prayer of the address. For the Sovereign cannot be regarded as a passive agent in such transactions. In acceding to an address for the removal of a colonial judge the Crown is not performing a mere ministerial act, but assuming a grave responsibility. It has accordingly been held, upon such occasions, that the Crown is bound to ascertain the propriety of removal before decreeing that it shall take place.

Thus, upon investigating the procedure upon the addresses against Judge Boothby, the Imperial Government became convinced that his trial had, in both instances, been improperly conducted; that the charges against him had not been formulated with the precision that would have been observed in the Imperial Parliament; that they were not adequately confirmed by evidence, and that the rights of the defendant to be heard had not been sufficiently respected. For these reasons,—and because Her Majesty's advisers were of opinion that the Crown was bound to secure to colonial judges protection against exaggeration and misunderstanding, from whatever source it might emanate—compliance with the address was refused. But to prevent further delay, or any failure of justice, the Secretary of State suggested that recourse should be had to the Imperial Statute of 1782, and proceedings instituted against the Judge before the Governor and Council.

The Executive Council of South Australia at first protested against this conclusion. They declared that it was an undue limitation of their constitutional rights. But the Imperial Government were firm, and finally succeeded in satisfying the local ministers of

* Case of Judge Fox: Todd, Parl. Govt. in England, vol 2, p. 731.