

"The same cases also approve the doctrine that where the constitution creates an office, fixes its term and provides upon what conditions the incumbent may be removed before the expiration of his term, it is beyond the power of the legislature or any other authority to remove or suspend such officer in any manner than that provided by the constitution. *Balloon v. Clark*, 61 Kan. 121, 58 P. 990; *Lowe v. Com.*, 3 Metc., Ky., 237; *Throop, Pub. Off.*, Section 341; *State ex rel. Holmes v. Wiltz*, 11 La. Ann. 439; *State ex rel. Robinson v. McNeely*, 24 La. Ann. 19; *Brown v. Grover*, 6 Bush, Ky. 1; *Page v. Hardin*, 8 B.Mon., Ky., 648; *Mechem, Pub. Off.*, Section 457."⁷

While this case did not involve an impeachment proceeding, the rule would appear to be applicable if such had been attempted without constitutional authority, since "it is beyond the power of the legislature to remove or suspend . . . in any manner than that provided by the constitution."

Under English common law, Parliament had extremely broad impeachment powers. However, it is difficult to draw an analogy between the common law powers of Parliament and the powers of state legislatures. In England, the Parliament is recognized as rightfully exercising the full sovereign authority of the country.⁸ But as one author points out, United States legislatures are not so fully endowed:

"The American legislatures only exercise a certain portion of the sovereign power. The sovereignty is in the people; and the legislatures which

⁷ *In re Investigation of Circuit Judge*, 93 So. 2d 601 (Fla., 1957).

⁸ T. COOLEY, TREATISE ON THE CONSTITUTIONAL LIMITATIONS WHICH REST UPON THE LEGISLATIVE POWER OF THE STATES 175 (8th ed. 1927).

they have created are only to discharge a trust of which they have been made a depository, but which has been placed in their hands with well-defined restrictions."⁹

Another reason why it is difficult to draw any analogy between the broad impeachment powers of Parliament and the impeachment powers of United States legislatures, is that the latter are subject to the principle of separation of powers. Since legislatures are given only legislative power, and since, as numerous authorities have held, impeachment proceedings are judicial, without an express grant of power in the constitution a legislature could not impeach a state officer without violating the separation of powers doctrine. This problem is usually avoided by a formal grant of impeachment power to the legislature. An authority on common law history states: "In America impeachment still exists, where it is a formal exception to the principle of the separation of powers, inherited from English practice, and preserved in the federal and state constitutions."¹⁰

While it would thus appear that state legislatures do not have impeachment powers unless such are constitutionally conferred and vested, nevertheless, the grounds for impeachment and the procedure to be followed, apparently need not be spelled out in the constitution. As stated in *Ferguson v. Maddox*, "The grant of the general power of 'impeachment' properly and sufficiently indicates the causes for its exercise."¹¹ The same rule is set forth in *Corpus Juris Secundum*: "While some constitutional provisions expressly designate certain of-

⁹ *Ibid.*

¹⁰ T. PLUCKNETT, A CONCISE HISTORY OF THE COMMON LAW 204 (1956).

¹¹ *Ferguson v. Maddox*, 263 S.W. 888 (Tex., 1924).