

No. 2.

COPY of a DESPATCH from Lieutenant-general Sir P. Maitland to
the Right hon. William Huskisson, M. P.

SIR,

Upper Canada,
York, 29th March 1828.

DURING the Session of the Legislature of this Colony, which has just terminated, a proceeding has taken place upon which I am compelled to solicit, very earnestly, the opinion of His Majesty's Government, that I may not be at a loss hereafter how to act under similar circumstances.

On the 16th inst. Colonel Givins, Superintendent of Indian Affairs, acting as head of the department in this province, in the absence of the Deputy Superintendent-general, who resides at Quebec, and Colonel Coffin, Adjutant-general of the Militia, communicated to me officially, that they had been summoned to attend a Select Committee of the House of Assembly, and they submitted to me the Letters which they had respectively received from the Chairman of the Committee requiring their attendance, copies of which accompany this Despatch.

It has been usual hitherto for the Assembly, when they required information from any public department under the Government, or the attendance of any civil officer, to address the Lieutenant-governor on the subject, and I do not know that, in any instance, their request has not been complied with. In some cases, however, the request has been, in the first instance, made to the officer whose attendance was desired, and who has obtained the leave of the Lieutenant-governor, before he attends the Committee. The mode first mentioned has, however, generally prevailed, particularly during the last Session, in the course of which I received three or four addresses for the attendance of different officers on Committees of the House.

Colonel Coffin, as Adjutant-general of the Militia, is, in time of peace, the head of a department in the Civil Government. Colonel Givens is now, and has been for some time, acting as head of a department under the control of the Commander of the Forces. The former conceived he was following the proper and ordinary course in applying to me, as Lieutenant-governor, for permission to attend the Committee of the Assembly; the latter was led by a sense of duty to apply for the same purpose to me as Major-general commanding the Forces in the Province; and they severally sent to the Chairman of the Committee a communication, of which I enclose a copy, informing him that they had applied for leave to attend.

For reasons which I shall presently explain, I thought it right to give to the application of these officers the answers which I enclose; they consequently did not attend, but acquainted the Chairman of the Committee that they were not permitted to do so. On the 23d inst. the Chairman of the Committee reported to the House of Assembly that Colonel Givins and Colonel Coffin had not attended; and the House, avoiding any communication with me, directed warrants against them to be issued by the Speaker, that they might be brought up in custody of the Serjeant at Arms. Of the intention to issue the warrants the two officers were apprized, and, as I did not think it proper that the Government should interpose in that stage of the proceeding, they were directed entirely by the advice of the professional gentlemen whom they chose to consult. Acting under this advice, they declined voluntary submission to the warrant, declaring that force must be resorted to, and intimating that, if such force were used, they would prosecute the Speaker.

They were taken on the same day, the 22d inst., having submitted without resistance, after the house in which they were had been forcibly entered; and being brought to the bar of the Assembly, and charged with a contempt in not obeying the summons of the Chairman of the Select Committee, they stated in their vindication, that they had applied for permission to attend, and had not received it, and Colonel Coffin read the letter which I had directed to be written to him in answer to his application. The Resolution, which is transmitted, was then moved and adopted in the House, 21 voting for it, and 11 against it, after two amendments had been negatived.

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