

35. Lastly, I feel sure they will apprehend, that under the power to be given under certain circumstances to the Commanding Officer to refuse to comply with the orders of the Governor for the location of his men, differences on the subject of house-accommodation for officers, barrack-accommodation for men, or such questions would arise between the Governor and Officer Commanding the Forces, which especially as the latter would command also the Local Forces, might lead to serious embarrassments in the conduct of the public service. I believe that probably such arguments will lead the Local Government to decline to enter into any stipulations with a view to retain a regiment in the Colony under the proposed conditions.

36. I think large constitutional questions may arise from the course which has been taken of depriving the Governor of powers usually held by officers in his position.

37. For instance, there can be no doubt that the security of life and property throughout a large portion of the Colony, and the fulfilment of duties to Native Tribes who have aided us, must depend upon the manner and order in which each detachment is moved by General Chute. With only a fair regard to the constitutional rights of Her Majesty's subjects here, I think that the Colonial Ministers should have an opportunity of discussing every such movement before it is made, of objecting to it if they regard it as dangerous, of providing for its consequences, of bringing all proper constitutional checks to bear upon the person who was making such movements, if the time or order in which he was making them was in their opinion likely to imperil the security of the country or the safety of the Queen's subjects. It is doubtful if the responsibilities they have undertaken to Her Majesty, and to Her Majesty's General Assembly in this Colony, in accepting their offices, may not impose upon them the duty of exercising this right. If this view should be the correct one, no such relations exist between themselves and the Officer Commanding the Troops as will enable them to exercise those powers in relation to this subject and in relation to other subjects of, if possible, still greater importance with which the Crown must be supposed to have entrusted them when they took office. The powers recently exercised, or now about to be exercised, by those acting in this Colony for or under the Secretary of State for War, involve an assumption of judicial and executive functions of the highest character, entirely independent of the Courts, the Legislature, and Government of the country.

38. It may be doubted whether the Crown, even by the revocation of existing letters patent and instructions, and the issue of new ones, could constitutionally thus limit the powers of the Governor.

39. When Parliament gave to the Colony a Constitution, and the introduction of Responsible Government was confirmed, a Governor was in existence, possessed of the powers requisite to allow of the working of that Constitution in such a manner that certain rights were secured to the Queen's subjects. It seems, therefore, questionable if the Crown, without the consent of Parliament previously obtained, could by the revocation of existing letters patent and instructions, and the issue of new ones, so curtail the powers of the Governor as to alter the Constitution, and limit the right it had secured to its subjects. The grant by the Queen, Lords, and Commons, of a certain Constitution, would appear to imply the promise of a Governor possessing at least such powers for the beneficial working of that Constitution, as the Governor had when it was granted. If the Crown can limit the rights of its subjects, secured by a Constitution granted by Act of Parliament, by issuing letters patent and instructions curtailing the powers of its Governor, and vesting them in another officer, then all Colonial Constitutions are, in fact, revocable at the pleasure of the Crown. If the Crown cannot constitutionally, by letters patent, derogate from the powers of its Governor, in such a manner as has been supposed, still less could it do so by instructions issued by the Secretary of State for the Colonies to the Governor, or by instructions issued by the Secretary of State for War to military officers serving under his command, in a dependency of the Crown, or by military officers acting on their own responsibility.

40. This view of the question in no manner limits the rights of the Crown regarding the employment, the disposition, or the removal of its forces. It can