LETTER FROM LIEUT. GOVERNOR ANDREW ELLIOT, ON THE ACTS OF PARLIAMENT REGULATING TRADE AND THE COLLECTION OF DUTIES AT NEW YORK, DURING THE REVOLUTION.

New York, 19th Jany 1781.

Sir,

I have the honour to acknowledge the receipt of your Excellency's letter of the 2nd of this month, and am happy in an opportunity to evince my readiness to comply with any of your commands however inadequate I may be to the attempt.

From the commencement of the disputes in America, and during the course of the present Rebellion, the Parliament of Great Britain has not passed any act by which the Power of the Officers of Civil Government are suspended in the Revolted Provinces, or any alterations made in their Legislatures, except in that of the Province of Massachusetts Bay, in which by Act of Parliament an alteration was made, but that Act being immediately repealed the government of Massachusetts Bay was left in the same situation with the other revolted Provinces.

When Congresses, Committees and Town Meetings were established, the Officers of Civil Government immediately lost their influence, and in a short time were obliged to quit their stations. This was the case in New York, and I suppose the same in all the other revolted Provinces.

As Civil authority was thus set aside by the usurped Powers of Congresses &c., it may be asked why the Officers of Civil Government do not resume their functions in such Towns or Districts in any Revolted Prov-
inces as are under the protection of his Majesty's Arms, and where of course the sole cause of their relinquishment is removed. To answer such a Query consideration must be first had to the general situation of that Province, and the consequences that would attend a partial Revival of the Civil Power—for example the Province of New York, which at this hour is exactly in the same situation it was in, soon after Sir William Howe took possession of the City—the whole in Rebellion and under an usurped Legislation, except Long Island, Staten Island and the small Island on which the town is Situated, one third of which Town lies in Ruins; the necessary garrison, Publick Departments &c, occupying two thirds of the Buildings that escaped the Fires; and Forts, Posts and Barracks dispersed all over the three Islands, makes the whole Territory in possession of His Majestys Arms in this Province, in fact a Garrison.

In places thus situated would it be advisable to attempt the Revival of Powers that could not be enforced without the assistance of the Military and which might often impede not only the Operations of the Army, but also the obtaining of many necessary supplies, the scarcity of which frequently requires immediate exertions to which the civil power is not equal? Or can it be supposed that the Commander in Chief at such places would think it consistent to give his voice for such a Revival? and without his consent are not the consequences of such an attempt obvious? Can an Assembly composed of the Members sent by those Islands, so small a proportion of the Province, enact laws that will be binding upon the whole when Reconciliation takes place? Allowing they could, is it not probable they would pass such as would give an opening to Animosities and Provincial Feuds? As Property is now situated on the three Islands, much of it belongs to persons out in Rebellion, who are largely
indebted to Loyal Subjects in America, and to the Merchants in Great Britain and Ireland, without giving great openings for future confusion, how can the Judges or any other Officers in the Civil Line, perform the whole duties of their Stations? Have they any authority to perform it partially? Any alteration in the former Constitution that the Necessity of the Times may require, the Loyalists will readily acquiesce in, but may not the Leaders of Rebellion persuade the Multitude that altho’ Proclamations promise a full Restoration of their former local Legislation, innovations are daily made in the Places where Civil Government is revived.

The Commissioners that were appointed and arrived here in 1778, found the Province of New York precisely in the same situation it still remains in, and altho’ their Powers were equal to any arrangements they might have thought proper to establish for the Public good or for the further security of the Persons and Property of the Inhabitants under Protection, they left it without Making any alterations in the Commander in Chief’s Plan, except in what related to the Regulations of Trade.

The Commander in Chief having from Time to Time adopted every consistent Measure that can give present security to Person and Property, it appears to me, that whilst we continue in our present circumscribed situation, any attempt to Revive the Civil Power, would not only injure the Public cause but also Private interest, by impeding the Military Operations, laying the foundation of future Provincial feuds, by calling a partial Assembly and create future confusion in Private property by decisions being made at such times.

As soon as any alteration in the Officers of the Province at large May extend the Royal Authority, secure the Necessary supplies of Fuel and Forage for the
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Army, and admit of the Calling of an Assembly that can be composed of the requisite Number of Members, the immediate Revival of the Civil Authority would then become an object of the greatest consequence.

Force having set aside the Powers of the Officers of Civil Government in the Revoluted Provinces in America, Policy continues them dormant at New York, but the powers of the Revenue Officers in these Provinces are by Act of Parliament totally suspended and continues to be so in them all; Georgia excepted, which has been declared at the Peace of His Majesty.

The beginning of 1776 when the Act to prohibit all trade and Intercourse &c., took place at New York, the Revenue Officers of course were deprived of their Powers, and obliged to consult their personal safety by quitting their places of residence, some Months before this Period, the Keys of the Custom House had been for a time taken from me by Town Meetings, and when returned, I was put under Parole not to remove any of the books or papers; Such proceedings induced me to send my Family into New Jersey, where I followed them when obliged to leave the City. In September 1776 Sir William Howe took possession of New York, I effected my escape from New Jersey the latter part of October following, and immediately advised the Lords Commissioners of His Majesty’s Treasury, of the situation I found things in, and of my being ready to embrace the first legal opportunity to perform the duties of my Office as Collector.

A wish to have everything in regard to prizes put on a legal footing, induced me to write to my brother Sir Gilbert Elliot My sentiments on this head, and at the same time enclosed the Heads of an Act of Parliament, that I thought absolutely Necessary, but his death happened before the letter could reach England. A short time after this letter was wrote, I formed an acquaintance with Mr Strachey Secretary to the Com-
missioners, to whom I communicated My sentiments as also the Heads of what I had wrote to Sir Gilbert Elliot; and in a conversation I had a little time after with Lord Howe, he informed Me the Commissioners had wrote to the Secretary of State on the subject.

From My return in October 1776 to July 1777, I resided entirely in the Country, having no employment under Military Authority and my Powers as a Revenue Officer being as they still are totally suspended.

The prospect of the continuance of the War, and the Necessary advance of the General and Admiral, Made Sir William Howe wish that some arrangement should be made at the Port of New York, where no Regulation had been as yet established. The 17th July 1777 he appointed me Superintendent of the Port of New York, and published the Proclamation by which I was to regulate my conduct in that office: The September following the Act of Parliament arrived at New York, authorising the Commissioners to make it legal to bring Prizes into any of the Prohibited Ports; but this Act restored no powers to any of the Revenue Officers, Nor did it even make Mention of them, but ordered that the Exportation of Prize goods, which it made legal, should be by licenses under the hand and seal of the Commissioners.

The Court of Admiralty was established at New York as soon as the Prize Act arrived. No further alterations took place till September 1778, when the Earl of Carlisle and His Majesty's Commissioners by their different Proclamations, suspended parts of the Prohibitory Act, by which they extended the Imports and Exports to and from New York; but they restored no Powers to the Revenue Officers, on the contrary authorized those Officers appointed by Sir William Howe on 17th July 1777, to perform the additional duties their Proclamations required. In December 1779 the Commissioners' Proclamations became all
void; from that Period I continued to act as Superintendent, under the sole authority of the Commander in Chief.

The 24th October 1780, the Act of Parliament regulating the Imports and Exports of Places under Protection in North America was received and published. This Act does not give the Revenue Officers the least opening to resume their former functions, as it invests the Commander in Chief with powers, Not Only to Nominate the Officers requisite to perform the duties it requires, but also leaves the exportation and Importation to be under such Limitations, Restrictions and Regulations as he from time to time shall order; which plainly shows that Persons in Authority in Great Britain have no idea that Revenue officers ought to act in any place in the Revolted Colonies in America, till such time as the Commissioners shall judge it proper to declare that place at the Peace of His Majesty.

Agreeable to the Powers which the above Mentioned Act gave to the Commander in Chief, by Proclamation dated the 24th October 1780, he appointed the Officers Named by Sir William Howe and continued by the Commissioners, to the duty that Act required; so that I still continue to Act as Superintendent of the Port of New York under a Military appointment and with Instructions from the Commander in Chief similar to those I received from Sir William Howe, the Commissioners, Lord Carlisle &c; such as prohibiting the exportation of all stores and provisions, without his special order, to admit all goods coming by licenses signed by persons authorised to grant them; Transports and all other vessels in Government service and prizes exempted from the authority of the Superintendents office.

The Intercourse Act, suspending all Trade in the Revolted Provinces during its continuance, the Powers of the Revenue Officers of course must stop during
that Period. The Commissioners, Lord Carlisle &c; exerted their suspending Powers in repealing part of the Intercourse Act, and named Officers to perform the duty they pointed out; the Parliament also suspended part of the said Act, when they passed the New York Port Bill, and authorised the Commander in Chief to appoint Officers to perform the duty required by that Act.

I have been thus particular in stating the different arrangements in regard to trade at this Place, as your Excellency is pleased to inform me, that a disappointment has happened in England in regard to Duties, owing it is supposed to some misapprehension here.

The Revenue Officers here could not exact duties, as their Powers are evidently suspended, and all former Acts of Parliament imposing duties expressly made them payable to Revenue Officers. As the Intercourse Act in regard to Licenses has operated, and Trade been regulated at this Port, such a suspension is as absolutely necessary, as it would have been impossible for the Officers to have complied with the Nature of the Oaths to perform all the duties of their Stations, unless an Act of Parliament had passed, repealing not only part of the Navigation Act, but also those parts of the 4th and 6th George the 3rd allowing the Warehousing for exporting Foreign Sugars and Coffee.

The immediate and certain supply of his Majesty's Fleets and Armies appears to have been the object of the Licenses allowed to be granted by the Intercourse Act. Wines, fruits &c from Foreign Ports (Madeira & Azores excepted) were by the Act of Navigation prohibited articles in America unless first entered in Great Britain, where the Wines left a considerable duty, and upon landing in America paid a duty of 10/ per Ton;—from the passing of the Intercourse Act, Licenses have been given for bringing wines from the place of growth direct to this City; by which indul-
grence the duty on those wines was not only given up in England but here—however the intention of the Licenses seems by this means to be fulfilled, as the expense of Insurance and freight and the delay of a double voyage is prevented.

Since the Ports under protection have been opened all intercourse with Foreign West India Islands (except in one or two instances) has been stopt, so that no foreign sugars or coffee was brought in here but in prizes. Most of the sugars brought in has been white, the duty on which, and on Foreign Coffee, when laid was meant to act as a prohibition, or at least to oblige the owner to export them to Great Britain, as no duty was payable on them here if warehoused and exported within the twelve months, so that this part of the Acts the owners of the Sugars and Coffee would always gladly have availed themselves of, but as they come under the denomination of Stores, and our supplies of these articles depending chiefly upon captures, the quantity has never been so great as to admit of the Commander in Chief's allowing of exportation, except of late in the article of Coffee occasioned by the large quantity brought in the French East India Ships taken by Admiral Graves.

This short state of Duties, fully shows that it is impossible in the present state of Mercantile affairs for any Revenue Officer to act as such at any Port in America under Protection, until that Port is put at the Peace of His Majesty, when Commerce will return to its proper channel, and the Revenue Officers be enabled to resume their proper Functions.

In order to give your Excellency every information in my power in regard to the article of American duties, I must beg leave to refer you to the annexed Letters, by which your Excellency will see my early wish to give information on that subject, and in what manner I have acted in consequence of the orders I have received.
Nos 1 and 2 my letters addressed to the Lords Commissioners of His Majesty’s Treasury, dated 12th and 22nd September 1778, in which I mention the suspension of the Powers of the Revenue Officers in America, and the situation that Prizes and their Cargoes were in, with my advice to the Judge of the Admiralty in regard to Duties, founded on that clause of the Intercourse Act which makes prize goods liable to Duties at the Ports which that Act admitted of their being brought into. This advice was given in order to prevent confusion and disputes, should any future Act of Parliament open, for Prizes, the Ports in America, not at His Majesty’s Peace, but under Protection, and restore the power of the Revenue Officers, or appoint others to receive those Duties at such Ports.

The Act of Parliament that empowered the Commissioners to grant Licenses for Prizes to come into Ports under Protection, repealed no other Clause of the Intercourse Act, but what related to such Ports, so that no Powers were restored or granted to any other. Persons but to the Commissioners, by whose Licenses alone Prize goods could be exported from the above mentioned Ports. Those letters No 1 and 2 were wrote to show that if duties were to be received at such Ports, some alteration in the Acts was Necessary.

No 3 is John Robinson Esq’s letter dated 8th April 1779, in answer to No 1 and 2, by which I have directions from the Lords Commissioners of His Majesty’s Treasury to receive such Duties from the Agents of the several Prizes, in whose hands I stated the money to be in. A desire to show a ready compliance with the Treasury order, made me apply to the Agents and Judge of the Admiralty, but at the same time to guard against any future inconvenience, I delayed remitting any money till such time as I gave their Lordships a fuller account of what related to Duties. No 4, my letter to John Robinson Esq’s, was wrote with this in-
tention. This I thought more necessary to do, as His Majesty's Commissioners Lord Carlisle &c., whose powers enabled them to suspend all Acts of Parliament relative to America passed since 1763, had in all their Proclamations issued here, avoided giving any particular powers or orders in regard to duties, and as the Judge of the Admiralty had declined paying the duties, on the Cargoes, lodged in his hands; and as all the Agents, but four, declared they had retained no duties, saying it was the opinion of their employers that the Acts of Parliament did not direct it, and finding that what Duties was retained, were by no means such as the Acts of Parliament required. In this letter I also promised to give my opinion on several subjects, wishing that Government might be prepared with every plan necessary to offer when a general Reconciliation may take place. I am uncertain whether this letter was ever received.

No 5 is Sir Grey Cooper's letter dated 17th February 1780, ordering me to remit such duties as I might have received, to the Cashier of the American Customs.

No 6 is my Letter dated 3rd July 1780, to Charles Stewart Esq., the Cashier enclosing Remittances.

No 7 is my letter dated 3d July 1780 to John Robinson Esq' enclosing Notarial Copies of the Agents accounts of Duties received, by virtue of his letter of 8th April 1779.

No 8 is my letter dated 3d July 1780, to Sir Grey Cooper, informing him of my having complied with the orders contained in his letter of 17th February 1780, with my reasons for not having made Remittances sooner.

Nos 9 and 10 are copies of Licenses, by which the Produce of Foreign Countries are brought from the place of growth direct to this City. These I thought necessary to Subjoin as in the course of the annexed letters, they are often alluded to.
Letter from Lieut. Governor Andrew Elliot.

I shall no further intrude upon your Excellency's time but to assure you that I am with the greatest respect

Your Excellency's
Most obedient and humble Serv'
A. Elliot.*

To Gov' Robertson.

* Original letter in the possession of Earl Cathcart, and contributed by Eugene Devereux.