

Political Removal

Exile, Press Freedom, and Subjecthood in Britain, the Cape Colony, and Bengal

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This chapter considers two moments, closely connected in time, in which British colonial authorities acted to silence voices of political dissent by means of forcible exile. Even after its victory in the global revolutionary wars, the British imperial state feared threats to stability at home and abroad. How best, then, to neutralize the “evil consequences” of those who “wantonly and seditiously” endangered “the peace and tranquillity” of the realm?¹ Could the strategic deployment of executive power remove dangerous agitators from colonial peripheries and thereby nip insurrection in the bud? In January 1823, James Silk Buckingham (1786–1855), editor of the *Calcutta Journal*, was ordered from Bengal in response to the paper’s persistent criticisms of the East India Company and the Bengal government. Assistant editor Sandford Arnot would later meet the same fate, and the *Calcutta Journal* (founded in 1818) was subsequently shut down. Just over a year after Buckingham’s exile, George Greig (1799–1863), proprietor of the recently established *South African Commercial Advertiser*, fell afoul of authorities in the Cape Colony in remarkably similar circumstances. In May 1824, the *Advertiser* shut itself down under threat of government censorship after only a few months of operation. Greig was ordered to leave the colony by High Tory Cape Governor Lord Charles Somerset or face imprisonment. Although the

I am grateful to Jan C. Jansen, Robert Aldrich, the members of the “Sydney Compañeras” writing group, and the two anonymous reviewers for providing invaluable advice and comments on this chapter. I would also like to extend my thanks to Brad Manera for teaching me how to load and fire Short Land and India pattern flintlock muskets, and for much else.

¹ *Papers Relating to S. African Commercial Advertiser and its Editor*, May 8, 1824, British Parliamentary Papers (hereafter BPP), House of Commons Papers, 1826–27, vol. 21, 2.

order was later rescinded, Greig returned to London to protest Somerset's actions and seek restitution from the British authorities. Exile proved to be a double-edged sword when those subjected to it possessed the advantages of race, education, financial resources, and political connections. Even where state actors could freely exercise coercion against troublesome subjects, their room to maneuver had limits. Draconian efforts to move harmful people out of the way could backfire, achieving effects that were precisely the opposite of those intended. In the short term, Buckingham and Greig were successfully removed from local trouble spots on the periphery of empire. Their reappearance in the metropolitan center, however, only served to raise the political stakes and compound their perceived danger to public order.

This was so precisely because debates and rhetoric about press freedom and the law under British rule were as mobile as the individuals who were caught up in them.² The actors in this drama, whether in

² The suppression of the *Calcutta Journal* and the *South African Commercial Advertiser* were both major events in the battle to establish freedom of the press in Bengal and the Cape Colony. These often-celebratory accounts date back to the published writings of the protagonists themselves, who were eager to establish their role in a Whiggish tale of colonial advancement. For example, Sandford Arnot, *A Sketch of the History of the Indian Press During the Past Ten Years, with a disclosure of the true causes of its present degradation, etc.* (London, 1829); James Silk Buckingham, *Mr Buckingham's Defence of his Public and Private Character, against the atrocious calumnies contained in a false and slanderous pamphlet* (Sheffield, 1832); Louis Henry Meurant, *Sixty Years Ago: Or, Reminiscences of the Struggle for Freedom of the Press in South Africa* (1885; Cape Town, 1963); Thomas Pringle, *Narrative of a Residence in South Africa* (London, 1835). On Greig and the *Advertiser*, see A. M. Lewin Robinson, *None Daring to Make Us Afraid: A Study of English Periodical Literature in the Cape Colony from Its Beginnings in 1824 to 1835* (Cape Town, 1962); H. C. Botha, *John Fairbairn in South Africa* (Cape Town, 1984); L. Meltzer, "Emancipation, Commerce and the Rise of John Fairbairn's Advertiser," in Nigel Worden and Clifton C. Crais, eds., *Breaking the Chains: Slavery and Its Legacy in the Nineteenth-Century Cape Colony* (Johannesburg, 1994), 169–99; Kirsten McKenzie, "'Franklins of the Cape': The *South African Commercial Advertiser* and the Creation of a Colonial Public Sphere 1824–1854," *Kronos: Journal of Cape History* 25 (1998/1999): 88–102; John M. MacKenzie, "'To Enlighten South Africa': The Creation of a Free Press at the Cape in the Early Nineteenth Century," in Chandrika Kaul, ed., *Media and the British Empire* (Basingstoke, 2006), 20–36; Randolph Vigne, *Thomas Pringle: South African Pioneer, Poet & Abolitionist* (Suffolk, 2012); and (with brief allusion to Buckingham) Kirsten McKenzie, *Imperial Underworld: An Escaped Convict and the Transformation of the British Colonial Order* (Cambridge, 2016). Studies of Buckingham and the *Calcutta Journal* include Ralph E. Turner, *The Relations of James Silk Buckingham with the East India Company, 1818–1836* (Pittsburgh, PA, 1930); A. F. Salahuddin Ahmed, *Social Ideas and Social Change in Bengal, 1818–1835* (Leiden, 1965). More recent works that put Buckingham and his paper into a wider context are Lynn Zastoupil, *Rammohun Roy and the Making of Victorian Britain* (New York, 2010); C. A. Bayly, *Recovering Liberties: Indian Thought in the Age of Liberalism and Empire* (Cambridge, 2012). Miles Taylor, "Joseph Hume and the Reformation of India,

Bengal or the Cape, were keenly aware of the parallels in their stories, cross-referencing and celebrating them in publications that recognized the wider imperial context of their individual struggles. The experiences of Greig and Buckingham, as with many of the examples in the present volume, underscore what C. A. Bayly calls the “global imagining of constitutional liberty.”³

In decrying his treatment by the Bengal authorities before an investigatory parliamentary committee in 1834, Buckingham pointedly remarked that “state policy and strict legality are of course very different things.”⁴ Perhaps unsurprisingly, the British government largely upheld the strict legality of the actions taken against the two papers and their editors, though there were some notable dissenting voices. Whether this state policy was politically shrewd, however, was quite another question. Both cases were widely publicized across the British Empire, not least by the victims themselves, who manipulated the scandals astutely. Whether it was a regime run according to foreign laws (in the case of the Cape) or the requirements of a chartered company (Bengal), in both scandals the British government had to deal with the political fallout that arose when systems of colonial governance attracted increased negative attention at home. Ultimately, the two incidents caused enough controversy to not only prompt measures of redress and vindication for the individuals concerned but also to bring about wider legal reforms and constitutional changes in both spheres. More broadly, in the context of repressive legislation against press freedom in Britain itself, these colonial scandals of forced removal provided a powerful feedback loop for wider debates about personal liberty, state security, and British subjecthood at home as well as abroad.

In what follows, my focus falls primarily on the legal and constitutional aspects of these cases, and the way in which they connect metropolitan and colonial spheres of political debate in a British world still grappling with the consequences of war and revolution. The title of this chapter, as we shall see, comes from a Dutch colonial practice of banishment by executive order known as *politieke uitzetting*, one that Cape

1819–33,” in Glenn Burgess and Matthew Festenstein, eds., *English Radicalism, 1550–1850* (Cambridge, 2007), incorporates Buckingham’s case into his study of Hume’s “Indian liberal detour,” 302.

³ Bayly, *Recovering Liberties*, 49.

⁴ *Report from the Select Committee on the Suppression of the Calcutta Journal; with minutes of evidence and appendix*, House of Commons Papers, vol. 8, no. 601, August 4, 1834, 136.

officials translated at the time as “political removal,” although “political expulsion” is arguably more accurate.⁵ Precisely defined, “political removal” was a legal precedent for the actions taken by Somerset against Greig at the Cape in 1824. In the context of this volume, however, the term carries a much wider symbolic resonance. The tactics used to remove both Buckingham and Greig from their respective public spheres speak to the overlapping layers and types of forced migration deployed by state actors in this period, and to their evolving, and contentious, legal frameworks. These deeds were political both in their motivation and their impact, and as such were taken up by supporters of different ideological positions to debate a set of issues far wider than the fate of the individual newspaper editors themselves. These contested frameworks of forced removal shed considerable light on the vexed relationship between executive and judicial branches of government in colonial constitutions, and on the challenge of defining British rights and subjecthood abroad. Both of these matters were drawing increasing attention from voices of reform in Britain and its colonies. This being the case, the examples of Buckingham and Greig highlight the political ramifications of using forced removal to resolve disputes between state security and freedom of expression.

A LICENTIOUS PRESS?

In 1819, in the wake of the Peterloo Massacre of peaceful protestors in Manchester, Parliament passed a set of draconian laws to stamp out what they saw as the threat of revolution. The notorious Six Acts included provisions for the banishment of those convicted of second offenses of blasphemous and seditious libel, despite howls of protest from the parliamentary opposition that banishment was fundamentally alien to the national character and even threatened British subjecthood.⁶ So controversial were these provisions for banishment that English judges proved reluctant to employ them against radical dissenters, and the state found other mechanisms that were more effective in stamping out public

⁵ The original Dutch term is used in Cape Provincial Archives, Cape Town (hereafter CA), Colonial Office (hereafter CO) 212, no. 88, Daniel Denyssen to Lord Charles Somerset, September 14, 1824.

⁶ Hansard, *Parliamentary Debates*, 1st ser., December 6, 1819, vol. 41, cols. 706–47; December 9, 1819, vol. 41, cols. 960–73; and December 10, 1819, vol. 41, cols. 977–89; Hansard, *Parliamentary Debates*, 1st ser., December 21, 1819, vol. 41, cols. 1414–45; December 23, 1819, vol. 41, cols. 1515–68.

criticism.⁷ The banishment provision would prove a dead letter in English law, but this did not mean that it disappeared from public debate. Events on the colonial periphery ensured that matters of subjecthood, forced removal, and freedom of the press would be thrashed out at home and abroad throughout the 1820s and 1830s, two significant decades in the consolidation of Britain's postwar imperial reach.

The two colonial newspapers that prompted these trans-imperial controversies were similar in their rhetoric and political position. Indeed, one of the *Advertiser's* Cape editors, the poet and antislavery activist Thomas Pringle, would later work on a subsequent Buckingham periodical in London. Both papers broadly represented the independent European merchant communities in their respective cities, promoting their interests against monopolistic local regimes. Greig and Buckingham, and their supporters, insisted on the right and duty of British subjects to expose government corruption and mismanagement. Both men, and their papers, were backed by Whig and Radical politicians in Britain. The *Advertiser* and the *Calcutta Journal* pushed the envelope of public sphere debate in colonial contexts where there was only recent and partial official tolerance of local publications. Furthermore, the forces ranged against them, exemplified by Governor Lord Somerset at the Cape and Acting Governor-General John Adam in Bengal, largely shared a conservative Tory outlook in their views on the dangers to public tranquility posed by a free press.

There are, of course, differences between the two cases, the most obvious perhaps being the presence in Calcutta of an emerging Bengali and Persian-language press and public sphere that included elements offering significant support to British critics of the East India Company. Most notable among these supporters was the celebrated Bengali reformer and newspaper proprietor Rammohun Roy.⁸ There was no equivalent at the Cape in this period. In fact, it was not until 1830 that a newspaper representing Cape Dutch interests first emerged. The Cape Colony and Bengal also differed in the jurisdictional contexts in which the state sought to silence political dissent. As I will show, popular notions of British rights

⁷ William Wickwar, *The Struggle for the Freedom of the Press, 1819–1832* (London, 1928) is still one of the most useful accounts of the debates over banishment in the Six Acts. The stamp duty taxation provisions of the Publications Act were much more effective in that they made radical publications unaffordable for many. Wickwar argues persuasively that the dead-letter banishment provision in the Blasphemous and Seditious Libels Act was always intended more as a political sop to hard-liners than a legal reality, 155.

⁸ Ahmed, *Social Ideas*; Zastoupil, *Rammohun Roy*; Bayly, *Recovering Liberties*.

clashed with the parameters of a Roman–Dutch legal regime in the former instance, and rule by a chartered company in the latter. Nevertheless, there are important resonances in the way in which these two episodes attracted controversy over the relationship between the executive and judicial branches of colonial government and the practice of using state-sanctioned banishment against dissenters. The two cases were also taken up in similar ways by British reformers who sought to embarrass conservatives at home, and they raised questions that extended far beyond their original colonial contexts about press freedom and forcible removal by the state.

EXECUTIVE AND JUDICIAL POWER:
REMOVING BUCKINGHAM FROM BENGAL

James Silk Buckingham established the *Calcutta Journal* in 1818, with financial backing from a prominent local merchant, John Palmer. It was Buckingham's second attempt to make a life in India; he had been deported from Bombay in 1815 after failing to show the requisite license from the East India Company. The company's system of licensing Europeans in its territory was a function of its royal trade monopoly. The practice dated back, in various forms, to the Royal Charters of the seventeenth century and had most recently been renewed in the charter of 1813.⁹ Anyone who wished to enter the company's territories in India had to formally apply for a license, which was (at least in theory) strictly controlled in order to limit the number of Europeans in India who were not employees of the company. It was clearly in the financial interests of a monopolistic trading company to limit, so far as possible, the presence of independent foreign agents in its domain. The wording of the 1813 charter presented it as necessary to "promote the interest and happiness of the Native Inhabitants of the British Dominions in India." More plausibly, arguments in favor of the licensing system also recognized the strategic importance of maintaining White prestige in a place where rule by a tiny minority could be eroded by an influx of low-status adventurers and miscreants.¹⁰

Those found to be without the required license, or those deemed to have conducted themselves in a manner unworthy of possessing one,

⁹ 53 Geo. 3, c. 155, s. 36.

¹⁰ Harald Fischer-Tiné, *Low and Licentious Europeans: Race, Class and 'White Subalternity' in Colonial India* (Hyderabad, 2009), 47.

according to the governor or governor-general, forfeited this privilege and could be forcibly expelled from company territory. This practice was known officially by the rather banal-sounding term “transmission.” Transmission was issued by executive order, at the personal discretion of the governor or governor-general and was effectively extrajudicial banishment. Those subjected to it were given a fixed period to put their affairs in order before being forced to depart at their own expense or risk imprisonment. It was by means of transmission that Buckingham had been expelled from Bombay in 1815 (when he had no license) and from Calcutta in 1823 (when his license was revoked).

Between 1814 and 1831, the Court of Directors of the East India Company in London approved 1,253 applications for licenses to proceed to India.¹¹ In practice, however, the system proved extremely hard to enforce, and its borders were far more porous than these relatively low numbers would suggest. Numerous unlicensed Europeans were luckier than Buckingham was in 1815 and managed to slip through the cracks. These unlicensed individuals posed a long-standing challenge to a legal system that was founded upon a divide between company servants and native Indians, and the lack of criminal jurisdiction over nonemployees continued to be a key topic in nineteenth-century debates over free trade and free European emigration.¹² The system of license and transmission was the main way in which the company could deal with White lawlessness in its domain. As was also the case during the Cape’s Dutch period, far more extensive practices of forced removal were exercised against colonial populations by the company.¹³ While “political removals” such as Buckingham’s were the most notorious and widely debated instances of transmission, Europeans who had committed acts of physical violence were the most common expellees from India, as shown by the historian Elizabeth Kolsky’s work on cases from Bengal between 1766 and 1824.¹⁴ Definitions of misconduct were vague, however, and rested with the discretion of the governor or governor-general.

¹¹ Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (Cambridge, 2010), 35.

¹² Kolsky, *Colonial Justice*, 38.

¹³ See Clare Anderson, “The Age of Revolution in the Indian Ocean, Bay of Bengal, and South China Sea: A Maritime Perspective,” *International Review of Social History* 58 (2013): 229–51; Clare Anderson, “The British Indian Empire, 1789–1939,” in Clare Anderson, ed., *A Global History of Convicts and Penal Colonies* (London, 2018), 211–44.

¹⁴ Kolsky, *Colonial Justice*, 48.

The *Calcutta Journal* began publication in the wake of Governor-General Francis Rawdon-Hastings's liberalization of the laws governing the press in Bengal in 1818. Hastings abolished the censorship system (particularly sensitive where military matters were concerned) that had regulated local newspapers since the late 1790s. He replaced the system with a set of published rules that guided editors and broadly prohibited criticism of the local authorities. Hastings's reform was prompted by the fact that British subjects were subject to transmission under the censorship laws but Indian-born editors were not, an inconsistency that Buckingham was pleased to point out before the parliamentary investigations.¹⁵ Buckingham's publication was one of a cluster of English-language papers that would be joined in the following years by a small number of Urdu, Bengali, and Persian-language papers, serving a population of more than 260,000 in a city where Europeans were a tiny minority. Hastings himself was disposed to handle the press with a light touch, in contrast to both his more conservative-minded officials and the company's Court of Directors in London. As the mouthpiece of the independent merchants of Calcutta, Buckingham's newspaper was impatient with East India Company rule, and, despite Hastings's guidelines, was harshly critical of company policy and practice. In the years leading up to his deportation, Buckingham was repeatedly censured for his outspokenness. Judicial measures used against him proved ineffective, however, and the editor was acquitted in an 1822 prosecution for libel. Hastings consistently reprimanded Buckingham but resisted pressure to employ executive power against him. The situation changed when Hastings was replaced by one of Buckingham's most vehement critics, former Chief Secretary to the Government John Adam, who became acting governor-general in 1823. The immediate catalyst was Buckingham's attack on a recent East India Company appointment as cronyism, but the real issue was the *Calcutta Journal's* long-standing insistence on its right to publicly criticize the authorities in its pages.

Assistant editor Sandford Arnot would be deported in similar fashion. Although Buckingham tried to protect his paper by placing it in the hands of Francis Sandys, who was Indian-born and therefore free from the constraints of the license system, the *Calcutta Journal* was ultimately shut down. Buckingham proceeded to England, where he continued as a vocal critic of the East India Company, taking aim at the company as a public

¹⁵ *Select Committee on the Calcutta Journal*, 52–53; Turner, *James Silk Buckingham*, 18; Ahmed, *Social Ideas*, 57.

lecturer, through his London-based newspaper the *Oriental Herald*, and as a representative of Sheffield in the reformed Parliament from 1832 to 1837. Buckingham battled the East India Company for monetary compensation for more than a decade, eventually prompting an 1834 parliamentary select committee into the suppression of the *Calcutta Journal*. A public subscription for Buckingham was raised on the strength of these debates, and while the company never paid up, it faced extensive public criticism of its actions. In an analogous move to the Cape's constitutional transformation, transmission itself came to an end in 1833 in the context of the renewal of the company's charter and debate over the need to encourage British emigration. In the same decade, the previous restrictions against the press in India were largely lifted.

Hastings was clearly troubled by the broader implications of the practice of transmission, specifically the relationship between executive and judicial power, and the way in which the action would be perceived by the British public. In an 1822 memorandum, Hastings candidly admitted that Buckingham had "abused the liberty of the press," as he put it. At the same time, he disagreed with Adam and the other conservatives that this constituted either a serious or a systematic threat to state security. "Injury ... to the public welfare," he claimed, "seems to me too loosely assumed." The power of executive banishment that transmission conferred was a double-edged sword. If Adam (and later Somerset at the Cape) appreciated the advantage of removing an individual without the rigors of legal proof, then Hastings was more circumspect. "When a law had declared a specified act criminal," Hastings argued, "the simple proof of that act justifies the enforcement of the penalty allotted to it. In the present case, it is the construction arbitrarily pronounced by me that is to establish the existence and amount of transgression." As a summary procedure, what was at issue was not law but personal judgment. It was solely for the governor-general to fix the "scale" of the offense that warranted transmission. In exercising that judgment, Hastings was clearly operating with an eye toward British public opinion: "When I have to answer to the opinion of my country for a procedure it behoves me to scrutinize that procedure in all its bearings." In Hastings's opinion, moderation was a better tactic, and he refused to give way to the urgings of both his council and the Board of Directors.¹⁶ Adam had no such scruples and would later justify his actions at length in published pamphlets

¹⁶ British Library, London (hereafter BL), Home Office Miscellaneous Series, vol. 532, Minutes of the Governor General, June 1, 1822, pp. 411–18.

and before parliamentary committees, insisting both that he had the law on his side (which was true) and that the security of the state was in jeopardy (more doubtful).¹⁷

EXECUTIVE AND JUDICIAL POWER:
REMOVING GREIG FROM THE CAPE

The awkward relationship between judicial and executive power, upon which Hastings touched in his justification, was also central to the controversy at the Cape. When the printer George Greig established the *South African Commercial Advertiser* in January 1824, it was just months after Buckingham had passed through the colony on his forced return to England. The son of a Pentonville market gardener, Greig had served his apprenticeship as a printer in London, and he claimed to have worked for His Majesty's Stationery Office.¹⁸ More an entrepreneur than a man of letters, Greig arrived at the Cape in 1823, opening a general store that sold household goods, stationery, and books. He quickly saw opportunity in a newspaper that would serve the commercial community that was emerging as British rule proved permanent. The Cape Colony's entire non-Indigenous population numbered some 75,000 (including Europeans, enslaved people, and a small number of free people of color), with nearly three-quarters of all inhabitants living in and around Cape Town.¹⁹ Greig would make common cause with a small, but politically well-connected, group of recent radical and liberal migrants to the Cape, in particular two Scots, Thomas Pringle and John Fairbairn, who would (at first anonymously) serve as editors of his newspaper. At the Cape, the legal parameters for independent publication were even blurrier than in Bengal. The Cape had been wrested from the Dutch during the Napoleonic Wars, first in 1795 and then (after a brief interregnum following the Treaty of Amiens) for good in 1806. English speakers were a small minority in the European population, and the wealthy Cape Dutch

¹⁷ See, for example, [John Adam], *A Statement of Facts relative to the removal from India of Mr Buckingham, late Editor of The Calcutta Journal* (Calcutta, April 1823).

¹⁸ Vigne, *Thomas Pringle*, 124.

¹⁹ The Cape population of enslaved people was largely of East African and Indian Ocean origins. Indigenous Khoekhoen and those of Khoekhoen-slave parentage within the colony's borders numbered around 25,000 in this period. See Richard Elphick and Hermann Giliomee, eds., *The Shaping of South African Society 1652–1840*, 2nd ed. (Cape Town, 1989).

formed a powerful oligarchy allied with the new British regime. The colony retained its Dutch colonial legal system and, to a large measure, its former officials and bureaucracy. A free press had been forbidden during the period of the Dutch East India Company (Vereenigde Oost Indische Compagnie or VOC) and the present governor, Lord Charles Somerset, had little sympathy for what he regarded as licentious public debate.

Somerset tacitly allowed (though did not formally approve) the publication of the *Advertiser* for five months until May 1824, at which point the paper started to report on the libel trials of several government critics in embarrassing detail. Under threat of censorship, the paper was shut down, and the presses were sealed and seized by the government. The warrant suppressing the *Advertiser* further declared that as “the present conduct of the said George Greig has proved subversive of that due submission to the lawful commands of the constituted authorities in this colony, without which peace and tranquility cannot remain undisturbed,” he was to “leave the colony within one month of the date hereof, and that in default of so doing he shall be arrested and sent out of it by the first suitable opportunity.”²⁰ This command was later rescinded, though the closure of the newspaper and the confiscation of the presses were not. Greig, nevertheless, saw no possibility of continuing his business ventures at the Cape. He left the colony to plead his case before Parliament. After an extended campaign of pressure on the Colonial Office and through Parliament, with the help of his London-based brother, Greig relaunched the *Advertiser* at the Cape in 1826, with John Fairbairn as editor. Thomas Pringle, meanwhile, returned to Britain, where he worked for a short time on James Silk Buckingham’s London paper, the *Oriental Herald*. While the road to press freedom at the Cape was rocky, and the *Advertiser* would suffer a second period of suspension, its existence was largely guaranteed by law in 1829. Greig continued as a printer, publisher, and entrepreneur at the Cape for many decades, and several of his protégés went on to establish their own newspapers in Cape Town and the interior of the colony.

Transmission might have been controversial and (as Hastings recognized) politically risky, but for all of the rhetorical flourishes that Buckingham made in disputing the technicalities of his removal, it was firmly grounded in both law and company practice.²¹ Greig’s removal,

²⁰ *Papers Relating to S. African Commercial Advertiser*, May 8, 1824, BPP, 1826–27, vol. 21, 2.

²¹ Buckingham admitted to the legality of transmission under close questioning before the parliamentary Select Committee of 1826. *Select Committee on the Calcutta Journal*, 18.

however, was far murkier.²² In May 1824, Governor Somerset felt himself surrounded by enemies. His return after a period of home leave had prompted a bitter feud with the acting governor, Sir Rufane Donkin, and with Donkin's supporters. Even though British colonial outposts were known for high levels of infighting, the Cape administration still stood out as dangerously factionalized. There had been a recent influx of British migrants to the colony, a large proportion assisted through a scheme designed to alleviate the same social unrest that had prompted the draconian Six Acts. Many were Whigs and Radicals, politically opposed to the High Tory conservatives exemplified by Somerset, and keen to foster criticism of his regime in Britain's Parliament. In this tense political climate, Somerset sought to muzzle his critics, particularly after they started a newspaper that gave still greater publicity to their complaints. To deal with Greig and the *Advertiser*, he eventually settled upon "political removal," or banishment by executive order.

Private correspondence reveals that, for all his later insistence on the legality of his actions, Somerset was initially inclined to use judicial procedures against his opponents.²³ Several men damned by the regime as "radicals" were indeed put on trial for libeling the governor and were subsequently sentenced to banishment or transportation from the colony. After the *Advertiser* publicized these legal proceedings and released detailed reports of the dirty linen aired in the courtroom, the government forcibly closed Greig's newspaper. It was on the advice of his Dutch-trained judiciary that Somerset decided to employ "political removal" against the turbulent newspaper proprietor. His justification of the practice rested on two grounds. The first was the wording of the twenty-ninth article of the Governor's Instructions, which conferred broadly defined powers to "remove and send away from the said Settlement such persons as he shall suspect of adhering to the King's Enemies, and all such other persons, the continuing of whose residence he may have reason to *imagine* might be *inconvenient* or prejudicial to the peace, *good order* and security of the said Settlement."²⁴ The second was precedence in

²² For a more extended discussion of legal pluralism and the constitutional difficulties of the Somerset regime, see Kirsten McKenzie, "'The Laws of his own Country': Defamation, Banishment and the Problem of Legal Pluralism in the 1820s Cape Colony," *Journal of Imperial and Commonwealth History* 43 (2015): 787–806; McKenzie, *Imperial Underworld*, chapter 7.

²³ Bodleian Library, Oxford (hereafter BLO), Bigge–Somerset Correspondence, Somerset to John Thomas Bigge, April 29, 1824.

²⁴ TNA, CO 48/96, James Stephen to Robert Wilmot Horton, October 16, 1824.

Roman–Dutch law and Cape Dutch colonial practice. Somerset’s private letters indicate that the precedence idea came from Chief Justice Johannes (later Sir John) Truter and Justice George Kekewich.²⁵ After being issued a testy order for explanation from the secretary of state in London, Earl Bathurst, Somerset tasked Truter and the fiscal, Daniel Denyssen, with researching legal justifications to back him up.²⁶

Searching through Roman–Dutch law and colonial precedents at the Cape, the two men believed that they had found ample justification for what Denyssen called “the removal of unruly subjects by Political decree.”²⁷ There were numerous examples to be found during VOC rule, a period when, like Bengal in the 1820s, the Cape was under the control of a chartered company.²⁸ Citing both the Governor’s Instructions from the British government and the precedents of Roman–Dutch law, Chief Justice Truter found further justification in the colonial context: “the nature of a Government of an infant State, distant from the Mother Country, seems to render that discretionary Power an indispensable attribute of the Public Administration.”²⁹ The “paramount duty of the Supreme or ruling Authority,” pronounced Truter in an extended reflection on these issues, was “the preservation of the security of a state, both internal and external.” While the ordinary means to attain that end was “the enactment of Laws,” there were instances of “turbulent times” in which the law might prove inadequate to preserve state security. In these circumstances, bypassing the dictates of the law could be justified to prevent “disturbance and sedition.”³⁰ In this, the justification echoed the frequently articulated concerns of John Adam and his supporters that the fermentation of discontent allowed by a free press threatened the security of British rule in India.³¹

²⁵ BLO, Bigge–Somerset Correspondence, Somerset to Bigge, April 29, 1824.

²⁶ The Cape fiscal was at that time a combination of public prosecutor and chief of police.

²⁷ CA, CO 212, Letters from the Office of the Fiscal, no. 88, Denyssen to Somerset, September 14, 1824 (enclosure in BL, Bathurst Papers, 57/54, Somerset to Bathurst, December 5, 1824).

²⁸ Although Truter focused on the political removal of Europeans from the Cape in his legal opinion, VOC practices of forced migration around the Indian Ocean world (using overlapping categories of enslaved persons, convicts, and political prisoners) were more concentrated on Africans and Asians. See Kerry Ward, *Networks of Empire: Forced Migration in the Dutch East India Company* (Cambridge and New York, 2009).

²⁹ CA, CO 214, no. 30 (enclosure in BL, 57/54, Bathurst Papers, Somerset to Bathurst, December 5, 1824).

³⁰ CA, CO 214, no. 89, Truter to Somerset, December 5, 1824.

³¹ C. A. Bayly suggests that the authoritarian arguments put forward by Adam and others against Buckingham were more influenced by the rapid emergence of the Indian-language

When consulted by Bathurst, James Stephen, the legal advisor to the Colonial Office, expressed an entirely different view from that of Truter and Denyssen. Stephen's legal opinion of what he called an "illegal and unconstitutional act" was so trenchant that he wrote a follow-up letter apologizing for its vehemence, though without backing down from his original conclusions. He considered the Governor's Instructions "illegal," and Roman-Dutch precedent irrelevant, since both were "contrary to fundamental principles" forbidding imprisonment or exile without trial.³² Such rights, in his opinion, could not be enacted through an order in the Council, but would require the authority of the king in Parliament. Upholding Somerset's actions in extrajudicial banishment, he concluded, would be "unconstitutional and void."³³ Bathurst took a more lenient view, and accepted a *status quo* that allowed "arbitrary power of control over the press" through the executive arm. He, too, was inclined to view Greig's case in a wider imperial context. "Look at what passed in Buckingham's case in India," he wrote privately to Robert Wilmot Horton, "and Sir B[enjamin] D'Urban's menaces to the press in Demerara, & you will find that they have that character."³⁴ Nevertheless, like Hastings in Bengal, Bathurst considered that threats were a more effective tactic than risking the political costs of enacting these summary powers.³⁵

The controversy over Greig's treatment was exacerbated by the presence in the Cape Colony at that time of a parliamentary Commission of Inquiry sent to investigate the state of colonial governance. Their wide-ranging 1827 report was critical of the blurred line between the executive and judiciary in Cape governance, a key concern in this period and one that would lead to changes in the constitutional arrangements of colonies not only in South Africa but also in Australia in the 1820s

newspapers in Bengali, Urdu, and Persian in the middle of the 1820s. It is estimated that there were about 800 to 1,000 subscribers to six such papers in 1825, with each copy read by far more people. *Recovering Liberties*, 79. A year after Greig was deported, an (admittedly small) slave revolt in the interior of the Cape Colony alarmed authorities on account of the role allegedly played by newspapers in inspiring this bid for freedom. Robert Ross, *Cape of Torments: Slavery and Resistance in South Africa* (London, 1983); Patricia van der Spuy, "Making Himself Master": Galant's Rebellion Revisited," *South African Historical Journal* 34 (1996): 1–28.

³² TNA, CO48/96, Stephen to Wilmot Horton, September 21, 1824.

³³ *Ibid.*

³⁴ TNA, CO 324/75, Bathurst to Wilmot Horton, November 12, 1824, Minutes by Lord Bathurst.

³⁵ BL, Bathurst Papers, 57/54, Bathurst to Somerset, October 19, 1824.

and 1830s.³⁶ “Amongst the most important and formidable of those [executive] powers which have been exercised either under Dutch or English authority,” concluded the Commissioners of Inquiry at the Cape, “is that which has been termed the ‘political removal’ from the colony of individuals whose conduct was considered dangerous to the public tranquility.” While the commissioners, in contrast to James Stephen, considered the practice legal according to both the colonial Dutch precedents and the Twenty-Ninth Article of the Governor’s Instructions, they recognized that it was politically inexpedient. It was a practice more suited to those “accustomed to an arbitrary form of government” than to the vociferous new British settlers who claimed “the right of free discussion” at the Cape, and who had inspired “in the Dutch and native population a spirit of vigilance and attention that never existed before, to the acts of the government, and which may render all future exertion of authority objectionable that is not founded upon the law.” They recommended confining the power of political removal to “aliens, or persons who are not natural born subjects of His Majesty,” as well as to those with limited property and length of residence in the colony. In other words, read the subtext, political removal should be used against those who lacked the ability to make the provision more trouble than it was worth.³⁷

SUBJECTHOOD, FORCED REMOVAL, AND POLITICS AT HOME AND ABROAD

The Commission of Inquiry’s conclusions on political removal raise contentious issues of subjecthood and alienage being debated elsewhere in the British Empire during this period.³⁸ Difficulties over the definition of British subjecthood and allegiance had dogged the imperial expansions of the eighteenth century, and nationality law and policy had become even more contentious across the period of revolutionary war. Borders of belonging were being hardened against outsiders as alien legislation was tightened up, yet they also needed to remain flexible enough to accommodate additional subjects who were brought into the fold by conquest.³⁹ Territories

³⁶ For more on the blurring of executive and judicial functions in British colonial governance in this period, see Jan C. Jansen’s chapter in this volume.

³⁷ *Cape of Good Hope. Reports of the Commissioners of Inquiry*, May 1, 1827, BPP, House of Commons Papers, 1826–27, vol. 21, 16.

³⁸ For an example in the Caribbean, see Jansen’s chapter in this volume.

³⁹ Hannah Weiss Muller, *Subjects and Sovereign: Bonds of Belonging in the Eighteenth-Century British Empire* (Oxford, 2017); Brooke N. Newman, *Dark Inheritance: Blood,*

such as the Cape of Good Hope changed hands several times across the period of the revolutionary and Napoleonic Wars, and comprised varied populations of Indigenous people, enslaved people descended from imported populations, and Europeans of various ethnic origins. In India, subjecthood was complicated not only by racial distinctions but also by the inconsistent legal jurisdictions of the East India Company.⁴⁰ As Hannah Weiss Muller has argued, subjecthood had an (often vexed) legal definition, but it also encompassed a set of practices and assumptions that were worked out in quotidian ways by ordinary historical actors.⁴¹

Subjecthood was also a source of protest in the 1819 debates over banishment in the Six Acts. Was it politic, asked critics, to send disaffected radicals into the arms of potentially hostile foreign powers? Banishment had not only been flagged by the opposition as “totally unknown to the law of England” but was also criticized as a “civil death.” What were the implications for subjecthood and allegiance? As one member of the Commons asked, “Could the children of a man so banished, and born abroad, be entitled to claim as British subjects?” What happened when a banished man was domiciled in a country with which Britain went to war? There were speculations as to “the consequence, if the obligation to allegiance were not cut off by banishment.”⁴² Both Greig and Buckingham made much of their British subjecthood in the protests marshaled against their treatment, as did their supporters.⁴³ Greig and his political allies at

Race and Sex in Colonial Jamaica (New Haven, CT, 2018); Caitlin Anderson, “Old Subjects, New Subjects and Non-Subjects: Silences and Subjecthood in Fédon’s Rebellion, Grenada, 1795–96,” in Richard Bessel, Nicholas Guyatt, and Jane Rendall, eds., *War, Empire and Slavery, 1770–1830* (London, 2010), 201–7; Caitlin Anderson, “Britons Abroad, Aliens at Home: Nationality Law and Policy in Britain, 1815–1870,” PhD diss., University of Cambridge, 2004.

⁴⁰ Weiss Muller, *Subjects and Sovereigns*, chapter 5; Sudipta Sen, “Imperial Subjects on Trial: On the Legal Identity of Britons in Late Eighteenth-Century India,” *Journal of British Studies* 45 (2006): 532–55. On the liminal position of Eurasians under company rule and the legal distinction between “British subjects” and “Natives of India,” see also Christopher J. Hawes, *Poor Relations: The Making of a Eurasian Community in British India, 1773–1833* (Richmond, VA, 1996).

⁴¹ Weiss Muller, *Subjects and Sovereigns*, 13, 18.

⁴² Hansard, *Parliamentary Debates*, 1st ser., December 23, 1819, vol. 41, cols. 1515–68.

⁴³ On Buckingham, British subjecthood, and transmission, see, for example, [John Palmer] *Letters to Sir Charles Forbes, Bart. MP on the suppression of public discussion in India, and the banishment without trial, of two British editors from that country by the Acting Governor-General, Mr. Adam. By a Proprietor of India-Stock* (London, 1824); *A Letter to the Editor of John Bull on the statement published by Mr Buckingham the late editor of the Calcutta Journal, entitled ‘A few brief remarks on the recent act of transportation without trial’* (Calcutta, 1823). Greig appealed to the legal precedent of *Fabrigas v. Mostyn* to assert

the Cape complained about being oppressed by a foreign legal system that was much harsher in its attitude toward public debate. A “British-born subject,” urged one such man in raising his treatment before Parliament, “carries his constitution about him in every part of His Majesty’s dominions as his indefeasible birthright, and that in cases affecting his life, his liberty, or his fair fame, he is entitled to be adjudged by the laws of his own country.”⁴⁴ While the doctrines of conquest made this claim dubious in black letter law, popular ideas of what constituted the rights of British subjecthood nevertheless gave it political clout. The presence of the Commission of Inquiry, which was widely expected to recommend overturning the Cape’s Roman–Dutch legal system in favor of British law, only underscored the point. Similarly, in petitioning Parliament for redress in 1826, Buckingham’s first point concerned the question of British subjecthood – that in coming to India, he “for the first time found that his being an Englishman (which had every where else been to him a source of pride and benefit) was now the cause of humiliation and disadvantage.”⁴⁵ Far from benefitting from the much-vaunted “rights of free-born Englishmen,” company rule meant that “the mildest exercise of his legal birthright was deemed a crime.”⁴⁶ Thus, claimed Buckingham in a public letter published shortly before his transmission, “the most abject individual of Indian birth” had access to a “freedom and independence of mind” that was denied to “Englishmen” threatened with “the power of banishment without trial.”⁴⁷ This was a point that Buckingham’s supporters in both colony and metropole inevitably raised in the explosion of pamphleteering that followed his exile. Taking the same point from a different perspective, Adam would later fume that the *Calcutta Journal* had “continued openly to defy and insult the Government” by placing itself in the hands of Francis Sandys and thereby “confiding in the supposed privileges attached to his Indian Birth.”⁴⁸

his rights as an English subject illegally banished under foreign laws. See *Papers Relating to S. African Commercial Advertiser*, May 8, 1824, BPP, House of Commons Papers, 1826–27, vol. 21, 6; and TNA, CO 48/96, Case of Greig and Fairbairn; Censorship of the Press. For discussion of *Fabrigas v. Mostyn* in relation to contested British subjecthood in the Mediterranean, see Weiss Muller, *Subjects and Sovereign*, 29, 40–41.

⁴⁴ *Papers Relating to S. African Commercial Advertiser and its Editor*, May 8, 1824, BPP, House of Commons Papers, 1826–27, vol. 21, 2; *Mr Bishop Burnett, Cape of Good Hope*, May 19, 1826, BPP, House of Commons Papers, 1826, vol. 25, 26.

⁴⁵ *Select Committee on the Calcutta Journal*, iv.

⁴⁶ *Ibid.*, 5.

⁴⁷ *Ibid.*, appendix, 40.

⁴⁸ *A Statement of Facts relative to the removal from India of Mr Buckingham, late Editor of The Calcutta Journal* (Calcutta, 1823), 3.

As with Buckingham, the controversy over Greig's banishment and the closure of the Cape press was taken up with glee in London by Whigs and Radicals keen to embarrass the Tory administration. The scandals arose at a particularly delicate moment, when controversy over Catholic Emancipation was testing the ties that bound various factions of the government together.⁴⁹ The Tories anticipated a "great brawling" in the House of Commons about the press at the Cape, "so popular a subject for declamation that the opposition will be more likely to catch at than at the other points."⁵⁰ As Secretary of State Bathurst complained to Governor Somerset in a confidential reprimand: "You have unfortunately stirred two most delicate questions to which every English feeling is most likely to be alive. The one, the freedom of the Press: the second, the power of expulsion without trial, without Conviction, by the exercise of your own individual Authority." With clear reference to the Buckingham controversy, Bathurst pointed out that "this question has been stirr'd in India" and that the Cape case "respecting the freedom of the Press will come for parliamentary discussion at a moment peculiarly inauspicious."⁵¹ In a private letter to Undersecretary of State Robert Wilmot Horton, Bathurst admitted the challenges of "taking a temperate & dispassionate view of the merits of the question," while taking into account the inevitable fallout: "The case of Greig is one which I am aware may become the fruitful source of much popular declamation calculated to affect a popular assembly."⁵² In this tense political climate, Somerset was under considerable pressure to provide ammunition for "refuting," as he put it to the secretary of state, "any hostile arguments which may be urgent in the House of Commons."⁵³

Both the government and the opposition agreed on the empire-wide scope of the debate. Policy decisions around press freedom in one locality could have unwelcome influence on volatile debates elsewhere. Writing

⁴⁹ Stephen M. Lee, *George Canning and Liberal Toryism, 1801–1827* (Woodbridge, UK, 2008), 154–55; William R. Brock, *Lord Liverpool and Liberal Toryism, 1820–27*, 2nd ed. (London, 1967), 75–76.

⁵⁰ Catton Collection, Derbyshire, D3155/WH 2876, Lord Granville Somerset to Wilmot Horton, December 5, 1824.

⁵¹ BL, Bathurst Papers, 57/54, Bathurst to Somerset, October 19, 1824. Bathurst's reference here is most likely to the agitation inside and outside parliament by radical Joseph Hume about Buckingham's case. Taylor, "Joseph Hume and the Reformation of India," 293–94.

⁵² TNA, CO 324/75, Bathurst to Wilmot Horton, November 12, 1824, Minutes by Lord Bathurst.

⁵³ BL, Bathurst Papers, 57/54, Somerset to Bathurst, December 5, 1824.

to the prime minister, Lord Liverpool, George Canning, then president of the Board of Control, mourned that “nothing can be more inconvenient or mischievous” than Hastings’s liberalization of the press regulations in India. He nevertheless urged caution: “whatever direction” was pursued “will rebound hither: and it therefore cannot be considered as a purely India question.”⁵⁴ Penned in April 1820, not long after the passage of the controversial Six Acts, Canning’s letter makes clear that the Tories were eager to avoid any renewed parliamentary discussion of those provisions, which, as mentioned previously, were designed to crack down on radical dissenters in the metropole in the context of postwar social unrest. With the forced removal of Buckingham and Greig in quick succession, Canning’s fears came to pass. A reignited debate over Tory government repression in Britain became shot through with colonial examples that were tactically useful in attacking the government at home. Some of the same members of Parliament who had been vocal against the Six Acts now raised the same arguments in defense of Buckingham. As Lynn Zastoupil rightly argues, “Bengal and Britain were ... two fronts in the Tory campaign against the radical press.”⁵⁵ As this chapter has demonstrated, it was a campaign fought on far more than two fronts, underscoring C. A. Bayly’s characterization of the period as “the first international conjuncture of radical liberalism.”⁵⁶

A coda to these imperial debates over forced removal, press freedom, and the law came to New South Wales only a few years later. In one example of a wider trend in colonial constitutional reform that disentangled executive from judicial power in crown colonies,⁵⁷ the New South Wales Act of 1823 gave the chief justice the right to disallow colonial legislation deemed repugnant to the laws of England. This power was strengthened by the Australian Courts Act of 1828. Governor Ralph Darling of New South Wales was, in many ways, cut from the same political cloth as Somerset at the Cape and Adam in Bengal. Certainly, despite some early signs of tolerance toward the press, he came over to “a constitutional framework which criminalised the public scrutiny of official behaviour.”⁵⁸ Darling, however, was repeatedly thwarted in his attempts

⁵⁴ Canning to Liverpool, April 19, 1820. BL, Liverpool Papers, Add. Mss 38, 193, f. 120; Zastoupil, *Rammohun Roy*.

⁵⁵ Zastoupil, *Rammohun Roy*, 101.

⁵⁶ Bayly, *Recovering Liberties*, 71, 104–5.

⁵⁷ Colonies without colonial legislatures that were ruled by exercise of the royal prerogative.

⁵⁸ Brendan Edgeworth, “Defamation Law and the Emergence of a Critical Press in Colonial New South Wales (1824–1831),” *Australian Journal of Law and Society* 6 (1990–1991): 55.

to gain control of a licentious colonial press by his more reform-minded chief justice, Francis Forbes. Among these unsuccessful efforts was the New South Wales governor's attempt to get banishment for a second offense of criminal libel onto the statute books. With the banishment provision removed from the Blasphemous and Seditious Libel Act in England in July 1830, Darling's attempt was successfully blocked by his chief justice on the grounds that it was repugnant to English law.⁵⁹

CONCLUSION

The debates around the treatment of James Silk Buckingham and George Greig played out in a postwar context in which anxiety about revolution continued to loom large within Europe and its imperial possessions. How much of a threat to public safety was a "licentious" press? What was the most effective way of policing it? Where should the line between state security and freedom of debate be drawn? Banishment by executive order, especially when employed self-consciously against voices critical of the British imperial state, is a useful entry point in discussing the concepts and patterns of political exile employed in this period. What was called "political removal" at the Cape and "transmission" in Bengal touched on wider questions about the relationship between executive and judicial power in colonial constitutions and the implications for Britons subjected to distinctive legal regimes outside the mother country. Controversies about press liberty, government despotism, and imperial security were enacted on a far wider stage than the localized scandals of colonial newspapers might suggest. "Political removal" might have seemed like a convenient weapon for anxious administrators in so-called turbulent times to employ on the colonial periphery, but the Buckingham and Greig cases demonstrate how easily it could backfire in an interconnected imperial public sphere.

⁵⁹ Edgeworth, "Defamation"; Barry Wright, "Libel and the Colonial Administration of Justice in Upper Canada and New South Wales, c. 1825–30," in Hamar Foster, Benjamin L. Berger, and A. R. Buck, eds., *The Grand Experiment: Law and Legal Culture in British Settler Societies* (Vancouver, 2008), 13–37.