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Recall to Life: Imperial Britain, Foreign Refugees and the  
Development of Modern Refuge, 1789-1905

By

Caroline Emily Shaw

A dissertation submitted in partial satisfaction of the  
requirements for the degree of

Doctor of Philosophy

in

History

in the

Graduate Division

of the

University of California, Berkeley

Committee in charge:

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Professor James Vernon  
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## ABSTRACT

### Recall to Life: Imperial Britain, Foreign Refugees and the Development of Modern Refuge, 1789-1905

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Caroline Emily Shaw

Doctor of Philosophy in History

The University of California, Berkeley

Professor Thomas W. Laqueur, Chair

The dissertation that follows offers the first historical examination of the nineteenth-century origins of the “refugee” as a modern humanitarian and legal category. To date, scholars have tended to focus on a single refugee group or have overlooked this period entirely, acknowledging the linguistic origins of the term “refugee” with the seventeenth-century French Huguenots before skipping directly to the post-WWI period. I find that it is only through the imperial and global history of British refuge in the nineteenth century that we can understand the sources of our contemporary moral commitment to refugees. Through most of the eighteenth century, “refugees” were understood to be Protestants fleeing persecution on the Continent. The refugee category expanded during the French Revolution and the decades that followed, as British philanthropists, officials and civil servants defined their nation in contrast to oppressive governance across the globe. By the mid-nineteenth century, “the refugee,” although nowhere defined in British law, was recognized from the political fringes to the heights of the imperial government as a foreigner who had been persecuted overseas and hence required special philanthropic attention. The British media and a broad contingent of supporters from all social classes celebrated refuge as a national moral imperative. They applied the category to any foreigner who fit the now standardized refugee characteristics regardless of his or her religion, race, or politics. This high moral aspiration encountered two distinct difficulties in the years after 1870, however. First, while the British routinely assumed that they were more liberal than other powers, imperial rule bred pockets of resistance and created its own political refugees. This raised troubling questions of ethical consistency, as British politicians and philanthropists themselves recognized. Second, Britain’s ability to harbor foreign refugees depended on its imperial reach. The increasingly obvious limits to Britain’s international power after 1870 made it more difficult to resettle refugees throughout the Empire or to persuade foreign powers to protect refugees at Britain’s behest. Ironically, these limitations also drove British philanthropists and officials to pursue refugee relief on an increasingly international basis, the legacies of which remain with us today.

## TABLE OF CONTENTS

ACKNOWLEDGEMENTS	ii
INTRODUCTION: Persecuted Foreigners and the Place of Modern Refuge	1
SECTION I. FROM A CONFSSIONAL MODEL TO A LIBERAL MODEL FOR REFUGE, 1685-1870	
CHAPTER ONE: Emigrés, Aliens and the Logics of Refuge, 1792-1793	13
CHAPTER TWO: Refugee Stories: The Emergence of a ‘Refugee’ Narrative, 1815-1870	39
CHAPTER THREE: Pragmatics and Politics and Refugee Relief, 1815-1870	64
CHAPTER FOUR: Governing Morals? Refuge at home and in the Empire, 1848-1861	90
SECTION II. A UNIVERSAL RIGHT? DEBATES OVER THE LIMITS OF BRITISH REFUGE, 1870-1900	
CHAPTER FIVE: Criminal or Political? Foreign Refugees, Irish Fenians and International Extradition Law, 1870-1900	120
CHAPTER SIX: British Liberty & Sovereign Rights: The Fugitive Slave Circulars and Refuge in East Africa, 1875-76	153
SECTION III. THE ENDS OF BRITISH REFUGE, 1880-1905	
Chapter Seven: Humanitarian Dreams, Domestic Nightmares: Persecution, Resettlement and the Re-working of British Refuge, 1880-1905	177
Conclusion: The Strictures of Hospitality: Universal Rights and the Peculiarities of British Refuge	209
BIBLIOGRAPHY	222

## ACKNOWLEDGMENTS

Better not to mention the subject, anywhere or in any way, and to remove him – for a while at all events – out of France. Even I, safe as an Englishman, [...] avoid all naming of the matter. I carry about me, not a scrap of writing openly referring to it. This is a secret service altogether. My credentials, and memoranda, are all comprehended in the one line, ‘Recalled to Life;’ which may mean anything.

~ Jarvis Lorry in Charles Dickens’s *A Tale of Two Cities*

I arrived in London in early July of 2005, eager to use my two months in the archives to settle on a dissertation topic while away from coursework. Interested in the history of international news, I agonized for three weeks over different potential topics, peppering my wonderful advisor James with emails about the latest topic of interest and catching up with Tom over tea at the British Library. I’d return to my room at the appropriately named Goodenough College each night to collapse from the day’s work. *A Tale of Two Cities* was my solace. Little did I realize when I selected a copy of the novel from Moe Books in Berkeley how appropriate this choice would be. It took almost a month before I realized that refuge was my topic.

In the four years since that summer I’ve realized how unlike Jarvis Lorry British refugee supporters were in the long century between the French Revolution of 1789 and the Great War in 1914. British refuge was hardly a “secret service.” The effort to rescue foreign refugees from persecution overseas was a noisy, nation-defining affair. Refugee supporters – private philanthropists and public officials – relied on mass protest meetings and media coverage. To “recall” foreign refugees “to life” was a popular moral imperative, one Dickens himself shared.

This dissertation would not have been possible without the support, guidance and criticism of my advisers in the History Department at UC Berkeley, James Vernon and Thomas Laqueur. They, along with Catherine Gallagher in the English Department and David Lieberman in History and Jurisprudence and Social Policy, form the best dissertation committee I could imagine. They have waded through memos from the archives and drafts of chapters with patience, encouragement and thoughtful advice.

Barbara Hayashida, Mabel Lee, and Candace Groskreutz provided invaluable guidance and moral support in navigating Berkeley officialdom and the merry-go-round of fellowship applications, conferences and job applications that marks graduate student life.

I do not know if I would have ended up in British history, or history at all, if it had not been for the inspiration of mentors. From my freshman year through my senior thesis at Johns Hopkins, David Bell encouraged me to seek out new academic challenges. Judith Walkowitz, whom I had the fortune to work with from early in my Hopkins years, taught me how to research in the archives and imparted to me a love for cultural history and for bringing novels and newspapers into the study of the past. Encouraged to delve deep into the archives at Hopkins, I found myself pulled in the opposite direction at Berkeley, prompted at every turn to think broadly and deeply about historical change by friends, professors and visiting scholars. I cannot imagine my years at Berkeley without Susanna Barrows and Tyler Stovall’s urging me to think comparatively. Susanna’s ability to make even studying for exams a social activity is without

parallel. She reminded me, even at the most stressful of times in a graduate student's studies, that the point and the pleasure of academic life is sharing and debating ideas.

In the summer of 2005 and in 2006-2007, I conducted the archival work for my dissertation in London, Newcastle, and Southampton with the generous financial support of the University of California, Berkeley History Department, the UC Berkeley Institute of International Studies Simpson Fellowship, and the UC Berkeley Center for European Studies. I am indebted to the many archivists who helped me to access rare books and manuscripts at the British Library, the British National Archives, Bishopsgate Institute, the London Metropolitan Archives, newspapers at the British Library at Colindale, and the special collections at the Friends' House, the British Red Cross, University College, London, the London School of Economics, Rhodes House, Oxford, and the University of Southampton. Joan Allen's hospitality and knowledge of the Joseph Cowen Collection at the Tyne & Wear Archives Service in Newcastle salvaged an otherwise disastrous research trip in which my computer died upon arrival. My friends in London, old and new, helped stave off the isolation of the archives.

Since returning to Berkeley from the archives, this project has benefited immensely from the Center for British Studies' events and reading groups, from discussions during efforts to establish a human rights minor across the Berkeley campus, and from Berkeley-Chicago-Yale British Studies Mellon Consortia's meetings and workshops, especially from the close readings and thoughtful questions of Jordanna Bailkin and fellow graduate students Desmond Fitzgibbon, Jeff Hoppes, Penelope Ismay, Andrew Keating, and Nicholas Wilson, and Darcy Hughes Heuring at Northwestern. David Feldman, Margot Finn and Peter Gatrell, and Carla Hesse, experts in matters relating to different refugee groups in the eighteenth through twentieth centuries, have each helped me to contextualize my study at key moments. Finally I have learned much from the commentary of participants at the American Historical Associations Annual Meeting, the Pacific Coast and the North American Conferences on British Studies, and the Refugees and the End of Empire Conference at De Montfort University in Leicester, UK, among them James Epstein, Kevin Grant, Nicoletta Gullace, Stefan Manz, Maura O'Connor, Panikos Panayi, Claudena Skran, Michelle Tusan, Judith Walkowitz, and Aristide Zolberg. Thanks to the Mellon/ACLS Dissertation Completion Fellowship, I have had the luxury of the past year to take their comments into account as I wrote and revised the final chapters. I hope I have done them justice.

I dedicate this dissertation to my family whose love has provided me with constant sustenance: my sister, Elizabeth, and brother-in-law, Daniel, my mom, Ilene, and grandmother, Sarita, and my in-laws, the Aldrich/Moodie family. I would have loved to talk shop over these past years with my father. I know he would have enjoyed that I finally came around to studying two of his own hobby-horses, law and diplomacy, though with my own twist. Ben came into my life at the start of this project and at every turn he has been my first audience and helpful critic. I saw in an acknowledgement somewhere that a dual academic couple takes the vow to "love, honor, and edit." How true.

## INTRODUCTION

### “RECALLED TO LIFE”: PERSECUTED FOREIGNERS & THE PLACE OF MODERN REFUGE

If these men and women are political exiles and religious refugees, and we, in England, are bound in conscience, in faith, and in fealty to the splendid tradition of our freedom and our power, to give them protection, safety and home, then let us do it, as in the sight of God, with some thoughtfulness, some wisdom, and some care.<sup>1</sup>

Reverend G. S. Reaney, 1892

Despite his pious tone, the Reverend G. S. Reaney wasted little love on the foreigners about whom he wrote. His 1892 essay pondered the “moral aspect” of Britain’s open immigration policy in conservative public commentator Arnold White’s anti-alien volume. Arguing that only *if* these Jews were refugees would they deserve special treatment, Reaney meant to dissuade readers from sympathizing with this group. He would go on to question the severity of the situation in Russia from which they fled. Nevertheless, even in his anger he admitted that Jews could in fact be refugees if they had been persecuted in Russia. Yet just a century before, a discussion of British moral responsibility to foreign refugees so wholly unconnected to the English as Eastern European Jews would have been improbable. Until the end of the eighteenth century, British refuge had been founded on religious confession. British territory promised freedom of conscience for persecuted Protestants under the security of a Protestant monarch. As the *Encyclopedia Britannica* of 1796 noted, the term “refugee” referred specifically to the French Huguenots, Protestants who were forced to flee the Revocation of the Edict of Nantes in 1685. Indeed, the French Huguenots introduced the word into the English language.<sup>2</sup>

Reaney’s 1892 statement illustrates the profound expansion of the refugee category and the obligation to provide refuge over the course of the nineteenth century. No longer a Protestant fleeing Catholic despotism, the refugee could in theory be anyone who fled unjust governance overseas. Thanks to their long-standing “freedom” and “power,” the British were “bound in conscience, in faith, and in fealty” to care for these particular foreigners. Over the course of the nineteenth century, British politicians and diplomats, civil servants and missionaries, public commentators and private philanthropists together developed a broad base of voluntary societies that mobilized refugee supporters via standardized procedures for these foreigners’ relief. So successful in their appeals that the most conservative, anti-alien commentators could not deny that refugees, of any race, politics or religion, had fundamental claims upon British sympathies.

Why did the understanding of the refugee expand from the confessional model of the early modern period? How, in a little over a hundred years, did the refugee become a general category for humanitarian and, ultimately, for legal attention? Why was the plight of the refugee

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<sup>1</sup> Rev. G. S. Reaney, “The Moral Aspect” in Arnold White (ed.), *The Destitute Alien in Great Britain: A Series of Papers Dealing with the Subject of Foreign Pauper Immigration*. (London: Swan Sonnenschein, 1892), 83.

<sup>2</sup> *Oxford English Dictionary Online*, Entry for “Refugee,” (Oxford: Oxford University Press, 2010); and *Encyclopedia Britannica: or, a dictionary of arts, sciences, and miscellaneous literature*, 3<sup>rd</sup> Edition, (vol. 16, pt. 1) 51.



seen as a peculiarly British concern? What was the nature of British responsibility for refugees? Whence did it derive? What were its legacies?

What became a modern moral imperative to provide for foreign refugees did not emerge out of a pre-modern vacuum. Fugitives of all sorts had fled retribution long before the eighteenth century. Judeo-Christian and Islamic cultures, among others, share a concern for hospitality to strangers. Legal codes from the age of Hammurabi to the Greeks and Romans and beyond have commented on the proper treatment of foreign fugitives. Medieval sanctuary laws, like the biblical directives to establish “cities of refuge,” allowed temporary shelters for fugitives fleeing justice. Whether the punishment was deserved or not did not matter.<sup>3</sup> We can find traces of these long-standing religious and legal precedents in modern asylum law and in the hospitality offered to strangers, foreign refugees included.<sup>4</sup>

What is distinctive about modern refuge is that it implicitly impugns the legitimacy of the governments from which refugees flee and thus implies the existence of universal political norms. I date the development of refuge to what has become known as the long-nineteenth century, the period between the French Revolution and the First World War. During this period of modern nation- and empire-building, changing forms of governance redefined the relationships between states and their subjects. Moreover, unprecedented social and political progress made the persecution of foreigners, governmental violence and state-imposed exile, seem to be a moral failing. Though the language of a human right to protection and shelter came to the fore in the twentieth century, it was in this earlier moment that refuge became a humanitarian norm.

This dissertation focuses on how refuge became a nation-defining commitment for the British. In telling this story, this dissertation offers the first comprehensive account of British refuge for foreign nationals. I focus on the British case because the British were considered the refuge providers *par excellence* at this time. Why was British refuge distinct from that offered by other countries? In short, the British were distinct because they were the first to develop a strong voluntary sector that came to distinguish foreign refugees as particularly deserving of charitable assistance. There was no need for private or public officials to distinguish refugees from other foreigners. Absent restrictive immigration policies, anyone could enter the country. Nonetheless, private philanthropists lobbied the government and the public at large on behalf of persecuted foreigners. Beholden to this public opinion, British politicians and officials came to the defense

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<sup>3</sup> The Torah names six cities of refuge and sets out that another forty-two are to be designated. (Num. 35: 6-34; Deut. 19: 1-13; Josh. 20.) Such safe-havens were not permanent. Nor were they designed to abet in the evasion of just justice. As set out in the Torah, cities of refuge ensured that the avenger of the blood did not kill the manslayer before a trial convened. If the fugitive did not leave the realm, he or she would face punishment. The function of the medieval sanctuaries was similarly to provide a venue for justice “in rude ages.” With attempts at the solidification of state power from the Reformation through the English Civil War, the willingness of the state to cede such powers to prosecute political enemies diminished greatly. By the close of the seventeenth century, the last of the sanctuaries was officially outlawed. (Thomas John de Mazinghi, *Sanctuaries*, [Stafford: Halden & Son, 1887], 101, and more generally; Rev. J. Charles Cox, *The Sanctuaries and Sanctuary Seekers of Medieval England*, [London: George Allen & Sons, 1911]).

<sup>4</sup> Hospitality for refugees also evolved from a specific set of charitable practices for the needy. For early modern hospitality, see Felicity Heal, *Hospitality in Early Modern England*, (Oxford: Clarendon Press, 1990). Heal traces hospitality as a social practice in contemporary discussions of the Roman *ius hospitii*; she demonstrates how seventeenth-century theorists gave it a distinctly Christian humanist import (4). By the eighteenth century, we can find another set of roots for modern hospitality in evangelicalism. The poor laws did not state whether a stranger from another nation could receive the benefit of the parish rates. Methodists responded to the ambiguous place of the foreigner by starting charities aimed at those at the limits of society. Wesley established the London Strangers’ Friend Society in 1785. By the time of the French Terror, sister societies formed in Dublin, Manchester and Liverpool, meant to relieve anyone in distress, be he or she Protestant, Roman Catholic, stranger or foreigner. Only Methodists were barred from receiving from this particular charity to keep the charity unquestionably disinterested. (Adam Clarke, “The Nature, Design, Rules and Regulations of a Charitable Institution termed the Stranger’s Friend,” [1798], 5.)

of British refuge and foreign refugees time and time again. In the long-nineteenth century, the British almost never turned a foreigner identified as a refugee away from British soil, either in the British Isles or across the empire. Refugees in search of support lionized British hospitality and, by the close of the century, other nations formally recognized this distinctive practice in different ways. Whereas America increasingly copied British refuge practices, France and Austria (whose frequent demands for the extradition of their own nationals were refused) bemoaned the British penchant for sheltering foreign exiles.

The British were not the sole providers of refuge for foreign nationals in the nineteenth century. What were the alternatives? Continental exiles fled to France, Switzerland and the Netherlands as well as to Britain. French missionaries in Africa harbored fugitive slaves, and it would be the Belgians who, in 1892, suggested a system of European stations in Africa to receive fugitives.<sup>5</sup> Africans liberated from the slave trade were resettled in Cuba and Brazil long before these countries abolished slavery. The United States welcomed the “huddled masses,” including Hungarian patriots, Jewish refugees and Irish nationalists, even including the violent Fenian Brotherhood. Why did they not develop refugee relief practices like those in Britain?

Britain offered more consistent asylum and a more broad-based involvement in providing refuge than did either her continental neighbors, where the fate of foreign refugees was in the hands of the state. The French Constitution of 1793 invited political allies to France from abroad, hoping that they would fight for the new revolutionary order. In republican circles, revolutionary exiles were fêted publicly well into the 1840s. But, as historians Gérard Noiriel and Greg Burgess suggest, refuge in France was a matter of state policy. Determined from the top, the fate of these invited refugees depended in France on the survival of the host government. Different administrations, fearful of further revolutionary activity, kept close watch on foreign refugees. Especially during the July monarchy (1830-1848), the government used the provision of relief as a means of regulating and surveilling refugees’ activities. The government dictated where refugees could live while the police gathered intelligence on refugee activity. When the refugees appeared too radical, the government expelled them.<sup>6</sup> The Swiss and Belgian governments likewise expelled foreign revolutionaries periodically, bowing to the demands of their more powerful neighbors. Though the United States rarely ousted foreign refugees in this period, the young country notoriously had its own internal refugees: fugitive slaves. After the passage of the 1850 Fugitive Slave Act, which made it illegal for Americans to harbor escaped slaves, the British were quick to note that America was now as despotic as were the reactionary governments in Europe.

The Civil War ended that policy and, toward the end of the nineteenth century, America followed Britain’s example by becoming increasingly attuned to foreign refugees’ causes. As in Britain, private philanthropists cultivated a robust voluntary sector that provided relief to refugees. By the 1880s, the American Government adopted British extradition law, formally refusing – as the British had long done – to extradite political refugees to face trial in their home country. By 1900, America seems to have been a serious contender for the role of refuge provider *par excellence*. Yet, despite these developments, American ideology has not developed

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<sup>5</sup> Suzanne Miers, *Britain and the ending of the Slave Trade*, (London: Longman, 1975), 252.

<sup>6</sup> Greg Burgess, *Refuge in the Land of Liberty: France and its Refugees, from the Revolution to the End of Asylum, 1787–1939*, (New York: Palgrave Macmillan, 2008) and Gérard Noiriel’s *La Tyrannie du National: le droit d’asile en Europe, 1793-1993*, (Paris: Calman-Lévy, 1991) provide excellent histories of the French reception of continental exiles in the nineteenth century. Because of its origin in the revolutionary constitution, Noiriel argues, mainstream commentators on French refuge in the later nineteenth century carefully crafted references to refuge in the republican tradition. Noiriel, 34, 36 and chapter two more generally.

a comparable cultural-political imperative to provide for refugees in particular. As a country of immigration, unlike Britain or France, American mythology collapses refugees into the broader category of foreigners; Emma Lazarus's "huddled masses" included all individuals seeking a better life, not just persecuted refugees.<sup>7</sup>

The evolution of a particularly British liberal narrative of refuge is the subject of the first section of the dissertation. The British stringently separated refugees from other foreigners, a popular distinction that would have consequences for British policy in the nineteenth century. In telling this story, I seek to provide insight into changing liberal notions of justice and humanitarian possibilities, rather than seeking to illuminate the experiences of the individual refugee groups the British assisted. As we will see, debates over where and how to protect persecuted foreigners became a way in which an array of politically and socially diverse refugee-supporters advanced (often competing) views of how Britain ought to wield its international authority for the sake of foreign refugees.

While this British affinity for foreign refugees has been duly noted, it has not been examined. The expanding literature on the history of refugees has focused on the twentieth century, a century of unprecedented displacement across the globe. Most legal and historical accounts of refugees assume that the scale of displacement in the twentieth century generated interest in refugees almost for the first time. Scholars mention the seventeenth-century Huguenots, then skip forward to the twentieth century, implying a straight-forward progression from religious refugees to the political, economic, and gender-based refugee claims recognized by the United Nations High Commission on Refugees. If these narratives take into account legal precedents, they likewise reach back to the seventeenth-century Hugo Grotius (and his immediate successors) as precursors whose theories of responsibility to those who fled unjust rule reemerged with the advent of international law and the United Nations in the twentieth century.<sup>8</sup>

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<sup>7</sup> Noiriël; Marilyn Baseler's book on American asylum emphasizes America as a refuge for the persecuted during the colonial period, a point that I underscore in my discussion of British use of colonial outlets for refugees. More generally, however, Baseler collapses "refugee" and "immigrant." *Asylum for Mankind: America, 1607-1800*, (Ithaca: Cornell University Press, 1998).

<sup>8</sup> The few historical studies we have of refugees in the 19th century generally focus on the internal dynamic of individual refugee groups. Although we can infer experiences of exile from these works we cannot understand why and how "refugees" became a distinct category of foreigners. Scholars in refugee studies who discuss asylum or refugee relief focus on the twentieth century. If they discuss the pre-WWI period, these scholars tend to 1) dismiss pre-WWI refugee relief as unimportant given the relative small size of the diasporas, 2) focus only on the Jewish migration as the largest pre-WWI migration, 3) mention the seventeenth-century Huguenots and then ignore the nineteenth century almost entirely. See, Michael Marrus, *The Unwanted: European Refugees in the Twentieth Century*, (Philadelphia: Temple University Press, 1985); Philip Marfleet, "Refugees and history: why we must address the past," *Refugee Survey Quarterly*, (Vol. 26, Issue 3, UNHCR 2007, 136-148); Claudena Skran, *Refugees in Inter-war Europe: the Emergence of a Regime*, (Oxford: Clarendon Press, 1995), 14ff; Matthew Gibney, *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees*, (Cambridge: Cambridge University Press, 2004), 113; Liza Schuster, *The Use and Abuse of Political Asylum in Britain and Germany*, (London: Frank Cass, 2003); David Cesarani, "An Alien Concept? The Continuity of Anti-Alienism in British Society Before 1940," in *The Internment of Aliens in Twentieth-Century Britain*, David Cesarani and Tony Kushner (eds.), (London: Frank Cass, 1993, 25-52), 27 & 46.

There are important exceptions to these abbreviated pre-histories. Among historians, Burgess and Noiriël's studies of the French offers the best accounts of the nineteenth century, though limited to France. Among legal scholars and political scientists, there are several exceptions as well. Political scientist Aristide Zolberg explains the difficulties in twentieth-century definitions of the category and provides an overview of which groups have been considered "refugee" groups in the past. (*Escape From Violence: Conflict and the Refugee Crisis in the Third World*, Zolberg, Astri Suhrke, Sergio Aguayo, [Oxford: OUP, 1989, 3-33], 7 & 10); Christopher Pyle offers a detailed history of extradition and, though he focuses on the U.S., he underscores British precedence from 1870 in *Extradition, politics, and human rights*, (Philadelphia: Temple University Press, 2001).

There are also important new studies of international legal thinking in the nineteenth century that counter tendencies to move from a cosmopolitan eighteenth century to the twentieth century. See, for example, *Victorian visions of global order: empire and international relations in nineteenth-century political thought*, Duncan Bell (ed.), Vol. 86 of *Ideas in Context*,

In the few instances when they mention the nineteenth century as a preface to the twentieth century, scholars agree that Britain was peculiarly open to foreigners: only the British government resisted the temptation to issue a restrictive border policy in the nineteenth century, meaning that, between the 1826 lapse of the 1793 Aliens Act and the passage of the Aliens Act in 1905, any foreigner, immigrant or refugee, could enter Britain freely. Neither British historians nor scholars in refugee studies seem to know what to make of this peculiarity in the longer history of refugees.<sup>9</sup>

Historians of Britain treat this uniqueness dismissively. Colin Holmes, Bernard Porter, and Tony Kushner consider British humanitarian *interest* in these foreigners to be a myth. According to these scholars, because British Liberals preferred open border policies, they tolerated, but did not like, foreigners who could enter the country freely.<sup>10</sup> This scholarship draws attention to what Holmes implies to be an *irresponsible* belief that the British had ever been welcoming of foreigners, be they refugees or immigrants.<sup>11</sup> More often than not, the history of refugees is collapsed into that of broader migrant communities,<sup>12</sup> and British popular interest in refugees is deemed to be a peculiarity of the radical Chartist fringe.<sup>13</sup>

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(Cambridge: Cambridge University Press, 2007). My work aims to provide concrete historical examination of a history of these and similar ideas in action, including, but not limited to, the realm of law and international relations theory.

<sup>9</sup> Bernard Porter, *The Refugee Question in Mid-Victorian Politics*, (Cambridge: CUP, 1979) and Michael Marrus, *op.cit.* Porter's 1979 text has provided the most enduring thesis on British non-interest in refugees in the nineteenth century, one which is cited by each scholar who mentions refugees in the nineteenth century. Scholars understand his point as being that refugees simply did not matter, only really noticed by contemporaries when they marched through London on the occasion of a comrade's funeral. The point of Porter's study is actually different than generally understood. His study is not a wide inquiry into British involvement in foreigners but a much narrower answer to a counterfactual question: how did Britain resist the temptation to close its borders to refugees when all other continental powers caved to this temptation? The question is about state security, not about refugee relief. Porter's answer is that the British government – understood in his study as the heights of the administration – simply did not care, that the government was secure enough to maintain its liberal border policies and not worry about foreign refugees. On this main point, Porter is correct. Porter veers from his main question to comment on a political-cultural *disinterest* in foreign refugees. Here his argument breaks down. Unable to account for why we find countless refugee relief groups in the archives, Porter cites the insolvency of refugee relief funds as evidence of public disinterest in these foreigners.

Marrus and Skran (through Marrus) both rely on Porter's analysis, but uneasily. Marrus argues that concern for refugees was new in the twentieth century, citing Porter. Marrus equates numbers and visibility with relative insignificance in the earlier period. Yet, Marrus also claims (without further elaboration) that twentieth-century League of Nations refugee relief was based on older philanthropic forms from the nineteenth century (Marrus, 13-14).

<sup>10</sup> Colin Holmes, *John Bull's Island: Immigration and British Society, 1871-1971*, (Houndmills, Basingstoke, Hampshire: Macmillan, 1988); Porter, *op.cit.*; Tony Kushner, *Remembering Our Refugees: Then and Now*, (Manchester: MUP, 2006).

<sup>11</sup> Holmes, 294-96, 299.

<sup>12</sup> Colin Holmes's *John Bull's Island* opened a new field of study in this respect. Following his careful social and demographic history of various migrant groups, scholars have delved further into individual migrant communities. For example, Todd Endelman, *Radical Assimilation in English Jewish History, 1656-1945*, (Bloomington, Indiana University Press, 1990); David Feldman, *Englishmen and Jews: Social Relations and Political Culture, 1840-1914*, (New Haven: Yale University Press, 1994); Rosemary Ashton, *Little Germany: Exile and Asylum in Victorian England*, (Oxford: Oxford University Press, 1986); Panikos Panayi, *German Immigrants in Britain during the Nineteenth Century, 1815-1914*, (Oxford: Berg Publishers, 1995); Lucio Sponza, *Italian Immigrants in Nineteenth-Century Britain: Realities and Images*, (Leicester: Leicester University Press, 1988).

Histories of refugees in the nineteenth century have followed suit. Scholars of this tradition have produced synchronic accounts of a single refugee group or of a single set of refugee supporters. Accounts written from within the history of a particular refugee group concentrate on refugee politics vis-à-vis their country of origin. These scholars concentrate on the functioning of a government in exile; on the political aspirations of the isolated group; or, on the degree to which a foreign government's spies monitored the refugees' activities. In these histories, any involvement with British hosts is incidental. See, for example, Freitag, Sabine [ed.], *Exiles from European Revolutions: Refugees in Mid-Victorian England*, [New York: Berghahn Books, 2003].

<sup>13</sup> The discussion of refugees in these studies focuses on whether or not refugees' causes advanced the cause of British radicals. See, for example, John Belchem, "Britishness, asylum-seekers and the northern working class: 1851," *Northern History*, (Vol. 39, No. 1, 2002, 59-74); Gregory Claeys, "Mazzini, Kossuth, and British Radicalism, 1848-1854," *The Journal of British Studies*, (Vol. 28, No. 3, Jul., 1989, 225-261). For the relationship of radicals to exile revolutionary ideology, see: Miles Taylor, *Ernest Jones, Chartism, and the Romance of Politics, 1819-1869*, (Oxford: Oxford University Press, 2003); Nigel Todd, *The Militant*

There is an important political point to this dismissal of active British concern for refugees as an irresponsible myth. As Holmes rightly notes, this myth has been used to whitewash British-immigrant relations.<sup>14</sup> Kushner's account of the discursive work of this myth in the twentieth century provides ample evidence of the dangers of misremembering the reception of past asylum seekers. Fond memories of past refugee groups, he argues, have often served as a means of dismissing the claims of contemporary asylum-seekers. Kushner urges his readers to understand the operation of selective memory in order to resist it. This account of British prejudices provides significant insight into the passage and operation of twentieth- and twenty-first century immigration laws. These laws have been racially tinged, arising from and exacerbating strained cross-cultural relations. Asylum-seekers, though technically not immigrants, have also suffered from such prejudice; many have been turned away upon arrival. From a contemporary vantage point it is difficult to believe that the nation which did not incorporate the 1951 United Nations Refugee Convention into domestic law until 1993 led the field in the nineteenth century; that the imperialists who were responsible for so much violence and dislocation across their empire also used that empire to resettle tens of thousands of foreign refugees from the time of the Huguenots through the dawn of the twentieth century. But neglecting these facts distorts history just as much as anti-asylum commentators' misrepresentation of the past.<sup>15</sup>

Continuing to dismiss British interest in refugees in the nineteenth hampers a deeper understanding of the practical strengths and shortcomings of British responses to overseas refugee crises. If historians cannot answer bigger questions about the origins of refuge as a positive act rather than a negative right, we cannot help social scientists understand the origins of twentieth-century refugee relief. Scholars of refugee studies now base their limited discussion of refugees in the nineteenth century on the mistaken idea that the British were never interested in foreign refugees. Instead, as I demonstrate, this is at base a story of how a cultural idea, one which took shape in particular political moments, gathered such strength that its practitioners developed what have been enduring institutional measures to meet its demands.

THE SCOPE OF THE DISSERTATION — In the chapters that follow, I argue that philanthropists in and outside government, civil servants, missionaries, popular radical politicians and members of the established elite came to believe that providing for refugees was a national moral imperative. During the political turmoil of the Reformation, when the country's

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*Democracy: Joseph Cowen and Victorian Radicalism*, (Tyne and Wear: Bewick Press, 1991). An important corollary to this type of study has been a suggestion that involvement in continental affairs helped to form British socialist ideology (Margot Finn, *After Chartism: Class and Nation in English Radical Politics, 1848-1874*, [Cambridge: Cambridge University Press, 1993]) or, as others have argued, helped to solidify the Liberal Party, drawing in significant Chartist support for Palmerston after 1850 and shaping British foreign policy. For example, see Maura O'Connor, *The Romance of Italy and the English Political Imagination*, (New York: St. Martin's Press, 1998); Jonathan Parry, *The Politics of Patriotism: English Liberalism, National Identity and Europe, 1830-1886*, (Cambridge: Cambridge University Press, 2006); Antony Taylor, "Palmerston and Radicalism, 1847-1865," *Journal of British Studies*, (Vol. 33, No. 2, April 1994, 157-179). Taylor's article is engaged in a project to rehabilitate Palmerston in the Liberal Party and accord to him a central role in solidifying popular and particularly radical support – typically accorded to Gladstone since David Vincent's influential *Formation of the Liberal Party* (1966). Indeed, most historians who use British interest in European refugees during this period are engaged in one facet of this debate or another.

<sup>14</sup> Holmes, 294-96, 299.

<sup>15</sup> In British legal studies, Prakash Shah offers an interesting take on nineteenth-century Britain in which he argues (as historians have implied) that the British were far from welcoming and that, in this period, we see the origins of race-based asylum and immigration law of the twentieth century. If we were to limit the study of British-refugee relations to a history of prejudice, this is what it would look like. This history cannot, however, account for the many ways in which the British rallied around refugees of all colors and the fact that the protection of refugees was not limited to the practice of asylum within Britain. Prakash Shah, *Refugees, race and the legal concept of asylum in Britain* (London: Routledge Cavendish, 2000).

confessional identity hung in the balance, British officials and philanthropists welcomed fleeing Continental Protestants. When the ideological dynamite of the French Revolution threatened to explode the nation's social hierarchy, the British took in political refugees – all of whom were Catholic – from across the Channel. In the process, they transformed their confessional understanding of refuge, giving it a new, potentially universalist cast. British refuge was thus born, in part, as a means of bolstering a nation under existential threat. After the 1814-1815 Congress of Vienna, however, British refuge became part and parcel of expanding liberal ideals. Britons increasingly saw themselves as champions of political liberty and foes of human bondage during the nineteenth century, and expanded the provision of refuge accordingly. Missionaries and civil servants around the globe mobilized to shelter foreign revolutionaries and fugitive slaves. Philanthropic campaigns, I argue, created a standardized understanding of the refugee and a repertoire of practices related to the provision of refuge that would be recognized throughout British society, from the political fringes to the pinnacle of government. By mid-century, any foreigner who fit Britain's cultural definition of the refugee could claim special attention regardless of religion, politics, or race.

The first section of my dissertation (Chapters One through Four) examines the emergence of this liberal and imperial framework for refuge between 1789 and 1860. In Chapter One, I examine the break from an earlier confession-based model for refuge during the French Revolution and French Wars of the 1790s. It was in this context of heightened fears that philanthropists and officials launched the first national Aliens Act in effect to distinguish *dangerous* Jacobins from *deserving* refugees, the latter becoming subjects for sustained charitable relief. In this respect, I argue that the emergence of an expandable refugee category had as much to do with a Burkean reaction to revolution as with liberal humanitarianism. Chapter Two continues to examine the expansion of the category in the wake of the Congress of Vienna. Refugee supporters argued that Britain's concessions to conservative powers at the Congress obligated them to assist failed liberal constitutional revolutionaries on the Continent, while their anti-slave trade treaties made them responsible to foreign African slaves caught in the now illegal slave traffic. The chapter examines the development of what I am calling a "refugee narrative," drawing from Thomas Laqueur's "humanitarian narrative." British refugee supporters and refugees themselves cultivated public interest in refugees through tales of persecution, which explained the experiences and characteristics of refugees. These increasingly standardized tales helped Britons to identify refugees and provided models for how to respond to their refugees' plight.<sup>16</sup> The liberal logic of the refugee narrative was robust enough to include fugitive slaves, European revolutionaries, and the victims of those very same revolutionaries. Chapter Three focuses on the same period as Chapter Two, 1815-1860, and moves from an explanation of narrative and ideology to the emergence of increasingly standardized relief practices over the short- and long-term.

Chapter Three also introduces the links between British interest in foreign refugees and the nation's imperial and international power. The British refuge itself was predicated upon resettling refugees throughout the Empire, making refugee relief an aid to empire building and a potential source of conflict between political factions at home and between the colonies and the metropolitan public. Chapter Three further examines how attempts to remove refugees to overseas territories could meet with opposition if metropolitan refugee supporters believed that

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<sup>16</sup> Thomas W. Laqueur, "Bodies, Details, and the Humanitarian Narrative," Lynn Hunt (ed.), *The New Cultural History*, (Berkeley: University of California Press, 1989). 176-204.

this removal undermined the political objective of refuge – allowing refugees to continue agitating for change in their homeland. The sense of obligation to refugees was compelling enough that even Chartists – who operated on the political fringe – could make successful national claims on refugees’ behalf. Chapter Four moves from such debates in metropolitan Britain to three high-profile cases between 1848 and 1861 when officials in the British Empire seemed poised to refuse refuge to foreign refugees. These incidents, which took place in Canada, on British Malta and on the Channel Island of Jersey, respectively, demonstrate how vocal metropolitan refugee supporters lobbied the imperial government to ensure the extension of their cherished moral norm to all British soil. These cases also foreshadow challenges to refuge even during the golden age of British refuge, the 1840s-1860s.

The decline of British imperial fortunes toward the end of the nineteenth century created a crisis for British humanitarianism, bringing about a new set of reservations about the refugee category. In the second section of this dissertation (Chapters Five and Six), I argue that what had become a classically British model for refuge underwent important revisions between 1870 and 1905 as a result of new geopolitical realities. One response to this crisis was to retrench on Britain’s moral promises. For instance, in Chapter Five, I discuss how officials and philanthropists hedged on the definition of “persecution” and of “political offenses” with the aim of admitting fewer foreigners into the refugee category. Legal scholars debated over whether Britain was obliged to protect increasingly violent continental revolutionaries between the late 1860s and 1900. With the rise of French Communism, continental Anarchism and violent Irish Nationalism, the line between refugees to be saved from unjust prosecution and dangerous foreigners to be returned to face just justice blurred considerably. In Chapter Six, I demonstrate how new geopolitical realities caused the British Admiralty, legal scholars and the public at large to argue for the first time over whether fugitive slaves counted as refugees. The moral crisis that ensued involved negotiating a thorny diplomatic situation in which existing international law offered little guidance. This debate also provoked a new query into the quality of life in British refuges. Officials involved in this discussion worried whether, if British asylum did not live up to expectations, Britain ought to provide refuge – or relief – by other means.

The final section of this dissertation (Chapter Seven and the Conclusion) demonstrates how a national imperative for British refuge, long under strain, fared in the wake of Jewish migration from Eastern Europe when a standard recourse to overseas transmigration no longer sufficed as a means of providing refuge. Chapter Seven examines the challenges posed by this loss of imperial and overseas refuges and investigates how philanthropists, officials and public commentators responded to the new situation. There were now vocal opponents to continuing Britain’s open immigration policies. Yet even the most ardent opponents of open immigration were not necessarily anti-refugee. Nonetheless, British refugee supporters were forced to narrow the application of the refugee category to meet concerns about space. The ways in which they did this will help us better understand changing views of what injustices counted as sufficient persecution to qualify a foreigner as a refugee.

Somewhat paradoxically, declining imperial capacity also led to a quite opposite response. Despite waning public enthusiasm, liberal parliamentarians enshrined political refugees in international treaty law in 1870, a point that I highlight in Chapter Five. Chapter Seven and the Conclusion pursue this paradox further by examining the drafting of the 1905 Aliens Act. The Act restricted immigration to Britain for the first time but explicitly exempted persecuted foreigners. With waning public interest in providing relief to refugees who arrived on British shores, humanitarians tended to look further afield. They began to transcend the imperial

organization of relief. As I describe in my Conclusion, voluntary societies that had popularized humanitarian discourse and organized the provision of refuge under the British flag helped to found a new network of international organizations. The Conclusion draws out central tensions between a British tradition of refuge and refuge as a human right and traces the legacies of nineteenth-century British refuge in the twentieth and the twenty-first centuries.

TERMINOLOGY, NEW POSSIBILITIES AND INTERPRETING SILENCES — I have employed diverse print, legal, governmental and organizational sources to explore why refuge for foreign nationals mattered to British subjects around the globe and how refuge became enmeshed in the history of liberalism. Rather than employing an *a priori* definition of “refugee,” I track how the British understood the category over time. Nonetheless, I have found a common denominator in the archives. Across the nineteenth century, a refugee was someone – almost always a foreigner – who fled bad governance: bad governance being the directly or indirectly sanctioned oppression of an individual or a group. For the most part, the foreign oppression which preoccupied British refugee supporters was political or religious, areas in which liberal Britain was notably more advanced than her continental neighbors. Identifying foreign oppression as government actions that contrasted directly with British liberal ideals meant that the British were quite likely to sympathize with the foreign refugees. British sympathies were robust enough to cover the unfree labor of foreign slaves, especially those whose home government made seeking freedom a felony offense, as the United States did in the decade before the American Civil War.

This study brings together for the first time a discussion of imperial Britain’s two hallmark liberal feats of the nineteenth century: international abolitionism and refuge for foreign nationals more broadly. These two nation-defining campaigns shared more than a common liberal humanitarian commitment to moral and political progress. To begin with, fugitive slaves who fled across international boundaries to British territories were refugees and were denoted as such at the time. The bond between anti-slavery and asylum was not limited to the categorization of a few escapees. Each campaign drew rhetorical force and strategic practices from the other, from media campaigns and from petitions to a similar outfitting of overseas settlements. Illegally trafficked slaves, once liberated by the British squadrons which patrolled the Atlantic and later the Indian Ocean, required protection from re-enslavement – they required refuge, just like other persecuted foreigners. In this manner, both humanitarian movements drew force from empire and used overseas territories to provide spaces where liberated Africans as well as refugees of all colors and creeds could find refuge.

My exploration of this connection also sheds new light on a little studied period in British abolitionism. Whereas we know much about campaigns to abolish the slave trade and then slavery itself in the British territories, scholars have tended to assume that there was a lull, or even a decided downturn, in British interest in abolitionism between the end of British slavery in the Caribbean in the 1830s and the moral outrage over the discovery of “new slaveries,” including coolie labor and the white slave trade, in the 1880s. I instead find that the campaigns to protect African slaves remained quite popular especially when presented as part of the question of asylum and refuge.<sup>17</sup>

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<sup>17</sup> Catherine Hall, *Civilising Subjects: Metropole and Colony in the English Imagination, 1830-1867*, (Chicago, 2002); Kevin Grant, *A Civilised Savagery: Britain and the New Slaveries in Africa, 1884-1926* (New York: Routledge, 2005); David Turley’s essay, “Free Air and Fugitive Slaves,” though limited in scope offers the best glimpse at this intervening period to date (“‘Free Air’ and Fugitive slaves: British abolitionists versus government over American Fugitives, 1834-61,” in *Anti-Slavery, Religion and Reform: Essays in Memory of Roger Antsey*, [Folkestone, Eng.: W. Dawson, 1980, 163-182]).



The chapters that follow will, I hope, provide much needed attention to another pair of ideas/practices: asylum and refuge. These terms are often conflated. In fact, they are distinct albeit interrelated concerns. Asylum implies admission at the gates and depends on border policy. Discussing asylum alone limits one's study to legal frameworks. We already know that Britain did not have restrictive border policies for most of this period, so a discussion of asylum alone does not make sense. Refuge, by contrast, can include concerns for asylum, but the concept implies much more – relief, hospitality, home. The British provision of refuge did not always take place in Britain proper, nor even on British soil. In fact, British refuge often depended on overseas outlets. Studying refuge thus necessitates a broader geographic and conceptual scope and an examination of refuges beyond the confines of the law or foreign policy.

Although refuge is a larger category than asylum, I would be remiss if I did not attend closely to the cases in which questions of border policy emerged over the course of the nineteenth century. In Sections Two and Three of this dissertation, I examine the ways in which asylum concerns came to the fore in particular moments when it was less clear whether British refuge could or should take place in a given location. A right to asylum became an issue that set the terms of political debate in the lead up to the 1905 Aliens Act, for instance. Yet, as I will discuss in detail, the codification of a right to asylum for persecuted foreigners occurred at the exact moment in which a national moral commitment to providing refuge was under considerable strain.<sup>18</sup>

The methodology I have employed in this research – following metropolitan British discussions of foreign refugees – has its limitations as well its strengths. Refugees and the crises that forced them to flee home remained in the British media and at the forefront of official, public and philanthropic attention only for so long. Like other modern humanitarian campaigns, refugee campaigns emphasized emergency situations. Geography mattered too; refugees who were further from the metropolitan center often had to work harder to capture public attention.<sup>19</sup> Even for refugees within Britain, sustaining the public's moral and political fervor was difficult. More often than not, refugees disappeared from the records a few months after their arrival. It is not the point of this research project to trace each of these vanishing foreigners. I would direct the reader interested in the social lives of foreign groups in Britain to any of a number of rich studies of this sort.<sup>20</sup> My point is rather to focus on the challenges faced by British refugee

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<sup>18</sup> I have yet to see another historian discuss the differences between asylum and refuge. The distinction is more readily made among contemporary legal and political theorists when discussing the twentieth century and the categories of displaced foreigners created in the wake of the 1951 UN Convention on Refugees. See for instance Matthew Gibney's recent account of asylum-seekers and refugees (he does not conflate the two). Gibney, 9.

<sup>19</sup> For instance, in West Africa, fugitive slaves from outside British territory and the manumission of these slaves was a concern throughout the century. Yet only with the Fugitive Slave Circulars of 1875-76 (Chapter Six) did the treatment of refugee slaves in Africa become a major metropolitan concern, and then only in East Africa, not British West Africa. This metropolitan interest in the one area as opposed to the other is odd. It is all the more odd, as I point out in Chapter Six, that members of the Fugitive Slave Commission established in 1876 to study the situation in East Africa made little reference to the treatment of fugitive slaves elsewhere despite the fact that the Colonial Office faced similar concerns in the wake of the recently ended Ashanti War in West Africa. I focus on East Africa in this chapter because the Admiralty's circulars became part of an attempt to systematically redefine British-refugee relations not locally but wherever British ships sailed worldwide. I would guess that the situation in West Africa did not produce a similarly large-scale crisis because the reception of fugitives was a colonial concern there, not an international one. Although we need more research on this question, the visibility of refugees who crossed international lines seems to have brought more attention to the matter than if it could be dealt with by the Colonial Office alone. With all eyes on Britain's tenuous commercial and slave treaties with the Sultan of Zanzibar in East Africa, the reception of fugitives onboard British vessels in the Indian Ocean promised to become a crucible for larger dilemmas over Britain's imperial reach. (My thanks to Kevin Grant for prompting me to weigh this point carefully in his commentary on the American Historical Association Annual Meeting Panel, "An Empire in Transit," [AHA Annual Meeting, San Diego, January 2010]).

<sup>20</sup> See footnote 13 above for titles.

supporters in maintaining the distinction between foreign refugees and foreign migrants more generally over the short- and the long-term.

In pursuing conversations about foreign refugees, I have found that whole groups of foreigners whom we would now identify as refugees do not appear in the British archives as *refugees*, if they appear at all.<sup>21</sup> My principle has been to examine those potential refugees whose absence in the archives enables us to better understand the changing logic of British refuge as a moral imperative in this period. The most significant silence of this sort is the one that surrounds Britain's own political dissidents overseas – Britain's own refugees.

In the nineteenth century, the Irish were one such group of potential refugees. Famine, political and social inequality as well as fear of prosecution for nationalist rebellion induced hundreds of thousands of Irish, among other British colonial subjects, to flee their homeland. Yet they do not appear in my archives as refugees. Are they not refugees? The answer is a matter of perspective and to understand these perspectives we need to divide the Irish *non-refugees* into two categories: famine victims and political dissidents (colonial nationalists).

The Irish famine crisis importantly called the morality of British *laissez-faire* liberalism into question. Nonetheless, this crisis did not significantly bear on the question of refuge under consideration in this dissertation. It is important to note that the British excluded famine victims from the refugee category, though providing relief was certainly a live humanitarian concern. In part, this is because British relief for victims of famine generally happened on the ground, before the individuals concerned left their home territories. Yet many victims of famine did leave their homes and, when and where hunger came to be seen as a fixable human crisis, as James Vernon has shown, these individuals could well have been seen as refugees fleeing political regimes that were insensitive to the conditions of their subjects.<sup>22</sup> Whether others called the Irish famine victims refugees requires further investigation and a broader comparative account than I can provide in this project.

Irish nationalists posed a thorny conceptual problem for British refuge at the time. The British did not call these Irishmen and women refugees; but the Americans, for example, did. The fact that British were forced to recognize this discrepancy from the 1870s can be read simply as an admission of hypocrisy. But to leave the discussion there risks missing the chance to study how a moral category goes global. In Chapter Five, I examine the importance of these Irish *non-refugees* to British refuge in the context of international extradition law.

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<sup>21</sup> Even some refugees noted at the time appear infrequently in the British press. One such case is that of the Germans from the 1840s through the 1880s. Scholars of European history may be surprised to find that I include almost no discussion of these refugees in the pages that follow. There was indeed a sizeable German population in Britain and, among this population, were many famed refugees, including none other than Karl Marx and Frederick Engels. These exiles were not without their British friends. Marx's *Communist Manifesto*, written in 1848, was translated into English and published in the Chartist newspaper, *The Red Republican*. Nonetheless, the British media – radical or otherwise – did not focus on these individuals or the German exiles more broadly. Nor, even when an odd German exile was mentioned, did the British seem concerned with the provision of refuge to Germans as a concerted local and/or national project even though the same newspapers regularly reported about the cases under consideration here. Why this was the case, I cannot tell with certainty; from Rosemary Ashton's account of German exiles in Britain, it seems that their community was self-supporting, or enough so that would-be British supporters did not see fit to campaign on their behalf.

<sup>22</sup> James Vernon, *Hunger: A Modern History*, (Cambridge: Harvard University Press, 2007). There is some indication in the archives that the British government might consider individuals so treated and forced to flee to be "refugees." In the case of the Indian Famines of this period, official papers referred to subjects of the British Raj who left home as "wanderers" hardly implying that they ought to leave the system of famine camps. However, in official papers for the 1896-97 Famine, those who left the Princely States and wandered into Raj territories were termed "refugees," the implication being that the British offered their subjects *proper* care as opposed to that offered in the Princely States. *Parliamentary Papers*, 1898 [C.8812] *Government of India. Department of revenue and agriculture (famine). Narrative of the famine in India in 1896-97, by T. W. Holderness, I.C.S., deputy secretary (famine) to the Government of India*, 46-47.

The narrative that follows is a history of ideas in action and a history of the institutionalization of those ideas in political and organizational practices. My sincere hope is that readers will come to appreciate the strengths and the shortcomings of British imperial refuge. The people who invented modern refuge encountered many dilemmas that are familiar to us in contemporary efforts to make good on human rights.

**SECTION I: FROM A CONFSSIONAL MODEL  
TO A LIBERAL MODEL FOR REFUGE, 1685-1870**

**CHAPTER ONE**

**EMIGRÉS, ALIENS AND THE LOGICS OF REFUGE, 1792-1793**

...[W]hile to the individual we talk of alms and plead distress, sickness, infirmity; to the community we may be bolder, juster, firmer, and talk of duties.

Addressing her arguments to the ladies of Great Britain in November of 1793, novelist Fanny Burney helped to promote the national subscription for the relief of the victims of the French Revolution who had fled to Great Britain. It was not a local imperative that Burney invoked in her brief pamphlet. This was to be a national duty.

In seeking relief for these French men, women and children – all Catholics, British philanthropists reversed a deep-seated national rivalry. Historian Linda Colley describes francophobia as the anvil against which British national identity and patriotism was forged in the eighteenth-century. French Catholicism was the antithesis of British Protestantism. From the Reformation well into the eighteenth century, refuge for foreigners, in fact, had been shelter from the Catholic rulers' persecution of continental Protestants. Yet, in the 1790s, Burney, along with Hannah More, Edmund Burke, and others, argued that helping these particular, Catholic foreigners was the highest level of patriotism. As a nation, "so flourishing and happy," how could they "see cast upon our coast virtue we scarcely thought mortal, sufferers whose story we could not read without tears, martyrs that reminded us of other days – and let them perish?" Fanny Burney's address to the ladies of Great Britain was hyperbolic. But, the sentiments she expressed came from and spoke to what had become a much larger movement to generate support for these particular foreigners.<sup>1</sup>

The British public had, by and large, welcomed the liberal constitutional phase of the French Revolution. Most derided early émigrés as cowardly, having too hastily abandoned their king and country. With the radicalization of the revolution from the fall of 1792, however, the situation became dire. The revolution that most had expected to end with a liberal constitutional monarchy devolved into a terror. Despite a long anti-Catholic tradition, Christians of every denomination in Britain assisted the French priests who were sufferers for conscience's sake, having refused to take the National Assembly's oath for the Civil Constitution of the Clergy. Britons of all ranks assisted the throngs of French subjects who fled in the wake of escalating violence, the deportation of nonjuring priests and the killing of loyalist prisoners in early September 1792. Backed by King, Parliament and private philanthropists – from the cultural elite to rural Anglican clergymen to the evangelical Clapham Sect – the national campaign for their relief of 1793 raised £38,000 in six months. Money would be distributed to approximately 4,000 French clergy as well as an increasing number of laypersons, 400 laypersons in the fall of 1793 to upwards of 650 in ensuing years. A committee continued to parcel out Treasury money

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<sup>1</sup> Fanny Burney, "Brief Reflections Relative to the Emigrant French Clergy: Earnestly submitted to the humane consideration of the Ladies of Great Britain," (London: T. Cadell, 1793), 14; Linda Colley, *Britons: forging the nation, 1707-1837*, (New Haven: Yale University Press, 1992).

through 1801. Those who did not return to France when Napoleon signed the Concordat with the Pope in 1801 would remain on support through the 1815 restoration of the French monarchy.<sup>2</sup>

The chapter that follows situates the 1792-3 expansion of the refugee category to French Catholics against the backdrop of the earlier Protestant Diaspora, in which the ‘original’ *réfugiés* – the Huguenots – helped to constitute an English confessional state. Such assistance to French Catholic ‘refugees’ from the 1790s through the first decades of the nineteenth century signaled a new moment in the history of refuge to foreign nationals. The ‘refugee’ was no longer defined by shared religion. British refuge, long a part of Reformation religious strife and the building of a confessional state, was now constitutive of a new nation in the age of revolution, one that attended to those persecuted for their politics and religion even if that religion was Catholicism and their political loyalties due to Britain’s age-old rival, the French king. The expansion of the category of refugee to these particular individuals was the product of expanding humanitarianism and a nation under ideological siege. Together, these produced a new need to distinguish between good foreigners and bad ones. With the first Aliens Act in hand, passed in December 1792, authorities monitored the foreigners in their midst. Relief committees too separated the French to be assisted and admitted as refugees from Jacobins, who were liable to expulsion.

In this vein, refuge and the application of the category ‘refugee’ was as much a product of the Burkean reaction to the French Revolution as a liberal ethos that advocated abstract humanitarian assistance. The security of the British state, at war with France after February 1793, seemed to hang in the balance. Conservative politicians, in particular, were as willing to tie Britain’s security to the protection of the émigrés, as they were willing to tie her woes to Jacobin infiltrators. In helping the émigrés, they gained willing military assistance for the war against revolutionary France. Moreover, they gained ideological allies, living reminders of the feared effects of radical reform.

#### THE RÉFUGIÉ: PROTESTANT ENGLAND, CATHOLICISM AND REFUGE

THE PROTESTANT ‘REFUGE’ — If the word ‘réfugié’ only entered the English language in 1685, the concept of refuge to persecuted foreign nationals dates at least to the beginning of the European Wars of Religion. While the word ‘réfugié’ was of French origin, the original Protestants provided with English refuge were Dutch, Walloon and Flemish, as well.<sup>3</sup> In each of these cases, Protestants had faced government-sponsored, or government-tolerated, persecution in their home country. Persecution was either the outright violence of war or massacre, or the more systematic attempt to force conversion to Roman Catholicism. In the case of Louis XIV, armed dragoons used intimidation tactics to encourage conversion and police the borders. These were the conditions and actions that created refugees.

‘Refuge’ for foreign nationals was a similarly specific concept. Bernard Cottret argues that for the French Protestant refugees, ‘refuge’ was the noun that referred to the community of exiled Protestants. Their self-appointed ‘little flock’ was hardly isolated in their exile. By contrast, they had been isolated in France. In France, “they were driven underground in the

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<sup>2</sup> British Library Add. Mss 18593, Accounts of the Expenditure for the relief of the French Clergy, 1792-1801), nf. Though many of the émigrés were wealthy in France, contrary to once-popular belief, they were by no means all aristocrats. Nor were they all ultra-royalists as once believed (Donald Greer, *The Incidence of the Emigration During the French Revolution*, [Harvard Historical Monographs, No. XXIV.], [Cambridge: Harvard University, 1951]; *The French Emigres in Europe and the Struggle against Revolution, 1789*, Kirsty Carpenter and Philip Mansel (eds) [London: Macmillian Press, LTD 1999], xv).

<sup>3</sup> Although countless Germans were displaced in the throes of the religious wars and Thirty Years’ War, German refugee communities did not emerge in England until the migration of the Palatines and Salzburger in the early eighteenth century

*desert* – or wilderness.” Their “Calvinist worship and social life could exist openly in the Refuge,” in England.<sup>4</sup> For English hosts, ‘refuge’ took on precisely the meaning used by the French Huguenots, though the English would expand the noun ‘refuge’ to refer to English soil itself. English refuge was about saving the specific, Protestant, persecuted flocks. Foreign Protestants provided their hosts with reminders of the perilous glory of upholding conscience. The provision of such refuge was far from a quiet, duty-bound affair. The exiles were not to go into the wilderness, but were, in their exile, to provide open, political opposition to Catholicism. In opposing Catholicism, the refuge – England – was to become the bastion of the Protestant Diaspora. In so doing, England would reap rewards from the losses of other nations, gaining from Huguenot commerce and becoming a self-sufficient Protestant State.

OPPOSING CATHOLICISM — Refuge was a blatant defiance of foreign demands that asylum be denied. During Elizabeth’s reign, both France and Spain demanded that England’s doors be closed to their fugitive subjects. Elizabeth refused, and the continental monarchs used English asylum as pretext for war and assassination plots. Spain requested Rome’s interference. Pope Pius V issued a bull in 1570 against those who would harbor “the most pernicious of all men” amongst whom was, of course, “*Elizabeth*, the pretended Queen of *England*, a slave of wickedness.” In spite of what “constituted a real ‘declaration of war,’” Elizabeth rebuffed the Pope too. To these foreign demands, English Bishop Jewell retorted: as “it pleased God here to cast them on land,” was it “so heinous a thing to show mercy?”<sup>5</sup>

Under the Stuarts, any government hesitation on the refugee question fed English Protestant worry about the Crown’s commitment to the Anglican Church. Any sense that the Anglican Church was unstable raised fears that religious persecution – like that Protestants continued to face in France – would be renewed at home. The need to act on the refugee question pressed heavily upon the government of the openly Catholic James II. Within months of his 1685 coronation, Louis XIV revoked the Edict of Nantes that had secured the Huguenots a degree of official toleration in France. By the end of the year, approximately 13,500 Huguenots were receiving assistance in London alone. Another two thousand received relief at other port cities.<sup>6</sup> James was trapped between a desire to appease his co-religionist Louis XIV and a dire need to demonstrate good faith to the public and Parliament. According to historian Robin Gwynn, James was “not prepared to endorse [Louis’s] violent persecution, [but] there can be no serious doubt that he was hostile to the refugees and not particularly anxious to have them remain in his

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<sup>4</sup> Cottret, 8. They were, as their preachers sermonized, “an active commemoration of the destiny of Israel,” (Cottret, 8). England herself was not innocent of similar infractions. As one anonymous moralist surmised, England’s treatment of her own Catholic population left much to be desired in the “pitiful contradiction between their feelings and their words.” Catholics (and nonconforming Protestants) could easily “say the same of the penal laws of England” as the English said of France. English Catholics sought refuge in France and elsewhere on the continent. Bernard Cottret, *The Huguenots in England: Immigration and Settlement, 1550-1700*, Translated from the 1985 French edition by Peregrine and Adriana Stevenson, (Cambridge: Cambridge University Press, 1991), 281-2. Extract from London, BL Add. MSS 32095, fols. 363-80 [anon., c. 1687]. See also, Reginald Lane Poole, *A History of the Huguenots of the Dispersion at the Recall of the Edict of Nantes*, (London: Macmillan, 1880), 72.

<sup>5</sup> Samuel Smiles, *The Huguenots: Their Settlements, Churches, and Industries in England and Ireland*, (New York: Harper and Brothers, 1868), 73ff; Cottret, 65, citing Pius V, Regnans in Excelsis found in GR Elton, *The Tudor Constitution*, (Cambridge: Cambridge University Press, 1960), 411; Smiles, 74. This is indeed the Samuel Smiles who penned “Self-Help.” He was himself a Huguenot and the one of the most popular chroniclers of their history in the nineteenth century.

<sup>6</sup> Poole, 81; Robyn Gwynn, “James II in the Light of His Treatment of Huguenot Refugees in England, 1685-1686,” *The English Historical Review*, Vol. 92, No. 365. (Oct., 1977), 820-833, 820. Gwynn cites 8-10 thousand as the number of French Protestants likely in England at this time. The discrepancy between the Poole’s 15,500 (and higher as this was the number on relief) and Gwynn’s estimate is timing and also the length of refuge. There would have been more refugees following the October revocation. But that high number tells us nothing about how many of those settled in England. Many were likely on their way elsewhere, making Gwynn’s figure perhaps more reliable. The figure 50,000 is the most widely used figure of the total number of Huguenots who fled to the British Isles at this time, although many were transmigrants and did not remain.

kingdom.”<sup>7</sup> James acknowledged his dislike of the refugees to Louis’s ambassadors. Yet, he also opened a subscription for Huguenot relief, following the practice of his brother, Charles II, who had welcomed the foreigners. Unreserved openness, however, seemed dangerous. Providing refuge could easily bring political opponents into his realm, bolstering a disaffected non-conformist population and exacerbating relations with France to boot. Seeking control over the incoming population, James required that their churches conform to the Anglican liturgy.<sup>8</sup>

Huguenot churches were quick to defend themselves against James’s demand, and a cry of foul play rose from among the public as well. Whether supporters of the Huguenots or not, pamphleteers sought in James’s relationship with the French king evidence either of his loyalty or treachery to the Protestant interests of the English state. Popular literature painted Louis as the nemesis of Protestantism and openly compared the two kings on the point of persecution. One pamphlet asserted: “If [James II] can prevail in these things to overturn the Civil Government, the Liberty of the Protestant Profession, and of Conscience in all forms, [...] he may as easily destroy it as the French king has abolished the irrevocable Edicts, Treaties or Laws of his Kingdom.” those were “confirmed by his [Louis’s] oath, which were as good security to those Protestants as any Magna Charta that our king may make for us.”<sup>9</sup>

That the Huguenots helped to cause the Glorious Revolution and the Protestant Ascendancy under William and Mary has been a favorite claim among Huguenot historians since nineteenth century. Among the first of their chroniclers, Samuel Smiles and Reginald Poole duly chastised English historians for leaving the Huguenots out of their accounts of the Glorious Revolution.<sup>10</sup> Their claim has been overstated. Nonetheless, refugee Protestants accompanied William of Orange to England. Their assistance, particularly in Ireland in 1689-90, enabled the still feeble army of William and Mary to fight off James (who had landed in Ireland with French support) while building support in England. Some four or five hundred refugees left their shelter in Switzerland to join in the battle.<sup>11</sup> The immediate pilgrimage from Switzerland to England helped to cement England as *the center par excellence* of thriving Protestant life. William and Mary were greatly indebted to their assistance and provided a substantial yearly fund for their relief out of their royal purses.

A SELF-SUFFICIENT ENGLAND — Providing for a secure Protestant England was not merely about high politics, but about ensuring that the country could compete internationally and maintain its population at home. As early as Edward VI, the English welcomed continental Protestants to help build the nascent Church of England.<sup>12</sup> Further benefits of encouraging migration were readily apparent to the Lords of the Committee of Trade by the 1660s. Following the Great Fire of London and a devastating plague in the mid-1660s, the Committee of Trade had

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<sup>7</sup> Gwynn, “James II...,” 822.

<sup>8</sup> While publicly allowing them asylum and relief, he proposed legislation by which all foreign churches would have to conform to the liturgy of the Church of England as a condition for naturalization. He moreover commanded that only foreigners with passports were to be allowed on English ships. *Ibid.*, 822-23; 826

<sup>9</sup> Cottret, citing *Memorial from the English Protestants*, in a *Collection of State Tracts*, 3 vols., London, 1705, I, pp. 1-37. 190, Another pamphlet cites “[T]he French king durst not throw off his disguise, and show himself as a ravening wolf to his Protestant subjects, till now our king had publicly espoused the Popish Design, which he had together with him long prosecuted in the dark.” (Cottret, citing the same pamphlet, 189, 9-10). Poole, 79. Even those who were fearful of the Huguenot influx wondered at the import of James’s interest in them. Some were concerned that he was doing too much, that the Huguenots were really papists and James was aiding them to serve his own designs.

<sup>10</sup> Poole, 105-107.

<sup>11</sup> Smiles, 214.

<sup>12</sup> Andrew Pettegree, *Foreign Protestant Communities in Sixteenth-Century London*, (Oxford: Oxford University Press, 1986), 25; Robin Gwynn, Review of *Foreign Protestant Communities in Sixteenth-Century London* by Andrew Pettegree, *Albion: A Quarterly Journal Concerned with British Studies*, Vol. 20, No. 2. (Summer, 1988, pp. 309-310), 309.

recommended welcoming Huguenots, asking “his sacred Majesty to grant the same liberty and privilege [extended to English subjects] to all weavers of silk, hair or worsted stuff ... [reasoning that] the quantities of these commodities that are made beyond the seas and daily imported into this kingdom are ... considerable...”<sup>13</sup> Encouraging Huguenot weavers to settle in the kingdom would in turn expand domestic industry and self-reliance. Through the reign of Anne, practical steps were taken to bolster commerce and entice permanent Huguenot and, later, German Protestant immigration.<sup>14</sup>

Despite hoping to entice foreigner trade communities, English policies did not make it easy for foreigners to attain subject status and, without subject status, transmitting ‘real’ property from one generation to the next was impossible. Aliens were, moreover, subject to double taxation.<sup>15</sup> While this difficulty would not be of great import to refugees intending to use England as a temporary shelter, it certainly would not have enticed a mobile population to put down roots and establish industries in England. To become a denizen or a naturalized subject was quite expensive. The latter required an Act of Parliament, the former individual letters of patent from the crown. While becoming a denizen might be easier, only naturalized subjects were exempted from double taxation. The Huguenots could and did look elsewhere to settle permanently.<sup>16</sup> The refugee communities in England, as Bernard Cottret carefully documents, might have been substantial, but they were unstable. They were staging grounds for transmigrants to the colonies in particular and relied on fresh refugee influxes to keep their organizations afloat.<sup>17</sup>

The English would have to circumvent this barrier to enable the refugees to become denizens of the English state, or even naturalized subjects, more readily. By the Glorious Revolution plans to ease the process by which refugees could become denizens were already afoot.<sup>18</sup> Charles II went so far as to promise to have a general act of naturalization passed in Parliament. No general act passed in Parliament. But, Charles, and James II, offered letters of patent, to facilitate applications for denizen status on an individual level. By 1688, 5,659 of the roughly fifty thousand Huguenots had become denizens.<sup>19</sup> In addition to the emblematic silk weavers who settled in Spitalfields, whole communities of tanners, maritime traders, linen manufacturers, lace- and cloth-makers now fled to towns across England and Ireland, bringing

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<sup>13</sup> Cottret, 185-6, quoting Bodleian Library, Rawlinson MSS A.478, f. 30; on the role of the plague/fire see, Statt, 54.

<sup>14</sup> Daniel Statt has argued that concerns about a dwindling population directly influenced the treatment of these foreign Protestants, and officials and population theorists explicitly combined discussions of domestic industry, international military and trade rivalry. Daniel Statt, *Foreigners and Englishmen: the Controversy over Immigration and Population, 1660-1760*, (Newark: University of Delaware Press, 1995)

<sup>15</sup> They were subjected to subsidies and custom duties. Cottret, 52. The legal theory (laid out by Edward Coke in 1608) made operative at the accession of James VI of Scotland or James I of England set out that only the *postnati* – those born after the accession of James to the English throne would be entitled to the full benefits of English subject status. This included the ability to hold office and, more crucially, transmit property. (Rieko Karatani, *Defining British Citizenship: Empire, Commonwealth and Modern Britain*, (London: Frank Cass, 2003), 40-41). For refugees, this meant that only the second generation – the generation born in England – would be able to hold or transmit property.

<sup>16</sup> Especially after the end of the Religious Wars and the Peace of Westphalia in 1648, Protestants also found shelter in Switzerland, Germany, and the Netherlands (Charles Weiss’s monumental history of the diaspora also encompasses Russia, Sweden and Dutch, French and English colonial possessions). Foreigners would be subject to special duties until 1844.

<sup>17</sup> Cottret, 17ff.

<sup>18</sup> With the first of the *dragonnades* in 1681 Charles II promised more than “His Majesty’s Royal Protection, for the preservation and free exercise of their religion.” He was “pleased further to declare that he will grant unto every such distressed Protestant, who shall come hither for refuge, and reside here, His letters of denization under the Great Seal without any charge whatsoever.”Cottret, 185-6. Quote found in Bodleian Library, Rawlinson MSS A.478, f. 30

<sup>19</sup> Statt, 36.



with them their trades.<sup>20</sup> In 1700, an estimated fifteen thousand French Protestants lived in London, constituting five percent of the city's population.<sup>21</sup>

In 1709, forty years after discussions regarding naturalization began, a general act for Huguenot naturalization passed in Parliament. The Act reflected the ethos of the newly minted Great Britain. United with Scotland in 1707, England brought increasing numbers of 'foreign' nonconformists into its fold. Still, the 1709 Act did not make naturalization automatic or free. Refugees would have to opt into the British state, and pay a fee that, although likely reduced by the government, was neither insignificant nor exorbitant. Nonetheless, the Act helped 333 foreigners become naturalized subjects in its first ten years of operation.<sup>22</sup> It moreover set a precedent for the naturalization of Protestant foreigners. Refuge in this sense was to be permanent and commercially advantageous for the host country. But, this idealized model broke down in part shortly thereafter. With a diminished external threat to English Protestantism, tolerance for Huguenot non-conformity diminished in the eighteenth century, as well. Where Edward VI had once warned religious authorities to respect the different practices of the Continental Protestants, English charitable groups now placed greater emphasis on conversion to the Church of England. Many refugee churches had already conformed, translating the Anglican liturgy into French. For others, the new insistence came as a blow. In point of fact, the Continental Protestants were increasingly treated as non-conformists, though they had been solicitously treated as the 'little flock' when facing a common enemy.

In a Protestant nation where the Established Church was truly established, the Huguenots would slip into the background. The accession of William and Mary in 1688 brought a great sigh of relief, a seeming end to decades of upheaval and religious strife. The 1701 Act of Settlement secured the Protestant line to the throne and permanently coupled the crown with the Church of England. But, the 1689 Act of Toleration introduced a degree of freedom of consciousness for non-Anglicans. Subject to great violence during the reign of Charles II, nonconformists and Catholics would now be left in peace. England, and Great Britain after the Act of Union with Scotland in 1707, was still an Anglican state. Nonconformists might be allowed to worship in peace. But, Charles II's Test and Corporation Act remained in place, barring nonconformists, Catholics, Jews, from public office. In a Protestant state now divided between Anglicans and nonconformists, the Huguenots disappeared quickly into the landscape of dissenters. By the 1830s, when funds for their churches were under review, Huguenot leaders would have to remind the British government that they were not simply nonconformists: they were the expressly welcomed victims of persecution overseas.

Although the Anglican Church was increasingly secure, Protestant Britain continued to identify persecuted foreign Protestants as the particular responsibility of the Protestant nation. The German Palatines and Salzburgers of the Holy Roman Empire were likewise singled out for assistance as refugees. They were the new emblems of embattled Protestantism, the latter the darlings of the Society for the Promotion of Christian Knowledge in the 1730s. These Protestants were Lutherans and also nonconformists. But, this point was overshadowed by the much greater satisfaction in saving all, even converts from Catholicism, from systematized religious persecution overseas. Unlike with the Huguenots, however, Britain could not absorb these

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<sup>20</sup> Smiles, 250-251. Smiles further points out that the richest refugees tended to settle in Holland, while those who fled to England were generally of small means and of the industrious classes (252).

<sup>21</sup> Robyn Gwynn, *Huguenot Heritage: the history and the contributions of the Huguénots in Britain*, (London: Routledge and Kegan Paul, 1985), 36.

<sup>22</sup> Statt, 34-35.

penniless refugees. As opposed to assisting these refugees to settle in Britain, the British provided them with refuge in the colonies. They would help to settle British North America.<sup>23</sup>

#### EMIGRÉS, JACOBINS AND LEVELERS: 1792-1793

In the fall of 1792, reports varied wildly on the number of French refugee priests, and lay refugees, men, women and children, who sought shelter in Britain after the expulsion of the clergy and increasing violence across the country. The *St. James's Chronicle* reported forty thousand.<sup>24</sup> Throngs of disheveled travelers hit the southern coast of England each day, hundreds a day in some locations. As Samuel Romilly observed in London on September 15, “it is impossible...to walk a hundred yards in any public street here in the middle of the day without meeting two or three French priests.” An equally untold number of British subjects from towns across the southern coast came to the aid of these weary travelers. Local taverns and manor houses were set aside for temporary housing. While there was little question about providing emergency relief, émigrés and relief workers feared religious animosity. More troubling, their British hosts wondered how many of these “foreigners in distress” might be revolutionary Jacobins in disguise.<sup>25</sup>

Refuge for foreign Catholics in the 1790s was an extension of the use of foreigners as a means of securing the wellbeing of the state and an extension of an expanding liberal humanitarianism. Together, these at times contending rationales helped to explode the confessional definition of refuge in place since the Wars of Religion, breaking with the previous notion of it as an ingathering of Protestants to the *Protestant nation par excellence*. Members of the social and cultural elite, including politicians, provided essential relief for these new refugees often despite the refugees’ differences in political and religious ideology. For the Pitt Ministry, however, refuge was not so disinterested. Shelter for an enemy’s enemies continued to be a major objective of foreign and domestic policy. The working relations forged between French loyalists and the British Government fueled the war against Revolutionary France that began in February 1793 and symbolically underwrote the Government’s response to domestic radicalism.

For both liberal humanists and officials, refuge, as would be the model for the century to come, was now based on temporary not permanent shelter, aid lasting the duration of the crisis itself. The goal of refuge for the French émigrés was to care for them until they could return home. The political and strategic goal was to enable the refugees to return to France where they might help to resolve the crisis and thereby end the threat to the security of the British state. Working in conjunction with the state, a humanitarian elite orchestrated a national campaign to raise funds for the émigrés’ temporary relief. Although multi-confessional Britain was significantly more tolerant of religious diversity, Catholics would not be emancipated until 1829.

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<sup>23</sup> Henry Newman, *Henry Newman's Salzburger Letterbooks*, trans. and ed. George Fenwick Jones, (Athens, University of Georgia Press, 1966). See, for example, “Translation of a letter in High Dutch [from Urlsperger]. To Mr. Newman Augsburg 18, 25 August 1732,” 235-238.

<sup>24</sup> The figure was actually much lower. Between that September and the Reign of Terror that ended in 1794 some 12,150 clerical and lay French men, women and children would be accounted for in the British Isles. Landsdown, in William Cobbett, *The Parliamentary History of England from the Earliest Period 1066 to the Year 1803*, Volume xxx, (13 December 1792 – 10 March 1794), (London: T. C. Hansard, 1817), col. 150; the figures vary dramatically and there is no way of knowing how many refugees actually arrived. Historian Kirsty Carpenter cites a total of 20-25,000 as more reasonable, but likely too high. Kirsty Carpenter, *Refugees of the French Revolution: Emigres in London, 1789-1802*, (London: Macmillan, 1999), 43 and 217 (footnote 61).

<sup>25</sup> Romilly to m. Dumont, Sept 15, from *Romilly Memoirs*, ii, 11, cited in E. M. Wilkinson, “French Emigres in England, 1789-1802: Their Reception and Impact on English Life.” (B. Litt on D.Phil Thesis, Lady Margaret Hall, Oxford. 1952.), 107. Wilkinson argues that it was caution, rather than indifference behind expressions of apparent lukewarm feelings (147).

In the 1790s, émigrés and their supporters would have to continue to instruct the public, as did Fanny Burney in her 1793 text, that the refugees were the innocent victims of persecution and that they, because of their suffering for conscience's sake, deserved British support. As the crisis continued, however, officials, philanthropists and the public debated whether to continue in these efforts, and how to make British refuge viable in the long-term.

THE OFFICIAL MIND — Besieged by growing discontent at home and the increasing likelihood of war with France, the British government faced unprecedented challenges in the fall of 1792. French loyalists in Britain had, since 1789, been ridiculed for abandoning their King. Excited by the prospect of reform in corrupt France, even the conservative elite mocked émigrés for their frivolity and professedly dire circumstances. By the fall of 1792, however, that perception changed. British officials and the émigrés, the *Comité Français*, in particular, joined in common cause. As Elizabeth Sparrow has argued in her history of the British secret service, this alliance brought together members of the Home and Foreign Offices and was “effectively a royalist government in exile,” including ranking members of the Catholic hierarchy and social elite.<sup>26</sup> The *Comité's* connections gave British officials access to intelligence from across Europe and, increasingly, a means of infiltrating gatherings of suspected Jacobins at home.

The ministry hoped to restore order to France and set much store in the advance of the Prussian army into France, under the Prussian Duke of Brunswick. While optimistic, authorities at home feared possible outcomes of the Prussian campaign. Secretary of State Henry Dundas worried that success at Paris would “create much panic in those concerned in the late atrocious proceedings, and it may occur to many of them to seek refuge by flight into this country.” The “residence of so many persons dangerous from their principles and flagitious in their conduct” was a matter of great concern for the government. He wrote to other members of the ministry that British authorities needed to know exactly how the practice of habeas corpus applied to foreigners during extraordinary times and whether foreigners could be expelled by Royal Prerogative.<sup>27</sup>

Despite great territorial advances that September, the Duke of Brunswick did not capture Paris. Nevertheless, the fear that French Jacobins would wreck havoc on the domestic peace remained at fever pitch. The sympathies of British radicals for the French Revolution were no secret. Demonstrations such as one planned for London on November 25, 1792, copied the Jacobins, centering around a tree of liberty, as the Home Office was forewarned. By then, the National Assembly in France promised “fraternity and assistance to all people who wish to recover their liberty,” and the combined force of political radicalism and general “industrial” discontent made violence plausible, if not probable.<sup>28</sup>

At the Home Office, Dundas corresponded with alacrity with local officials about the threat of foreign Jacobins and domestic levelers. While he was still uncertain of what powers the Government could use to expel unwanted foreigners, he instructed the civil powers – including county militias – to remain vigilant in dispelling disturbances to the peace. As Clive Emsley and E. P. Thompson have argued, the besieged Pitt Ministry greatly expanded its own powers to counter a threat that, as it would turn out in retrospect, was greatly exaggerated. Emsley argues that the threat was exaggerated as much for the sake of securing the Pitt ministry as securing the nation from outside threat. Nonetheless, its effects were palpable. By the end of November, institutions of government and finance in London were secured to the hilt. With “the royal

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<sup>26</sup> Elizabeth Sparrow, *Secret Service: British Agents in France, 1792-1815*, (Woodbridge: Boydell Press, 1999), 24; Caitlin Anderson, “Britons Abroad, aliens at home: Nationality Law and policy in Britain, 1815-1870,” (Unpublished PhD. Diss, Trinity Coll., Cambridge, Faculty of History, May, 2004), 29.

proclamation of December 1, the militias of ten counties were called out [although] embodying the militia in this way was illegal,” as Emsley notes, “except in cases of invasion or insurrection.”<sup>29</sup>

There is no record in the archives of the response to Dundas’s inquiry about habeas corpus or the royal prerogative. Nonetheless, the government, in need of greater policing at home, turned to the French émigrés and a continental model of surveillance to scrutinize the character of the thousands of the émigrés now landing on their shores. It would be French policeman, Claude Antoine Rey, who helped to author Britain’s first Aliens Act that fall.<sup>30</sup> The Act, introduced to Parliament in December 1792, satisfied Dundas’s early-September inquiries on royal and governmental authorities regarding aliens. While the sovereign could expel individual foreigners from British soil by royal prerogative, Parliament, in times as extraordinary as this, could extend that right into policy. Foreigners, usually entitled to the same rights as subjects while on British soil, including habeas corpus and trial by a jury of their peers, were stripped of these liberties.<sup>31</sup>

The Aliens Act (33 Geo. III, c. 4) effectively gave to the British government the means of surveying its foreign population. The Act did not bar aliens from entering the country, or from moving about the country, but gave the power of restricting and monitoring movement to local and national authorities. Upon arrival, the foreigner declared at customs his or her nationality, name, rank, occupation, and a physical description was taken on the spot. While the Act allowed the state to limit where foreigners were permitted to live in the future, aliens were granted permission to move from their port of entry provided that local officials issued a passport for the purpose. Before issuing the passport, local officials corresponded with the Home Office, forwarding the relevant details and standing of the applicant. In return, the Home Office communicated names of suspicious foreigners to points of entry.<sup>32</sup> Once in Britain, the foreigner’s registration was only good for six months. All foreigners would have to register with the local justice of the peace every six months. Moreover, within a period after the passage of the Act, foreigners were to declare any weapons they possessed, and to surrender them to the authorities. Those suspected of evading the law – whether they were aware of its clauses or not – were subject to arrest and detainment. Upon conviction, they were to be ordered to leave the realm. Some were barred re-entry for life, depending on the severity of their infraction. British subjects were held accountable too. Shipmasters and landlords were to declare whether they harbored foreigners. Those who did not comply were subjected to fines which, for shipmasters, could entail forfeiture of their vessel.

As Elizabeth Sparrow and Caitlin Anderson have argued, the operation of the act provided the legal teeth for an immense intelligence-gathering effort, which crisscrossed Jacobin

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<sup>27</sup> Henry Dundas to Lord Kenyon, Lord Loughborough, and Lord Chief Baron, September 12, 1792, PRO HO 43/4, Domestic 27 March 1792 to 27 February 1794, Domestic Letter Book, ff. 95-96.

<sup>28</sup> PRO HO 43/4, ff. 132; Clive Emsley, “The London ‘Insurrection’ of December 1792: Fact, Fiction, or Fantasy?” *Journal of British Studies*, Vol. 17, No. 2. (Spring, 1978, 66-86), 72; E. P. Thompson, *Making of the English Working Class*, (London: Penguin Books, 1990), chapter five, “Planting the Liberty Tree,” especially pp. 114-117.

<sup>29</sup> Emsley, 66.

<sup>30</sup> Sparrow, 25. Sparrow cites this on the authorities of the secretaries to the Home Office William Wickham.

<sup>31</sup> Aliens were to obey local laws and were, in return, protected by the same laws. William Blackstone’s *Commentaries on the Laws of England*, 357-8, as cited in Rieko Karatani, *Defining British Citizenship: Empire, Commonwealth and Modern Britain*, (London: Frank Cass, 2003) 64, footnote 32.

<sup>32</sup> See generally, PRO HO 5/1, Aliens’ Entry Books: Correspondence, 1794-6.

clubs with both French and British spies.<sup>33</sup> The effect on émigrés was mixed. While the requirements of the Act were an annoyance, officials took great pains to ensure that those who were not dangerous did not suffer molestation by either British authorities or their new neighbors. The Home Office kept a watchful eye to ensure that prominent émigrés were not unduly treated as agents of revolution. Dundas vouched for certain émigrés, writing to local authorities on their behalf, and more generally hoped to check public suspicion where it was unwarranted.<sup>34</sup>

For the ministry, British protection continued to be a return for service to the state. Elite Frenchmen and members of the French police provided extraordinary assistance at the highest levels of government. The rank-and-file of the émigré group would also have to play its part. Strapped for manpower in 1794, the ministry sought to enlist French émigrés to take part in the war effort. William of Orange had relied on and rewarded the Huguenots who helped to solidify his rule in Britain and on the battlefields in Ireland. The British government at the end of the eighteenth century did the same. The most honored American loyalists during the American Revolution were those who bore arms.<sup>35</sup> In the 1790s, the British government generally provided succor for their allies in the fight against France. For example, when the Toulonese could no longer fend off the French army, the British government acknowledged the Toulonese effort by providing financial assistance for the soldiers in their subsequent exile. The Toulonese would be supported by Treasury pensions through the 1820s.<sup>36</sup> The British government believed military service should be the norm for the French émigrés. While the refugee clergy would be exempted, all able-bodied French men would be required to serve. The continuation of their relief required compliance.

PARLIAMENT — For Edmund Burke, the ministry's insistence on the severity of the situation brought to Parliament the sense of urgent threat to British security he had long tried to impart.<sup>37</sup> In a December 1792 debate over the Aliens Act, Burke redoubled his efforts to convey his fears. He brandished a dagger on the Commons floor, dramatizing the danger now in their midst. Not all in Parliament were impressed by his melodramatic flourish. Those who doubted the extent of the French Jacobin threat were vocal, if not ultimately triumphant. In the December Aliens Act debates and in the debates over the bill to enlist French soldiers (and other foreign troops) in April 1794, politicians across the political spectrum nonetheless agreed upon one thing: that the government and the nation bore responsibility for the victim of overseas violence, i.e. for the refugee.

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<sup>33</sup> Sparrow, chapter two; Anderson, chapter one, 25-30 especially; J. R. Dinwiddy, *Radicalism and Reform in Britain, 1780-1850*, (London: The Hambledon Press, 1992), chapter 8 "The Use of the Crown Power of Deportation Under the Aliens Act."

<sup>34</sup> See, for instance, letter of Henry Dundas to Lord Sheffield, September 22, 1792, National Archives, Home Office 43/4 Domestic 27 March 1792 to 27 February 1794. Domestic Letter Book, ff. 100 on checking the popular prejudice; see, HO 5/1 for many instances in which émigrés were deemed to be of good character and to be assisted with passports at the ports, e.g. ff. 253.

<sup>35</sup> See, page 30 below.

<sup>36</sup> The Toulonese were forced to evacuate Toulon following a failed, British-backed campaign against the French in 1794. Among other counterrevolutionary forces backed by the British military, the Treasury came to their assistance, providing them with pensions. See, *Parliamentary Debates*, 1794, c. 243 on the evacuation; see, c. 432 for a bit on the compensation. See also, National Archives AO 1/851/7, Roll 7 W. Wyndham, Minister in Tuscany for pensions and allowances to Toulonese and Corsican refugees, 1797-1807. They remained on relief through at least 1827, the Corsicans remained on relief through the 1830s.

<sup>37</sup> Edmund Burke's *Reflections on the Revolution in France* (1790) was a vitriolic attack on the manner of reforms undertaken in France during the Revolution's liberal constitutional phase. While many in Britain cheered this phase of the Revolution, Burke held that to so break with tradition and with hierarchy could only spell disaster. At the time of its publication, few in Britain shared Burke's concerns. While his text brooked immediate radical reaction, the political mainstream pegged his text as overly reactionary.

In Commons, George Hardinge insisted that the Aliens Bill would “pull off” the Jacobin’s “mask” and “would catch the emissary or the leveler.” The bill would check the leveler’s urge to “make proselytes here.” It also promised to identify a different type of foreigner: the “case of the emigrant and refugee from the desolations and cruelties of Paris.” This emigrant, as opposed to the first, “was our friend; he had come to us for shelter and mercy; he had come to us, appealing to a government by law, against a government by the sword.” This emigrant, even when national security demanded greater regulation, “merited our sympathy” – sympathy of which he hoped the British had given “unequivocal proofs.”<sup>38</sup>

Opponents of the Alien Bill worried about the undue powers the government accrued through what to them appeared to be an unnecessary act. Yet they could not argue with Hardinge’s sympathies for the victims of the increasingly violent revolutionary government in France. Radical Whig Charles James Fox decried the bill, claiming that it served only to perpetuate a “spirit of defence.”<sup>39</sup> Fox feared that English liberties were already under siege and that such scare tactics endangered the chance of real political reform. By demonstrating undue concern for the Jacobin proselytizing, he argued, the government ignored the people’s rationality and loyalty to the constitution that made them averse to revolution in the first place. In point of fact, Fox’s love of these particular refugees was minimal. The refugees’ monarchical politics hardly squared with his radical platform. He admitted that he would “by no means say anything harsh of the emigrants.” While he would not support the ‘refugees’ return to power in France, “he sympathized with and compassionated the sufferings and misfortunes of those men.” For Fox, refuge was separate from domestic politics altogether. To his other objections to the Aliens Act, Fox added that, had there been a similar law in 1685, the Huguenots would not have been able to bring their industries (their “commercial advantages”) to England.<sup>40</sup> Fox’s rendition of Huguenot history – among the first Parliamentary discussions of a tradition of British refuge – omitted the larger political context, leaving out the high political claims made about the treatment of the French Protestants at the time of their flight.

While the Aliens Bill was mostly contested from the left, politicians across the spectrum objected to the Enlistment Bill. Philip Francis, Major Thomas Maitland and Lord Mulgrave expressed grave concern over what they termed the doctrine of retaliation. Although “replete with horror, bloodshed, and devastation,” the doctrine of retaliation was “a principle founded on the law and custom of nations, that any French subject taken in arms against his country, was liable to be hanged.” The Enlistment Bill admitted in its preamble that refugees were the subjects of France and so inevitably would be at risk of summary execution. Maitland explained that the only possible British response would be retaliation in kind: the British would have to do the same to their French prisoners.<sup>41</sup>

Samuel Whitbread took the Enlistment Bill to task on a difference score. While French refugees’ initial appeal for British assistance was in principle voluntary, in practice, refugees had little choice. “With the alien bill in one hand, and bounty money in the other, there could exist no doubt of [British] success” in essentially press-ganging refugees into the army. Such soldiers “were sent with a halter about their necks into the field, a situation in which no soldier in the pay

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<sup>38</sup> *Parl. Hist.*, xxx, cols. 201-202. Hardinge further identifies a third category of alien – the alien merchant. Hardinge highlighted the neutrality of this figure and lamented the “necessary evil” of oppressing his movements.

<sup>39</sup> *Ibid.*, c. 225.

<sup>40</sup> Clive Emsley, “The London ‘Insurrection’ of December 1792: Fact, Fiction, or Fantasy?” *Journal of British Studies*, Vol. 17, No. 2. (Spring, 1978, 66-86), 69; *Parl. Hist.*, xxx, cols. 398-399.

<sup>41</sup> *Parl. Hist.*, xxxi, cols. 391-2.

of Great Britain should be placed.”<sup>42</sup> Though the Enlistment Bill and the Aliens Act were vastly different pieces of legislation, the debates over each thus expressed concerns that were ultimately about the nature of refuge itself: that protection was about shelter from retributive justice, not exposure to the additional violence of an aliens act or the violence of war.

THE PHILANTHROPISTS — While Parliament and the Home Office set out to differentiate between Jacobins and loyal refugees, the social and cultural elite set out to provide material and emotional refuge for the latter. These elites came to identify with refugees not on a confessional basis, nor necessarily on a political basis, but on liberal humanist one. Their language was, like the rhetoric sometimes used in Parliament, replete with praise for the “worthy and hospitable men” who had been driven from home; they were “unfortunate people,” and had every claim upon English “generosity,” “hospitality” and the “greatest kindness” and “attention.”<sup>43</sup> To some, identification sympathy for the émigré was based on social or family connections. The Earl of Malmesbury received the infant child of a friend who was still trapped in France. Families like those of Lord Dillon and Lord Southwell welcomed foreign relatives.<sup>44</sup> For many, compassion was local. Lord Sheffield at Lewes and Lord Dorchester and Sir Thomas Gage at Hastings, whose estates were close to the southern coast, welcomed the refugees to their estates because so many hundreds arrived on their doorsteps or in their jurisdictions.<sup>45</sup>

For most, compassion for even Catholics in distress was at base about seeing beyond nationality to a shared humanity. Moved by suffering in their midst, individuals of all walks of life reached out to assist the émigrés upon their initial arrival. Among the social and cultural elite, individual philanthropists began to make broader claims for public sympathy for the French émigrés. Despite differences in political affinities, this philanthropic elite joined forces on the behalf of these particular charitable objects. From the fall of 1792 through 1793, Edmund Burke, Fanny Burney and Charlotte Smith made their private sympathy a matter of public and national virtue. Burke, Burney and Smith were three among scores of other private philanthropists who would help to shape a national campaign for the refugees’ relief. Their particular stories, however, shed light on how individuals of different political backgrounds – the conservative Burke, the liberal Burney and the radical Smith – came to support the same cause.

At the height of the persecution of Continental Protestants it would have been difficult for Edmund Burke, the Irish son of a Jesuit mother, to argue for refuge for Catholics. Burke’s credentials as an authentic British patriot grew ever stronger after the escalating violence and radicalization of the French Revolution further eclipsed popery as the country’s major external threat. His affinity for the French Catholic Clergy was one of shared social values. Burke eagerly anticipated the arrival of the French bishops, convinced that they shared his vision for a post-revolutionary France whose stability lay in tradition. Although he would not live to see the end of the exile (he died in 1797), Burke maintained that the British would have to care for the Catholic clergy to the last. Toward that end, he worked with the exiled bishops, established a

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<sup>42</sup> *Ibid.*, col. 1389.

<sup>43</sup> See, for example, speech of Lord Landsdown, *Parl. Hist.*, xxx, col. 151.

<sup>44</sup> These even included former members of James II’s Irish Brigade who, having fled England with the last of the Jacobites, now fled France. It would be fascinating to uncover the extent to which former Jacobite families provided refuge. As Margery Weiner notes Lord Dillon [Charles Dillon, the 12<sup>th</sup> Viscount] promptly converted to Protestantism to accept his inheritance. Given the prominence of these families, one wonders about the extent of their influence in the House of Lords. At least in Dillon’s case, he seems to have been very generous with other émigrés in his family (his uncle was the Archbishop of Narbonne) and it seems that his son (English born) went into Lords in the next century. Margery Weiner, *The French Exiles, 1789-1815*, (London: John Murray, 1960), 49-50; La Marquise de la Tour du Pin, *Recollections of the Revolution and the Empire from the French of the “Journal d’une Femme de Cinquante Ans,”* trans. & ed. Walter Geer, (New York: Brentano’s, 1920), 283.

<sup>45</sup> Wilkinson, 88.

school for émigré children and worked tirelessly to promote their cause in parliament and in the public sphere.

Burke developed his commitment to the Catholic clergy prior to their arrival, projecting onto them a shared sense of embattled tradition. Writing to Archbishop Boisgelin of Aix as early as 1791 Burke noted that “we may have some diversity in our opinions, but we have no difference in principles.” Burke looked forward to their society and, as Nigel Aston maintains, intended Boisgelin and his fellow clergy to be the “spiritual leaders of the counter-Revolution.”<sup>46</sup> Burke would be sorely disappointed on this account. According to Aston, the bishops’ politics were more conciliatory toward the National Assembly than Burke believed possible. They would have accepted a compromise on the Civil Constitution of the Clergy, and many had in fact been members of the National Assembly themselves.

If the clergy did not meet his expectations, however, Burke continued to try his hand at forging useful alliances. Émigrés regularly dined at his table and, after retiring from the House of Commons in 1794, he set up a school for emigrant children, training them for future leadership.<sup>47</sup> Opened just after the death of his own son, the school became something of a solace to Burke at the end of his life. Indeed, Burke saw himself as a father figure to pupils at the school, giving admissions priority to those who had lost a father at the hands of the revolutionaries. He spoke of it as “supplying the void in my own family, and being my only comfort,” riding to visit sometimes twice a day.<sup>48</sup>

Burke’s early public and private interest in the refugees made him a logical spokesperson for the refugee clergy’s cause. By September 1792, a substantial group of British social and political elites had gathered around French Bishop St. Pol de Leon in London and turned to Burke for assistance. Upon the request of Lord Sheffield, Burke issued a public letter to Home Secretary Dundas on the situation in France and on the refugee clergy in particular.<sup>49</sup> Decrying the violence in France, Burke urged the British government to step in to assist the refugees.

English Novelist Fanny Burney had a personal connection to the émigrés as well. It was through her married sister, Susanna, that Burney became acquainted with the refugees living at Juniper Hall, a residence in the Surrey countryside. Living with her sister’s family in neighboring Mickleham in 1792-93, she moved in the same social circle as many of the giants of the emigration including Mme. de Staël and Tallyrand.

Burney was acquainted with the Burkes through her father, music historian Dr. Charles Burney. Though she moved in similar circles to Edmund Burke, she was more sympathetic to the French Revolution in its early phases. Unlike Burke’s exiles, her émigré friends were constitutional monarchists who had initially supported the Revolution. The crowd at Juniper Hall even included a friend and student of Jean-Jacques Rousseau, a M. Girardin. Burney was insistent about the liberal sympathies of her friends. She distinguished her friends from the aristocrats in a letter to her father, defending Mme. de Staël on the grounds that that although her

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<sup>46</sup> Nigel Aston, “Burke, Boisgelin and the Politics of the Émigré Bishops,” in Kirsty Carpenter and Philip Mansel (eds.) *The French Émigrés in Europe and the Struggle against Revolution, 1789-1814*, (London: Macmillan Press, 1999, 197-213), 197-8.

<sup>47</sup> Indeed “Many a Frenchman who twenty years afterwards served the restored Bourbon dynasty, had worn the blue uniform and white cockade of the Penn school, and had eagerly turned his eyes to greet the worn face and emaciated figure of the famous Englishman who had stirred up Europe in their cause.” Edmund Burke, *Select Works of Edmund Burke, and Miscellaneous Writings*, (Indianapolis, IN: Liberty Fund, Inc., ed. E. J. Payne; Francis Canavan, 1999. [Online] available from [www.econlib.org/LIBRARY/LFBooks/Burke/brkSWv3c0.html](http://www.econlib.org/LIBRARY/LFBooks/Burke/brkSWv3c0.html); accessed 27 November 2007; Internet), 23.

<sup>48</sup> Thomas Macknight, *History of the Life and Times of Edmund Burke*, Volume III, (London: Chapman and Hall, 1860), 660. See also, Aston, 208; Carpenter, 108.

<sup>49</sup> Wilkinson, 115.



house had “become the centre of revolutionists before the 10<sup>th</sup> of August, it was so only for the constitutionalists, who, at that period, were not only members of the then established government, but the decided friends of the king.” By contrast, “the aristocrats were then already banished, or wanderers from fear, or concealed and silent from cowardice; and the Jacobins – I need not, after what I have already related, mention how utterly abhorrent to her must have been that fiend-like set.”<sup>50</sup>

Burney was quite impressed with the escape narratives of her new friends and recorded detailed tales of Mme de Genlis, the Duc de Liancourt and that of her soon-to-be-husband M. d’Arblay in her diary and letters to her father.<sup>51</sup> These people were more than curiosities to her. In April, 1793, the forty-two-year old Burney married French Army General Alexandre d’Arblay. Burney overcame her father’s initial opposition to the marriage and planned to use her connections at court to facilitate d’Arblay’s naturalization.<sup>52</sup>

Burney found it painful to watch the dwindling fortunes of the colony at Juniper Hall. In fall of 1793, she set to work. Through her father’s connections to the committee formed around the Bishop St. Pol de Leon, Burney proposed a plan to increase public subscriptions for the French refugee clergy and laity. She proposed a scheme whereby ten women were each to find ten more women to subscribe to the fund. The network would expand in this manner until it reached two hundred members. Although each woman was to donate no more than a guinea each, the campaign would quickly raise funds enough to prevent the émigrés from starving.<sup>53</sup> To compliment this social networking strategy, Burney launched a publicity campaign aimed at the “Ladies of Great Britain.” Identifying herself as the “Author of *Evelina* and *Cecilia*,” she penned a florid appeal comparing the suffering of the French clergy to England’s Protestant martyrs of the sixteenth and seventeenth centuries.

Like Burney, Charlotte Smith extended her personal hospitality to the émigrés and exercised her literary renown on their behalf. Unlike Burney and Burke, however, Smith’s humanitarian sympathies contrasted with her political leanings. She was an avowed radical and not only supported the French Revolution in its early phases, as had Burney, but also applauded the transition from a constitutional monarchy to a republic. Nevertheless, in November 1792, at the same time that Thomas Paine and fifty other revolutionary sympathizers toasted her at a dinner party in Paris, Smith was welcoming émigré loyalists into her home.<sup>54</sup>

Smith’s initial hospitality may have been mostly a matter of geographical convenience and linguistic aptitude. She spoke French, having recently returned from years of self-imposed exile in France. Resettled in the south of England, Smith opened her home to those who disembarked nearby. She proved to be a gracious host, entertaining groups of émigrés in her lodgings for upwards of three months in the winter of 1792-93. And so, despite having heralded the downfall of the Old Regime, Smith found herself sympathizing with her monarchist guests.

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<sup>50</sup> Frances Burney, *The Diary and Letters of Madame D'Arblay*, Volume III (1792-1840), (London: Vizetelly, 1891), 52. See also, Linda Kelly’s *Juniper Hall: An English Refuge from the French Revolution*, (London: Weidenfeld and Nicolson, 1991).

<sup>51</sup> Burney, 23ff.

<sup>52</sup> Burney, 48 & 65. Her new husband would volunteer to fight with British forces in Toulon, where an anti-Republican population had declared its opposition to France and requested British protection. Fortunately for his sake, his offer was too late. The military effort collapsed before he could join the fight.

<sup>53</sup> Letter from Wilmot enclosing the following plan at the request of Dr. Burney, 2 September 1793, British Library Add. Ms. 18591, ff. 120.

<sup>54</sup> Loraine Fletcher, *Charlotte Smith: a Critical Biography*, (Houndsmills: Macmillan Press, Ltd., 1998), 191; Antje Blank, “Charlotte Smith,” *The Literary Encyclopedia*, <http://www.litencyc.com/php/speople.php?rec=true&UID=4112>.

Smith's humanitarian feelings did not make her reject the republican cause. She argued for the toleration of political opponents on moral and prudential grounds. Smith wrote to her American friend Joel Barlow in France on 3 November 1792, urging him to use his influence in Girondin circles on behalf of the émigrés and the unfortunate Louis XVI. The fledgling French Republic ought not to banish them, she argued, since:

It seems to me wrong for the Nation entirely to exile and abandon these Unhappy Men. How really great would it be, could the Convention bring about a reconciliation. They should suffer the loss of a very great part of their property and all their power. But they should still be considered as Men and Frenchmen... They should still have a plate of Bouille at Home if they will take it and not be turned out indiscriminately to perish in foreign Countries and to carry everywhere the impression of the injustice and ferocity of the French republic.<sup>55</sup>

In 1793, she went public in her defense of the revolution's exiles in a lengthy poem, "The Emigrants," which deplors the "...name / Of Freedom misapplied" and the "lawless Anarchy" of the French Terror. "[U]nhappy Men," she wrote, "Whate'er your errors, I lament your fate."<sup>56</sup>

As had Fanny Burney, Charlotte Smith found her hospitality toward French émigrés evolving into lasting personal commitments. Smith would not fall in love with a Frenchman, as had Burney, but her daughter did, marrying the exiled aristocrat Alexandre Marc-Constant de Foville.<sup>57</sup> Smith's son fought against the revolution and was seriously injured at Dunkirk. And Smith herself made exile a central theme of her subsequent novels.

The refugee's distress would become a sustained trope in early Romantic literary culture. Both Burney and Smith incorporated foreign refugees into their plotlines. Each author, however, would extend the sense of displacement and exile to their British characters, as well. As literary critic Katherine Rennhak has argued, Smith's *The Banished Man* (1794) and Burney's *The Wanderers* (1814) demonstrate how exile became a "strategy to imagine communities." Through their association with foreign exiles, the female characters in these novels found camaraderie and an escape their social isolation within Britain.<sup>58</sup> Burney and Smith would use the connection to critique British society. That they found utility in this trope highlighted an increasing cultural intrigue around the figure of the foreign refugee.

The distinctive narrative of refugee suffering dovetailed with a broader rise in middle- and upper-class philanthropy from the mid-eighteenth century onward. New Foundling and Magdalene Hospital organizations took in orphans and unwed mothers. Realizing that traditional alms provision was inadequate for those at the margins of society, philanthropically-minded elites sought to champion "social utility" and "an Inclination to promote Publick Good."<sup>59</sup> Methodists, too, broadened their charitable activities beyond their own parishioners. Their

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<sup>55</sup> Smith's letter to American Poet Joel Barlow in Paris (3 November 1792), as found in Fletcher, 192.

<sup>56</sup> Smith, "The Emigrants," Book I, lines 116-7.

<sup>57</sup> Fletcher, 196.

<sup>58</sup> Katharina Rennhak, "Tropes of Exile in the 1790s: English Women Writer and French Emigrants," *European Romantic Review*, (17: 5, 575-592): 575, 585. For the female characters, it is their inability to hold property and achieve financial independence (a fate shared with second sons in British families) that strengthens their identification with the refugees in these texts (580).

<sup>59</sup> Donna T. Andrew, *Philanthropy and Police: London Charity in the Eighteenth Century*, (Princeton: Princeton University Press, 1989), 5.

Strangers' Friend Societies, formed in the 1780s and 1790s, broke new ground by expressly *disqualifying* fellow Methodists from relief and disavowing proselytism as one of its goals. As the founder of one of these societies emphasized, "we aim not at making proselytes to any *creed*."<sup>60</sup>

While sympathy for refugees drew on this rising tide of disinterested philanthropy, it was distinctive in important ways. The writings of Smith, Burney and Burke made it clear that refugees were often the social equals of their hosts. The French émigrés were not morally compromised social outcasts; rather, they were social and moral equals who had suffered for conscience's sake. Nothing would be more pitiful and intriguing to the middle and upper class humanitarian than innocents of similar social circumstances to their own who had been brought low by fortune. Burney and Smith's writings helped transmute the interpersonal, even intimate, contact they had had with French exiles to a larger audience of readers who themselves might not know émigrés personally. Their narratives complemented the emphasis on personal loyalties that characterized Burke's politics. Together, they created a powerful ethic appeal on behalf of French refugees. This discursive resource would play a crucial role in mobilizing the organized relief campaign.

#### THE WILMOT COMMITTEE AND THE BEGINNINGS OF NATIONAL REFUGEE RELIEF

In the initial weeks of crisis in September and October 1792, private philanthropists and public officials – clerical and civic – made local collections. British Catholics, Anglican ministers along the southern coast, and private individuals of all classes came to the aid of the French refugee clergy and laity. While members of the gentry opened their houses, working men and women gave what they could. After a harrowing escape from France, French Bishop St. Pol de Léon gathered the exiled clergy in London. He and his widowed English landlady, Mrs. Silburn, spearheaded fundraising in the metropolis. Despite all of these efforts, local munificence could not meet the growing needs of the expanding exile community.

Following Burke's public appeal to Secretary of State Dundas, a public meeting was announced for September 20. By the time of the meeting, sixty-one notables had committed their time and money to the project of orchestrating refugee relief at the national level. They included the Duke of Portland, the Marquis of Buckingham, and nonconformist William Wilberforce. The list also contained fourteen members of Parliament, a dozen ministers in the Anglican Church, two physicians from the Royal College of Medicine, the Lord Mayor of London and several aldermen, prominent bankers, lawyers and judges.<sup>61</sup>

The Committee for the Relief of the French Refugee Clergy that emerged from the September 20<sup>th</sup> meeting was not the only voluntary society of its kind, but it soon became the pre-eminent one thanks to the connections of St. Pol de Léon and its leader, John Eardley Wilmot, who had earlier managed the compensation claims of American loyalists. A parallel committee for the laity, organized by Sir George Thomas (MP for Arundel), boasted an overlapping membership. The two groups competed for donors, and several leading

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<sup>60</sup> A. Clarke, 10. Indeed, it would be this emphasis that enabled the Methodist charity to work side-by-side with local authorities with relative ease as Michael Roberts has claimed (Roberts, "Head versus Heart? Voluntary Associations and Charity Organization in England, c. 1700-1850," in *Charity, Philanthropy, and Reform*, [66-86], 72).

<sup>61</sup> Carpenter, 45; Minutes of the Committee of Subscribers for the Relief of the French Clergy, No. 1 BL Mss 18,591, September 1792-November 1793.

philanthropists, most notably Josiah Wedgwood, decried what they saw as a disproportionate concern for the plight of the clergy.<sup>62</sup> Indeed, independent local relief committees began to collaborate with the Wilmot Committee, and new local affiliates looked to it for direction. At the end of 1793, the Wilmot Committee merged with the society for the laity and would operate until the death of St. Pol de Léon in 1807.

The Wilmot Committee had begun thanks to the efforts of British notables whose personal connections with individual refugees made them aware of the severity of their situation. However, the organization came to prominence because it effectively married liberal philanthropic compassion with the Pitt ministry's concern for national security. Both the logic of charity provision and the concern to screen out Jacobins required that relief providers distinguish deserving refugees from undeserving foreigners. Parliament and the Treasury had an increasing say in the vetting process, especially after the Committee began to receive Treasury money in 1793. The Committee would implement government policy that emphasized refuge as a reward for service to the British State.

In this regard, the provision of relief to French exiles drew upon the precedent of compensation for loyalists who had fled the United States in the wake of the American War for Independence. John Eardley Wilmot himself had headed the committee processing Loyalist claims, and indeed that work had only just come to a close. The American Loyalists were the first major group of exiles to flee to British soil for reasons of political ideology.<sup>63</sup> The Committee for American Loyalists operated under the assumption that all loyalists were entitled to some assistance. Although the American War had divided public opinion in Britain, even Fox could not deny that those who had stood by the crown now deserved recompense.<sup>64</sup>

Yet, not all loyalists were entitled to equal claims. In 1782, the Committee operated on a compensation scale set by Parliament. Wilmot's committee ranked loyalists on a finely calibrated scale of sacrifice and devotion to the British cause.<sup>65</sup> The roughly thirteen hundred who fell in the first three classes were considered the most deserving. Those included individuals who had served Great Britain, those who had borne arms and the "zealous and uniform loyalists." Those who at first had served the Americans, potential opportunists whose allegiances had wavered, were in class six.<sup>66</sup> Those in the more meritorious categories received compensation at a higher rate.<sup>67</sup>

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<sup>62</sup> Wilkinson, 116.

<sup>63</sup> As Rieko Karatani notes in her study of citizen status in the twentieth century, the American War shattered the notion of natural and indelible subject status as it had stood since the early seventeenth century. Loyalty no longer derived necessarily from territory of birth or deference to the sovereign associated with that territory. Loyalty was about political ideology and visions of how government should work. Karatani, 44.

<sup>64</sup> He only thought they were not necessarily owed their claims in the entirety. William Cobbett, *The Parliamentary History of England from the Earliest Period 1066 to the Year 1803*, Volume xxvii, (14 February 1788 – 14 May 1789), (London: T. C. Hansard, 1816), col. 616.

<sup>65</sup> As Wilmot wrote about the claims process, "instead of an Enquiry into the 'circumstances and former fortunes of all such Persons as are reduced to Distress by the late unhappy dissensions in America;' it should be confined to an Enquiry into the 'losses and services of those who had suffered in their rights, properties, and professions, in consequence of their Loyalty to his majesty and attachment to the British government,' so as to make loyalty the corner-stone –the ground-work of the whole" (John Eardley-Wilmot, *Historical View of the Commission for Enquiring into the losses, services and claims of the American Loyalists, at the close of the war between Great Britain and her Colonies, in 1783: with an account of the Compensation Granted to them by Parliament in 1785 and 1788*, (London: J. Nichols, Son, and Bentley, 1815), 42.)

<sup>66</sup> *Ibid.*, 70-71.

<sup>67</sup> *Ibid.*, 70. The higher-ranking loyalists, also received tracts of lands in Canada, though this seems to be part of an independent process conducted in North America. For an account of the preparations for the Loyalists' arrival in Nova Scotia and Quebec, see section three of Christopher Moore, *The Loyalists: Revolution, Exile, Settlement*, (Toronto: McClelland & Stewart, Inc., 1984. Paperback edition, 1994); for the Loyalist exiles in England, see Mary Beth Norton, *The British-Americans: the loyalist exiles in*

From the experience with the American loyalists, the British state was keenly focused upon which persons it could trust. It employed the same logic with French émigrés, rewarding those who might assist in the fight against the revolutionary threat. The second Wilmot Committee needed to be even more cautious about questionable loyalties than had the first, however, since the revolution on the continent was a live threat.

The main work of the Committee consisted in hearing and reviewing the memorials of applicants so as to weed out frauds, on the one hand, and Jacobins, on the other. The announcement published by the Committee in the London and provincial newspapers requested that “every French ecclesiastick resident in any part of the country who is in want of relief should address himself by letter to the Bishop of St. Pol de Léon.” The letter should specify “his late situation in France and the diocese to which he belonged and that the Bishop having made enquiry sufficient to satisfy him that the ecclesiastick so applying is a proper object of this subscription will be authorized by the committee to administer the necessary relief.”<sup>68</sup> For priests, the process was relatively straightforward. The Bishop knew, or had connections, to most of them already.

For the laity, the vetting process was much more difficult. The British government relied heavily upon the Wilmot Committee to examine the loyalty of these aliens. The Committee was also to encourage commitment in the form of military service. Whether the Bishop and the Committee were enthusiastic about this demand is not clear. However, with the relief coffers at new lows in 1794-5, the Committee needed to keep in the good graces of the Treasury and cut relief lists wherever possible. In 1795, the government for all intents and purposes pushed able-bodied male relief recipients into the army. The Committee published a call to “all who are capable of bearing arms,” insisting “that there is no pretence or excuse for any one of that description who should chuse to continue here dependent on the support of the committee.”<sup>69</sup>

Vetting foreigners was only part of the Committee’s work. The Committee had to help resettle (temporarily it hoped) a large Catholic population in the heart of Protestant Britain.<sup>70</sup> The Committee set out first to secure housing for the priests. Worried that intolerance would spread, some 680 priests were moved to the King’s House in Winchester where they would be relatively isolated, though the Committee in London sought local assistance in maintaining the establishment and supplying food. Despite its impressive-sounding name, the King’s House was none too luxurious. Once used to house prisoners of war, the structure was by all accounts quite dilapidated. Though the Committee did the best it could to restore the house, money enough to cover a rising number of priests and laypersons across the country meant that only so much could be done.

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*England, 1774-1789*, (London: Constable, 1974); for a case study of loyalist experience during the war, see Adele Hast, *Loyalism in Revolutionary Virginia: the Norfolk Area and the Eastern Shore*, (Ann Arbor: UMI Research Press, 1979).

The situation of the Black Loyalists – American Slaves promised freedom for fighting in the British cause – was vastly different. For more on the refuge provided for these individuals, see chapter two below.

<sup>68</sup> Committee Resolution, October 17, 1792, *Committee for the Relief of the French Laity*, BL. Add. Ms. 18591

<sup>69</sup> National Archives, T 93/1, Committee for the Relief of the French Laity, (16 April 1795).

<sup>70</sup> Wilmot’s relief and reparations work for American Loyalists did not have to contend with the issue of housing. In this, the current committee borrowed from the Magdalene societies and Foundling Hospitals, each concerned with the day-to-day maintenance of their charitable subjects.

## SELLING THE PROJECT OF REFUGE TO THE NATION

In the months after the establishment of the Wilmot Committee, the appeal for personal charity on behalf of suffering innocents came together with a patriotic campaign for refugee relief nationwide. This characteristic union of humanitarian and nationalist sentiment would recur again and again throughout the nineteenth century. The task of the Committee and of all refugee supporters was daunting, requiring publicists to convince the public that the refugees were worthy of their charity at time of rising prices and general economic downturn for the ordinary Briton. Neither philanthropists nor the government could afford to see the refugees fall onto poor relief, since the parish relief system was already overstretched. For the French refugees, this campaign was about survival. The elite have given generously. By April, the Wilmot Committee collected £26,000.<sup>71</sup> But that was not enough.

In the spring of 1792, the Committee concentrated on raising national awareness and sympathy for their cause. They petitioned the King for his support on April 5, the same day that Evangelical moralist Hannah More took the message public in an address to the ladies of Great Britain. The Committee issued a public advertisement seven days later. They now had the satisfaction to report that “his majesty has been graciously pleased to approve of a collection being made for the relief of these unfortunate persons in the different parishes of this kingdom...” The Committee had already sent letters to the archbishops and bishops requesting their voluntary participation in a national collection of relief funds, but George III now made this request a royal command.<sup>72</sup>

THE KING’S LETTER — On April 17, 1793, King George III wrote a letter to the Archbishop of Canterbury indicating that he had been much affected by the representations of the Committee for the Relief of the French Clergy, Refugees in Our British Dominions. Two days before a National Fast Day appointed for meditation on the current war with France, the King brought his concern for the welfare of these refugees to the Archbishop. The King asked his Archbishop to see that “the ministers in each parish do effectually excite their parishioners to a liberal contribution” for the French émigré clergy. To this end, the King requested that all bishops appoint particular Sundays in the coming weeks on which each minister would be made to sermonize on the cause within their parish. A collection would be made at the time of the sermon. Moreover, churchwardens and overseers of the poor were to continue the work into the week, visiting parishioners at their own dwellings to collect subscriptions. The King closed his letter with praise of John Wilmot, to whom the funds would be entrusted. Wilmot, and through him the Committee, were precisely the “trustworthy” and “well beloved” individuals whom the nation could deputize for this philanthropic work.<sup>73</sup>

From the end of April through June and beyond, parishes throughout the realm convened to hear sermons on the plight of the French refugees. Not all districts responded liberally. As E. M. Wilkinson has shown, economic hardship made it difficult to collect funds not intended for local relief. Especially in rural areas, returns to the Committee often included “an apologetic note from the incumbent.” One “Huntingdonshire vicar was ‘rather ashamed’ that, ‘after preaching

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<sup>71</sup> Petition to the King, April 8, 1793, British Library Add. Ms. 18591, ff. 91-92 5.

<sup>72</sup> Petition from the Committee to the King, dated 5 April 1793, entered on 8 April into the Minutes of the Committee of Subscribers for the Relief of the French Clergy, No. 1 BL Mss 18,591, September 1792-November 1793): ff91-92, 93-4.

<sup>73</sup> George R. to the Archbishop of Canterbury, carried by HM’s command by Henry Dundas, April 17, 1793, as reprinted in William Robert Wake, *Two Sermons preached in the parish church of St. Michael, one on the Fast-Day, April 19; the other on occasion of soliciting relief for the emigrant French clergy, etc.* pp. 24. (Bath: W. Gye, 1793), 16-17.

and exhortation' he had so little to send." Others were less apologetic about their parsimony.<sup>74</sup> Overall, however, the national campaign was a great success. By October 1793, Wilmot's committee received an additional £38,275, enabling the it to continue distributing funds to an ever-growing list of recipients.<sup>75</sup>

The national campaign also created new refugee supporters who, in turn, sought to raise funds for the Wilmot Committee themselves. Authors like Charlotte Smith turned their pens to the refugees' cause, describing their plight and reasons for exile. Some authors such as Burke, Burney, and Hannah More also donated the proceeds from publication to the Committee. From April 1793 on, so too did many of the ministers who had been asked to preach on the subject. Often "published by request," these sermons were elaborated and printed for a national audience.<sup>76</sup> Again, these sermons did double duty as propaganda and money-raisers. These leading Protestant voices were particularly important in helping to convince doubters that refuge to foreign Catholics was not only safe, but a national and a Christian duty to boot.<sup>77</sup>

Each author explicitly took on the anomaly of an appeal to Protestants on behalf of Catholic clergy. Burney compared murdered French priests to martyred English Protestants of the sixteenth and seventeenth centuries. She exclaimed: "let the same generous feeling which would call to life those murdered martyrs [the clergy slain in France], protect their yet existing brethren, and save them, at every risk, and by every exertion, from an end as painful and more lingering; as unnatural, though less violent."<sup>78</sup> The Reverend Samuel Horsley (who addressed Parliament and his own Welsh parishioners on the subject) argued that, though "they may differ from us upon certain points of doctrine, discipline, and external rites, [persecuted French priests] are nevertheless our brethren—members of Christ—children of God." They were even "more endeared to us by the example they exhibit of patient suffering for conscience's sake, than estranged by what we deem their errors and corruptions."<sup>79</sup>

Reverend William Williams invoked the parable of the Good Samaritan against those who might argue that the refugee clergy "were strangers," "Catholics and Priests," or that "there were more useful charities,"<sup>80</sup> Williams's pamphlet argued that withholding charity from strangers ran directly counter to biblical injunction. That the stranger in question was Catholic was a preposterous objection in "an enlightened age." Williams argued that their Catholicism was beside the point: "for their faith and worship they must answer unto God." After all, he

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<sup>74</sup> Wilkinson, 337.

<sup>75</sup> British Library, Add. Mss 18593, Accounts of the Expenditure for the relief of the French Clergy, 1792-1801, nf.

<sup>76</sup> For instance the Rev. William Williams of Worcester College, Oxford.

<sup>77</sup> The *Monthly Review, or Literary Journal's* coverage of these publications treated them as a subsection in their reviews of religious literature. In their opinions, the journal's editors made their own political opinions known. The editors assumed that there ought to be no reason that the French clergy, Catholics in Britain, should not be provided with refuge. The journal's reviews of particular sermons pronounced opinion on the ways in which they sought to draw their parishes (and their broader readership) into the national campaign. The editors, for instance, asserted that Reverend George Henry Glasse's "sermon is an excellent specimen of that kind of popular harangue which powerfully addresses the passions without suffering itself to transgress the limits prescribed to a correct and classical taste." Their purpose was to praise, they would "not, on this occasion, enter into a critical examination of every remark and sentiment contained." ("Art. 44: Preached at the Parish Church of Hanwell, Middlesex, June 16, 1793, after reading HM's letter in favor of the French Emigrant Clergy. George Henry Glasse, MA Rector of Hanwell," *The Monthly Review*, (Vol. XIII, Jan-April 1794), 357-8.)

<sup>78</sup> Burney, "Brief Reflections..." 26.

<sup>79</sup> *The Welsh Freeholder's farewell epistles to the Right Rev. Samuel (Horsley) Lord Bishop, lately of St. David's, now of Rochester; in which the Unitarian Dissenters, and the Dissenters in general, are vindicated from charges advanced against them in his Lordship's Circular Letter, on the Case of the Emigrant French Clergy: with a copy of that letter*, (London, 1794), vii.

<sup>80</sup> William Williams (Rev.), A.B. of Worcester College, Oxford. *The Good Samaritan; or, Charity to Strangers Recommended. A Sermon preached in the Parish Church of High-Wycombe, Bucks, for the French Refugee Clergy. On Sunday, the 2d June, 1793.* London: S. Cave, 1793), especially 19, 23, 25.

noted, “we pray in our church for the conversion of Jews, Turks, and infidels, and these clergy are neither one nor the other, but were they of this description, they are surely the objects of our prayers, and the hand that *faith* lifts up in prayer—love must extend in charity.”<sup>81</sup>

Not all authors were so forbearing with regard to the refugees’ Catholicism. Despite Hannah More’s claim that “we plead not for their faith, but for their wants,” her language was not always so neutral. “[I]t is not for their popery but their poverty which we solicit,” she moralized, noting too that “it may be the first step towards their conversion, if we show them the purity of our religion, by the beneficence of our actions.”<sup>82</sup> More appears to have been alone in her mention of conversion.

Beyond the fraught religious questions raised by French refugee clergy, pamphleteers sometimes recognized that their audience might have had a certain amount of sympathy with the French Revolution itself. Williams, for instance, mentioned in a footnote that his condemnation of those who banished men did not imply “censure [of] the first French revolution.” His “allusion,” he explained, was “to the massacres that have taken place, and particularly to the Murder of Louis XVI. On this all parties seem agreed and have in the strongest terms expressed their abhorrence of this most atrocious act.”<sup>83</sup>

A UNITED KINGDOM? — Not all of these appeals fell upon uncritical ears. For British radicals, nonconformists and a vocal anti-Catholic contingent, this new sympathy for Catholics was distinctly worrisome.

British radicals responded to the relief appeals in two distinct ways. For some, their political disagreements with the exiles did not preclude a sense of compassion. This was true, for instance, of Charlotte Smith and Charles James Fox, though of the two only the former took action on behalf of the refugees. Popular radicals were more likely to see the refugee relief efforts as evidence of government’s opposition to reform at home and support for the vestiges of the *ancien régime*. While angry assemblies across the country appropriated symbols of the French Revolution, radicals also rallied against the formation of refugee relief societies. On September 12, 1792, a crowd assembled outside the house of one Dr. William Maxwell. Maxwell suggested that his audience counter the campaign to relieve French loyalist refugees, with a “subscription to support the people of France against their enemies.” Although the police quickly dispersed the crowd, radicals issued a similar call in Manchester in the wake of a rumor that some French priests had absconded with French girls.<sup>84</sup>

Most nonconformists gave as readily to the campaign for the French Catholic clergy as Anglicans did. They sometimes bridled at the way in which Established support for the refugees shaded into invective against Protestant nonconformity. For instance, Welsh Unitarian David Jones took issue with Bishop Samuel Horsley’s assumption that dissenters, having supported the initial 1789 Revolution, must, as a consequence, be “abettors of everything that has since happened in that country.” By Jones’s reading, Horsley was accusing nonconformists as being opponents of order and property—not to mention treacherous atheists.<sup>85</sup> Jones lambasted Horsley for the way in which he argued the émigrés’ cause. The Reverend Horsley might have spoken with that “elevation for which humanity appears one great brotherhood, one living system, which

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<sup>81</sup> Williams, 23.

<sup>82</sup> Hannah More, “Remarks on the Speech of M. Dupont, made in the National Convention of France on the Subject of Religion and Public Education. A Prefatory Address to the Ladies, &c. of Great Britain,—In Behalf of the French Emigrant Clergy,” *The Works of Hannah More*, (New York: Harper & Brothers, Publishers, 1852, 301-311), 302.

<sup>83</sup> Williams, footnote page 22.

<sup>84</sup> Wilkinson, 177, 178.

<sup>85</sup> *Ibid.*, 4 and 43.



the same principles animate, to which the same feeling gives motion.”<sup>86</sup> Instead, Jones said, Horsley had elevated the priests at the cost of British dissenters. The tone of intolerance in Horsley’s appeals threatened to jeopardize the country’s already tenuous social peace.

Jones hinted that he had some sympathy for the larger refugee cause. But if Horsley was going to demonize dissenters, he would make a few observations of his own about the French priests whom Horsley cast as saintly victims. Jones argued that the French Catholic clergy had not been particularly ill-treated in France under the Civil Constitution of the Clergy before the massacres of September 1792. French priests’ claims to holy martyrdom seemed a little overdrawn in view of their longstanding reputation for degeneracy.<sup>87</sup> Indeed, Jones remarked, “the security required of [French priests], in exchange for all the immunities of free citizens, was as far as I am able to judge, no greater than what the Catholics of this country cheerfully give for a very few.” If refusing the Oath of the Civil Constitution made martyrs of French priests, he asked why no similar concern arose for the “the consciences and the principles” of the Catholics in Britain, or anywhere else among the “free governments of Europe.”<sup>88</sup>

Jones was not alone in his misgivings about the praise being heaped upon refugee Catholics. The British public expressed unease about the inroads that Catholic clergy might make into Protestant life. These sentiments underscored the extent to which relief for Catholic refugees drew into question the nation’s own religious toleration. Hostility to the refugees grew as the crisis, together with war and general economic distress, dragged on. Having begun by publicizing the plight of Catholic refugees, their British supporters would come to see the wisdom of keeping their charges out of the public eye.

#### REFUGE OVER TIME

Indeed, the public at large had been wary of confessional differences all along. As early as the fall of 1792, the *Hampshire Chronicle* had reprinted an advertisement for a new edition of John Foxe’s sixteenth-century *Book of Martyrs* that memorialized instances of Catholic brutality. At a time when there were many French émigré priests in the country, the advertisement asserted that there was no better book to demonstrate the “absolute duty of every duty of every true protestant to enquire [into] the destructive principles of that abominable persuasion [i.e., Catholicism].”<sup>89</sup> There seems to have been little cause for such worry. As far as I have seen, only one French priest was caught proselytizing British subjects and earned prompt expulsion for his efforts.<sup>90</sup> Nonetheless, by 1796, fear of Catholic influence was spreading. As initial public interest in the plight of the refugees diminished, the Wilmot Committee and refugee supporters more broadly were forced to take these apprehensions into account.

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<sup>86</sup> Jones, *The Welsh Freeholder’s Farewell Epistles...*, 2.

<sup>87</sup> *Ibid.*, 5.

<sup>88</sup> *Ibid.*, 7.

<sup>89</sup> *Hampshire Chronicle and Portsmouth and Chichester Journal*. 10 December 1792.

<sup>90</sup> This rogue priest was one Father Couvet. In January 1795, St. Pol de Léon’s attempt to remove Father Couvet privately only incensed the public and the “matter became notorious through the truculent refusal of Father Couvet to refrain from similar action in the future.” He was finally expelled under the Aliens Act. In 1917, the Huguenot Historical Society gleefully reported that émigré priests “could not refrain from their old system of endeavouring to convert the parishioners of the very clergy whose hospitality they were enjoying. In 1795 many charges were brought against them officially, and investigated magisterially and ecclesiastically.” But *many* seems to have been an overstatement. The others behaved themselves, according to the Wilmot Committee. [Charles Poynta Stewart, F.S.A. Scot. (Pres). “Address to the 32nd Annual general meeting of the H.S. of London,” *Proceedings of the Huguenot Society*, Vol. XI. No. 2. (London: Spottiswoode, Ballantyne & Co., 1917), 11.

In 1796, the *Monthly Review*, long an advocate for the refugee clergy, responded to anxieties voiced by Thomas Mathias, a “concerned Anglican.” Mathias had asserted that the charity lavished on the priests—a sum of £200,000—was excessive; in any case, he averred, it was not a national priority. In return for such charity, Mathias claimed, Protestants were being subjected to Catholic subversion of the Protestant social fabric. Mathias backed his claims with reproductions of letters demonstrating local concerns about ‘popishness,’ dating from 1745 forward, from areas that were now leaders in the relief campaign, including Winchester and Oxford.<sup>91</sup> The *Monthly Review* editors responded forcefully to Mathias’s publication, refuting his accusations point by point. They did not entirely dismiss his concerns, however. The editors conceded that Mathias’s complaints that “the [Pitt] Ministry, the Bishops of Durham and Winchester, and the University of Oxford” were sending poor Protestant children to the priests for Catholic education, “are at least very plausible grounds of alarm.” The editors “strongly call[ed] on the parties implicated for a satisfactory explanation.”<sup>92</sup>

Even the most ardent refugee supporters could not ignore the changing winds of public opinion. Priests were strongly discouraged from leaving the King’s House despite their increasingly straitened circumstances there.<sup>93</sup> St. Pol de Léon threatened that a priest who left would “not be received on the list for relief till they [*sic*] have paid the expenses of sending down another Priest in his place and that they [*sic*] will receive in future only 6s. a week each being on the average what the clergy at Winchester cost per head per week.”<sup>94</sup> Furthermore, as Reverend Sturges wrote to the Wilmot Committee in April 1796, “it would be by far best on all accounts, that the French Clergy here [in Winchester], should print nothing and have nothing to do with the Press in any way” (emphasis original). Sturges wanted to stem the possible influence of the Catholic clergy, but also pointed out that curtailing priests’ press visibility “would at once cut off one source of complaints and charges which would always be made by persons indisposed towards them, without distinguishing whether the works printed here were likely to do harm or not.”<sup>95</sup>

Burke had argued from the first, that it would be necessary for refugee supporters to ignore public opinion if necessary; securing the lives of the refugees was more important than pandering to popular prejudice. One problem with this approach, however, was that, despite the success of the initial public charity drive, the Committee needed more money. How to get it without appealing to the public was unclear.

During the winter of 1793-4, the Committee had adopted Burney’s scheme to establish a network of women to raise money from personal acquaintances. But, now the Committee relied primarily on the Treasury grant of £7,880 per month to sustain the 4,008 clergy and 375

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<sup>91</sup> Thomas James Mathias, *A letter to the Lord Marquis of Buckingham ... chiefly on the subject of the numerous emigrant French priests and others of the Church of Rome, resident and maintained in England at the public expense*. (London: J. Owen, 1796), 9 and appendix.

<sup>92</sup> *The Monthly Review*, New and improved series. (Jan-Apr. 1797, Vol XXII), 95-6.

<sup>93</sup> The priests lived at subsistence levels, and their situation worsened as food prices skyrocketed in the middle of the decade. (For correspondence on food prices with suppliers between January and April 1795, see Minutes of the Committee of Subscribers for the Relief of the French Clergy, No. 2 British Library MSS 18,592, December 1793-May 1796, ff. 92-108.) Under the direction of the Marchioness of Buckingham, the priests made tapestries, the proceeds of which were returned to their community for what little extra assistance could be found. So too were proceeds on embroideries, artificial flowers and the like sold by other British ladies. (Cunningham, *Alien Immigrants to England*, 259; see also, Kirsty Carpenter, chapter two, for further examples.)

<sup>94</sup> Resolved at the meeting of 2 July 1795, Minutes of the Committee of Subscribers for the Relief of the French Clergy. No. 2 (December 1793-May 1796) BL Mss 18,592, ff. 55-56.

<sup>95</sup> [emphasis original] Letter from Sturges regarding the press (8 April 1796), Minutes of the Committee of Subscribers for the Relief of the French Clergy, No. 1 BL Mss 18,591, September 1792-November 1793, ff. 235-236.

laypersons who needed relief as of December, 1793.<sup>96</sup> At the height of Robespierre's Reign of Terror in France, however, the numbers of lay refugees kept swelling while Treasury funds allotted for their care stayed the same. By January 1794, the 375 lay refugees had grown to 450. By the end of the Terror in July, 1794, the Committee had 629 members of the French laity in its charge and a further 362 awaiting relief.<sup>97</sup> Though Robespierre's executions had ceased, the situation of the émigrés under British auspices deteriorated markedly over the next few years. Domestic prices soared in 1795. As the government tried to restructure relief for its own indigent population, the Committee struggled to stay on budget in the face of inflation.<sup>98</sup>

In the last half of the decade, the Committee was forced to retrench several times. It lowered the stipends given to the clergy as early as 1794. Publicly, at least, these pious souls gladly promised they would cut back on their meat consumption. In 1795-96, however, the Committee was forced to limit the number of recipients who qualified for aid. Wilmot and the Bishop of St. Pol de Léon effected this last reduction. Thereafter, they required that ecclesiastical applicants for relief submit a further certificate verifying that they had indeed been forced to flee France. In 1796, the Committee simply disallowed new additions to the list altogether. To be considered a deserving "refugee" under this new regime, a Frenchman or -woman had to have no other means of support. No able bodied man would be considered for relief. Moreover, no man or woman who fled France prior to 1791 would be considered for the lists.<sup>99</sup>

In the midst of these cut-backs, the Committee responded to a new government policy to enlist foreigners by pushing able-bodied Frenchmen from the aid list into the British army. In 1795, able-bodied émigrés formed their own regiments and were deployed to the front lines that summer. The results were disastrous. Just as Members of Parliament Whitbread and Maitland had feared, the French showed no mercy to these refugee recruits. Exiles caught taking arms against their own country were subjected to summary execution. Three thousand six hundred émigrés landed with the British Army in France. Of these, only half escaped the ill-judged battle at Quiberon on 27 June 1795. One thousand who survived the battle itself fell into Republican hands; of these 690 were sentenced to death at court martial.<sup>100</sup> Back in Britain, no émigré family was left untouched. With one thousand dead, many families lost their sole breadwinner. The psychological toll of Quiberon was immense. As Kirsty Carpenter details, a Mme. D'Aiguille "went mad upon hearing of the death of her husband who had been mercilessly shot... [she] left her two children and wandered through the London streets calling his name." A neighbor took in her children and Mme. D'Aiguille "was never heard of again."<sup>101</sup> Of the surviving 1,800 émigré conscripts, many were maimed and unable to work. This sorry fate made a mockery of British claims to be affording dignity in refuge.

The devastation did at least bring about a change in British attitudes toward refuge. At the time of the Aliens and Enlistment Bill, a minority of speakers in Parliament had argued that refugees deserved a life of dignity and repose. In the wake of Quiberon, the once-dominant idea of making exiles into military allies of the British State began to give way to a vision of refuge

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<sup>96</sup> 14 December 1793, National Archives, T 93/1 Committee for the Relief of the French Laity, ff. 1-2.

<sup>97</sup> *Ibid.*, 2-5.

<sup>98</sup> See for example, 8 Jan 1795 letter to the committee from William Meader, Minutes of the Committee of Subscribers for the Relief of the French Clergy, No. 2 BL Mss 18,592, December 1793-May 1796, ff. 92-3.

<sup>99</sup> Rules and Regulations, 24 March 1796, Minutes of the Committee of Subscribers for the Relief of the French Clergy. No. 2 British Library MSS 18,592, December 1793-May 1796, ff. 209-214, 227.

<sup>100</sup> *The Cambridge Modern History*. A.W. Ward, G.W. Prothero, Stanley Leathes (Eds.) Volume VIII: The French Revolution, (London: Macmillan & Co., 1904): 391.

<sup>101</sup> Carpenter, 92.

as a more exclusively philanthropic endeavor. While the Treasury treated the surviving families of émigré casualties according to the military model, entitling them to government pensions, this would be insufficient. As a committee of British women discovered, the once-proud French lay émigrés had been reduced to such penury that some were quite literally starving to death. This discovery prompted a response from private philanthropists associated with the Wilmot Committee. Unable to solicit public support for the starving émigrés, Committee members redoubled their personal efforts. Lord and Lady Sheffield organized a visiting committee to locate and care for the sick.<sup>102</sup>

Officials tended not to consider the long-term future of refugees. Most discussion in that vein focused on the resettlement of refugees outside of Britain. As Hector Minet suggested, the British could try to convince Holland to take in more refugees.<sup>103</sup> Lord Landsdown had advocated a migration to Canada at the time of the second reading of the Aliens Bill. His Majesty, Landsdown pointed out, could grant lands in Western Canada to the refugees if they should be refused repatriation.<sup>104</sup> After all, Canada already had a French Catholic population that the British inherited from the Treaty of Paris in 1763. When the Wilmot Committee made its initial appeal to the public, it had likewise mentioned the possible removal of the refugees to Canada, with the caveat that such a move would not be feasible for several months. Even then, the problem would remain of providing refugees with the resources to establish themselves in their second British refuge.<sup>105</sup> As the crisis persisted, French priests seriously considered moving to Quebec. But few ended up following through on the offer.<sup>106</sup>

In the end, Napoleon's 1801 Concordat with the Pope resolved the Committee's financial bind. The clergy were now permitted to return to France, and the Wilmot Committee could focus on the needs of the remaining laity. Official worries about Catholic influence seem to have receded thereafter. While panicky Protestants continued to petition the government about the Catholics in their midst into the 1810s, neither the Committee nor the government took heed.<sup>107</sup> Arguably, it was when Protestant opposition to Catholic refugees ceased to be taken seriously that the traditional confessional logic of refuge was definitively sidelined.

As we glance forward to the period after the French Wars, two distinct legacies of the Revolutionary period will continue to shape British refuge. First, the networks of philanthropists that had been developed by the Wilmot Committee would continue to grow in importance and

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<sup>102</sup> Wilkinson, 257.

<sup>103</sup> 25 September letter from Hector Minet at Dover, Minutes of the Committee of Subscribers for the Relief of the French Clergy, No. 1 BL Mss 18,591, September 1792-November 1793, ff. 20.

<sup>104</sup> Landsdown, *Parl. Hist.*, xxx, cols. 150-1.

<sup>105</sup> Minutes of the Committee of Subscribers for the Relief of the French Clergy, No. 1 BL Mss 18,591, September 1792-November 1793, ff., entry in the minutes of 7 December 1792, to be published in the newspapers, ff52.

<sup>106</sup> Wilkinson, 353. By 1801, only 34 priests accepted British Treasury funds for removing to Canada.

<sup>107</sup> The Aliens Office continued to investigate cases of supposed conversion. Their greater concern seemed not to be the proselytizing aliens, however, but the proselytized Britons and the domestic consequences of conversion. In 1805 for instance, the Aliens Office was alerted regarding a case where a French priest invited into an Anglican household managed to convert the mother and daughter. The complaint ensued from a domestic quarrel over about the daughter's conversion and whether her father had the right to take her away on the grounds that her mother too was a convert. The implications of this custody case are beyond the purview of my argument. However, the point here is that the consequences of refuge on *Protestant* Britain were played out on a local level in at least a handful of cases. As late as 1820, a Caroline Barrett of Portsmouth wrote to Lord Sidmouth about the insidious activities of refugees intimately connected with her own family. Mrs. Barrett hoped that the Home Office would actually employ her for her knowledge or at least permit an interview with the Secretary. (British Library MSS, Althorp Papers, G124, Add. 7789, 546 C. Aliens, Oct 1803-Aug 1806, Letters and declarations regarding the Hartsinck Case, August 1805; National Archives HO/44/1 ff. 59, 20 March 1820; HO 44/7 ff. 234-5, 27 March 1821; HO 44/10 ff. 25-8, 4 October 1821; and HO 44/11 ff. 373-4, 27 March 1822, Caroline Barrett (Portsmouth) to Sidmouth.)

initiative. Secondly, the movement to link British national interests and identity with the provision of refuge would also gain in strength.

As I discuss at length in Chapter Three, aspects of the Wilmot Committee's organization of relief and program of public education continued throughout the nineteenth century. The initiative in these efforts, however, shifted toward the public at large. The King's 1793 request that each minister "excite" a liberal collection would be turned on its head. Increasingly, local officials and private volunteers of all classes sought to excite *government* involvement. Whereas the state had formerly framed refuge as a *quid pro quo* for services provided to the nation, popular humanitarianism now depicted refuge as an extension of liberal freedom.

The Parliamentary debates over the Aliens Act bear witness to this transformation of public opinion. Arguments which had failed during the 1790s won out by the 1820s. Lord Guilford had argued without effect in 1792 that the Aliens bill threatened liberty at home: "Their Lordships had no security but in their moderation, and ought to take care that the country was not disgraced by the inhospitable transportation of persons who had thrown themselves on our hospitality." In 1816, James Mackintosh denounced the Aliens Act for deterring too many "meritorious refugees" from seeking an asylum in Britain. His arguments now went beyond Guilford's scolding about ungentlemanly behavior and equated refuge with Britain's emancipatory mission: "If [a renewed Aliens Act] passed into a law, the soil of England, instead of the glorious privilege of enfranchising the slave, would henceforward have the wretched power to enslave the free."<sup>108</sup> Such arguments ultimately helped defeat the Act, which finally lapsed in 1826.

The Whig celebration of Britain as a place of refuge in the 1810s and 1820s mirrored the literary efforts of Charlotte Smith and Fanny Burney in the 1790s. These humanist explorations of the *sturm-und-drang* of exile, written specifically to humanize the French loyalists, helped give way to a more general paradigm for British refuge that appeared in the anti-Aliens Act debates. The Parliamentary Whigs had the sentiments of the age on their side. A Wordsworth poem published in 1822 echoed Smith's 1793 "The Emigrants." At the outset of a new era in British refuge, Wordsworth took pride in the nation's treatment of the French in the 1790s:

...More welcome to no land  
The fugitives than to the British strand,  
Where priest and layman with the vigilance  
Of true compassion greet them. Creed and test  
Vanish before the unreserved embrace  
Of catholic humanity...<sup>109</sup>

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<sup>108</sup> *Hansard's Parl. Hist.* xxxiv, (26 April 1816 – 2 July 1816), col. 479.

<sup>109</sup> William Wordsworth, "Emigrant French Clergy" in his *Ecclesiastical Sketches* (1822), lines 6-11.

According to Duncan Wu in *Wordsworth's Reading, 1770-1799* (Cambridge: Cambridge University Press, 1993), 128, paraphrasing W. Hunt [*WC* 1 (1970) 85-103], "...The publication of *The Emigrants* was announced in the *Morning Chronicle* at the end of May 1793; given Wordsworth's enthusiasm for Smith's earlier works, he may have sought it out shortly after."

## CHAPTER TWO

### REFUGEE STORIES: THE EMERGENCE OF A 'REFUGEE' NARRATIVE, 1815-1870

As the fleeing slave George Harris confronts his pursuers in *Uncle Tom's Cabin* (1852), Harriet Beecher Stowe breaks into the narrative with the following reflection:

If he had only been a Hungarian youth, now bravely defending in some mountain fastness the retreat of fugitives escaping from Austria into America, this would have been sublime heroism; but as it was a youth of African descent, defending the retreat of fugitives through America into Canada, of course we are too well instructed and patriotic to see any heroism in it. [...] When despairing Hungarian fugitives make their way, against all the search-warrants and authorities of their lawful government, to America, press and political cabinet ring with applause and welcome. When despairing African fugitives do the same thing, – it is – what *is* it?<sup>1</sup>

For Stowe, the parallel between American fugitive slaves and European patriots was meant to shock her readers. She was demanding that they celebrate her black-skinned heroes as much as they lionized those icons of liberal romanticism, the European revolutionaries battling oppression in continental Europe.

In Britain, where *Uncle Tom's Cabin* sold a million copies within months, Stowe's point hit home.<sup>2</sup> By the early 1850s, British culture was saturated with stories of escape from oppression, real and fictive. Like George Harris, Italian Giuseppe Mazzini had faced the fire of his pursuers. As had Eliza Harris, George's wife, Hungarian Theresa Pulszky had been separated from her husband and forced to flee alone with her children. Like American slaves bound for Canada, continental exiles fled for British territory, finding comfort and refuge in the homes of British hosts.

Refugees and their supporters propagated dramatic narratives of persecution in the local and national press. Celebrated fugitives—black and white—toured the British Isles, repeating their tales to rapt audiences. This publicity spread sympathy—and raised funds for relief. Between 1815 and 1870, in what could be called the golden age of British refuge, hundreds of refugees found sanctuary on British soil each decade. Those who reached Britain proper were few in comparison to the much larger group of displaced foreigners who took refuge in the

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<sup>1</sup> Harriet Beecher Stowe, *Uncle Tom's Cabin, or Life Among the Lowly*, New Edition, (Philadelphia: Henry Altemus, 1900): 281-282 (in Chapter 17, "The Freeman's Defence"). First published in 1852.

<sup>2</sup> The novel inspired countless spin-offs on the London stage, as described by Sarah Meer, *Uncle Tom Mania: Slavery, Minstrelsy and Transatlantic Culture in the 1850s*, (Athens: University of Georgia Press, 2005), 134. Such adaptations drew from the popularity of escape narratives and of fugitive slaves touring Great Britain, making the ex-slaves even more popular. By the mid-1850s, similar stories would become a major selling point for the *Ladies' Newspaper* of London, which advertised in the *Times* that its 1856 "pink edition" would publish weekly stories on the issue (*Times*, October 10, 1856). See also, Donald Ross, "Sunny Memories and Serious Proposals," in *Transatlantic Stowe: Harriet Beecher Stowe and European Culture*, ed. Denise Kohn, Sarah Meer and Emily B. Todd, (Iowa City: University of Iowa Press, 2006) for analysis of how Stowe related her campaign to that of European reformers in her 1854 *Sunny Memories*. The preface to that edited volume also makes use of the passage cited from Stowe above.

British Empire as a whole.<sup>3</sup> But they had a disproportionate impact on the cultural meaning of “the refugee.”

In this chapter, I argue that the period between 1815 and 1870 witnessed the emergence of a standardized refugee narrative. This narrative, which was propagated by refugees and their supporters, brought to life for listeners the trials and tribulations faced by virtuous foreigners and cast British sympathizers as their generous saviors. This standardized narrative taught British audiences who refugees were and how to treat them, providing a template for the discriminating treatment of subsequent influxes of foreigners. Current scholarship insists that British liberal acceptance of refugees came into its own only after the final lapse of the Aliens Act in 1826.<sup>4</sup> By contrast, I argue that Britain’s distinctive national pride as a nation of refuge was the result of a longer cultural process that had little to do with the Aliens Act in the nineteenth century. Rather, as I demonstrated in Chapter One, the humanitarian and political value placed on foreign refugees had its origins in conservative reactions to the French Terror as well as in a humanitarian ethos that transcended politics altogether.

British refuge in the wake of the 1814-1815 Congress of Vienna reflected a new, unified national ethos that shed the earlier logic of refuge as a component of national defense. British refuge now projected an expansionist vision of Britain’s *liberal* power onto the international stage. After the final defeat of Napoleon, a confident liberal ethos held sway in the British national psyche. Regardless of class background or political persuasion, Britons did not hesitate to pass judgment on foreign oppression. In contrast to autocratic rule on the continent, Britain enjoyed constitutional freedoms. In contrast to America’s racial despotism, *all* Britons – even blacks after 1838 – were freeborn. The truth, of course, was that these liberties were anything but secure, especially for Britain’s newly emancipated slaves. But Britain’s newly vigorous liberal ideology provided a strong backbone for the empathetic humanitarianism of refugee narratives.<sup>5</sup>

A closer examination of the emergent refugee narrative and its application to persecuted groups reveals another, subtler way in which liberalism shaped British ideas of the refugee. Assistance to refugees involved more than simply opposing tyrants and helping their victims. Refugee narratives implicitly recognized *liberal subjects* among the oppressed. The heroes (and they were typically gendered as such) of canonical refugee stories were assertive and independent-minded freedom fighters. This model of the good liberal protagonist described European revolutionaries and American fugitive slaves quite well. It did not fit African captives liberated from slave ships; these liberated Africans seemed too passive to be model refugees.

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<sup>3</sup> Given the lack of legal distinction between types of foreigners, it becomes difficult to estimate overall how many refugees arrived on British soil during different crises. Official estimates for 1853 (in the wake of the Continental Revolutions) claimed there to be 4,380 political refugees in Britain itself: 2500 Poles; 1,000 French; and 260 German s(Tibor Frank, “Lajos Kossuth and the Hungarian Exiles in London,” in *Exiles from European Revolutions: Refugees in Mid-Victorian England*, ed. Sabine Freitag [New York: Berghahn Books, 2003], 121); P. Martinez estimates that 3,500 French Communards found their way to Britain in 1871 in “A Police Spy and the Exiled Communards, 1871-1873,” *English Historical Review*, (97, no. 382, January, 1982, 99-112): 99. These moments mark the highest tides of refugees in nineteenth century Britain. Refugee relief organizations such as the Literary Association of the Society of Friends of Poland or the Spanish Refugees listed hundreds, rather than thousands of refugees on their lists. In the greater British Empire, however, those numbers were much higher. Contemporary accounts estimate that as many as 20,000 to 30,000 American fugitive slaves sought refuge in British Canada after the passage of the American Fugitive Slave Law in 1850 (“Fugitives in Canada,” *Anti-Slavery Reporter*, New Series, volume 6, no. 1, [January 1, 1851]: 5).

<sup>4</sup> Bernard Porter claims that, with the lapsing of the Aliens Act, British refuge began, as officials *no longer* vetted foreigners. Bernard Porter, *The Refugee Question in Mid-Victorian Politics*, (Cambridge: Cambridge University Press, 1979).

<sup>5</sup> Subsequent chapters address how political and social differences led groups of refuge providers to quarrel over *how* to best provide refuge. While they disagreed on *how* to provide refuge, they concurred that some sort of refuge was necessary for refugees of all nations, races and creeds.

Therefore, this application of a narrative template led to real differences in the treatment of groups of persecuted foreigners. While the British did mobilize on behalf of liberated Africans, that campaign was never as public, nor as sustainable as the fanfare for fellow ex-slaves, the American fugitives. The American Congress's Fugitive Slave Act of 1850 created a vivid new drama that cast fleeing slaves as the proactive and persevering authors of their own liberty. Their stories captured the imagination of an outraged British public, which promptly forgot about the liberated African population in the Caribbean and on the West Coast of Africa.<sup>6</sup>

#### THE TWIN LEGACIES OF THE CONGRESS OF VIENNA

[... T]he arm which was uplifted to destroy liberty was paralyzed and European liberty was saved. But, Englishmen, your work is not yet complete – the cause of universal liberty is not yet triumphant.<sup>7</sup>

The Congress of Vienna had three major consequences for Britain's relationship with Europe and Britain's position in the world. First, with the defeat of Napoleon, the "arm which was uplifted to destroy liberty" finally had been defeated and the imminent threat to British national security destroyed. From decades of war, Britain emerged as the major superpower. Her commercial networks and her navy crisscrossed the globe and she occupied the pre-eminent position at the conference table in Vienna. Moreover, British liberalism, though not without its critics at home, would seem triumphant on the world stage. For liberal Britain, however, the Congress of Vienna had more troubling legacies, each of which would reinforce a sense of national responsibility to take a stand against oppression elsewhere in the world.

Second, the Congress of Vienna restored to power conservative, even reactionary, continental rulers. During the Napoleonic Wars, the British state backed the efforts of continental liberals to overthrow the French Empire. At Vienna, however, British diplomats handed over the reins of power in Europe to the forces of the conservative establishment. This betrayal of their erstwhile liberal allies did not sit well with the British public in the decades that followed. They lamented the failure of continental liberals as their struggles continued into the 1820s and 1830s. As John Clarke has argued, the nation felt a sense of guilt over the fate of continental liberalism. Within a decade, even Tory Foreign Secretary George Canning, who was Britain's official voice in international affairs, recognized public soreness on this subject.<sup>8</sup> Though the administration maintained official neutrality in internal political conflicts on the continent, British politicians, philanthropists and the public at large came to the aid of continental liberals in exile. As a member of the Literary Association of the Society of Friends of Poland ("LASFP") published in the *Morning Chronicle*:

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<sup>6</sup> For the purposes of this chapter, the distinction serves to highlight the power of the refugee narrative in the cultural and ideological underpinnings of British refuge. In later chapters, however, I will argue that the experience of these not-quite-refugees provided a model for the provision of relief to larger refugee groups. Indeed, as I will argue in my concluding chapters, the absence of positive personal agency in the tales of these Africans' liberation would be mirrored in British accounts of Eastern European Jews and of minority groups within the Ottoman Empire.

<sup>7</sup> Mr. Attwood, at the Birmingham Political Union's 3rd General Meeting, Held July 30, 1832 in *Polonia. Regulations of the Literary Association of the Friends of Poland* (London: G. Eccles, vol I, no. 2, September, 1832), 106.

<sup>8</sup> John Clarke, *British Diplomacy and Foreign Policy, 1782-1865: The National Interest* (London: Unwin Hyman, 1989), see chapters 4-6 in particular. Maura O'Connor picks up on this cultural, national interest in foreign affairs in grounding her claims about Britain's interest in Italian unification at mid-century; citing Clarke, she also contends that the English incurred a sense of responsibility for the course of European affairs following the Congress of Vienna. See, Maura O'Connor, *The Romance of Italy and the English Political Imagination*, (New York: St. Martin's Press, 1998), 118-119.



We could, however, say much of the sins of the other nations of Europe towards Poland. The Poles are without a country, because the nations of Europe have, from first to last, failed greatly in their duty towards them. The greatest blot on modern history is the partition of Poland; and the civilization of Europe has poorly acquitted itself, in allowing the gallant inhabitants of that country to maintain their desperate struggle without assistance. [...] A nation like this owes something to its own honour [...]<sup>9</sup>

Assistance to refugees was thus, on the one hand, penance for abandoning worthy allies. On the other hand, it was a means of preserving British liberal ideology, which had only recently won out.<sup>10</sup> As two members of the Polish Exiles' Friend Society argued, Britons could not escape the consequences of further inaction in the affairs of the continent: "the Northern barbarians [Austria, Prussia and Russia], who are aiming at the extinction of European liberty and civilization" could "in the end over-run France, and overwhelm England itself—the island-citadel of Constitutional freedom" if left unchecked.<sup>11</sup> Refugee supporters implied that Britons risked losing their own hard-won liberties if they did not reverse the concessions made to despots on the European continent.

British diplomats had compromised with conservative governments in Vienna because they were so intent on another goal: the ending of the Atlantic slave trade. In the years following the Congress, Britain brokered anti-slave-trade agreements with Spain, Portugal, the Netherlands, France, and Brazil following its independence from Portugal – the major slave trading powers. These treaties restricted the trade in human chattel and set deadlines for its ultimate elimination under the flags of each of these nations. Yet this great diplomatic triumph also burdened Britain with heavier long-term responsibilities than could have been anticipated.

The trade continued illegally, since smuggled slaves could be sold in open and legal colonial markets throughout the Americas (including the British West Indies through 1833). The policing of the trade would become the subject of diplomatic correspondence and treaties throughout the 1860s. Despite international resistance, the Royal Navy acquired a right to search and seize suspicious vessels. Fairly quickly, a specified procedure for dealing with suspicious vessels evolved in international law. The British Vice Admiralty Courts (which had had jurisdiction over suspected British slavers since 1807) and the new Courts of Mixed Commission would adjudicate cases of suspected trafficking. The naval squadron ushered captured vessels into the closest of several port cities with Mixed Commission Courts: Rio de Janeiro, Havana, Freetown (also the seat of the Admiralty Court in Sierra Leone), and Cape Town. If the court determined that the vessel was subject to one of the extant anti-slave trade treaties, it and its cargo were seized and the bounty awarded to the capturing squadron. Despite the abolitionist

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<sup>9</sup> *Morning Chronicle*, November 11, 1834.

<sup>10</sup> By 1834, the reference to having recently emerged from grave threat had two referents: to the defeat of Napoleon and, more immediately, to the 1832 Reform Act. The Reform Act brought much vaunted political reforms, extending the franchise to the middle class and redistricting so that growing towns would be represented in Parliament. The extent of these reforms has been much debated. It did not enfranchise the working classes, of course. Moreover, it had the effect in some areas of limiting what had been a much more extensive, local participation in different levels of government. Nonetheless, it was hailed at the time as saving the country from likely revolution.

<sup>11</sup> John Thurston and Sanford Arnot in the *Morning Chronicle*, August 12, 1833. The Polish Exiles' Friend Society was separate from the LASFP. However, the two shared goals and at least one individual, a Mr. Beales, was a member of both societies. See Thompson Cooper, "Beales, Edmond (1803–1881)," *Oxford Dictionary of National Biography* (Oxford University Press, 2004), <http://www.oxforddnb.com/view/article/1808>, (accessed 21 July 2008).

dream that no Africans would again be torn from home, the international ban on the slave trade had the unintended consequence of creating an ever-growing population of homeless Africans.

In principle, the trade-ban treaties required governments in the jurisdiction where captured vessels were tried to safeguard the Africans on board.<sup>12</sup> If the ship was condemned, captive Africans were to be freed. As the treaty with Portugal read:

[...] And as to the Slaves [of a condemned vessel], they shall receive from the Mixed Commission a certificate of Emancipation, and shall be delivered over to the Government on whose Territory the Commission which shall have so judged them shall be established, to be employed as Servants or Free Labourers. Each of the two Governments binds itself to guarantee the Liberty of these Individuals as shall be respectively consigned to it.<sup>13</sup>

The anti-slave trade treaties, however, were anything but detailed on *how* signing powers – especially those whose economy continued to rely on slave labor – were to ensure the freedom of the newly liberated African populations. Abolitionists began observing that Africans allegedly “liberated” in other countries’ jurisdictions in fact often quickly disappeared into the slave population.<sup>14</sup> As a consequence, they began pressing Britain to take custody not only of those Africans who were liberated in British colonies but also those liberated in the slave hub of Spanish Havana. The British government thus became responsible for tens of thousands of liberated Africans by the end of the 1840s.<sup>15</sup>

In the wake of the Congress of Vienna, then, British refuge was transformed in multiple ways. In what follows, I trace the legacy of Vienna as it affected the British reception of each group of persecuted foreigners. I argue that British responsibility towards these foreigners – especially those who would be designated “refugees” – became an increasingly public affair. Britons of all classes and political persuasions would organize relief and lobby the government on the refugees’ behalf. This public interest in persecuted foreigners gave rise to a standard refugee narrative that did the work of identifying refugees and prescribing responses to their plight.

CONTINENTAL LIBERALS — The end of the Napoleonic Wars marked the end of the external threat to the British state. While a purely strategic relationship with continental refugees

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<sup>12</sup> Africans found on slave ships were kept on board the ship during the trial. If the slaver was not condemned under one of the anti-slave-trade treaties, then the ship’s captain was allowed to proceed to his original destination. Officials claimed that this practice was necessary. But abolitionists had qualms over detaining Africans in this manner, given the high mortality rates associated with life onboard ships. *Parliamentary Papers, 1828 (542), Correspondence with British Coms. at Sierra Leone, Havana, Rio de Janeiro and Surinam on Slave Trade, 1827 (Class A); Correspondence with Foreign Powers on Slave Trade, 1827 (Class B)*. The government investigated alternatives with regard to whether/how to transport Africans (once liberated) from the courts in Fernando Po to Sierra Leone. The counter-argument was that, while settlement at Sierra Leone was preferable, a considerable number of freed slaves succumbed to disease en route. (*Parliamentary Papers, 1830 (10), Report from the Select Committee on the Settlements of Sierra Leone and Fernando Po. 13 July 1830.*)

<sup>13</sup> Article VII of the Regulations for the Mixed Commissions, which are to reside on the Coast of Africa, in the Brazils and at London, attached to the Treaty between Great Britain and Portugal (signed at Vienna, January 22, 1815).

<sup>14</sup> Christopher Fyfe, *A History of Sierra Leone*, (Hampshire, Eng: Gregg Revivals, 1993), 183; see also Chapter Three below.

<sup>15</sup> National Archives CO 318/123, *West India. Miscellaneous. 1835. Removal of Liberated Africans from Cuba*. Altogether, the mixed commission courts organized by British treaties with Spain, Portugal, Brazil and the Dutch tried 528 cases in Sierra Leone between 1819 and 1845. From these ships, an estimated 80,000 Africans were liberated, 65,000 (the majority) were emancipated at the courts in Freetown, 10,000 in Havana and 3,000 in Rio. Leslie Bethell, “The Mixed Commissions for the Suppression of the Transatlantic Slave Trade in the Nineteenth Century,” *The Journal of African History*, 7, no. 1 (1966), 79, 84, 89.

had died on the battlefield of Quiberon in 1795, the older military logic of refuge did not disappear entirely until the 1820s. Thereafter, the provision of refuge and the national campaigns for relief funds would emanate from a concerned public that took the initiative in soliciting state intervention.

Exiled Spanish liberals were the immediate occasion for this transition. The Duke of Wellington helped to obtain Treasury pensions for Spanish liberals who had fought against Napoleon and were now exiled by the newly restored Bourbon dynasty. In 1828, The Lord Mayor of London reminded a crowd of refugee sympathizers at the London Tavern that “the misfortunes of the present exiles were the result of the great struggle in the cause of freedom in which the British nation then engaged—and engaged, be it remembered too, for its own benefit.” As with the American Loyalists, the Toulonese, and Quiberon widows, Britain owed recompense to those who had performed military services on her behalf.

Yet the rationale for relief was much broader. One Mr. Bowring seconded the Lord Mayor’s tavern address, noting that British relief for Spanish refugees ought to extend beyond those who had performed military service. If Wellington could not assist civilian exiles, the public must. Bowring went further than the ministry would, arguing that the Spanish struggle was not over, that “the seed of liberty had been sown by the British army, and they [the British] were bound to nourish that plant which had been planted, patronized, and encouraged by themselves.”<sup>16</sup> For romantic liberals such as Bowring, British responsibility for the spread of freedom had not ended with Napoleon’s overthrow.

Historians Nicole Gilbertson and Maura O’Connor have argued that British interest in the Spanish and Italian causes, respectively, was based on romantic sentiment that increasingly idealized the image of the citizen-soldier fighting for constitutional rights and national sovereignty.<sup>17</sup> By the time the Spanish liberals – military and civilian -- received amnesty in 1834, the initiative in providing relief to refugees no longer came from the administration. Instead, private philanthropists and civic organizations campaigned publicly and demanded government support for their refugees.

In the 1830s, members of LASFP and affiliated groups sought to convince the government that the British were in fact responsible for the Polish as well. The year 1834 proved pivotal. Conditions on the continent worsened and nationalist refugees were now arriving in increasing numbers on British soil. The suppression of revolutionary activity in Poland and Italy in 1830-1831 forced patriots to find refuge in supposedly independent, liberal countries on the continent. Though there were some Italian refugees in England, most had found refuge in Switzerland and in France. In 1834, however, Austria convinced Switzerland to expel these foreigners on the grounds that they were fomenting revolution from exile. Poles and Italians, including Giuseppe Mazzini, were forced to trek further west. The Poles would find shelter in Belgium and France as well as Britain. The Italians were less fortunate. Although France had no interest in appeasing Austria, she did not make it easy for Italian refugees to remain within her borders. In 1834, the *Times* reported that Italian refugees had been captured in France, “treated like the most atrocious malefactors, and sent in chains across that extensive country, from Grenoble to Calais, where they were put on board hop, and landed penniless on the British

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<sup>16</sup> The Lord Mayor of London (William Thompson), Meeting at the London Tavern, the proceedings of which can be found in *The Examiner*, November 30, 1828.

<sup>17</sup> Nicole Freitag Gilbertson, “Redrawing the Boundaries of Citizenship: The Spanish Exile and the Development of a Gendered National Identity in Britain, 1823-1834” (Unpublished PhD diss. History, UC Irvine, 2007) and O’Connor, *The Romance of Italy*. Gilbertson offers a detailed study of how those of different political backgrounds rallied around the Spanish exiles.

coast!”<sup>18</sup> Within a few years, fear of political dissidence within France made the July Monarchy wary of refugee activity more generally.<sup>19</sup> While other nations would continue to provide refuge, Britain’s relative stability made her the most dependable shelter from continental storms.

The British media attributed the nation’s kinder treatment of refugees to humanitarian sentiment and national pride among the British public. As the *Times* claimed in July 1834, news of secondary persecution on the Continent – this time by allegedly liberal nation states – provoked consternation from the British public. The *Times* was outraged that the French did not allow their Italian “prisoners” any choice in their place of banishment. The newspaper also expressed dismay that the French would use Britain as though it were a French penal colony.<sup>20</sup> Concerned Britons who had supported European revolutions in 1830-1831 became providers of refuge when liberal revolutionaries had nowhere else to turn.<sup>21</sup>

LASFP began relief work in 1832 by helping Polish exiles then in Switzerland. By 1834, the LASFP turned its attention to Britain proper, seeking Parliamentary assistance for the Poles. Members of the LASFP argued that Britain’s failure to aid the Poles would be a national disgrace. Even Louis Philippe, though he had expelled Italian revolutionaries from France, had approved an annual grant for Polish relief.<sup>22</sup>

Parliament acceded to the LASFP’s arguments and loudly expressed sympathy with the exiled patriots, many of whose estates in Poland were being confiscated by Czar Nicholas. Still, the Parliamentary relief funds had to be renewed each year. Moreover, the annual £10,000 sum they were ultimately granted was paltry in comparison to their needs. The LASFP continued to point out that the Treasury grant paled next to French pensions valued at twelve times that figure. At Victoria’s coronation, the *Times* celebrated the public’s magnanimous donations for Polish relief, but opined that “such an act of bounty [on the part of Parliament] would come with peculiar grace at this time of national rejoicing, and would surely be gratifying to the feelings of the illustrious personage [Victoria] in whose honour our capital is now filled with unusual

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<sup>18</sup> *Times*, July 16, 1834.

<sup>19</sup> For French-refugee relations, in particular the role of the government in setting the terms of life in French refuge, see Gérard Noiriel, *La Tyrannie du National: le droit d’asile en Europe, 1793-1993* (Paris: Calman-Lévy, 1991).

<sup>20</sup> The same claim would be levied against the disposal of the Communard prisoners in 1871.

<sup>21</sup> The continental refugee groups that would command public attention in the ensuing years included the Italians, Germans, and French, as well as the Poles. Refugee supporters educated the public, explaining why these foreigners were in England. Most Italian exiles would not be in England, supporters noted, if neither Austria nor the Pope fettered governmental reforms. Nor would the Poles have faced such summary expulsion by the Swiss in 1834 had Poland’s occupiers – the Prussians, Austrians and Russians not strangled her national movement.

The Germans, though never the subject of their own British-based support group, would not have had to seek refuge in the United Kingdom so often had it not been for the religious persecution like that faced by liberal Catholic Johannes Ronge or persecution for political dissent faced by the ex-members of the Frankfurt Parliament and political pamphleteers. The Hungarians and the Germans were ever-present in liberal and radical political spheres in Britain, great friends of the Ashurst-Stansfeld families and their arrivals generally feted in the media. (See, Rosemary Ashton, *Little Germany: German Refugees in Victorian Britain*, [Oxford: Oxford University Press, 1989], especially c. 17, 153 and 167.) Despite obvious interest in their persecution and friendship, I have found little discussion of the relief of German refugees among British supporters, or in the press. My best guess would be that the exile group tended to be fairly cohesive and included the likes of Frederick Engels, Gottfried Kinkel and Karl Blind who – through their writings and employment perhaps were better able to provide for their fellow refugees than leaders of other refugee groups. Engels’s job in his father-in-law’s mill helped to support the entire Marx family.

The French would come the closest to success in their revolutionary bids in 1848. The Hungarian Diet lasted through 1849. The French democratic-socialist revolution of 1848 succeeded in ousting bourgeois King Louis Philippe. However, the *démoc-socs* succeeded in implementing political reforms only to have their elected President Louis Napoleon declare himself president for life in a December 1851 *coup d’état*.

<sup>22</sup> Morning Chronicle, August 12, 1833; *Address of the Literary Association of the Society of Friends of Poland of Great Britain and Ireland* (London: E. Detkens, Booksellers, 1846), 43.

splendor.”<sup>23</sup> In the event, Parliament did not rise to the poetic occasion, merely renewing the parsimonious yearly grant. As a consequence, private involvement in refugee relief continued to be indispensable.

Who were the charitable individuals who stepped into the breach to raise private relief funds? Historians of the 1790s have highlighted the role of the elite and have not overlooked the way in which the campaign for émigré relief went national. Historians concentrating on the mid-century revolutionaries highlight the predominance of radical supporters, many of whom they show to be nonconformists and atheists.<sup>24</sup> Both perspectives understate the social and political diversity of relief personnel. Indeed, what is remarkable is the diversity of social and political backgrounds among those who came to the assistance of continental refugees, particularly in the post-Vienna period.

The membership lists of relief organizations show strange political bedfellows cooperating in a common cause. The 1859 Neapolitan Exile Fund is a case in point. Conservative Anglican Lord Shaftesbury was Vice President and Chairman of the committee. His board included political antagonists such as Liberal Peelite John Russell, the ex-Tory and anti-Peelite Viscount Palmerston, and that rising star of the Liberal party, W. E. Gladstone.<sup>25</sup>

From the LASFP to the Neapolitan Fund, the political and cultural elite continuously came to the assistance of continental exiles. Many of these refuge providers had connections either with individual refugees or with other relief providers. Lord Dudley Coutts Stuart, the longest-serving member of the LASFP and the foremost refugee spokesperson in Parliament, was the nephew of Sir Francis Burdett. Burdett, a radical Whig, had helped to organize a private relief committee for the Spanish exiles in the 1820s. Burdett’s daughter Angelina was a close friend of none other than Louis Napoleon during his pre-1848 exile in England.<sup>26</sup> As the Baroness Burdett Coutts, she succeeded (and exceeded) her father’s and cousin’s philanthropic efforts, ultimately providing for refugees from the continent, from slavery, and from the Ottoman Empire before she died in 1906.

Personal friendships also linked some European exiles to British high society, helping them obtain assistance and succor. For instance, prior acquaintance made the Marchioness of Landsdown the logical patroness for Hungarian patriot Theresa Pulszky. Mme. Pulszky sought out her friend upon her arrival in London in 1850. In her memoirs, she would pay fulsome tribute to her friend’s willing patronage.

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<sup>23</sup> *Times*, August 10, 1835; July 6, 1838. Parliament never raised the annual grant; however, the British public continued to celebrate the Polish cause. The Poles remained on government pensions through the 1860s. In Chapter Three I will discuss the allocation of these funds more precisely, along with the changes over the course of the 1830s and 1840s.

<sup>24</sup> On the French émigrés, see: Donald Greer, *The Incidence of the Emigration During the French Revolution*, Harvard Historical Monographs, No. XXIV (Cambridge: Cambridge University Press, 1951); Kirsty Carpenter and Philip Mansel, eds., *The French Emigrés in Europe and the Struggle Against Revolution, 1789* (London: Macmillan Press, 1999). On the mid-century revolutionaries, see O’Connor, *Romance of Italy*; Harry Rudman, *Italian Nationalism and English Letters* (New York: Columbia University Press, 1940); Norbert Gossman, ‘British Aid to Polish, Italian and Hungarian Exiles, 1830-1870,’ *South Atlantic Quarterly* 63, no. 2 (1969): 231-245; see also, essays by Iowerth Prothero and John Saville in *Exiles from European Revolutions: Refugees in Mid-Victorian England*, ed. Sabine Freitag; and Margot Finn, *After Chartism: Class and Nation in English Radical Politics, 1848-1874* (Cambridge: Cambridge University Press, 1993).

<sup>25</sup> *Times*, March 21, 1859.

<sup>26</sup> They were close enough that her relatives feared that they would marry. To guard against such an alliance, which would have been problematic for the Coutts Banking House, her aunt (from whom she inherited her fortune) stipulated in her will that Angelina could not marry a foreigner. *Typewritten notes about the life of Baroness Angela Burdett-Coutts, written by Osborne, her secretary*, (Charles Churchill) Osborne Papers. British Library Mss. 46406 A and B. (Decades later, Angelina would marry an American. But she quickly saw that he was naturalized as a British subject.)

Though the social elite would remain vitally important to British private relief initiatives, the middle class became increasingly involved as well thanks to the increased ease of continental travel, the prevalence of continental travel narratives, and romantic accounts of nationalist movements. These members of the middle class tended to be political liberals or radicals of various shades. Whatever their political hue, however, these romantics worked together to spread their enthusiasm for refugee assistance. In her history of English involvement with Italian nationalism, Maura O'Connor argues that members of the English middle class entertained a vicarious Italian nationalism and would later lobby Parliament on behalf of Italian unity. I would add that this vivid political imagination came not only from literary sources of inspiration but also from activists' practical involvement in refugee relief. British supporters of refugees, Italian or otherwise, led campaigns to educate the public about which groups needed help and why.

During the 1840s, another social group joined the growing public enthusiasm for refugee relief campaigns: working-class radicals. Just as mainstream liberals reinforced the value of liberal freedoms at home by contrasting them with despotism abroad, so working- and middle-class radicals linked the fight against foreign tyranny with their campaign for domestic democratic reforms. As Margot Finn argues, middle- and working-class radicals saw parallels between contemporary political struggles on the continent and the ongoing struggle to broaden Britain's historically precocious political freedoms. Finn demonstrates how interactions with the democratic-socialist refugees after 1848 push British radical thinking in a more socialist direction, though the full effects of this influence would become obvious only decades later.<sup>27</sup>

In the short term, radical support for continental refugees yielded no discernable political payoffs for the Chartist cause, though historians have long scoured the record for such evidence. Refugees like Kossuth were leery of associating too closely with controversial political radicals. Even democratic Polish and French refugees were hesitant to draw attention to the parallels between their cause and that of British political prisoners (much to the chagrin of radical politician and Irish nationalist Fergus O'Connor). Too close an association with British radicals would have cost liberal refugees much-needed mainstream support.<sup>28</sup>

Though Chartists may have reaped few political benefits from their involvement with refugee causes, they ended up shaping the practice of refuge itself. The radical press helped bring attention to the refugees' plight, particularly in the north of England, and thus helped to win the hearts of ordinary Britons. This support was more than just symbolic. In the spring of 1851,

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<sup>27</sup> Margot Finn, *After Chartism*. Like middle- and upper-class liberal romantics, radicals often became refugee supporters because of prior personal connections with particular refugees. Artisan William Linton and positivist Frederick Harrison, for instance, turned their personal relationships with individual refugees into broader assistance to the refugee group. Linton became acquainted with Mazzini in early 1844 in an effort to stop the Home Office from interfering with Mazzini's correspondence. Linton fought ardently for Mazzini's right to refuge free from governmental interference. (See British Library Add. Mss. 79743, Graham Papers, Vol. CLIII, ff. 48-53 for Linton's activities in the affair. For more on the Letter Opening Affair, see Chapters Four and Five below.) His personal association with the Italian exile led him to organize relief campaigns following the failed revolutions of 1848-1849. Harrison, who had been tutored by Italian exiles as in the 1850s, would become an active supporter of the French communist exiles in the 1870s. Although careful not to denounce private property, Harrison and his colleagues ultimately helped to find employment for more than a hundred refugees. (P.K. Martinez, "Paris Commune Refugees in Britain, 1871-1880," [PhD diss., University of Sussex, 1981], 66.) Harrison received a letter from Louis Blanc in November 1871, warning him that a mutual acquaintance faced deportation for his involvement in the Paris Commune of March-May of that year. Blanc prevailed upon Harrison to intervene on the unfortunate Commune's behalf, knowing that exile "would be death to him, death to his young wife, death to his old father, aged 76." Letter from Louis Blanc to Frederick Harrison, November 25, 1871 in Harrison [Frederick] Collection. 1/21, Frederick Harrison Correspondence, 1870-1911, held in the Special Collections of the London School of Economics, London, UK.

<sup>28</sup> Gregory Claeys argues that contact with Mazzini and Kossuth, who preached about duties to one's nation, helped to temper the radicalism of the British working classes in the 1850s. Gregory Claeys, "Mazzini, Kossuth, and British Radicalism, 1848-1854," *Journal of British Studies* 28, no. 3 (July 1989): 225-261.

when several hundred Polish and Hungarian refugees landed in Liverpool amid cheering crowds, local officials and even the most ardent liberal refugee enthusiasts attempted to coerce the new arrivals into emigrating to America. This bullying met with outrage from radicals. They roared that it was elitist and anti-democratic to force rank-and-file refugees to leave whilst the aristocrats among them stayed on in British parlors.<sup>29</sup> Radicals protested by banding together to orchestrate relief for ordinary refugees at home.

Radicals campaigned for democratic reforms and the extension of more than basic liberties at home. In showcasing their assistance to foreign refugees, they hoped to connect their cause with national campaigns to extend political rights overseas. Sympathy for Europeans was pervasive. Whether (and how) to include different races among those deserving of basic liberty was a vexing question, however. Though no freeborn Briton could be enslaved on British soil, the question at the heart of British involvement with foreign slaves was how far this right could be extended.

THE FRIEND OF THE SLAVE — A contemporary observer of Britain in the late-eighteenth century might have found it implausible that anti-revolutionary Britain would in a few decades become a major supporter of revolutionary exiles from the continent. The same observer might just as reasonably have been skeptical that the country with a monopoly on the slave trade would within decades become the major provider of refuge to former slaves of other nations. The first stirrings of a more humanitarian policy toward fugitive slaves came from British misgivings about the standing of colonial slaves brought to the metropole. The landmark *Somerset* case of 1772 rejected the attempt by Charles Stuart to seize his runaway slave James Somerset and return him to slavery in the American colonies. As Daniel Hulsebosch has argued, Lord Mansfield's two-hundred-word ruling "closely tracked an old discourse of English supremacy within the empire [rather] than the emerging language of human rights,"<sup>30</sup> but nevertheless "represented the clear emergence of a new idea of freedom in English law."<sup>31</sup> The case helped galvanize abolitionist sentiment, magnifying what was originally a quite narrow ruling into a ban on slavery in the British Isles.

British policy on slavery was less liberal across the Empire, where much of the economy was driven by slave labor. In the British West Indian possessions, runaway slaves would be returned to their masters if caught. Foreign slaves presented a thornier case. Fugitive slaves from Catholic colonies were likely to be welcomed if they claimed Protestant sympathies. The same geopolitics of confession that had made heroes of the Huguenots permitted French slaves to win favor with claims that they had been forced to adopt Catholicism. Refuge on the British islands seems to have depended on the slaves' subsequent conversion to Protestantism.<sup>32</sup>

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<sup>29</sup> John Belchem, "Britishness, Asylum-Seekers and the Northern Working Class: 1851," *Northern History*, 39, no. 1 (2002): 59-74. For more on the Polish Hungarian case of 1851, see Chapter Three below.

<sup>30</sup> Daniel J. Hulsebosch, "Nothing But Liberty: *Somerset's Case* and the British Empire," *Law and History Review* 24, no. 3 (Fall 2006): 648. Christopher Leslie Brown's *Moral Capital: Foundations of British Abolitionism* (Chapel Hill: University of North Carolina Press, 2006) provides a fresh interpretation of the transition from antislavery sentiment alone to anti-slavery activity. His analysis, like Hulsebosch's commentary on *Somerset*, highlights the importance of the colonial struggle in bringing abolitionism to the fore.

<sup>31</sup> George van Cleve, "Somerset's Case and Its Antecedents in Imperial Perspective," *Law and History Review*, 24: 3 (Fall 2006), 603.

<sup>32</sup> There seems to have been a long-standing debate, dating to the seventeenth century, over whether a Christian could be enslaved at all. Interestingly, the claim that conversion to Protestantism could entitle a fugitive to his or her freedom was initially reported as the basis for Somerset's claim. In the legal proceedings, however, no mention was made of his baptism (Ruth Paley, "Imperial Politics and English Law: The Many Contexts of *Somerset*," *Law and History Review*, 24, no. 3 [Fall 2006, 659-664], 660). On the debates over the status of runaways from French colonies, see for example, "A joint letter from the commissioners, containing a report on the policy of condemning runaway slaves from the French Islands, in the Court of Vice Admiralty at

The British government also provided freedom and relief to American slaves who had fought on the Empire's behalf during the American Revolution and the War of 1812. The British had promises to keep to American slaves who had fought for the loyalist cause.<sup>33</sup> Like the French émigrés and the white American Loyalists, Black Loyalists were rewarded for their services in protecting the state. They received their freedom and some funds. There seemed little room for them, however, in either British Canada, where they arrived in great numbers after the wars, or in London. The harsh Canadian winters and poverty on both sides of the Atlantic made life difficult for refugees.<sup>34</sup>

For the British, who were still unused to hosting a population of free blacks, the idea of resettling them in Africa was very appealing. Philanthropists saw the project of transplanting ex-slaves to Sierra Leone as a romantic dream, a chance to design a new and virtuous civilization. For officials, the project of resettling the black refugees was a solution to a difficult social situation and a chance to settle a newly acquired territory. Disease, French raids and infighting beset the abolitionist-run Sierra Leone Company from its founding in 1787, but philanthropists, British officials and, after 1807, the Colonial Office worked together to keep the project afloat.<sup>35</sup>

Having become a crown colony in 1807, Sierra Leone gained new importance in the wake of Britain's several bilateral agreements outlawing the slave trade. The push to sign these agreements after the Congress of Vienna brought together abolitionist activists and government officials, who had previously been reluctant to spend Britain's political capital on the slaves of foreign nations. The abolitionist giants Wilberforce and Clarkson travelled to Prussia and Russia to obtain support. Activists forwarded propaganda to France, and Tory diplomat Castlereagh threatened Spain with the discontinuation of subsidies paid during the war.<sup>36</sup> The anti-slave-trade treaties that followed seemed to represent the ultimate triumph of British liberal ideals on the world stage.

After the Congress of Vienna, the government set up Vice Admiralty and Mixed Commission courts to adjudicate vessels caught in the now-illegal trade. A special Colonial Office department oversaw the ships' human cargo while cases were in court. If the Africans on board were freed, this Liberated Africans Department turned them over to British missionaries, most prominently those from the Church Missionary Society (CMS), which had been operating in Sierra Leone since the turn of the century.

For the abolitionist founders of Sierra Leone, the project of providing refuge to freed African slaves was a utopian experiment. They aimed to prove that, as free subjects of the British crown, liberated Africans could be taught to be the self-regulating individuals of liberal political theory. For members of the CMS especially, this civic project was also a religious one. After 1815, the Anglican CMS became the primary pastoral caregivers for the liberated Africans.

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Dominica; with a law opinion," May 31, 1822, found in *Parliamentary Papers 1824 (442), Reports by the Commissioners on the State of Africans condemned under Acts abolishing Slave Trade and apprenticed in W. Indies.*

<sup>33</sup> Simon Schama and Cassandra Pybus have recently published explorations of the British government's relationship to the Black Loyalists during and in the wake of the American Revolution. See Schama, *Rough Crossings: Britain, the Slaves and the American Revolution* (London: BBC Books, 2005) and Pybus, *Epic Journeys of Freedom: Runaway Slaves of the American Revolution and their Global Quest for Liberty* (Boston: Beacon Press, 2006).

<sup>34</sup> On conditions in Canada, see Robin Winks, *Blacks in Canada*, 2nd Edition, (Montreal & Kingston: McGill-Queen's University Press, 1997). On conditions in London, see Stephen Braidwood, *Black Poor and White Philanthropists: London's Blacks and the Foundation of the Sierra Leone Settlement, 1786-1791*, (Liverpool: University of Liverpool Press, 1994).

<sup>35</sup> Fyfe, *A History of Sierra Leone*, 53ff.

<sup>36</sup> Jerome Reich, "The Slave Trade at the Congress of Vienna --A Study in English Public Opinion," *The Journal of Negro History* 53, no. 2 (April 1968, 129-143), 130, 132-133.



While Baptists and Wesleyans also operated in the field,<sup>37</sup> the government authorities transferred liberated Africans to the CMS for resettlement.<sup>38</sup> As described by missionaries to headquarters and subscribers in London, the task of the Anglican missionary in each of these villages was to oversee education and religious life. Through proper spiritual and temporal guidance, the inhabitants of these villages would become self-regulating, industrious and religious individuals.

Missionaries drew biblical parallels to their civilizing mission. A British traveler to Sierra Leone who attended a sermon by one Reverend Haensel noted his reference to the biblical command that the Israelites establish “cities of refuge.” In a letter to her sister that would be published in 1835, the pseudonymous “Mary Church” underscored the parallel for a home audience:

Sierra Leone is in my opinion, a place very much calculated to excite devotion, for it must be impossible to have constantly before your eyes, a people raised as these are from the lowest state of barbarism, to the exercise of most of the social virtues, by means of religion, and not to feel the unspeakable mercy of the author of it. We are also more than in our own country reminded of the instability of human life, and the consequent necessity of looking for something better [...].<sup>39</sup>

Missionaries and abolitionists hoped to use Sierra Leone as a base for missionary drives deeper into the African continent. With government backing, they sent an anti-slavery expedition up the Niger River in 1841. Organized by Thomas Fowell Buxton of the newly minted British and Foreign Anti-Slavery Society, the expedition “proposed to attack slavery at its roots” by “introducing Christianity and ‘legitimate commerce.’”<sup>40</sup> As Philip Curtin has argued, “the Niger Expedition was ‘no mere exploring expedition [but] the first step toward a general “forward policy” in West Africa, reversing the established doctrine of minimal commitments.’”<sup>41</sup> The British government hoped to turn this pious mission into an imperial and commercial venture. Missionaries and liberated Africans, it was hoped, could spread British imperial interests without added expense to the central government.

These pious and patriotic hopes belied a rather grim reality. Europeans living in Sierra Leone were especially prone to disease and, while this made liberated Africans more desirable as settlers, it also meant that the colony’s managers died in great numbers.<sup>42</sup> In part because of the perpetual turnover in the colonial leadership, corruption in the ranks was hard to control and many liberated Africans were sold to or re-enslaved by neighbouring tribes. As it became increasingly difficult for Sierra Leone to absorb incoming ex-slaves, the Liberated African

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<sup>37</sup> Christopher Fyfe, *A History of Sierra Leone*, (Hampshire, Eng: Gregg Revivals, 1993), 55-56, 139.

<sup>38</sup> The CMS was granted a large land grant in 1814 for the purpose (Fyfe, 127).

<sup>39</sup> Mary Church (pseudonym), *Sierra Leone; or The Liberated Africans, in a Series of Letters from a Young Lady to Her Sister, in 1833 & 1834* (London: Longman & Co., 1835), 32.

<sup>40</sup> Patrick Brantlinger, “Victorians and Africans: The Genealogy of the Myth of the Dark Continent,” in *Joseph Conrad’s Heart of Darkness: A Casebook*, ed. Gene M. Moore (Oxford: Oxford University Press, 2004, 43-88), 51.

<sup>41</sup> Philip Curtin, *The Image of Africa: British Ideas and Action, 1780-1850, Volume 1* (Madison: University of Wisconsin Press, 1973), 298 as cited by Brantlinger, *ibid.*, footnote 13, p. 84. For a narrative of the expedition, see William Simpson, *A Private Journal kept during the Niger Expedition, from the commencement in May, 1841, until the recall of the expedition in June, 1842* (London: John F. Shaw, 1843); and William Baillie and D. T. May, “Extracts of Reports from the Niger Expedition,” *Proceedings of the Royal Geographical Society of London* 2, no. 2 (1857-1858), 83-101.

<sup>42</sup> Fyfe, 263-265. For despairing accounts of disease and death, see especially F. H. Rankin’s *The White Man’s Grave* (London: Richard Bentley, 1836).

Department forwarded more and more of them to the West Indies as indentured labourers. Over the protests of the British and Foreign Anti-Slavery Society, this practice would become general policy by the mid-1840s. Ironically, it would have the effect of attracting an unlikely-seeming group of new *supporters* of the policy of halting the slave trade: West Indian planters.<sup>43</sup>

These discouraging developments led to a new cynicism about the future of liberated Africans. Catherine Hall has pointed out a parallel development in British attitudes toward emancipated slaves in the British West Indies. As Hall argues, in the decades after emancipation, abolitionists found it increasingly difficult to argue that liberated slaves could be quickly transformed into model subjects in the Victorian liberal mold, and racist sentiment displaced these dwindling hopes.<sup>44</sup> The flagging fortunes of Sierra Leone had a similarly discouraging effect on abolitionist enthusiasm for their civilizing project. By the 1850s, the colony's initial black settlers, including American Loyalists and Caribbean transplants, had formed something of a Creole elite, and internal political strife was on the rise.<sup>45</sup> Disappointed metropolitan philanthropists, including the missionary societies, increasingly averted their attention from their tattered dreams for Sierra Leone and liberated Africans more generally.

Against this disappointing backdrop, the crystal-clear moral outrage provoked by the American Fugitive Slave Act of 1850 came almost as a welcome diversion. The Act made it a felony for Americans – even in the free states of the North – to assist fleeing slaves. By default, the responsibility for fugitive slaves now fell into British hands. Antislavery societies in Canada found themselves on the receiving end of an increasing tide of righteous refugees. The public conversation in Britain focused increasingly on fugitive slaves. Talk about liberated Africans died out almost entirely.<sup>46</sup>

The British took particular satisfaction at the United States's inability to follow through on its universalistic rhetoric by producing a system of law that applied equally to all individuals. Drawing direct parallels to liberal revolutions in Europe, supporters of the fugitive slaves decried American despotism. More to the point, British abolitionists railed against American citizens,

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<sup>43</sup> Johnson Asiegbu's 1969 study critiques the government's "humanitarian" treatment of the liberated Africans and demonstrates how the government catered to the West Indian Planter interest and attempted to renege on the responsibility for liberated slave maintenance. (Johnson U. J. Asiegbu, *Slavery and the Politics of Liberation, 1787-1861* [London: Longmans, Green and Co, Ltd., 1969]). For liberated African's treatment in the Caribbean see also: Rosanne Adderley, "A Most Useful and Valuable People?" Cultural, Moral and Practical Dilemmas in the Use of Liberated African Labour in the Nineteenth-Century Caribbean," *Slavery & Abolition* 20, no. 1 (1999), 59-80 and Alvin O. Thompson, "African 'Recaptives' under Apprenticeship in the British West Indies, 1807-1828," *Immigrants & Minorities* 9, no. 2 (1990), 123-144.

<sup>44</sup> See Catherine Hall, *Civilising Subjects: Metropole and Colony in the English Imagination, 1830-1867*, (Chicago: University of Chicago Press, 2002).

<sup>45</sup> Joe A. D. Alfie, *A New History of Sierra Leone*, (London: Macmillan Publishers, Ltd., 1990) describes this political strife in the contest for power among a new creole elite. For Alfie, the emergence of this native bourgeoisie develops, from the 1850s into the nationalist movement of the early twentieth century, a narrative that follows the one set out by Benedict Anderson in *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London & New York: Verso, 1983).

<sup>46</sup> The metropolitan public had not taken up the cause of the foreign fugitive slave in such force prior to the passing of the American Fugitive Slave Bill. British officials, however, had long been aware that public sentiment would likely run this course. Even before the emancipation of British slaves in the Caribbean, officials found it impossible to take a stand against the provision of refuge to runaway slaves from neighboring, non-British colonies. Foreign Secretary George Canning, for instance, was no friend of refugees. In 1825, Canning corresponded with the French Prince de Polinaque on the question of French slaves who escaped to the British Caribbean colonies. The French Prince was irate over Britain's unwillingness to extradite slaves. Though he was loathe to disagree, Canning had to admit to the Prince that nothing would allow him to give up the refugee slaves. As he explained, not even "the power given [to the colonial governor] by the [colonial] alien acts" enabled the "delivery of the person to punishment or slavery, in the colony from whence he may have fled." Only if the fugitive could be categorized as an alien, not as a refugee, could the French Prince be satisfied. Even then, Canning was well aware that the public in Britain would not support the decision. (Canning to Prince de Polinaque, Dated November 12, 1825, National Archives FO 27/345, France. Domestic Fugitive Slaves, 1824-1825, ff. 8-9.)

particularly those in the free states. Americans who failed to oppose the Fugitive Slave Law were betraying their own revolutionary traditions, they argued. A meeting of the British and Foreign Anti-Slavery Society found it easy to come up with a multitude of damning rhetorical questions:

How extraordinary that the men of the United States should be such resolute sticklers for the rigid observance of mere law! Where would the States have been but for deliberate and organized resistance to law? Have the Americans forgotten the opposition made by their fathers to the famous stamp act? Why, did they not toll all the church bells of Boston as the funeral knell of their allegiance to Great Britain?<sup>47</sup>

Agitation on behalf of American fugitive slaves seemed like a logical extension of the activities of European refugee supporters. Relief workers among both radicals and the liberal elite developed more flexible, more expansive, views of their own charitable endeavors, adapting the expertise gained in one refugee crisis to the next. Nonconformist William Ashurst, a member of the Society of Friends of Italy, wrote under a pseudonym for the American antislavery newspaper *The Liberator*. Lord Shaftesbury, who would draw a favorable contrast between Harriet Beecher Stowe's character Topsy and the English working-class children in ragged schools, was active with both Neapolitan exiles and American fugitive slaves. Baroness Burdett Coutts similarly provided charity to liberated Africans and continental revolutionaries alike before her attentions turned to Muslims in the Ottoman Empire.<sup>48</sup>

On the popular level, crowds gathered to hear both fugitive slaves and continental exiles on tour, and newspapers that reported on the affairs of European exiles did not hesitate to condemn the American Fugitive Slave Act. British journalists helped to promote the connection between the two refugee groups. Quaker Charles Gilpin brought both causes to light in his capacity as editor of the main Quaker journal, *The Friend*. He would also publish the memoirs of the ill-fated Hungarian Baroness von Beck. The British and Foreign Anti-Slavery Society's *Anti-Slavery Reporter* celebrated the 1846 insurrection in Galicia (Austrian Poland), likening the condition of the Galician serfs to that of American slaves.<sup>49</sup> Radical journalists including

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<sup>47</sup> Abstract of the meeting, *The Anti-Slavery Reporter* 6, no. 8 (August 1, 1850), 135.

<sup>48</sup> The scope of Baroness Burdett Coutts's work was unsurpassed. Edward Hutchinson, a member of the Royal Navy, addressed his letter regarding the Fugitive Slave Circular of 1876 to the Baroness. While seeking her assistance in opposing the circulars, which curtailed refuge on board British ships, he also sought her financial assistance to provide for these now shelter-less refugees. (Edward Hutchinson, F. R. G. S., F. S. A., *The Fugitive Slave Circulars; or, England the Protector of the Negro Slave. A Letter to the Baroness Burdett-Coutts* [London: Edward Stanford, 1876. Letter dated January 1876 from South Kensington], 30-31.) Polish exiles sought her out, as well, providing her with the posthumous awards for Lord Dudley Coutts Stuart's commitment to their cause. (The Baroness's reply to the LASFP was reprinted in the *Borough of Marylebone Newspaper*, September 9, 1871.)

A great friend of the conservative Shaftesbury and Wellington, as well as Louis Napoleon, the Baroness surprisingly reached out even to the French communist exiles after the fall of the Paris Commune in 1871. The Baroness did not support their cause. However, as with Shaftesbury's belief in civilizing possibilities of ragged schools for ex-slaves and for the English poor, she seemed to believe in the redemptive powers of religion and education. For the communards, she directed her missionary work through the French T. Marzials, an Anglo-Huguenot himself, who saw to their pastoral care. (P.K. Martinez, "Paris Commune Refugee in Britain, 1871-1880, [Unpub. Ph.D. diss., History, The University of Sussex, 1981].)

<sup>49</sup> *Anti-Slavery Reporter*, New Series, Vol. 1 (April-May 1846).

Chartists George Julian Harney, George Holyoake, W. E. Adams and William Linton denounced American despotism and reprinted escape narratives.<sup>50</sup>

British refugee supporters were confident of the link between European liberal revolutionaries and fugitive slaves from America, and they bridled when others failed to recognize the connection. Thus, when the famed Hungarian revolutionary hero Lajos Kossuth left England for the United States in 1852, abolitionists on both sides of the Atlantic eagerly awaited his endorsement of the anti-slavery cause.<sup>51</sup> They expressed disappointment when the politically tactful Kossuth remained silent on the subject. The British, if not the American audience, understood the fictional George Harris's revolutionary defiance, and hoped that sympathy might be applied evenly from case to case.

#### THE POWER OF THE REFUGEE NARRATIVE

INCLUSIONS AND EXCLUSIONS — Part of the explanation for the rise of British interest in fugitive slaves as opposed to liberated Africans, as I have suggested, is simply that failed efforts are discouraging and pale in comparison to the excitement of a fresh moral crusade. This explanation is incomplete, however, because even the successful liberation of smuggled slaves did not have the sort of narrative appeal as stories relating a European revolutionary's flight into exile or an American slave's daring dash for freedom.

*Times* reports about the liberation of illegally transported slaves focused on the British naval squadron almost exclusively. In these accounts, valiant officers discovered and destroyed slave ships in the Atlantic and slave fortresses along West Africa's coast. *Times* correspondents described how British naval officers detected a suspected slave vessel, then tracked and boarded it to discover emaciated Africans. These tales celebrated the sheer numbers of Africans liberated. The rescued slaves did little else than express joy at their liberation.<sup>52</sup> As one *Times* article related at the burning of slave factories, the recent inmates "now in complete safety on board the English vessels, hailed the sight with repeated shouts of triumph." Such displays of gratitude no doubt warmed the hearts of metropolitan readers and gave them a glow of pride in the accomplishments of their gallant navy. Nevertheless, such stories had little place for heroic individual action among the people being rescued. The liberated slaves entered the story as passive objects of compassion and exited it quickly as they were conveyed into British care.<sup>53</sup>

Even after the point of initial rescue, British narratives seldom told the individual stories of liberated Africans. Accounts of life in Sierra Leone typically featured Africans only as part of an undifferentiated mass that formed the backdrop to the activities of missionaries. The few

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<sup>50</sup> In the 1830s and 1840s, a similar group of radicals conversely condemned British hypocrisy for attending to the cause of the slave while forgetting the enslaved white laborer at home. Although radical politicians would continue to speak of the British working class as white slaves, the rhetoric seems less oppositional to the cause of abolition in this period than it did during the time of William Cobbett earlier in the century and through the 1830s. For more on this comparison, see the chapter entitled "Workers and Slaves: the Rhetoric of Freedom in the debate over Industrialism," in Catherine Gallagher, *The Industrial Reformation of English Fiction: Social Discourse and Narrative Fiction, 1832-1867*, (Chicago: University of Chicago Press, 1985).

<sup>51</sup> On expectations regarding Kossuth and American antislavery, see the *Anti-Slavery Reporter*, February 2, 1852.

<sup>52</sup> It is instructive to search Thompson-Gale's *Times Digital Archives* for information on liberated Africans in the 1840s. I found only three entries under keyword "Sierra Leone," but 92 on Britain's anti-slave-trade efforts. Of these 92, only 15 mention Sierra Leone in the text, down from 13 of 46 articles in the 1820s. Attention to the naval squadron, and on the numbers rescued in this manner, tied into a larger 1840s campaign to justify the activities of the squadron and insistence on rights to search suspect vessels (for instance, "The Cases of the Felicidade and the Echo," *Times*, December 4, 1845).

<sup>53</sup> *Times*, May 8, 1841.

exceptions feature liberated Africans as individuals only once the missionaries have raised them to a new level of “civilization.” Even then, the liberated Africans figure not as courageous freedom fighters, but as sidekicks who helped to staff schools and otherwise aid missionaries in their work.<sup>54</sup> Simply put, such accounts did not make dramatically satisfying individual stories out of the lives of the persecuted. They would never make for gripping narratives like Harriet Beecher Stowe’s *Uncle Tom’s Cabin* or Charles Dickens’s *A Tale of Two Cities*.

Stowe’s and Dickens’s novels were joined by countless other tales that found heroism in the flight of persecuted foreigners. These narratives would coalesce into a distinctive genre by the 1840s and 1850s. This genre, in turn, helped anchor the definition of the refugee. As such, these stories had real practical power. Like all powerful human narratives, the refugee genre contained a standardized set of events coupled with appropriate ethical judgments. These elements taught Britons how to identify and how to respond to the refugee. The genre helped rule persecuted foreigners in or out of the category itself. The refugee was a narrative genre as much as a category. Refugee stories had a powerful impact not only on those who heard or read them, but also on those about whom they were told.

ORIGINS OF A NARRATIVE GENRE — The genre of the refugee narrative did not arise from a vacuum, of course. It developed out of two areas in which tales of persecution had gained a foothold in eighteenth-century British culture: as a literary theme and as a convention of eighteenth-century philanthropy.

Since at least the Terror of the 1790s, exile had been a pronounced literary trope. Propagated by relief organizers, these stories emphasizing the woes of oppression and the sorrows of exile helped to solicit subscriptions on behalf of French émigrés. The trope had its celebrated proponents, including novelists and relief organizers Charlotte Smith and Fanny Burney, whose works helped to further the émigrés’ cause. By the 1820s and 1830s, William Wordsworth, Ann Raikes Harding and Frances Trollope would follow in their footsteps. The characteristic form of the refugee story was already present in these writers’ tales of exile.

Refugees too worked to convey their experience to a British audience. They hoped that, in garnering sympathy, they could also lobby for their relief, and for the relief of their compatriots. This element of charitable solicitation had its own precedent in eighteenth-century begging letters. These were published in newspapers and presented to charities in which the hopeful supplicant laid out his or her claims on public or private charity. As historian Donna Andrew argues, eighteenth-century authors of begging letters described “their dire circumstances, and in so doing, creating a compelling narrative in which both neediness and deservingness played equal roles.” Though most letters were ostensibly addressed to local elites, they were published in newspapers and broadcast widely.<sup>55</sup> For foreigners, there were few other ways to seek relief. Sometimes ineligible for parish relief and hoping to avoid the degrading stigma associated with the institution, destitute foreigners tried to show that their virtue entitled them to assistance beyond that ordinarily provided to paupers.<sup>56</sup> Like begging letter writers, refugees set out to win the hearts of their potential benefactors with tales of virtuous woe.

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<sup>54</sup> See, for instance, Hannah Kilham’s report on a visit to Sierra Leone: Hannah Kilham, *Report on a recent visit to the colony of Sierra Leone* (London: William Phillips, 1828), 11ff; Kilham, *Present state of the colony of Sierra Leone, being extracts of recent letters from Hannah Kilham, 2nd Edition, with considerable additions*, (Lindfield: C. Greene at the Schools of Industry, 1832).

<sup>55</sup> Donna Andrew, “‘To the Charitable and Humane’: Appeals for Assistance in the Eighteenth-Century London Press,” in *Charity, Philanthropy, and Reform: From the 1690s to 1850*, ed. Hugh Cunningham and Joanna Innes (New York: St. Martin’s Press, 1998, 87-107), 88.

<sup>56</sup> Whether or not foreign refugees were entitled to poor relief in the first place was a matter of debate at the time. Generally, the laws seem to leave relief to the discretion of the individual parish. As David Feldman has noted regarding aliens – including

Begging letters differed from the refugee narrative genre in that they emphasized the personal plight of their authors in isolation. The point was to show how the writer's plight was heart-wrenching above and beyond the plight of other paupers. Refugee narratives, by contrast, made individual stories *representative* of a wider problem of persecution, a symptom of a larger social ill. An 1825 article in the *London Times*, for instance, detailed the distress of a single Spanish family, the family of "a gentleman (a distinguished officer)" whose wife had aged prematurely with the "mental agony" and "fatigue" of exile, where she worked herself to the bone to maintain her family. The article, which aimed to solicit funds, went on to detail the family's harrowing escape from Spain. The officer's wife and children had been thrown into the dungeon and only by ruse could they make their escape.<sup>57</sup> Donors were asked to support a community of similar families. The "distinguished officer" in question was a particularly "obnoxious constitutional Spaniard" to "Ferdinand's monks." But other "constitutional Spaniards" faced similar tribulations. As the author of this article noted, "it is not a solitary example of the privations endured by this portion of our helpless fellow-creatures: we could name 50: we will mention one."<sup>58</sup>

Because refugee narratives moved between an individual's story and a larger context of persecution, they were able to extend across the particular characteristics of their protagonists. Supporters of the Spanish refugees also collected funds for Italian refugees and, later in the decade, Portuguese refugees. Advertisements and public meetings often grouped these refugees together, highlighting the way in which the trials of one group could stand in for the trials of others. The ethical extensibility of these narratives ultimately enabled them to reach across racial and religious boundaries as well, since the moral characteristics of their protagonists arose from their struggle against persecution rather than their initial group membership.

Refugee narratives could be found in a variety of concrete settings. They were printed in the form of novels and memoirs, in relief committee reports, and in the news media. Of varied authorship, these tales were most often written by elite English-speaking refugees, by educated fugitive slaves, by relief campaigners who spoke on behalf of larger groups of refugees of all classes, and by journalists who repeated these tales in the form of advertisements, meeting proceedings, and news (foreign and domestic) pertaining to the movement of refugees. The genre, then, was robust enough to work orally or in print, in multiple different publication venues, and in fiction or non-fiction. The genre gave audiences a familiar template through which to understand the diverse particularities of new refugee stories.

THE ANATOMY OF A GENRE — We can parse out four constitutive elements of the refugees narrative. The first two involve the refugee's personal traits. First, refugee stories highlighted their protagonists' innocence. Refugees were in no way responsible for their plight, and their opposition to their government stemmed from pure motives. The second element formed a counterpoint to the first, ensuring readers that their innocence was not passivity. In the classic narrative, refugees were courageous and determined. Refugee narratives hinged on an adventure-packed tale of escape while hinting at the coming difficulties of life in exile. Despite

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internal migrants – "In 1802-3 there were nearly 200,000 individuals being relieved by parishes to which they did not belong." Yet, the goal of the laws of settlement was precisely the opposite: "Migrants who stood in need of poor relief but who had not gained a settlement could, with the warrant of a justice of the peace, be sent away to their last parish of legal settlement. Indeed, before 1795 it was possible to expel 'strangers' merely on suspicion that at some time in the future they would apply for poor relief." David Feldman, "The Boundaries of Welfare," *History in Focus*, Issue 11 (Autumn 2006), <http://www.history.ac.uk/ihr/Focus/Migration/articles/feldman.html> (accessed January 15, 2009).

<sup>57</sup> *Times*, December 8, 1825.

<sup>58</sup> *Ibid.*

trying circumstances, the refugee – like Stowe’s George Harris – was bent on continuing his or her battle against oppression and, simultaneously, a model liberal individual willing to work hard to earn his or her keep. The final pair of characteristics of the refugee narrative focus on the refugee’s larger social context. The third element of refugee stories emphasized the continuing tragedy facing those left behind. Fourth and finally, refugee narratives highlighted and welcomed British support. Some featured heroic British intervention on the refugee’s behalf, while others emphasized the comforts of British hospitality after fugitives had found safe harbor on British territory.

These four core elements of the refugee narrative are worth highlighting in turn.

A CLEAR CONSCIENCE — An obvious *sine qua non* of any refugee narrative was to prove that the exile was fleeing for good reason. The exile had to face a truly intolerable situation at home. European revolutionaries faced prison or death for their opposition to a repressive government or were routed on the field of battle. Roman liberals fled to British Malta when the Pope, backed by French forces, returned to the city in 1849. British diplomats helped Hungarian troops, including Kossuth, to safety when Austria ended their bid for independent, parliamentary government the same year. Fugitive slaves were typically depicted as facing more than the quotidian trials of servitude. They also tended to face some traumatic hardship such as separation from a family member or targeted abuse by a vicious master. The fictional George and Eliza Harris fled, in part, because they had been separated. Outside fiction, one Tom Wilson likewise fled a cruel master after having been separated from his wife and children. Unlike the Harris family, Wilson’s was never reunited.<sup>59</sup>

In contrast with the fugitive from true *justice*, the refugee was not a murderer or a thief but innocent and pure of purpose. When those lines blurred, as in Frances Trollope’s 1832 adventure *The Refugee in America*, the point of the refugee narrative was to carefully exculpate the refugee from blame. Trollope’s story revolved around clearing the Earl of Darcy from a false charge of murder and showing the true villain to have been the cause of young Darcy’s flight.<sup>60</sup>

Refugee supporters ensured that the objects of their charity were deserving individuals. Aristocrats and famous revolutionaries might need little introduction, but where this was not the case, British philanthropists arranged for prominent leaders of exile groups to vouch for the character of rank-and-file members. American anti-slavery campaigners offered testimonials about the fugitives they forwarded to England after the passage of the Fugitive Slave Act in 1850. William and Ellen Crafts, for example, had the backing of the Massachusetts Anti-Slavery Society.<sup>61</sup>

The chaos of revolutionary upheavals made it especially necessary for refugees and their English friends to explain clearly what roles exiles had played in the events overseas. The authors of refugee narratives guided their readers through the complicated histories of revolutions, counter-revolutions, military coups and political betrayals. This careful situating of one person’s first-hand account of historic events overseas not only lent the exile credibility but also made it more likely that a British observer or patron would find him- or herself invested in the conflict overseas.<sup>62</sup>

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<sup>59</sup> *Liverpool Albion* article, reprinted in *Times*, February 25, 1858.

<sup>60</sup> Frances Trollope, *The Refugee in America*, 3 vols. (London: Whittaker, Treacher & Co, 1832).

<sup>61</sup> Letter of Introduction by Samuel May, reprinted in the *Report of the Bristol and Clifton Ladies’ Anti-Slavery Society* (London: John Snow, 1852), 11.

<sup>62</sup> Within months of her arrival in Britain, Hungarian patriot Mme. Theresa Pulszky published a narrative that intertwined her personal history with the history of her homeland. She detailed her proximity to the revolution throughout, the danger of her situation and her flight with her children in to the mountains and across Europe. The details of her flight, however, occupy only

Some refugees had compromising biographical elements to parry in their public presentation of self. In some cases, these testimonials were hotly disputed. For instance, the Hungarian General Artúr Görgey, who had assumed leadership of Hungary and its army following Kossuth's exile, faced charges of treason for his surrender to a Russian and Austrian army in 1849. Görgey used his 1852 *My Life and Acts in Hungary in the Years 1848-1849* to combat these accusations. His memoirs were immediately countered in a publication that once more denounced him to an English audience.<sup>63</sup>

Like Görgey, the Italian refugee Luigi Bianchi had to make a special effort to prove his innocence to the British public. Bianchi had been a Catholic priest, which implicated him in the corrupt anti-liberal intrigues of the papacy. He managed this potentially discrediting past in his 1859 *Incidents in the Life of an Italian: Priest—Soldier—Refugee* by recounting his forced induction into the priesthood by his family at a young age. From his insider's perspective, he wrote, he came fully to understand Catholic corruption, and at last joined the nationalist cause when papal reforms turned out to be little more than a façade.<sup>64</sup> Bianchi capped his redemption narrative by retelling how his British hosts helped him convert to Protestantism

Görgey and Bianchi were correct in thinking that their image in the public eye mattered a great deal. Other foreigners who did not manage to cast their overseas activities in a positive light suffered for it. For instance, the Austrian General Julius Jacob von Haynau, known to British audiences as the "Austrian butcher" for his ruthless flogging of women and children,<sup>65</sup> got a rude reception at the hands of a working class mob, which turned the lash on him. The Marquis de Lafayette, whose role in the American Revolution did not endear him to the British public, got away with just a heckling while in exile in Britain during the 1790s.

FORTITUDE AND THE LIBERAL INDIVIDUAL — Refugee narratives emphasized their protagonists' personal courage in flight and their firm adherence to their cause. In cases where refugees were not revolutionary leaders being hosted in middle- and upper-class circles, they also evinced a solidly bourgeois work ethic, whatever their actual class background.

Refugee narratives lingered on the harrowing details of their protagonists' flight from their homeland. Following the passing of the Fugitive Slave Act, British newspapers reported on the escape of dozens of American slaves. Stories would often first be told locally, upon the fugitive's arrival, and would be repeated nationally within days. For example, the London *Times* republished the *Liverpool Albion's* story detailing Tom Wilson's brutal treatment at the hands of his master (he was burned with a red hot iron and attacked by dogs), his separation from his wife and family, and his escape through alligator-infested swamps. Wilson was lucky enough to be stowed by a few black sailors aboard a ship bound for Liverpool.<sup>66</sup> Favorite stories, like that of the Crafts, would become so well known that they hardly needed more than a sentence of introduction in coverage of their public appearances.<sup>67</sup> European revolutionaries, too, had dramatic and courageous escape narratives. Italian hero Giuseppe Garibaldi's long trek, with the Austrians, French and Spanish hot on his heels, was well-known and would become the

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the final chapters of her two-volume memoir, eclipsed almost entirely by her attention to the revolution. (Theresa Pulszky, *Memoirs of a Hungarian Lady*, with a historical introduction by Francis Pulszky, 2 vols. [London: Henry Colburn, Publisher, Great Marlborough Street, 1850].)

<sup>63</sup> Artúr Görgey, *My Life and Acts in Hungary in the Years 1848—1849*, 2 vols. (London: David Bogue, 1852); George Kmety, *A Refutation of Some of the Principal Misstatements in Görgei's 'My Life ...'* (London: William and Frederic Cash, 1853).

<sup>64</sup> Luigi Bianchi, *Incidents in the Life of an Italian: Priest—Soldier—Refugee* (London: James Nisbet and Co., 1859).

<sup>65</sup> Northern Star, December 21, 1850.

<sup>66</sup> *Times*, February 25, 1858.

<sup>67</sup> *Liverpool Mercury*, January 3, 1851; *Times*, January 7, 1851; *Newcastle Chronicle*, March 21, 1851.



backdrop of Mrs. C. G. Hamilton's 1857 novel, *The Exiles of Italy*. Several chapters in her novel would begin with biblical quotes, making it clear that the trauma of her heroes' exile was of similar magnitude.<sup>68</sup>

Valiant refugees did not give up the fight once safe on British soil. They continued to oppose their home government; some even ventured back, risking re-imprisonment or death rather than abandoning their country. Dickens's French refugee Charles Darnay returned to France to help an old family dependent out of prison in *A Tale of Two Cities* (1859). Mrs. Hamilton's fictional protagonist, Belmonte, could not endure the idleness of exile and returned to battle. In a fit of romantic torment, Belmonte took leave of his English love: "To leave Clara, and to leave her thus, was to turn from the star that had arisen on his dark horizon." But, he could only imagine staying with her if, "'if ever,' he murmured, 'I see my own fair Italy freed from the tyrant's power, then –.'" He could hardly finish his thought.<sup>69</sup>

When offered pardon or amnesty by their former persecutors, the classic refugee refused. Belmonte viewed his pardon as an embarrassment. Gabriel, a Russian exile in Alfred Godwine's 1857 *The Refugee, A Novel Founded on Phrenological Observations*, rebuked the insincerity of the Great Powers' offers of amnesty to his fellow refugees. Gabriel himself refused the czar's offer of a personal pardon, and explained that, in accepting a pardon, exiles "may themselves have to forget the wrong done to them by the rashness which characterized the decrees and steps of the late Emperor."<sup>70</sup> British admirers valued this steadfastness of purpose just as much when manifested in real life by the great exiles – Mazzini, Kossuth and Garibaldi. Like the fictional Belmonte, Kossuth would live out his life as an exile, refusing to debase himself by accepting Austrian amnesty. He would do so at great personal cost, since he missed his last opportunity to receive his mother's "benediction on my tempest-tossed head."<sup>71</sup>

Ideal rank-and-file refugees manifested their personal fortitude in another important way. They proved themselves willing to work hard while in exile, humbling themselves if they had been members of the social elite or proving their assiduity in honest labor if they were former slaves. Refugees like the Spanish families of the 1820s fell significantly in class status as they tried to eke out a living away from home. The typical narrative depicted such people as bearing their suffering stoically. They lived on diminished means while trying their best to earn an honest and industrious living.

Relief committees reported extensively on these efforts. Reporting on the 1851 Polish arrivals, James Spurr praised the refugee under his employment. Spurr claimed that he was "thankful—not servile—I know him to be industrious, sober, and so far honest, and have every confidence of a continuation of these virtues." Spurr reflected further in a letter to fellow-sympathizer Joseph Cowen that "some of your friends may say—aye but who is this man that thus gives character to the Alien Stranger." To them Spurr would ask in return who more natural to give "every satisfaction as to character for veracity if necessary" than the man born and raised in his native town, yet "a citizen of the world."<sup>72</sup>

In the cases of fugitive slaves, the need to demonstrate a bourgeois work ethic was particularly pressing. Defenders of slavery had long argued that bondsmen were "naturally" lazy

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<sup>68</sup> For instance: "They wandered in deserts and mountains, and in dens and caves of the earth," (Hebrews XI). C. G. Hamilton, *The Exiles of Italy*. (Edinburgh: Thomas Constable and Co., 1857), 193.

<sup>69</sup> Hamilton, 257.

<sup>70</sup> Alfred Godwine, *The Refugee, A Novel Founded on Phrenological Observations* (London: R. Hirschfeld, 1857), 234.

<sup>71</sup> Hamilton, *The Exiles of Italy*, 496-7; Kossuth, *Memoirs of My Exile*, xxiv and 89.

<sup>72</sup> Spurr to Cowen, May 17, 1851, *Cowen Collection*, Part A, Tyne & Wear Archives, Newcastle, UK.

and needed to be forced to work, so abolitionists urgently needed to prove that, once freed, slaves were capable of working to earn their keep.<sup>73</sup> Chronicles of runaways to the British Isles often ended with a description either of the type of work the ex-slave could undertake or with the observation that the ex-slave had already found employment or a patron. The Ladies' Society to Aid Fugitives from Slavery, for example, reported happily on their placement of these refugees in gainful employment particularly suited to their skills.<sup>74</sup>

The element of personal agency was central to the refugee narrative. In cases where it was lacking, persecuted foreigners might not even qualify as genuine refugees. As I indicated earlier, this was the crucial distinction that divided liberated Africans and fugitive slaves into two morally separate groups in the eyes of British philanthropists. Stories of liberated Africans depicted them as a largely undifferentiated crowd; while appropriately grateful for being freed from slave ships, they could never become heroes of their own story. That role instead fell to British naval officers or missionaries. By contrast, fugitive slaves were seen to have a will of their own, and so could more plausibly be cast as classically liberal subjects. As such, they qualified as *bona fide* refugees, whereas liberated Africans were never referred to using that term. The case of liberated Africans illustrates the real power of stories to draw symbolic distinctions with very practical consequences.

SYMPTOMS OF A LARGER ILL — Stories about refugees took pains to describe the ongoing character of the crises that had driven their protagonists into exile. On one level, of course, refugee narratives were basically stories with a happy ending: the protagonist ended up making his or her way to freedom. Tales of refuge always counterbalanced this note of relief, however, by emphasizing that the brutal persecution which had originally set the plot in motion did not end with the protagonist's personal safety. These stories continuously reminded readers that others still suffered overseas. Refugees themselves spoke of fallen comrades, family members left behind, and their oppressed countrymen in general.

This trope of innocents left behind was perhaps most explicit in the case of fugitive slaves. Few slave narratives omitted the pain of family separation and an acute consciousness of loved ones who still felt the sting of the slaver's lash.<sup>75</sup>

European exiles sounded similar notes of dismay about their loved ones back home. The French refugees exiled on Jersey in the Channel Islands after Louis Napoleon's December 1851 *coup d'état* lamented their powerlessness to protect their families from the new emperor's vengeance. Their newspaper, *l'Homme*, claimed that Napoleon was hungry for additional martyrs. He knew, they said, that countless mothers and sisters were dying of starvation because their husbands, sons and brothers were unable to provide for them while in exile. These innocents would perish while "guarding the dignity of those absent."<sup>76</sup>

As this example suggests, there was a decidedly gendered note in the typical refugee narrative. The nature of the contests on the continent meant that the vast majority of revolutionary exiles were men – and soldiers.<sup>77</sup> They left behind their less mobile dependents:

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<sup>73</sup> On concern for the *industriousness* of the emancipated slave, see, for example, Hall's *Civilising Subjects*.

<sup>74</sup> *Ladies' Society to Aid Fugitives From Slavery* (London, 1855), 3-5, in *British and Foreign Anti-Slavery Society, Territorial Letters, The United States (1853—1897)*, Rhodes House, Oxford.

<sup>75</sup> For example, *Times*, February 25, 1858.

<sup>76</sup> "Isolées, surveillées, parquées, sans espoir, sans salaire et qui, pour garder la dignité des absents, sauront mourir au foy, sans la plainte des agonie. [...] [C]'est notre sang, c'est nous-mêmes!" *L'Homme*, January 11, 1854.

<sup>77</sup> There were occasional exceptions; Hungarian patriot Mme. Pulszky escaped with her children while her husband remained trapped behind. For the most part, when women did flee, their stories of persecution were told alongside those of their husbands, and not independently (see, for instance, the *Times* article about the Spanish Constitutionalists in the 1820s, December 25, 1823.)

women, children or aging parents. The Polish, French and Hungarian refugees made it clear that their escape was an exception and that great violence continued to be visited on their families. Lajos Kossuth bemoaned his inability to return to the continent to visit his dying mother.<sup>78</sup> The plight of the women left behind by refugees could appeal particularly to the sympathies of female refugee supporters. One Polish exile wrote to Harriet Beecher Stowe from Glasgow, begging her “to pray now and then for the poor Polish mothers [... A] mother yourself, you have given comfort to other mothers. [... T]hrough letters from their children do not always reach Polish mothers, your book is accessible to them, and gives them the conviction that their offspring, far as they are from them, are still within reach of maternal feelings.”<sup>79</sup>

Refugee narratives of successful escapes often included heart-rending subplots in which comrades or loved ones failed in their flight. For instance, Garibaldi’s escape story included the death of his fearless but weakened wife in his arms. Hamilton’s account of Italy dwelled on the sorrow of this loss, but also highlighted Garibaldi’s countless fallen comrades whose flight ended with imprisonment or summary execution. Hamilton’s fictional Brunetti holds his dying child while imprisoned with a small band of fleeing patriots. When asked if his head hurts, the son replies: “Yes, [...] but it will soon be well. [...] Heaven is nearer than England [...] When you go to England I shall go there and rest. May I not, dear father? I am so weary.”<sup>80</sup> Newspapers featured the tragic tales of slaves captured or killed en route to freedom. As the *Times* reported shortly after the passing of the American Fugitive Slave Act, one family was cornered on a ferry, almost to the Canadian shore. “In his desperation,” the article detailed, the husband “seized his razor, and, drawing it forcibly across his throat jumped into the canal. His wife, with their child in her arms, leaped after him; all determined to die rather than again come under the slaveholder’s power.” The parents were plucked from the water and returned to slavery, the child drowned.<sup>81</sup> Such stories reminded readers that persecution continued overseas, and that the fortunate refugees who arrived safely on British shores were but a fraction of those affected.

THE BRITISH TO THE RESCUE — Refugee narratives highlighted the role of British assistance and refuge in ending an exile’s horrible ordeal. British audiences for these stories could take pride in their communities’ gifts of freedom, financial support, and emotional sympathy for refugees. The dénouement of refugee narratives thus provided their audiences with a glow of satisfaction and, not least, implicit instructions in how to become involved in the story.

When telling their own stories, refugees did their best to convey their emotional dependence on their hosts’ sympathies. The Hungarian patriot Theresa Pulszky ended her escape memoir with a lament about her loneliness and isolation in London and dedicated the book to her hostess, the Marchioness of Lansdown, who had taken the first steps to comforting her. The heroic Lajos Kossuth described his painful separation from his dying mother and sought from his readers the maternal comfort that she could not now provide.<sup>82</sup>

This basic narrative theme of British succor came in characteristic variations. One variation highlighted British eagerness to help before refugees had even arrived. Some newspaper reports tracked the movement of refugees as they struggle to find safe haven, as did

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Although revolutionary women were less prominent in the literature, individuals such as the French Jeanne Deroin were of immense importance within exile communities in the British Isles. Deroin established a school for refugee children.

<sup>78</sup> Kossuth, *Memoirs of My Exile*, 89.

<sup>79</sup> Letter of Charles Müller in Glasgow to Harriet Beecher Stowe (April 16, 1853) published in the lengthy introduction to Harriet Beecher Stowe, *Uncle Tom’s cabin; or, Life Among the Lowly* (Boston: Houghton Mifflin, 1882), xxxiii-xxxiv).

<sup>80</sup> Hamilton, 172.

<sup>81</sup> For example, *Times* October 31, 1850.

<sup>82</sup> Pulszky and Kossuth, *op.cit.*

an article detailing the Italians' forced march through France in the 1830s. Coverage of refugee affairs prior to their arrival in British territory generated public excitement and encouraged preparations for their landing.

Press attention ensured that the long-awaited arrival of Polish-Hungarian refugees from confinement in the Ottoman Empire met with great enthusiasm. Local philanthropists planned a ball and announced a subscription in the lead up to their March 6, 1851, arrival in Liverpool. As the *Daily News* reported, "Many men of the highest local influence and commercial standing have interested themselves on behalf of the refugees [... J]udging by the preparations which we witnessed at the Emigrant's home [a facility for foreign travelers] in Moorfields [...] we cannot doubt that these poor fellows will have just cause to be grateful for English hospitality."<sup>83</sup> The newspapers also tracked Kossuth's day-to-day progress toward Britain, and crowds of varying sizes gave him a hero's greeting in the port city of Southampton where he arrived and along his route inland to London.<sup>84</sup>

An even more dramatic variation on the theme of British assistance showed Britons being actively involved in rescuing exiles on the continent. In *A Tale of Two Cities*, Charles Darnay escapes the guillotine thanks to the ruse of his English rival for the heroine's affections, Sidney Carton. Carton disguises himself as Darnay and actually goes to the guillotine in his stead. In Mrs. Hamilton's novel, Belmonte's English friends, the old English De Vere family, rush to his side after his imprisonment in Rome, ultimately convincing the Roman authorities to release him.<sup>85</sup> In a case of real life imitating fiction, Luigi Bianchi emphasized the role of a helpful diplomat from the British consulate in Rome who sheltered him for two days while securing a passport for Bianchi to travel to British Malta.<sup>86</sup> Once ultimately settled in Edinburgh, Bianchi lionized his British helpers as follows:

[...M]y mind finds most light in consolation in reflecting on the delicate traits of benevolence of which I have been the object, and among the English more than any other people. I have always found the English without ostentation, but full of generosity, and render thanks to the divine goodness for placing me among those who could sympathize with me [...] May god bestow on all my friends ample returns, [...] for the good they did me was dictated by a pure and simple Christian spirit.<sup>87</sup>

Bianchi's story illustrates a final variation on the theme of British assistance, the refugee's absorption into British society. Bianchi converted from Catholicism with the guidance of his British helpers and advisers. Novelists tended to signify the refugee's social incorporation into English life by having them marry into their benefactor's family. Belmonte marries Clara De Vere. Darnay marries the essentially anglicized Lucy Manette after his first rescue at the outset of Dickens's novel. Anglicization could also be completed in the following generation, when an exile's child, usually a daughter, married an English spouse. This sort of cultural absorption, while it provided dramatic closure, was always recognized as a second-best solution to the

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<sup>83</sup> *Daily News*, March 6, 1851.

<sup>84</sup> The *Hampshire Advertiser & Salisbury Guardian* (published in Southampton) followed Kossuth's progress from Asia Minor to Britain throughout October 1851. Coverage of Kossuth in Britain began on October 21.

<sup>85</sup> Charles Dickens, *A Tale of Two Cities* (1859); Hamilton, 385ff. The De Vere family, Hamilton explains, arrived in England with William the Conqueror (284).

<sup>86</sup> Bianchi, *Incidents in the Life...*, 200.

<sup>87</sup> Bianchi, 246.

isolation of exile. Refugees never forgot the misfortunes that had propelled them to British shores and longed for a means to return to a liberated homeland.<sup>88</sup>

### THE *SOI-DISANT* REFUGEE

The popularity of refugee narratives helped generate major philanthropic efforts on refugees' behalf. Inevitably, the ubiquity and power of refugee narratives attracted opportunists who calculated that they could tell an eloquent story even without having experience persecution first hand. By the late 1840s, philanthropists were becoming concerned about fraudulent claims to refugee status.

In May 1846, the London Mendicity Society uncovered a case that threatened to make the society's name into an unfortunate play on words. The Society's Begging Letter Department launched an investigation into dubious claims by several applicants. Styling themselves "Russian refugees," these letter-writers asserted that they had been "resident in Persia, but being of the Christian faith, they were so cruelly persecuted that they were obliged to fly." Having left "their wives and families behind them," "the prayer of their petition [was] to raise a sum of money to redeem their families from bondage."<sup>89</sup> Eventually, the investigator and foreign consul determined that these supplicants were not Russian at all, but Polish. It seemed likely that they were not even refugees, but rather professional beggars who earned a living poaching from one set of refugee relief funds after the other. *The Refugee Circular*, a newsletter for the supporters of Polish-Hungarian exiles in the 1850s, warned of similar characters then presenting themselves as refugees in towns throughout the north of England. The British and Foreign Anti-Slavery Society warned of imposters from America. One Reuben Nixon used his familiarity with British adaptations of *Uncle Tom's Cabin* and with other escape narratives to obtain funds from an eager abolitionist public.<sup>90</sup>

Refugee aid societies sought to counter this epidemic of freeloading by institutionalizing checks on the authenticity of refugee claims. The editors of the *Refugee Circular* advised donors to send subscriptions to their central committees, not directly to the *soi-disant* refugees themselves.<sup>91</sup> A notice in the *Temperance Chronicle* regarding fugitive slaves similarly suggested: "All collections made on their behalf should be forwarded to some person in Great Britain or Ireland who is willing to act as trustee, and whose name will guarantee that no more than the sum required shall be solicited."<sup>92</sup> These organizations relied on trustworthy informants from the relevant refugee community in their efforts to verify claims and, frequently, even to distribute funds. In the case of American fugitive slaves, who were less likely to know one another than, say, the soldiers in Kossuth's army, British philanthropists were forced to turn to American newspapers and American anti-slavery societies for assistance whenever possible.

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<sup>88</sup> See, for example, Anna Maria Hall, *St. Pierre, The Refugee*, performed at London's St. James's Theatre in February 1837. For Dickens, Lucy Manette represents that domestic tranquility, at least while in London. Hall's *St. Pierre* is ill-suited to English society, depicted as a rather ridiculous character. Ultimately, however, the story revolves around his daughter, who marries into their newfound society. See also, Anne Raikes Harding, *The Refugees, an Irish Tale* (1822); and, for earlier novels, Charlotte Smith, *The Banished Man* (1794) and Fanny Burney, *The Wanderers* (1814).

<sup>89</sup> "May 12, 1846, Internal memorandum of the Begging Letter Department regarding the 'Russian' refugees, Mendicity [sic.] Society," Peel Papers, Vol. CCCCXI, General Correspondence (May 1-15, 1846, British Library Add. 40,591), ff. 209-210.

<sup>90</sup> Audrey Fisch, *American Slaves in Victorian England: Abolitionist Politics in Popular Literature and Culture* (Cambridge, 2000), 92-95.

<sup>91</sup> *Refugee Circular*, May 19, 1851, in The Cowen Collection, Part A, Tyne & Wear Archives Service, Newcastle.

<sup>92</sup> *Temperance Chronicle*, from April 1852, cited in Fisch, *American Slaves in Victorian England*, 93.

Unfortunately, exiles could not always be identified satisfactorily. European exiles, in particular, had good cause to be suspicious of one another, since continental spies were rumored to be in their midst. Furthermore, after 1848, political divisions increasingly estranged refugees from one another. The rise of democratic-socialist agitation tended to divide exiled democrats from exiled nationalists. The case of Wilhelmina Racidula highlighted the horrifying consequences of a protracted debate over a self-professed refugee's identity. Like Mme. Pulszky, Racidula – who presented herself as the Baroness von Beck – published her memoirs immediately upon arrival in Great Britain. She claimed connection to Kossuth and linked her history with that of the struggle for Hungarian independence. While in Birmingham, however, she was arrested on questionable grounds for fraud; more specifically, she was accused of being an Austrian spy. She was imprisoned while awaiting trial, and her papers (still with her host) promptly disappeared. The poor “Baroness” “died of broken heart” before her case could be heard.<sup>93</sup>

Public enthusiasm for refugee narratives was just the beginning. The discovery of fake refugees in the 1840s and 1850s drew attention to multinational collaborative apparatuses for the relief of *real* refugees that had, in point of fact, existed since the 1790s. On the Committee for the Relief of the French Emigrant Clergy and Laity, the French Bishop St. Pol de Léon helped to distinguish *deserving* émigrés from dangerous and, hence, *undeserving* Jacobins. In the post-Vienna period, when Britain was no longer under threat from foreign *agents provocateurs*, relief organizations continued to vet foreigners. This process could become political, and was mired in the classed language of the British poor law system. Tories, Liberals and radical reformers alike treated refuge as an ethical norm. But they also were quick indeed to uncover and use refugees' political potential. So too were individual refugees who sought to distinguish their politics from those of other refugees with whom they competed for the attention of their British hosts.

At base, the careful discrimination and need to attest to the character of the individual refugee was essential to any relief organization, regardless of political creed. As Chapter Three and Chapter Four will set out more broadly, the British public bought into a notion that their nation ought to provide refuge to foreign nationals. Where politics and class mattered, however, was in the determination of *how* they would meet their obligations and *where* adequate and lasting refuge could be guaranteed. In this, radicals and conservatives, local officials and the Imperial Government often differed greatly. Debates over what constituted British refuge at mid-century turned into contests over the rights of all individuals on British soil and, moreover, the extent to which English rights extended to the colonies. The fate of what was meant by British refuge depended on whether these factions could reach common ground.

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<sup>93</sup> “The Late Baroness von Beck,” *Liverpool Mercury*, October 14, 1851, 4, citing “Refutation to the charges of imposition and fraud, recently made at the police-court of Birmingham, against the Baroness based upon authentic documentary evidence, collected by Constant Derra de Moroda” (London: Richard Bentley, 1851).

Racidula's death caused a great sensation. Her accusers maintained that she was beyond doubt a spy and not even a Baroness. To a disbelieving public, they denounced in the local and national newspapers that to support her, even posthumously, was “in the spirit of flunkeyism, and a maudlin sentimentality.” (*Hungarian Impostors and Hungarian Patriots: The Case of Wilhelmina Racidula, The Soi Disant 'Baroness Von Beck,'* (Birmingham: J. F. Feeney, 1851, [Reprinted from the *Birmingham Journal*, September 6, 1851]), 1.) Her opponents were not anti-refugee in general, but underscored the fact that such sentimentality denigrated the real heroics of Hungarians patriots. Her supporters decried the class politics at the base of the accusations (did it matter whether she was an aristocratic “baroness” or not), and highlighted the extreme likelihood that, given that her papers were in fact missing, von Beck was herself the victim of Austrian spies. Each side awaited confirmation from the Hungarian leaders and Kossuth himself about the veracity of her tale. In the end, her identity remained uncertain.

## CHAPTER THREE

### PRAGMATICS AND POLITICS AND REFUGEE RELIEF, 1815-1870

In October 1851, towns across the country stirred with preparations for the arrival of Hungarian leader Lajos Kossuth. Lord Dudley Coutts Stuart, Charles Gilpin, and Richard Cobden were “prepared to act as trustees of the Kossuth fund.” George Reynolds, Fergus O’Connor “and other disreputable partisans” sought to “claim the great constitutional hero as one of themselves.” In Southampton, townspeople prepared to meet the exile upon his landing. In London, Gilpin “gained high honor in moving that the London Common Council should give him a congratulatory address in open court – a proposition [that] carried almost unanimously.” The Marylebone vestry in London adopted a similar address. Bath and Birmingham were “astir” with preparations, as well.<sup>1</sup>

In Parliament the following spring, Stuart congratulated Lord Palmerston on his great success. The Foreign Minister had been instrumental in negotiating the release of the Hungarian refugees from the Ottoman Empire where they had been trapped in 1849 by advancing Austrian and Russian armies. The Hungarian Revolution had ended, and the constitution-based Hungarian Diet forced to disband. Yet, the exiles deserved more than near-imprisonment under the Sultan’s control. The popularization of the Hungarian cause at home worked to Palmerston’s advantage. His friends in Parliament – Stuart, in particular – celebrated the political capital he gained by it. In April 1852, when considering whether to publish a second series of Palmerston’s correspondence regarding these refugees, the Chancellor of the Exchequer deemed it “necessary for the vindication of the noble Lord [Palmerston],” as he was in danger of losing credit for involvement in the negotiations.<sup>2</sup> With the American government claiming authorship, the publication of British correspondence would make it appear that “the lives of the refugees were in the first instance saved, so was their ultimate liberation due in the main to the representations of that great minister.” The credit Palmerston won, even from Chartist circles, was pronounced.<sup>3</sup>

For two years, the British public fed on the news of the Hungarian Revolution and the progress made in securing the noble heroes a modicum of repose in their enforced exile. Their arrival in Great Britain, the first group in March 1851 and the second that October, met with great public fanfare. The efforts of their British friends were celebrated as loud critiques of Austrian rule and of Russia’s willingness to thwart nationalist movements in Eastern Europe. The British welcomed refugees to their shores triumphantly. Yet, these professed friends of oppressed peoples, the public, philanthropists and officials, were less certain of how refugee relief was to proceed.

Just as a singular refugee narrative emerged by the 1840s, a template developed for how to provide foreign refugees with relief. Voluntary organizations across the kingdom established a singular way of responding to refugees: of raising public awareness and sympathy; of remonstrating against the events overseas; of organizing committees; of raising funds; and of housing refugees in temporary shelters, supported by private hospitality and public subscription.

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<sup>1</sup> *The Newcastle Chronicle*, October 10, 1851.

<sup>2</sup> *Hansard’s Parliamentary Debates*, House of Commons Debates, (April 20, 1852, Vol. 103, 943-950), 950.

<sup>3</sup> *Ibid.*, 945. British Consul Stratford Canning had overseen the Turkish efforts to relieve the Hungarian exiles and keep Austrian demands for extradition at bay for nearly two years since the collapse of the Hungarian revolution and short-lived national government.

As a nation, the British separated refugees from other foreigners, and refuge from other types of charity. Refuge was a political statement, meant as a critique of bad government overseas, and consequent injustice. Through this political statement, relief providers could honor their guests' courage and become a part of their political struggle. The political end-point of refuge was to enable refugees to return to a home where persecution had been eliminated. Encouraging or forcing refugees to resettle so that they could become self-sustaining members of their host society undercut the political point of refuge for those placed in the refugee category. They would, in essence, become immigrants, undifferentiated from the masses of migrants that filled British cities in the nineteenth century from Ireland, from Europe, from the rural English countryside. For the political point to remain paramount, refugees needed to remain a distinct category – to be the visible martyrs for their cause.

Refugee relief was by necessity a combination of that political imperative to highlight injustice and a strictly humanitarian imperative to provide for people in need of subsistence in their exile. The two imperatives threatened to overshadow one another, however. Even for refugees, the need to work often sidelined political participation within the exile group.<sup>4</sup> Refugee supporters, local and national officials alike felt the tension between these two imperatives. Humanitarian relief for long-term refuge meant providing refugees with means for achieving self-sufficiency and thereby living respectably for an exile, which could easily last the refugees' lifetime, if not generations to come. The decisions philanthropists made in the delicate balancing of the one imperative with the other thus inflected the meaning as well as the methods of organizing refugee relief, and have continued to haunt relief organizations today.

The chapter that follows thus examines the refugee relief template that emerged in this period, demonstrating how it often entailed an uneasy combination of political and humanitarian imperatives. Using the cases examined in Chapter Two – American fugitive slaves and European revolutionaries, I highlight how entrenched the humanitarian imperative had become. On the whole, the British metropolitan public accepted and supported long-term refugee relief never questioning whether refuge could be found somewhere – at home, in the Empire or under the British aegis overseas, usually in the American West. Indeed, the British had long found the resources for long-term refuge overseas; long-term refuge for each large group of exiles following the Huguenots meant resettlement elsewhere, often far from the political center-stage. Refuge by way of transmigration coincided well with a narrative of expanding liberal civilization. As far as the public was concerned, this was especially true in the case of liberated Africans in their “home” of Sierra Leone.

However, as I discuss in the latter sections of this chapter, this standard set of responses to long-term resettlement became less uniformly palatable by mid-century. By then, I argue, humanitarian relief and politics became unbalanced due to an increased influx of foreigners in need of refuge, on the one hand. On the other hand, tension mounted thanks to the popularization of British intervention in foreign affairs. Confident that their nation could and should intervene in oppressive foreign governance – a belief fueled by Palmerston himself – refugee supporters lashed out at the notion that refugees' political causes should be sidelined in favor of resettlement elsewhere.

Public outrage over what had been a standard recourse to resettlement overseas peaked when applied to the much fêted contingent of Polish refugees exiled for their part in the

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<sup>4</sup> Frederick Engels thus went unhappily to work at his father-in-law's company, earning enough money to sustain the entire Marx family.



Hungarian Revolution. Prominent liberal refugee supporters and local officials, if uneasy about the Poles' "democratic" politics, feared that the contingent would not find adequate resources if they remained in Britain. Chartists, by contrast, broiled at the official campaign to move the group to America, a move they saw as turning the refugees into common emigrants. This radical break from mainstream refugee relief practices was a declaration of refugees' entitlement to a distinctive relief that was humanitarian and recognized their political cause. In this, the radical break was a moment of great political revelation that would have consequences for domestic politics and for refugees for decades to come. That revelation was the following: the imperative to care for this category of foreigners had become so entrenched in British culture and politics that a group of refugee lobbyists – even if on the fringe of domestic politics – could effectively make political claims about the proper treatment of foreign refugees. Though the claims the Chartists made in 1851 would ultimately have little political payoff for the Chartist reform agenda, their claims would demonstrate the political foment that could come from viewing British policies, foreign and domestic, through the fulcrum of the refugee question.<sup>5</sup>

#### THE REFUGEE RELIEF TEMPLATE

Refugee relief since the French Revolution emanated from private sector awareness of the plight of individuals persecuted overseas. Even during the French Revolution, the top-down organization of relief originated in private circles that formed around particular émigrés, like the Bishop of St. Pol de Léon. Whether these victims were refugees yet did not matter. The point of expressing sympathy was to make a political and a moral statement against the cause of the crisis, whether that crisis was ongoing slavery, the passing of the American Fugitive Slave Bill, or the changing fortunes of revolutions on the Continent.

MORAL AND POLITICAL OUTRAGE — Through meetings and coverage in the press, groups of geographically, politically and socially diverse Britons became involved in refugee politics. For supporters, this moral and political outcry was of primary importance. Only secondly did supporters form committees to organize relief upon the refugees' arrival in British territory.

Initial outrage over the American Fugitive Slave Act in 1850 was primarily expressed in the press, news articles and editorials lambasted America's adherence to the slave system on the one hand, and the slavish obedience of northerners to the new law on the other. The outrage was

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<sup>5</sup> Few historians have studied the relationship between public refugee relief and political ideology. However, four historians, in particular have made valuable gestures in that direction: Antony Taylor, John Belchem, Maura O'Connor and Christine Lattek. Taylor and Belchem have emphasized the centrality of excitement over refugees' arrival and foreign affairs, more generally, in getting the people involved in the national platform, as I will discuss further later. Maura O'Connor has taken that popular interest further and has focused specifically on the issue of radical and Liberal popular interventionism with regards to the Italian case, demonstrating how, from the mid-1850s in particular, British romantics helped to give rise to the Italian nationalist cause. As emphasized in chapter two, no one of these national cases was hermeneutically sealed from the other. Refugee supporters brought their experiences with one group to the next as well. Rather than simply adding to O'Connor's discussion of the Italians, my analysis of the incremental radicalization of interventionist options regarding the Polish cause helps to shed light on her Italian case study. Only after years of discussion over *proper* modes of involvement did those discontented with moral outrage alone turn to more radical options, funding Garibaldi's campaigns and, later funding an independent Polish legion.

Christine Lattek's *Revolutionary Refugees: German Socialism in Britain, 1840-1860* (London: Routledge, 2006), while emphasizing the internal dynamics of the German exile group, highlights a mid-century polarization of the refugees around differing politics (as opposed to class background) post-1848. She demonstrates how a political distinction between democrats, republicans and socialists, ultimately mapped onto organizational differences as well (as set out in Lattek's chapter three). A similar, though not identical, British reaction to political distinctions among refugees and their supporters, I argue, drawing from John Belchem's work, likewise lead to separate organizational apparatuses, epitomized in the Chartist reaction to the Polish-Hungarian contingent that arrived in Britain in 1851.

pervasive, appearing in newspapers across the country and across political lines. For continental exiles, the outrage was similar, but tended to be followed more immediately by public meetings in which the sympathetic could express their outrage together. Such meetings tended to take place in London, or in another port city, though then usually upon refugees' arrival. In each case, a similar group of notables assembled, often under the immediate purview of the local leadership. In London, sympathizers were welcomed in the Lord Mayor's Mansion House, the Duke of Sutherland's Stafford House, or Exeter Hall, a gathering place for voluntary societies of all sorts.<sup>6</sup> Whether at the home of an elite, a tavern, or a town hall, local notables presided over the meetings. The London meetings in particular read like a social who's who, bringing in a crowd similar to the aristocratic endeavors of the Committee for the Relief of the French Catholic Clergy and Laity. In addition to the Lord Mayor and members of the aristocracy, commercial classes and members of the Anglican hierarchy – particularly the Archbishop of London – became actively involved.<sup>7</sup>

From the middle of the 1840s, the Chartist leadership organized parallel meetings held, for instance, at the artisan-based City Mechanic's Institute or the John Street Institution. These meetings likewise sought to raise awareness of the crises overseas. Where the middle and upper class meetings addressed the particular responsibility of the city of London and of liberal Britain to rally against persecution, the radical contingent made the responsibility their own.<sup>8</sup>

The call for public sympathy and outrage spread quickly, especially at the arrival of a prominent exile or refugee supporter. In the case of the American refugees, it was Harriet Beecher Stowe's visit to Europe in 1853 which gave force to the public outrage. In the case of the continental exiles, it was Kossuth's arrival in 1851. Newspapers in the metropolis, in the provinces and the radical press, reported on the proceedings of many of the meetings. From 1850, the *Anti-Slavery Reporter* diligently printed the minutes of the British and Foreign Anti-Slavery Society ("BFASS") general committee meetings, reciting their public condemnations of American slavery. At the arrival of William and Ellen Crafts in late 1850, the national press followed suit, reporting on the arrival of the fugitive slave couple from Boston and their speaking engagements across England. Following the publication of *Uncle Tom's Cabin* and Stowe's arrival in England, the level of public antislavery activity increased dramatically. At the behest of local notables, meetings convened in London and in the provinces to express outrage at continental oppression or American slavery, more generally.

These meetings were largely held in port cities, but not exclusively. Southampton, London, and Liverpool were landing places for the refugees, as was Bristol to some extent. But meetings also took place along the tour-routes of prominent exiles, particularly in Manchester, Newcastle, Hull and Birmingham, each of which would become important refugee support centers in the course of the nineteenth century. As epitomized in Newcastle's welcome for the Polish Hungarian refugees, local interest in foreign affairs predisposed local notables and local radicals to seek out the company of refugees after their arrival in Britain.

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<sup>6</sup> Exeter Hall, Strand, London was constructed, according to one 1840s guide, "for the meeting of religious, charitable, and scientific institutions." Abolitionists, missionaries and refugee supporters alike used the building over the years. *Mogg's New Picture of London and Visitor's Guide to its Sights* (1844) as cited in the *Victorian Dictionary's* entry on "Victorian London--Buildings, Monuments and Museums," <http://www.victorianlondon.org/buildings/exeterhall.htm>

<sup>7</sup> In the latter decades of the century, Archbishop Manning would be a constant feature at the Mansion House's meetings on foreign crises and an active participant in the relief of Eastern European Jews.

<sup>8</sup> John Belchem, "Britishness, asylum-seekers and the northern working class: 1851," *Northern History*, (Vol. 39, No. 1, 2002, 59-74).

The point of these meetings and their press coverage was to express outrage at the foreign crisis and sympathy with the victims. Each meeting included a narration of the history of the crimes overseas and tales of persecution. If refugees were already in the country, the exiles told their stories personally, or were featured prominently at the meeting, standing on the platform as their stories were told. The stories included a recitation of the evils inherent in autocratic rule, whether it was the oppression of absolute rulers, of slavery, or of foreign rule. The tales highlighted the personal experience of the exile in the hands of the foreign oppressors, the injustices they faced, their courage and their flight into exile. Given their proximity to the foreign crises, refugees were much sought after speakers for these meetings. Kossuth, Mazzini, fugitive slaves William Wells Brown and William and Ellen Crafts toured the country. Lesser-known refugees were sought after as well; in telling their own stories, many of these men and women included tales of their absent leaders.

Next, the meeting attendees expressed British revulsion at the foreign governments' crimes. As a course for action, attendees often resolved to present their outrage to the British Government. The London city government at Guildhall, for instance, addressed letters to the Foreign Office, requesting that the Palmerston do all in his power to secure the safety of the Hungarian refugees. One resolution, carried unanimously by the Lord Mayor, Aldermen, and Commons on May 22, 1851, expressed how "earnestly [the Court of Common Council] hopes that Lord Palmerston may deem it consistent with his duty to interpose his friendly offices with the Government of the Sublime Porte to promote the liberation of the illustrious captives."<sup>9</sup> The local authorities of the Borough of Finsbury did the same. Antislavery advocates likewise continued to address their memorials to the ministry, as they had since the founding of the BFASS in 1839. At the close of the century, the Mansion house would go so far as to address their letters to the persecuting government directly. Though they rarely received positive response, the Lord Mayor and eminent Londoners tried to send letters of remonstrance to the Czar himself, praying that he treat the Jews more humanely.<sup>10</sup>

THE FORMATION OF PSEUDO-NATIONAL RELIEF EFFORTS — Meetings helped to generate short-term relief for newly arrived refugees. Invited speakers were welcomed into the houses of local notables and members of philanthropic societies, the antislavery societies for the American fugitive slaves in particular. Following the public meeting, subscriptions were in many cases collected on the spot. Meeting organizers and new supporters sought to capitalize on the public enthusiasm soliciting funds among their acquaintance, through the press, and holding further events, the proceeds of which would be for the benefit of the refugees. Funds were collected for two purposes: to help support the refugees directly, even in anticipation of their arrival, and funds were collected for the refugees' cause. These purposes were often indistinguishable. Mazzini and Kossuth, for instance, started the Fund for European Freedom. While supporters contributed expressly to benefit their cause, the proceeds were ultimately turned over for the relief of the continental refugees themselves.<sup>11</sup> Even in overtly refugee-oriented subscription advertisements, most of the space with was filled with information about the crisis overseas, rather than the needs of the refugees.

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<sup>9</sup> Reveling in such attention, Palmerston dispatched this resolution to Stratford Canning, counsel at the Sublime Porte, immediately. Enclosure 1: Guildhall, 23 May 1851, Dispatch No. 46. Palmerston to Canning 27 May 1851, PRO FO 881/173.

<sup>10</sup> *Jewish Chronicle*, January 27, 1882. (See, chapter seven below for more on this particular case.)

<sup>11</sup> Norbert Gossman, "British Aid to Polish, Italian and Hungarian Exiles, 1830-1870," *South Atlantic Quarterly*, (1969 63(2): 231-245).

For publicity, relief committees, whether organized by Chartists, by local notables or by the liberal cultural and political elite, relied heavily on donors' perception of being part of a broader campaign. Members of the cultural elite remained prominent advertisers of relief funds and newspapermen – often themselves a part of refugee support societies – worked tirelessly to promote the funds across the country. The BFASS, the American and the Canadian antislavery societies joined efforts to assure potential donors that their efforts were indeed worthwhile and testified to the character and integrity of the fugitive slaves in their midst. Charles Dickens, Francis Newman (brother of Cardinal Newman), and Lord Dudley Stuart sat on the board for the Italian Refugees Fund (1849), along with Richard Cobden and William Makepeace Thackeray.<sup>12</sup> The Italian Fund used Dickens's liberal *Daily News* as a mouthpiece for relief organization. These well-known members of the refugee board each took turn addressing the audience via the *Daily News*.

The most recognized refugee supporter, Stuart also attended meetings across the country. At a town meeting in Newcastle, he helped to inaugurate a subscription for the Hungarians as early as November 1849, almost as soon as the nationalists had been defeated. Sitting on the platform with Stuart, the mayor opened the proceedings, announcing that it was quite an honor to have the “opportunity of giving assent to this great cause, side by side with a man whose name had become illustrious through the civilized world as the friend of the exile and the hero.”<sup>13</sup>

FILLING THE COFFERS — Whereas the press reported subscriptions nationally – often naming each subscriber, most of the collections were made locally. Organizers solicited subscriptions by reaching out to neighbors. Individual members of the Society of Friends of Italy, for example, received membership cards. They also received a card listing the society's objectives, presumably certifying their right to collect funds, as well as providing talking points for the campaign.<sup>14</sup> The elite held balls to raise funds.<sup>15</sup> At bazaars, especially popular through the 1820s, they sold refugee artwork, a legacy of the 1790s, when British aristocrats bought and sold émigré handicrafts. Britain's “humble” relied on concerts and lectures, rather than balls and bazaars, to bring supporters together.<sup>16</sup> Nonetheless, working-class donors still received tokens for their support. Contributors to the Subscription for European Freedom received cards in return. *Reasoner* editor George Holyoake did not “doubt [that the card, “large and handsome enough for framing,” would] adorn many a cottage mantelshelf throughout our land.”<sup>17</sup>

The money each group raised generally was dispersed from the leader within the refugee group to the rank and file so the exiles themselves could help to vet between real and fake

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<sup>12</sup> In this manner, merchant Francis Bennoch's Refugees' Benevolent Fund during the Franco-Prussian War (1870-1) looked for elite patronage for his organization. He joined forces with the Marchioness of Lothian who lent her name as patron of the committee. The committee also included the Lord Mayor of London and Archbishop Manning. Shaftesbury would do the same for the fugitive slaves and the broader antislavery cause.

<sup>13</sup> *Newcastle Chronicle*, November 23, 1849.

<sup>14</sup> Cards found in the Cowen Collection, Tyne & Wear Archives Service, Newcastle, A134-135.

<sup>15</sup> The names of those who attended various balls appeared in the national press, and helped to generate an aura of elite sociability. There was an annual ball for the Poles, though, in 1838, an article in the *Morning Chronicle* critiqued the haphazard fund-raising associated with these affairs. (*Morning Chronicle*, July 19, 1838). Balls and bazaars continued on a lesser scale to help fund relief efforts, however. The 1870-71 Refugees' Benevolent Fund for the victims of the Franco-Prussian War likewise raised additional funds through a bazaar.

<sup>16</sup> In Newcastle, a concert featuring songs like “The Slave,” the battle song “marching to meet the enemy,” and the Polish national hymn, “Poland is not lost as yet” raised money for the refugee coffers. Program for the June 3, 1851 concert, Cowen Collection, Tyne & Wear Archives Collection, Part A.

<sup>17</sup> The card bore “an emblematical engraving of a battle of the flags of Hungaria and Italia, with figures weaping [sic] for the fallen: a tomb inscribed with the names of Bandiera [...and other martyrs]: a war horse without a rider.” Printed (autograph) signatures from Mazzini and Kossuth certified the card. *Reasoner*, July 28, 1852.

refugees.<sup>18</sup> While the American fugitive slaves tended to arrive individually in the British Isles, representatives from fugitive settlements in Canada returned to North America with funds and supplies for their new communities. Where there were no such representatives, British committees forwarded money and clothes.<sup>19</sup>

British supporters helped more directly when and where possible. Prominent refugees were welcomed into British homes. Over the years, Joseph Cowen alone entertained Louis Blanc, Mazzini, Garibaldi and even (it was rumored) Irish Fenians and continental anarchists in his Newcastle home. For the rank and file, local hotel owners pitched in, as they had during the French revolution. In Newcastle, Mr. Johnson offered rooms in his Temperance Hotel for the Polish and Hungarian exiles. Liverpool, a major port city, was already equipped for Irish and English trans-migrants; these emigrants' temporary shelters were turned over to the refugees for a short time.

The ideal resolution of the refugee crises was an end to foreign persecution with the establishment of just justice and the personal and national sovereignty in the offending foreign country. How long this would take could not be foreseen, however. Unfortunately, the sympathy of the British public was not open-ended. In only a few cases were refugees amnestied in enough time before the relief coffers were depleted.<sup>20</sup> All too often, relief committees dissolved prematurely, declaring their goals met after each refugee had been housed for the short-term, or when the willingness of the organizers itself fizzled, either for lack of interest or diminishing returns from subscription advertisements. As committees folded, the recipients of relief tend to disappear from the archives. We cannot know how many continued to be recipients of British hospitality, how many fell onto poor relief, or how many died of starvation on the streets. No doubt quite a few fell into the latter categories.

With few relief organizations specifically geared toward finding the refugees positions in the British economy for the *longue durée*,<sup>21</sup> fortunate refugees married into British families and found permanent support before emergency resources dried up. In general, however, only the independently wealthy or fortunately connected could find long-term relief *and maintain public political profile* in this manner. Ultimately, most refugee groups and their supporters would have to find a means of enabling the group to become financially self-sufficient.

THE NEXT BEST THING: THE COMFORT OF HOME — For the British Government and for the few refugee supporters who concerned themselves with long-term refugee relief, there were in fact relatively standard possibilities for groups of refugees to achieve self-sufficiency over time. Short of being one of the lucky groups to receive pensions from the British State, as the Poles had done in 1834 or the Spanish military exiles in the 1820s, the most prominent responses involved transmigration, and had since the early eighteenth century. British refugee supporters came to see refuge as a moral imperative precisely because they had this capacity to resettle refugees in their formal and informal empire overseas. The Empire offered greater resources –

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<sup>18</sup> Prince Czartoryski, Pulszki, Mazzini, Kossuth and Garibaldi distributed the funds.

<sup>19</sup> On funding for settlements in Canada, see, for examples, appeals in the British and Foreign Anti-Slavery Society, *Anti-Slavery Reporter*, commonplace through the 1850s, particularly in the first half of the decade, just after the Fugitive Slave Act and the publication of *Uncle Tom's Cabin*.

<sup>20</sup> The Spanish Liberals (amnestied in 1834) and the French Refugee Clergy (1801) are the two cases I have found.

<sup>21</sup> There were, of course, exceptions; individuals assisted well-educated refugees in finding positions as tutors, for instance. The most concerted efforts to find positions for larger groups or for the 'rank-in-file' were the Polish-Hungarian efforts in 1851 (see below) and the efforts of the Refugees' Benevolent Fund (during the Franco-Prussian War) to establish young women, in particular, as short-term domestic servants and as governesses in local homes. The Refugees' Benevolent Fund, *The Final Report of the Acting Committee made to the Grand Committee and General Body of Subscribers, at a meeting held at the Mansion House, City of London, September 8, 1871*, (London: Jas. Truscott and Son, 1871).

potential jobs, housing, etc.; it also provided ample political space for groups of different religious, ethnic and racial backgrounds. The larger the group, the more dissimilar from the British people, the more likely they would be sent overseas. In this manner, Liberated Africans were settled *en masse* in Sierra Leone. American fugitive slaves likewise formed their own settlements with philanthropic funding throughout the Canadian territories, though they congregated in urban areas as well. The German Palatines and Salzburgers, both Protestant groups, were likewise resettled in the American wilderness, and the French émigré priests were encouraged – though to little avail – to remove to Quebec.

Through the eighteenth century overseas refuge did not compromise the politics of refuge itself. Protestant refugees were part and parcel of a balance of power struggles between Britain and her Catholic nemesis. The political point of refuge was a matter of state more than an ongoing battle struggle to change the situation in France. For the refugees themselves, the shelter they found was to be permanent. Other than the circumstances of their arrival and what they symbolized to the British State, their lives were those of ordinary migrants. This changed in the decades after the French Revolution with the advent of revolutions and British enthusiasm for the spread of liberal ideals across the globe. The refugee then became someone who did not just yearn for a return home, but actively battled to free his or her home of persecution. That change had significant bearing on the long-term resettlement of these foreigners. In this new paradigm, the resettlement of exile groups became something of a capitulation of the refugees' cause, an admission that the end of persecution could not be foreseen.

Thus, in the age of revolution removal to overseas territories, though still a practical safety value, posed a practical problem for the politics of refuge itself. British philanthropists grappled with how best to provide long-term refuge in a manner that at once served the political point of refuge and enabled the homeless foreigners to live in an independent manner, according to the liberal ideology of the day. That struggle would come to a head in the case of a 1851 Polish and Hungarian refugee contingent. The dispute between contending philanthropic groups was over whether the Polish and Hungarian refugees should be forced to remove to America, bypassing Britain almost altogether. Local officials and prominent philanthropists argued that there simply were not resources adequate for their refuge in Britain, whereas they would find all the necessaries for life across the Atlantic. British Chartists, by contrast, argued that this move belied the point of refuge to continue the struggle to “return” home. Even if a return were far in the future, Chartists argued that the European Revolutionaries would be far better equipped for that return when in Britain than when isolated, far from all that they new, in America.

#### TIPPING THE BALANCE: CHALLENGES TO STANDARD LONG-TERM OPTIONS

The attempted removal of the 1851 Polish Hungarian contingent to America seemed as reprehensible as it did to Chartist refugee supporters not because they disagreed with the resettlement of larger exile groups overseas in general, but because this particular removal appeared to Chartists to be targeted at their own social and political peers. Though they were hardly surprised that the establishment, against whom they fought for their own political reforms, would target this group, Chartists were appalled that, for the first time, officials differentiated between refugees of different social classes and political backgrounds within a single refugee group. The Poles were, by the late 1840s, the longest-standing refugee group within Britain. The established, liberal Literary Association of the Society of Friends of Poland had operated on the

behalf of Polish refugees since 1831, and won their Polish friends an annual Parliamentary grant that had been renewed each year since 1834.

Why not continue the support? Why not continue long-term refuge within Britain with these Poles as with the earlier migration movements? The difference, as both Chartists and members of the LASFP saw it was that, whereas the older group of Polish refugees was aristocratic, those who joined them after 1846 came from the rank-and-file. Though not exactly peasants, they were less distinguished, less independently wealthy, less readily integrated into elite British circles. Moreover, and more to the point for the Chartists, the new refugees were, for the most part, “democrats.” They sought not simply to free Poland from the yoke of foreign rule, but to ensure that the new polity that emerged was more socially just. For more mainstream refugee supporters, this point was not unimportant. The LASFP, though many of its members were quite liberal, hardly endorsed the sort of social revolutionary force or violent change they assumed these refugees (and their Chartist friends) supported. Though they had long hoped for change within Poland, this new element in the refugee community threatened a sort of intervention in foreign affairs they were as of yet unwilling to undertake.

In the section that follows, I describe first the manner in which the LASFP had struck what its members had hoped was the proper balance between long-term refugee welfare and the politics of being (more or less) involved in the affairs of foreign nations. Second, I turn to the larger political and social trends that made the LASFP’s former balance seem less and less tenable, before turning to an account of the arrival of the Polish Hungarian Contingent in 1851.

A TENUOUS BALANCE: THE LASFP AND POLISH REFUGEES, 1830-1846 — Just as the elimination of the slave trade would mean no more homeless Africans, once a truly independent Poland was established, there would be no more Polish exiles either. But, whereas a treaty dictated the degree to which the British could intervene to end the slave trade, there were no such protocols for the intervention on the behalf of the Polish nation. The political point of the Polish refugees’ cause was a shared liberal one, but there was no clear protocol for either the British State or private philanthropists to take in seeing though the moral outcry the British raised on the behalf of this group. The LASFP was the mouthpiece for the Polish cause in Britain.<sup>22</sup> But they remained cautious about advocating intervention at a time when maintaining the peace in Europe seemed of the utmost importance.

Concerned not to offend Russia, in particular, the Society adopted a self-consciously limited sense for the possibility of intervening overseas and sought rather to lay the groundwork for later diplomatic work without hinting at either military intervention or looking to foment revolution. Patient to the last, the LASFP continued to agitate in their fashion into the twentieth century. They folded only (and as it turned out prematurely!) in 1924 when Poland won independence.

In its initial years, the LASFP treaded carefully between espousing hope for Polish independence and condemning the states responsible for her partition and occupation. On the one hand, their journal *Polonia* reprinted Polish pleas for protection and humane treatment from the Austrian Government. While Austria occupied parts of Poland, an “address of the States of Gallicia to the Emperor of Austria” appealed to Austria for protection for their fellow Poles who had been forced to flee the Russian provinces thanks to false offers of amnesty from the Russian Government.<sup>23</sup> On the other hand, the implication throughout, was that Russia, not Austria was

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<sup>22</sup> For additional description of the LASFP and its members, see chapter two above.

<sup>23</sup> “Sufferings o the Old Polish Provinces incorporated with Russia, Address of the States of Gallicia to the Emperor of Austria,” *Polonia. Regulations of the Literary Association of the Friends of Poland*, (London, Vol. I. No. 1, August, 1832), 29-30.

the primary aggressor. Members of the LASFP were yet uncertain as to the extent to which they could denounce Russia herself.

The concern over how to treat Russia, reflected in *Polonia*, was twofold. First, the journal evinced wariness over whether Russian ‘oppression’ was in point of fact persecution or *merely* part of the fallout from the failed revolution. Journal editors reported that Robert Peel (then MP for Tamworth) blanched at some supporters’ readiness to condemn the Russian Government preemptively in its dealings with the Polish people. Following rancor over the removal of Polish children, he issued an apology, commending Russia’s philanthropic efforts to provide education for the children “left destitute by it.”<sup>24</sup>

Secondly, the LASFP warded against implying, in maligning Russia, that the evil was somehow part and parcel of the Russian character: in 1836, Gilbert Ainslie Young worried about “excit[ing] any feeling of hostility against the Russian people” in the LASFP’s “warr[ing] against the despotic government of Russia” on Poland’s behalf.<sup>25</sup> While this concern perhaps mitigated their accusations against Russia more generally, the differentiation between state and nation underscored the liberal society’s own politics. The LASFP held that the affairs of government ought to be controlled by the people.

For the LASFP, by in large an elite organization, the differentiation between state or high politics and the people carried over into their own affairs. If they were hesitant about their own ability to intervene – or modes of intervention – in foreign affairs, they were adamant that the Polish cause ought to be a broad-based British effort. Though they would not offer a single line of foreign policy, they would educate themselves thoroughly on affairs relating to the founding of an independent Poland in preparation for such a time when they could intervene more directly. This project, as the editors of *Polonia* outlined, was in effect to, begin “a new career”:

...[W]ith the extension of our own national libraries and franchises it is our duty to extend our view over a wider range of human affairs, and to be able to judge for ourselves, by means of our acquaintance with the anatomy of the body politic of Europe in all its ramifications, on questions which were hitherto considered to be exclusively the domain of foreign departments, or ministerial and royal congresses.<sup>26</sup>

The LASFP thus hoped to build a reservoir of information, legal and cultural on the situation and how to rebuild an independent Poland when the opportunity presented itself.<sup>27</sup> In focusing on classics in international legal theory, the LASFP envisioned how their endeavors would extend beyond the “domain of foreign departments” and branch into the newly widened middle class franchise. Forming the basis of their society, this literature would enable the members to better discuss the possibilities for a free Poland, and (more broadly) envision how, in that future state, law and constitution would govern the relations between individual citizens and the government just as British subjects were re-envisioning their own relations to their government.

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<sup>24</sup> “Apology of the Rt. Hon. Sir R. Peel for the Russian Government,” *Polonia*, 30.

<sup>25</sup> *Report of the Proceedings of the Fourth Annual General Meeting of the London Literary Association of the Friends of Poland, held at their Rooms, No. 10, Duke Street, St. James’s, April 26, 1836*, (London: T. Brettell, 1836), 7.

<sup>26</sup> *Polonia, Regulations of the Literary Association...*, (London: G. Eccles, Vol. I. No. 1, August, 1832), 37-8.

<sup>27</sup> They recommended to their branch associations that they collect “Grotius, Puffendorf, Vattel, Dumont, Martens, Kluber, Bynkershoek, Burlamaqui, *Histoire du Congrès de Vienne* by Flassan, and Rulhiere’s *Histoire de la Pologne*.” (*Ibid.*, 36).



For the LASFP, the emphasis on learning about Poland eclipsed the group's secondary work for the relief and social welfare of the refugees whose national independence they longed for. There was no discussion of refugees in their constitution and, though they would raise funds on their behalf, the group's emphasis always remained focused on Poland directly, not on the refugees. The LASFP (and the refugees themselves) owed this luxury to their successful lobbying for an annual Parliamentary grant, which included pensions for the refugees' ongoing relief from the 1830s. Although in need of this government grant, the Polish refugees, on the whole, were in particularly good standing: they were relatively affluent and few enough in number that the grant enabled them to live within their means. They were fortunate – among the few refugee groups that were of high enough social class that that they could be integrated more or less into elite social circles.<sup>28</sup>

This peculiar position made the relief of refugees something of a diversion for the LASFP as they still determined how best to act on Poland's behalf. The refugees, featured prominently in *Polonia*. But, rather than offering a call to action, the refugees offered a practical means for the LASFP and their supporters to demonstrate their love for the Polish people and support of their nationalist cause. Extolling the generosity of working class donors, the LASFP called upon "Englishmen of wealth and rank" to "come forward, if you wish to assist the Polish cause." The situation of the society, and their would-be donors was unique. They would have the chance to advocate "the spotless cause of Poland on the one hand." They had "also occasion, on the other, to solace her exiled youths and patriots here, as well as abroad, with such assistance as the very slender means we have to command will permit."<sup>29</sup> As the Polish were chased from other countries across Europe in 1834, the LASFP willingly took responsibility for their care. Refugee relief thus provided concrete outlet for aid while a return to a Poland freed of Russian, Austrian and Prussian rule seemed a distant dream.

CHALLENGES TO THE LASFP'S MODEL OF POLITICAL AND SOCIAL SUPPORT — By the late 1840s, the president of the now long-standing LASFP, Lord Dudley Coutts Stuart, had become the most prominent refugee supporter in Parliament. He would come to aid of refugees time and time again before his death in 1854. Despite its continued prominence, however, two larger trends had already begun to erode the balance the LASFP had struck between refugee relief as social welfare and refugee relief as political engagement: the rising numbers of refugees in Britain, which made available funds inadequate, and a changing temperament in British foreign affairs – namely, the rise and popularization of Palmerstonian interventionism. The two trends impacted each other; an increased number of foreign refugees and their British supporters began to divide along political lines, the different camps tending to disagree about how the British ought to promote change overseas, and the type of change each viewed as appropriate.

Whereas the liberal romantic LASFP circle had been cautious about how to intervene overseas, a new interventionist ethos brought into sharper focus a debate over how British supporters could end the foreign injustices that caused the refugees to flee in the first place. Military intervention had seemed less than desirable for the conservative Wellington and Canning in the 1820s, and Peel in the 1830s and 1840s. By contrast, Palmerston, who rose to

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<sup>28</sup> From 1833, the number of Polish refugees increased dramatically, from a dozen to 400+ within the year. The number fluctuated between approximately 450 and 650 for the next decade. The number of Poles rose steadily after 1849 in particular, remaining above 700 through most of the 1850s. See, Table 7.1 Polish Refugees in Britain 1831-1857 in Krzysztof Marchlewicz, "Continuities and Innovations: Polish Emigration after 1849," in *Exiles from European Revolutions: Refugees in Mid-Victorian England*, Ed. Sabine Freitag, (London: Berghahn Books, 1999, 103-120), 105.

<sup>29</sup> "Address," *Polonia, Regulations of the Literary Association of the Friends of Poland*, (London: G. Eccles, Vol. I. No. 1, August, 1832), 2.

prominence in the 1840s (becoming Prime Minister in 1855), was willing to use diplomatic efforts – backed by military pressure – to strong-arm foreign states. His interventionism (epitomized in the “gun-boat” diplomacy applied to China) characterized British diplomacy and quickly garnered great public enthusiasm for foreign affairs, winning much support for the embryonic Liberal Party by 1850.<sup>30</sup>

That Palmerston believed he could win great political capital from his involvement with the Ottoman Sultan with respect to the Hungarian patriots in 1850-52 was hardly a surprise. The public – even Chartists – loved him for it. His willingness to bring public opinion into foreign policy decisions, and to use force to make those opinions felt around the world, gave new weight to individual refugee supporters and the committees that organized to agitate for the refugees’ causes. Expectation that the British could do much more for refugees, even by a show of military force, became a set piece by the early 1850s. MP Richard Cobden, though critical of this development, pointed out how true it was. Cobden lamented how closely intertwined refugee relief and the British entry into the Crimean War a few years later were in the public mind.<sup>31</sup>

Despite criticisms from the anti-imperial liberal Cobden in the later mid-1850s, Palmerstonian interventionism generally dovetailed well with liberal romantic interest in foreign affairs. Part of the broader liberal, and now Liberal Party, ethos, the changing political tenor legitimated LASFP previously tentative condemnations of foreign governments. Neither the LASFP nor Guildhall, London would think twice at mid-century about condemning the foreign

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<sup>30</sup> Much of the popular formation of the Liberal Party has been attributed to the public persona of W. E. Gladstone. When one considers popular interest in international affairs (before Gladstone’s 1870s moment vis-à-vis the Bulgarian Atrocities), the popular formation of the Liberal Party becomes much more about Palmerston’s popularity. See, Antony Taylor, “Palmerston and Radicalism, 1847-1865,” *Journal of British Studies*, (Vol. 33, No. 2, April 1994, 157-179).

Palmerston’s activities not only won him middle class support, but also brought him important backing from Chartists, who have long been considered particularly hostile to Palmerstonian Liberalism. As historian Antony Taylor notes regarding Palmerston’s centrality in the in-gathering of a Liberal Party rank-and-file, this playing to the gallery succeeded best during the Crimean War, which united radical and popular Russophobia with desires for an independent Poland and Hungary that had grown up alongside the mid-Victorian refugee crises. (Antony Taylor, “Palmerston and Radicalism, 1847-1865,” *Journal of British Studies*, (Vol. 33, No. 2, April 1994, 157-179), 165. Taylor’s article is engaged in a project to rehabilitate Palmerston in the Liberal Party and accord to him a central role in solidifying popular and particularly radical support – a role typically accorded to Gladstone since David Vincent’s influential *Formation of the Liberal Party* (1966). Indeed, most historians who use British interest in European refugees during this mid-century period are engaged in one facet of this debate or another. On popular Liberalism, see, for example, Eugenio Biagnini, (ed.) *Citizenship and Community: Liberals, radicals and collective identities in the British Isles, 1865-1931*, (Cambridge: CUP, 1996); Biagini, *Liberty, Retrenchment and Reform: Popular Liberalism in the Age of Gladstone, 1860-1880*, (Cambridge: CUP, 1992); for the relationship of radicals to exile revolutionary ideology, see, for example, radical biographies including: Miles Taylor, *Ernest Jones, Chartism, and the Romance of Politics, 1819-1869*. Oxford: Oxford University Press, 2003; Nigel Todd, *The Militant Democracy: Joseph Cowen and Victorian Radicalism*, (Tyne and Wear: Bewick Press, 1991).

<sup>31</sup> In Parliament, the Earl of Hardwicke declared that he understood that “the time may come when the necessities of the case may make it perfectly justifiable to raise the oppressed nations, and to call upon those people to join us in operations of a military character against the forces of Russia.” But now was not that time, and the goal of the bill (to enlist foreign troops) was far from a sentimental inclusion of these foreigners to help fight national enemies. Rather, as Hardwicke and other opponents of the bill argued, it would have adverse affects on British morale; instead of supporting a sentimental cause, the bill would reduce British morale by diminishing a patriotic attachment to the British army and its endeavors. (*Hansard’s Parliamentary Debates*, House of Lords Debate, [15 December 1854, vol. 136, cc344-72], c. 358.)

For Cobden, the public impression made it necessary to ask once more: “[W]hether the ground on which the public impression is founded—that we are going to war to aid the Poles, Hungarians, Moldavians, or Wallachians—has not been entirely delusive; and whether it may not be ranked with the other notions about opening the Black Sea, or a treaty with the Sultan, and about the Danube not being free to the flags of all nations?” Cobden, though a supporter of the Italian refugees, opposed this conflation of causes. He admired Lord Dudley Stuart for his public sympathies and work with refugees. But, he could hardly promote those who promoted such confusion in the public mind – confusion that inflamed popular Russophobia to no good end. (Richard Cobden, *Speeches on Questions of Public Policy by Richard Cobden, M.P.*, (London: Fisher T. Unwin, 1870), Speech delivered to the House of Commons, 22 December 1854, cbdSPP: Vol. II, Russian War, Speech 1 in paragraph II.1.2, <http://www.econlib.org/library/YPDBooks/Cobden/cbdSPP34.html>).

oppression. It was in this climate that the ‘refugee’ as a moral category for particular British assistance reached its zenith.

What appeared to be a license for further agitation on the refugee’s behalf emphasized divisions between refugee supporters over how to balance humanitarian relief in the long-run with the broad-based belief that there was nothing the British could not do to end persecution overseas. Within the abolitionist community, for instance, this changing sense of possibility caused associational breaks between the British and Foreign Anti-Slavery Society and its subsidiary groups. Whereas in the wake of the American Fugitive Slave Act in 1850, most British groups turned their attention to the resettlement of the thousands of needy refugees in Canada, the Bristol and Clifton Ladies’ Anti-Slavery Association found such diverted attention poor tactics, and quarreled with the BFASS.<sup>32</sup> Irked at the BFASS’s seeming inaction against the root cause of persecution, the Ladies’ Association seceded from their parent organization. To justify the break, the Association’s 1851 Report declared that no one could:

...[F]latter himself that by subscribing to the Colonization Society...; or by aiding a ‘vigilance committee’ in the questionable kindness of encouraging slaves to escape; ...or by charity to the freed slaves in Canada...he is doing anything to enlighten the conscience of the American people, or rouse the slaveholder to the guilt of his position.<sup>33</sup>

In their future activities, the Bristol women preferred to reach out to the American societies and send funds for *truer* antislavery efforts, aimed (as implied in the report) to the reformulation of American morality itself.

It would be the adoption of similar goals of moral and political reformulation among the radical community within Britain that caused the liberal LASFP circle pause even though they too were as likely to promote – as Lord Dudley Coutts Stuart certainly did – Palmerston’s display of military power on the behalf foreign refugees. Interventionism on the radical left brought about new challenges to the prospect of helping refugees to end persecution overseas. Whereas the freedom fighters of 1830s had been mostly upper-class nationalists, the rise democratic parties (and later of socialism and communism) on the Continent changed the tenor of the European revolutions in the 1840s. For British radicals, the changing politics of foreign refugees made the refugees’ cause all the more exciting as it promised points of common cause with their own political struggles at home. In the late 1840s, British Chartists thus formed associations parallel to the LASFP to make common cause with continental radicals, including the People’s International League and the Democratic Friends of Poland. For liberal romantics in

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<sup>32</sup> The committee lamented that, other than show interest in the fugitives themselves, there was relatively little being done that was ‘truly’ antislavery. Having applied to the BFASS for instructions, they found the suggestions for what could be done in Bristol to be “so vague and unsatisfactory, that with the exception of occasionally contributing to the support of schools and other institutions for the emancipated negroes and free coloured people (which objects, though philanthropic, are not *anti-slavery*)” that they “could find no occupation beyond that of collecting funds” to send on to the BFASS. *Special Report of the Bristol and Clifton Ladies’ Anti-Slavery Society; During Eighteen Months, from January, 1851, to June, 1852; with a few statements of the reasons of its separations from the British and Foreign Anti-Slavery Society*, (London: John Snow, 1852), 7. Although doubtful about the endeavor, the society still reprinted portions of a letter from a Reverend Mr. Young on the resettlement of fugitives in Canada in which he pronounced that undertaking to be the “most effectual means for us in this country to aid in the abolition of slavery” (29).

<sup>33</sup> *Ibid.*, 58. Not only were these means questionable, but those advocating them across England could also be fraudulent. Though they never denounced Reverend Young, the appendix to the report made it clear that Josiah Henson, a fugitive slave from Maryland, had not the authority from his co-refugees to solicit funds for education efforts in the Canadian settlements (*Ibid.*, 63).

the mid-1840s, however, democratic revolutions on the Continent threatened a restructuring of society beyond *merely* ousting foreign oppressors. For mainstream liberals, that threat struck close to home.

As a consequence of this fear, members of the LASFP immediately distanced their society from the discussion of revolutionary agitation they assumed to be taking place among the democratic circles. In 1846, the LASFP's report reiterated the claim that Polish exile Prince Czartoryski had set out in 1836: that those still languishing under despotic rule in Russian, Austrian or Prussian Poland "might submit to a thousand humiliations [...], for they dare not, by taking up arms, expose themselves to the severe and just reproach, of having steeped their country in blood and covered it with scaffolds, without a sufficient and reasonable chance of success."<sup>34</sup> The 1846 report endorsed a wait-and-see approach. Following the failed uprising in Galicia and the formation of radical artisan William James Linton's International League in 1846, the society attempted to disown Polish extremists among the refugees. They did so in this report, by first denying that Poles, "in general," were "addicted to violent doctrines or extreme opinions." The report insisted that, "the declamations of some of the Refugees, at popular assemblies in France and England, must not be taken for the voice of the people." While it was "natural that men, suffering from the evils of despotism, should be disposed to rush into the opposite extreme," these were not the men who have "played nay leading part in Poland." Those who have not "upon reflection become converted to more temperate views," the LASFP argued, "have been discovered to be nothing else but Russian agents in disguise."<sup>35</sup> In contrast to such intemperate views, the *proper* approach was the one Czartoryski advocated in 1836: patient waiting.

Their fears came to a pitch in 1848 when a democratic-socialist revolution in France coincided with renewed Chartist protests at home. Though nervous about the presence of foreign *agents provocateurs*, as the Government had been in the wake of the French Terror in the 1790s, the state did not turn on the refugees themselves. In the midst of the spring revolutions on the Continent, Parliament passed an Aliens Act, the first since the 1820s, giving the State the ability to expel dangerous foreigners. The Act was something of an embarrassment, however. Though passed for the express purpose of vetting foreigners, it was never actually employed. Unlike its 1793 cousin, it lapsed quickly, Parliament refusing to renew the law in 1849.

By 1851, LASFP members would take strident steps to differentiate extremists from the legitimate nationalists. The Hungarian Revolution might have been legitimate, even supported among British liberals of most political stripes. However, the Polish readiness to assist in other revolutionary causes made the old guard of the LASFP nervous. No longer were the 'dangerous' ones portrayed as 'Russian agents in disguise.' Among the Poles, there were now liberal nationalists and democrats. Whatever their views of society, the Poles who joined the Hungarian cause were 'democrats' in the eyes of their more conservative compatriots and in the eyes of their mainstream British hosts.

THE LASFP CIRCLE, PARLIAMENT AND THE POLISH-HUNGARIAN CONTINGENT OF 1851 — The rising numbers of foreigners in Britain after the failure of the European Revolutions of 1846-9 made it seem that refuge for so many within Britain would no longer be possible. The number of foreigners in need of relief in this case was likely not much greater than that which the port cities handled on an ordinary basis; refugees comprised a small fraction of the tens of

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<sup>34</sup> *Report of the Proceedings of the Fourth Annual General Meeting*, 16.

<sup>35</sup> *Address of the Literary Association of the Friends of Poland of Great Britain and Ireland*, (London: E. Detkens, 1846), 34.

thousands of migrants who arrived in English cities from Ireland or from the English countryside. However, the visibility of these foreigners made their accommodation seem all the more challenging.

While neither refugee supporters nor local officials explained their motivations for this transmigration explicitly, viewed negatively, they were ridding themselves of a potential drain on their local resources. Although there was a great public fervor in support of these heroic foreigners, there was also an undercurrent of xenophobia. Especially in the months leading up to the Great Exhibition of 1851, police and the media fanned fears that a foreign element would descend upon the country. Members of the LASFP seemed to think much better of the foreign refugees than that. However, it is possible that worries about this element of public opinion might have propelled them into their transmigration scheme.<sup>36</sup> Viewed more positively, this push for transmigration, was part and parcel of the charitable response to the needs of these particular foreigners. After all, the point of refuge was to celebrate them as iconic liberal subjects, whatever their class. They could hardly achieve political or economic autonomy if they, like other poor internal and Irish migrants, were forced onto the parish rates.

Though the number of refugees in Britain paled in comparison to the number of migrants as a whole, the new influx of Poles could hardly expect to be maintained – or maintained adequately – by the Parliamentary Grant. At only £10,000 per annum, the grant provided just enough for the initial pensioners and was now woefully inadequate.<sup>37</sup> The practical difficulty led conservative politicians in the House of Lords to emphasize social ones, as well. Whereas the majority of the Polish refugees prior to 1846 had been well-educated noblemen, the exile group after the influx of 1846 seemed anything but of noble bearing. In the House of Lords, the conservative MP Lord Eglington complained that the Poles used more of the funds allotted to refugees than any one other group<sup>38</sup> and that the majority of this large portion paid for medical services, treatment for a disease that “he would not more particularly allude to” “than [...] that a large portion of these diseases were such as he would not name in their Lordships’ House; and for the cure of which it would ill become this nation to contribute.”<sup>39</sup>

Eglington’s claims were immediately refuted. Yet, the threat that the behavior of some Poles would elicit similar concerns in the future must have weighed heavily on the LASFP circle in which a concern for the difference between the old and the new Polish refugees had not yet taken on the rhetoric of class distinctions (only political ones). Nonetheless, Britain would not support those whose conduct left anything to be desired. To do so would be to renege on the promise of long-term refuge as a means of enabling the refugees to live *respectable* lives. The refugees would have to maintain the moral stature they had earned in having sacrificed themselves for conscience’s sake at home. Although Eglington’s accusation of sexual immorality did not stick, the greater concern for the economic chances of the incoming refugees, combined with concerns for their political morality, gave the LASFP pause.

The LASFP’s solution was to employ the long-standing option of overseas refuge to the European revolutionaries. The large contingent of Poles and Hungarians who arrived in 1851 would thus be sent to America. Liberal Refugee supporters might not have turned to this plan for

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<sup>36</sup> This view would certainly be consistent with later Anglo-Jewish concerns for the public perception of their Eastern co-religionists post-1880. See Chapter Seven below.

<sup>37</sup> Krzysztof Marchlewicz, “Continuities and Innovations: Polish Immigration after 1849,” in Freitag (ed.), *op.cit.*, (103-120), 107-110.

<sup>38</sup> The other groups receiving funds from the government at this point were the Toulonese and the Spanish – the Toulonese from the Napoleonic Wars and the Spanish, the few who were not amnestied or able to return in 1834.

<sup>39</sup> *Hansard’s Parliamentary Debates*, House of Lords, (March 19, 1849, Vol. 103, 948-953): 949.

transmigration had their ability to oversee those in their care not already come under fire. Lord Dudley Coutts Stuart could hardly have afforded to watch the other Poles lose the vote in Parliament. Such removal seemed par for the course in providing for larger groups of refugees. Dispersing the refugee group promised to ease possible social *and political* tensions and diffuse likely critiques of their behavior, whether those critiques were warranted or not. In the interest of long-term humanitarian relief, the plan set political ideology aside. In the United States there were resources and space enough to promise refugees the possibility of self-sufficiency.

Thus, in March of 1851, when the 262 Polish and Hungarian refugees landed in Liverpool amid cheering crowds, local officials and liberal refugee relief organizers were also on the scene. While funds were established for their immediate needs, local officials – including liberal refugee enthusiasts – attempted to coerce the new arrivals to emigrate once more. Before the crowds had dispersed, a meeting convened at the Liverpool town hall and the town’s stipendiary magistrate assembled the refugees (Poles and Hungarians separately) for a discussion of what they might face in exile. Relying on a translator, Liverpool official Edward Rushton informed each group that “he had not come there to impose conditions, or to induce to take any course which their better judgment might condemn; but those who had proved themselves the best friends of Poland were desirous to avert the worst calamities of exile - the dependence on other people for subsistence.”<sup>40</sup> In this country, Rushton continued:

[O]ur own people find it difficult to obtain even the means of supporting life; and in their [the refugees'] case the difficulty would be augmented by their ignorance of the language of the country. ...[H]e knew that his countrymen would cheerfully give them employment if they had the means, but they had not.<sup>41</sup>

In point of fact, Liverpool authorities regularly witnessed the influx of Irish in numbers much greater than those of the Hungarian and Polish contingent that spring. Life for the Irish was far from easy in the English economy, but the economy itself absorbed these immigrants. Nonetheless, for the refugees, the inability to speak English prohibited any degree of absorption into the local economy. Or, so argued their Liberal philanthropists.

The solution he proposed was that the refugees continue their journey to the United States. The British government would provide the ship and the fare.<sup>42</sup> In an attempt to reward those who accepted the offer, the government promised further assistance to those who would leave immediately. When another ship of Polish and Hungarian refugees arrived at Southampton in June 1851, the mayor wrote immediately to Parliament asking what funds might be expected to help defray the costs of the refugees’ maintenance. Prime Minister John Russell authorized funding on the spot. As with the refugees in Liverpool, the funding came with conditions. Governmental funding was “to be limited to those refugees who were willing to go to America.”<sup>43</sup> The mayor of Southampton began arranging for a ship to America immediately.

Most of the Hungarian exiles at Liverpool accepted the offer of free passage to America at once. The Poles did not accept – a choice that meant they would have to fend for themselves.

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<sup>40</sup> *The Weekly Dispatch*, March 3, 1851.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> *Daily News*, June 9, 1851.

They faced concerted efforts on the part of local officials and elite members of their own exile group to change their minds.

#### THE CHARTISTS AND THE POLISH HUNGARIAN CONTINGENT OF 1851

The attempt to push the refugees to America provoked immediate opposition from British radicals who argued that forcing the rank-and-file to leave was elitist and anti-democratic, a direct insult levied by the more conservative, aristocratic exiles and their British counterparts. These soldiers might not be the illustrious leaders of the nationalist groups so celebrated in upper class society. They could not, as Kossuth would do after his arrival, elicit loans from middling and upper class British subjects for his activities. The few who had come from wealth, unlike Italian Giuseppe Mazzini, or Russian Alexander Herzen, could not draw from personal funds to assist them now. Still, British Chartists argued, they did not deserve to be sent to America, where they would be sequestered from the action. As I argue below, in undertaking to provide refuge for the Polish-Hungarian refugees who decided to remain in Britain, Chartists developed a new form of long-term refugee relief that maintained the refugees' visibility and their political cause while helping them to become self-sufficient. In their campaigns on the refugees' part, these radicals demonstrated how central the refugee question had become to British political morality; their claim that refugees were being improperly treated in their refuge commanded public and official attention.

EXPECTATIONS: PRECEDENT FOR CHARTIST INTERVENTION ON THE REFUGEE'S BEHALF — By 1851, radicals had good reason to believe that their appeals could be effective. The liberal and radical press successfully brought the plight of Italian refugees threatened with expulsion from British Malta in 1849 to the attention of the Imperial Government as I will outline in Chapter Four. Moreover, many Chartists leaders had cut their political teeth following – and taking part in – an 1844 crisis involving beloved Italian exile Giuseppe Mazzini whose rights to privacy the British Home Office seemed to be violating.

In 1844, Mazzini feared that his correspondence was being intercepted. Radical artisan William James Linton, a friend of the Italian patriot, noted that the seal on one of Mazzini's letters appeared to have been tampered with, and tested his suspicions. As it turned out, the letters had, in fact, been opened at the Post Office and, as an inquiry following a petition to Parliament uncovered, key information had been passed from Secretary of State for Home Affairs Sir James Graham to the Austrian Government.<sup>44</sup>

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<sup>44</sup> According to F. B. Smith's biography of Linton, Linton had the "unimpeachably honest" William Lovett send a letter, folded in a particular manner to Mazzini – the folding of it witnessed by an impartial observer. When the letter arrived, the letter appeared intact, the seal unbroken. However, the paper was folded in a different manner, confirming their assumption. Smith, *Radical Artisan: William James Linton, 1812-1897*, (Manchester: Manchester University Press, 1973), 54.

Once this was determined, Linton and Mazzini petitioned Parliament, charging that:

... That your petitioners cannot but consider such a practice as an introduction of the spy system of foreign states, alike repugnant to the free spirit of the British constitution, destructive of that confidence so necessary in a commercial country, and a most dangerous precedent of encroachment upon the liberties of the people. And as your petitioners are prepared to prove the truth of the above allegations your petitioners pray that your honorable house will be pleased to appoint, without delay a committee of inquiry, and by the interpretation of your authority not only give immediate redress to your petitioners, but also effectually prevent the recurrence of so unconstitutional and infamous a practices.

This scandal mobilized radicals, like Linton and William Lovett, as well as Joseph Cowen who, though still a student at Edinburgh, would remember the affair as his initiation into the politics of protest.<sup>45</sup> Beyond political radicals, the affair outraged the more mainstream middle class, including Mazzini's friends, Thomas and Jane Welsh Carlyle. In Parliament, the investigation into the affair and the constitutionality of Graham's actions elicited debate that would last into the following year. Their task became much greater than the rights of the individual refugee himself. It involved an attempt to determine (and to set) precedent in a rapidly expanding area of state bureaucracy – the postal service, and its relation to the Home and Foreign Offices.

In the end, the government report on the 1844 Affair was markedly vague on the question of right and future precedent. The committee found plenty of examples – typically during times of heightened security concern – of state surveillance of foreigners' *and British subjects'* correspondence.<sup>46</sup> The question remained as to whether precedent ought to rule the future course of action. The dilemma, as it touched on privacy rights of ordinary British subjects likewise remained to be determined. The Affair was, nonetheless, crucial in bringing these matters into consideration.<sup>47</sup> As such, the case – ostensibly about a foreigner – had the visceral power to call British law into question.

THE CRY OF FOUL PLAY — Hoping that they could bring similar public scrutiny to the case of the Polish Hungarian Contingent in 1851, British radicals established a special newspaper within weeks of the refugees' arrival. The *Refugee Circular*, edited by James Spurr and William

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(Petition to the Commons Signed Sarafino Calderara, William Lovett, W. J Linton and Guisseppi Mazzini, British Library Manuscripts, Add. Mss. 79743. Graham Papers. Vol. CLIII, ff. 48.)

<sup>45</sup> Nigel Todd, *The Militant Democracy: Joseph Cowen and Victorian Radicalism*, (Tyne and Wear: Bewick Press, 1991), 12. Two factors fed into the public outcry. First, refugee sympathizers bristled at news of the defeat of the Bandiera brothers (Italian nationalists) in June 1844. They (probably correctly) linked that defeat to information forwarded to the Austrian Government. Secondly, the timing of these events, moreover, coincided with an increase in domestic use of the postal system and concerns over the privacy. Forging a seal was an offense worthy of transportation, as historian F. B. Smith notes in his work on Linton. Constitutional rights seemed to be in the balance, between the right to privacy, on the one hand and the state's right to *protect* the nation, on the other. Yet, there was little evidence that Mazzini was a threat to Britain and, as Mazzini would later protest against the Conspiracy to Murder Bill, the British State seemed more keen to "protect" Austria than her own constitutional interests.

<sup>46</sup> Report of the Secret Committee on the Post Office Graham Papers, vol. cliii, BL MSS Add. Mss. 79743, ff. 99-108.

Biographers of Sir James Graham have used the public and parliamentary inquiries to discuss the high political history of the affair and how Graham bore the brunt of the outrage, and would remain a popular scapegoat. Chartist biographers find in this affair the kernels of their subjects' radical mobilization, as well as their connection to continental exiles. Setting the events in a broader context, looking forward, David Vincent has read the 1844 Letter Opening Affair as the beginning of a cultural framework for bureaucratic secrecy. Edward Turner, "The Secrecy of the Post," *The English Historical Review*, Vol. 33, No. 131 (Jul., 1918), 320-327; A. P. Donajgradzki, "Sir James Graham at the Home Office," *The Historical Journal*, Vol. 20, No. 1 (Mar., 1977), 97-120; and David Vincent, "The Origins of Public Secrecy in Britain," *Transactions of the Royal Historical Society*, Sixth Series, Vol. 1 (1991), 229-248.

<sup>47</sup> In the House of Commons, Monckton Milnes railed against the foreign policy that would uphold such a practice. He went on to assert that neither he nor those with more expertise in constitutional law knew what gave the authorities such power to open an individual's private correspondence, whether they were British subjects or not. Thomas Babington Macaulay would not support Milnes's censure of the Secretary of State. Yet, Macaulay too agreed that correspondence was one's personal property, whether letters were in transit or at one's house. As such, officials could have no authority to open letters without a warrant. (*Hansard's Parliamentary Debates*, House of Commons Debates, (February 20, 1844, series 3, vol. 72, c. 839-842)

This was not, however, the end of governmental surveillance of refugees, but the beginning. Vincent's *Culture of Secrecy* follows the bureaucratic history in a broader sense, leaving the example of the refugees. Bernard Porter ends his 1979 *The Refugee Question in Mid-Victorian Politics* with the "continentalization" of British policing. This meant, for the refugees, constant surveillance. Porter's *The Origins of the Vigilant State: The London Metropolitan Police Special Branch Before the First World War* (1987) follows this surveillance further. As I will further outline in the following chapter, this *caving* to continental style policing, and rising fear at home, did lead to greater vigilance, however, it did not simply end Britain's desire to provide refuge, or increase dislike of refugees (as Porter assumes in his 1979 text). Chapter Five outlines that evolving relationship in the case of continental Anarchists and Communists.



Costine out of Liverpool,<sup>48</sup> coordinated efforts to oppose the ‘aristocratic’ attempt to force the refugees to America. According to Spurr and Costine, there could not be found, in “the annals of Liverpool” history, a similar affair. There were no records of threats or indications that past refugees had been “persuaded, threatened, and coerced to emigrate to America; and that if they determined to remain in England, they should be treated in the most ignominious manner.” Instead, “we find a very noble example set by the Mayor and Magistrates of 1829, who got up a Ball at the town-hall, in aid of a number of Spanish and Portuguese refugees, which was attended by upwards of 1200 persons, and realized the handsome sum of 650.” The problem could not be the numbers. The radical press denounced the class-based assault on the latest influx of refugees and vowed to assist the refugees themselves.

The Chartists, along with the ‘democratic’ exiles already in Britain, sent envoys to the newly arrived refugees from Asia Minor to counter the efforts of Dudley Coutts Stuart, local officials like Rushton, and elite exile circles. Pole Stanislaus Worcell, a friend of the Chartists and part of the Polish Democratic Society, visited the Poles and the Hungarians in turn. Stuart railed against this visit. Worcell was “holding out delusive prospects to his countrymen, [who] changed their minds. Even the Hungarians who seemed disposed to leave now to waver.”<sup>49</sup> The editors of the *Refugee Circular*, by contrast, underlined that Stratford Canning, British consul to the Ottoman Empire, “had been plainly told that our wish was to land at Liverpool, with which he complied, with no other view than that those who deemed it better to remain in England should do so.” The request, as the British democrats argued, was well understood in Britain too, long before the exiles arrived. Worcell knew their desires to remain in Liverpool. His visit, argued the *Circular*, was nothing other than a welcome to those who had already decided to remain, as had been the Foreign Office’s promise.<sup>50</sup> From London, the ‘aristocratic’ refugees attempted to counter this assertion, publicizing through the press that many of their fellow exiles in fact had already agreed upon an American exile. Not only had they agreed upon America, such had been the ardent wish of Kossuth who was still trapped in the East. Reading from a letter from Kossuth, Frederick Pulszky claimed that he was to speak for the refugees (not Worcell). Kossuth had asked Pulszky to:

[B]e the support and the patron of our abandoned countrymen when they arrive to you. It is not to maintain them on alms, for this can lead to no result; but to convey them to America, this is what I claim for the brave martyrs of a noble cause, who do not seek anything else than an open field for their activity.<sup>51</sup>

British radicals too claimed to understand better the nature of the refuge required for these “brave martyrs.” Unlike those of the LASFP circle and their ilk, British radicals claimed to understand the exiles’ desire to remain within Britain. After all, it was the same desire evinced by the Polish and Hungarians’ more affluent countrymen many of whom had lived comfortably in England, remaining engaged with continental politics for twenty years. Why should some stay

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<sup>48</sup> Costine was the committee president and Spurr the secretary of the radical, ‘working class’ Liverpool Committee to raise funds for the Polish and Hungarian Refugees. For more on their project, *see below*. *See also*, John Belchem, “Britishness, asylum-seekers and the northern working class: 1851,” *Northern History*, (Vol. 39, No. 1, 2002, 59-74).

<sup>49</sup> *Liverpool Mercury*, March 11, 1851.

<sup>50</sup> *Refugee Circular*, April 12, 1851.

<sup>51</sup> *Newcastle Chronicle*, March 14, 1851, citing Frederick Pulszky’s letter to the *Daily News*.

while others should be made martyrs once more because they happen to be additionally suffering from poverty?

ALTERNATE PLANS — Of the 262 arrivals at Liverpool, 218 remained in Great Britain, resisting the arguments of Lord Dudley Coutts Stuart and local officials for a second emigration.<sup>52</sup> While the government believed that Britain met her responsibility to provide refuge by providing passage to America, radicals banded together to provide alternate shelter within Britain. Responsibility, the *Circular* triumphantly stated, now “devolves legitimately upon the working classes, in Liverpool and throughout the country, to discharge that duty towards these homeless and friendless exiles, that should have been performed by the representatives of English power and authority.”<sup>53</sup> Their plans, they argued, unlike the government’s, would live up to previous examples of British liberality and hospitality.

Their alternatives involved efforts to combine a model of assistance by subscription and an effort to absorb the refugees into local communities by parcelling them out in smaller groups – a model of relief that remains with us today. In contrast to the ‘aristocratic’ plans to absorb these refugees into overseas settlements, the ‘working class’ planned to dispatch the refugees across the country. Rather than sink into oblivion, the refugees and their cause would become the signifiers of the common democratic struggle and help to create a network of like-minded, international-thinking British subjects.

Radical artisan William Linton wrote to the *Northern Star* in March 1851, it would be a shame if Chartists did not willingly perform this duty. Rather than pay into a general collection, subscribers – or a group of subscribers – were to sponsor a specified refugee, paying for his living expenses directly. If Chartists could “divide themselves into relief committees of twenty men, each committee undertaking to *guarantee the support of one man*, the work is done. 20x 232 is 4640.” By Linton’s calculation he “believe[d] there are 4640 Chartists; not one of whom ought to shrink from even the sacrifice of *sixpence a week to save his brother from starvation*.”<sup>54</sup> Linton, like refugee supporters in Newcastle, reminded his audience that this would not be a “life-burden.” The ten shillings per exile each week would enable them to avoid starvation while they learned English. Once they had learned English, they would find gainful employment.<sup>55</sup>

Costine and Spurr’s Liverpool Polish and Hungarian Refugee Committee put parts of Linton’s scheme to use. Whereas Linton’s efforts did not require refugees to live near their sponsors, the Liverpool committee sent their refugees in groups to hosts throughout the country, particularly in the north. Willing hosts invited only the number of refugees they could afford. The committee’s broad network of radicals – connected by radical press and the *Refugee Circular* – enabled branch associations to learn of the scheme, and to keep tabs on its progress. Whereas Linton’s scheme treated relief as an emergency tactic only, the branch operatives were not simply to dole out temporary funds for their refugees. They were to help to provide housing, English lessons, and to find willing employers, as well.

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<sup>52</sup> Of the original figure 42 went to America, and four left for France. A total of 13 left by August 1851 for France, though there were no additional emigrants for America. Belchem (based on accounts in the *Refugee Circular*), 70.

<sup>53</sup> *Refugee Circular*, April 16, 1851.

<sup>54</sup> *The Northern Star*, April 5, 1851, letter dated March 21.

<sup>55</sup> Francis Newman espoused a similar idea for the Hungarians in London at the end of 1851. He suggested that supporters of Hungary host individual refugees for a period of time. However, his plan – addressed to Stuart – was predicated on the reception of higher class refugees (“gentlemen”) into the homes of their social peers. The insistence on class standing certainly underscored the Chartists’ views of mainstream refugee ‘assistance,’ at least in the case of these particular refugees. (See, Newman’s letter in the *Daily News*, January 1, 1852.)

In Newcastle, a March 1851 meeting was called on the behalf of the refugees then in Liverpool. Although local notables sympathized with their plight and honoured their bravery, the town meeting supported their emigration to America. The *Newcastle Chronicle*'s editors withheld judgement, but admitted that authority was on the side of the Liverpool officials, not the refugees who hoped to remain within Britain. Despite this early ambivalence, Newcastle received her own contingent of Polish and Hungarian refugees. Joseph Cowen and a group of "zealous friends of liberty and humanity" were responsible for inviting the refugees, undertaking their relief as a part of Spurr and Costine's network. They brought twelve Polish refugees to Newcastle, though as many as ninety were assembled for a meeting in Newcastle before being sent to nearby towns. Although the *Newcastle Chronicle* was careful to note Cowen's responsibility in the matter, the editors highlighted how enthusiastically the population of the town greeted them. The meeting upon their arrival was "crowded to excess, hundreds unable to obtain admission." It would be "necessary," explained the editors, "to hold another meeting or soiree at a future time." Among those who led the meeting were the same town notables who, in March, had supported further emigration to America.<sup>56</sup>

Taking its cues from the Liverpool committee and from Linton's scheme, the Newcastle refugee committee, including Joseph Cowen, organized parties (of 20 or 30 individuals) to take the charge of one of the twelve refugees, to raise funds for that one refugee and find employment. As a whole, the committee helped to organize soirees, distribute pamphlets and advertisements to their fellow townsmen of the situation and, in addition to eliciting their sympathy – which was abundant – sought to elicit *practical* support, i.e. relief funds.<sup>57</sup> The funding drive seems to have floundered somewhat. When the committee folded the following fall, Cowen paid its debts. However, the Liverpool Committee and its network fared well overall. Like Newcastle, the branch association in Sheffield welcomed 31 refugees, 8 went to Glasgow, 14 to Leeds, and 19 remained in Liverpool. Among other towns, Hull, Northampton, Royton, and Dundee took smaller numbers, roughly two apiece. In this manner, the joint effort absorbed the 219 exiles.<sup>58</sup> Of the twelve brought to Newcastle, nine were employed by July. One, for instance, worked as a moulder at a factory. Another moved slightly out of Newcastle for employment at a North Shields magnesia works.<sup>59</sup> Testimonials spoke very highly of the refugees. Invariably, the refugees were upstanding, sober, and dedicated workers. Whatever their class of origin, the refugees appreciated the work they received and generally reflected well on the 'friends of liberty and humanity' who had enabled them to remain in the country.

Most of the Liverpool network's activities were restricted to the north, and to the specific group of exiles that arrived at Liverpool in March. In London, Linton established a parallel society for Hungarian and Polish refugees, who made their way to the metropolis after the arrival of subsequent ships from the Ottoman Empire at Southampton in June and October 1851. According to one figure, there were an additional 161 Hungarian and Polish refugees in London by the end of the year.<sup>60</sup> Linton's Refugee Guarantee Fund did not disperse refugees from London, as the northern committee had from dispersed the group from Liverpool. Although little

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<sup>56</sup> *Newcastle Chronicle*, March 14 and May 23, 1851. George Crawshay and John Fyfe advocated further removal to America in March, but were entirely supportive of the refugees upon their arrival in Newcastle that May. Both sat on the committee for their relief, of which Cowen was secretary and treasurer.

<sup>57</sup> "The Polish Hungarian Refugees – to the Friends of Freedom and Humanity in Newcastle on Tyne, and its Vicinity," Cowen Collection, A41.

<sup>58</sup> Belchem, 70.

<sup>59</sup> *Newcastle Chronicle*, July 25, 1851.

<sup>60</sup> *The Daily News*, January 1, 1852.

remains of the details of Linton's efforts in the archives, the Fund also fell into debt. Joseph Cowen assisted Linton in paying his bills as well.<sup>61</sup>

Over time, several refugees rose to prominence in Newcastle and Gateshead. W. E. Adams recalled that "Constantine Lekawski, was for years connected with the Tyne Ferry Co, but returned to Poland in 1870 and died there; another, Marian Plotnicki, rose to a good position in the firm of Hawks, Crawshay and Company."<sup>62</sup> Ultimately, we do not know what absorption in British towns meant for the majority of the refugees. We do not know the degree to which they became part of the social life of each city. Nor do we know the extent to which resettlement meant assimilation. As the last issue of the *Refugee Circular* stated in August:

...[T]he condition of all is not what we could hope for on behalf of these champions of liberty – but taking into account the many disadvantages under which we laboured in disposing of them [...], it may be truly said that a great work has been accomplished, which rebounds credit on all who have been engaged in this undertaking.<sup>63</sup>

Over-jubilant supporters quickly sidelined the refugees' social lives. The refugees were to become self-supporting, and many likely assumed that they had become so already. The refugees remained visible signifiers for the public, both in the radical press and at local radical meetings even as *how they lived* disappeared from the records.

REFUGEES AS COMRADES IN 'ARMS' — Official insistence that the refugees must migrate to America had been, for Chartists, evidence that the liberal ethos and the Liberal Party under Palmerston never intended to fight foreign oppression directly. Radicals lamented what they saw as the limited extent to which mainstream liberals sustained their moral outcry on the behalf of the foreign refugees or saw their sympathies through to the logical military resolution when appropriate.<sup>64</sup> In their popular rallies for the refugees, the radicals would now undertake that banner themselves.<sup>65</sup> On the one hand, radical politicians directed their attentions to British

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<sup>61</sup> Belchem, 73.

<sup>62</sup> W. E. Adams, *Memoirs of a Social Atom*, With an introduction by John Saville, 2 Volumes, (New York: Augustus M. Kelley Publishers, 1968, First Edition. London: Huteson & Co., 1903), 273.

<sup>63</sup> *Refugee Circular*, August 16, 1851. This hints at the fact that actual absorption into British society was not as easy as providing each refugee with employment. The Newcastle branch fell into debt, for instance. Joseph Cowen spent a considerable sum to meet the deficit at the committee's disbanding. It remains unclear how such financial difficulties affected those who found employment; the affect must have been pronounced on those yet dependent on the public will.

<sup>64</sup> The outbreak of the Crimean War brought renewed Chartist and refugee hope that the British Government would intervene on the behalf of the refugees. Chartists would be disappointed again. The war shifted the focus in foreign affairs from the plight of the refugees to the tactics of war itself. Polish exiles and Chartist supporters certainly hoped that the war would enable a return to an independent homeland. However, they discovered that their plight was quickly forgotten. As had been a goal for the émigrés during the French Wars, Polish exiles hoped that fighting with the British Army would encourage the Western powers to include the creation of a new Poland at the war's close. The French had been drafted into the British Army (with disastrous results). At mid-century, the government and the people were yet unwilling to arm the Poles. Chartist George Julian Harney believed the public to be incredibly sympathetic. Nevertheless, when it came down to whether they would help to arm a Polish legion – independent of the British military, Harney had to capitulate. In discussing the idea with other enthusiasts, Harney lamented: 'I should be but deceiving you were I to encourage the hope that the British people would by popular subscription furnish the means to arm and equip a Polish Legion.' Despite high hopes, the negotiations at the Treaty of Paris in 1856 also left out considerations for an independent Poland. (George Julian Harney as quoted from the Cowen Collection Archives [Section A, f. 247] in Peter Brock, "Joseph Cowen and the Polish Exiles." *The Slavonic and East European Review*. [Vol. XXXII, No. 78, December, 1953, 52-69], 61.)

<sup>65</sup> Chartists, on the whole, were not the fomenters of immediate revolution the mainstream feared. Common cause with the refugees meant fraternity, and military assistance when the time was right. Ultimately each people would choose its form of governance. Even at the Marxist International Workingman's Association, which would meet for the first time in London in

foreign policy, hoping that the government would in fact follow through on its support for the refugees' cause against Austria and, increasingly (as tensions over the Crimean grew), against Russia, as well. On the other hand, prominent Chartists – Ernest Jones, in particular – used the refugees' experience in the hands of both foreign and British *aggressors* to decry the remnants of authoritarian rule at home.

For Chartist Ernest Jones, the case against Austria was, in this manner, a case against the British state and the oppression of the working classes. While recognizing Britons' relative freedoms, joining in common cause with refugees became a means of revitalizing the cause of freedom at home. Advertisements for subscriptions in the radical newspapers emphasized this point. An article in the *Star of Freedom* put a radical twist on the "sacred duty" to "relieve and protect refugees." The "sacred" here was not religious but an equally weighty imperative prescribed by "justice and fraternity."<sup>66</sup> Ernest Jones took this message much further as he addressed a crowd that gathered in anticipation of the exiles' arrival in December 1850. He celebrated their upcoming release from the Ottoman Empire, but warned that they would not find in England the much-vaunted liberties they had been led to expect. "In England," he explained,

... Yes! They could meet in the open air, provided the police did not interrupt them; they could utter what they thought fit, provided they feared not imprisonment; they had a free press, but it would not report them. Look round the room – there is only the reporter of the *Northern Star*, and of one other paper, present. The law did not respect persons, but it had a great respect for purses; and, whilst they were insulted with charity, they were denied justice. They were told it was the land of wealth as well as of liberty. He acknowledged that: but how was that wealth distributed? The few were kept in luxurious idleness, whilst the many were starving at their toil. ... He trusted the time would soon come when these exiles could return to their own free country, and leave us enjoying the reality, and not the mockery of freedom (hear, hear)...

Jones was hardly the person to wax lyrical about British society. He was a recently released political prisoner. Yet, he was equally relentless in his criticism of the British working classes. For Jones, British democracy was not the valiant cause it was on the continent; it was "a mean, servile, and crouching thing. Ever since the time of the Puritans, it had been craven and selfish." Jones "hoped to god that those gallant exiles would prove the leaven that would infuse the true spirit of Democracy throughout the whole of their ranks."<sup>67</sup> In the years following the landing of the refugees at Liverpool, few radical meetings or meetings on foreign affairs convened without a token refugee on the platform: a sign of the international cause and a sign of the need to act now, so that others would not be martyred in the fight against oppression.

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1864, opted for sharing knowledge between and among workers rather than advocating immediate revolution. Furthermore, Chartist George Julian Harney's *Red Republican* had translated and published *The Communist Manifesto* in 1850, but Marx's sanguinary vision of revolution was quickly sidelined. Intervention, according to the People's International League in 1847, was not to be violent. (*Address of the Council of the People's International League*, 3-4.)

<sup>66</sup> *The Star of Freedom*, June 26, 1852.

<sup>67</sup> *Northern Star*, December 21, 1850. This notion that refugees could regenerate British society would be repeated in the 1880s and 1890s among refugee supporters as a point in favor of the industrious Eastern European Jews who, like the Huguenots, would found important trades.

Scholars of this period, the few who highlight Chartist involvement with refugees, have searched high and low for the ultimate political payoff of this platform for the Chartist agenda. There was little payoff. Beyond the Chartist domestic reform agenda, however, Chartists' campaign on the refugees' behalf had a tremendous impact on the refugee question on the national stage. As John Belchem has argued in his account of the northern support for the Polish Hungarian Contingent, the campaign brought the otherwise disenfranchised refugee advocates into a discourse of national enterprise – that of refuge in the name of the British nation. It made them participants. Moreover, it gave British radicals the confidence to continue their agitation for the rights of persecuted foreigners (European revolutionaries, in particular) to both political support for their cause and to a respectable, British refuge.

From the early 1850s, British radicals became actively involved in continental insurrections, increasingly assertive that the time for action was at hand. Chartist George Julian Harney wished that the public supported a Polish legion in the Crimean war. Whereas this support was not forthcoming, middle-class radicals did in fact support Garibaldi's Italian nationalist army. The Garibaldi Fund, founded in 1856 under the auspices of regular refugee supporters George Holyoake, James Stansfeld, William Ashurst and R. H. Crawford, among others, provided arms to Italian soldiers. The Fund raised an incredible £30,000 in four years from a radical middle and working class base. In addition to financing campaigns, middle class British men and women joined the army themselves. Jessie Mario White famously followed Mazzini to Italy, and was imprisoned alongside other revolutionaries. A later incarnation of the Friends of Poland formed later under the auspices of Cowen, William Shaen, and W. E. Adams. Like the Garibaldi Fund, the committee finally managed to raise funds for what Adams notes was the last Polish insurrection in the 1880s.<sup>68</sup>

Garibaldi's romanticized struggle was more or less open warfare, not the secret revolutionary conspiracy the LASFP had feared from the democrats in the 1840s. Confidence in British ability to assist in change overseas did, however, encourage a few radicals to help to foment revolution covertly, hoping to help bring about more precipitous change. Years before he openly helped a Polish legion form, Newcastle radical Joseph Cowen corresponded with Polish revolutionaries, sending unidentified parcels and helping the revolutionaries on the continent to maintain secured contact with one another, and with their friends in Britain. His correspondence was conducted in invisible ink and some of it likely conveyed information relative to his involvement in a January 1858 attempt by to assassinate French Emperor Louis Napoleon.<sup>69</sup>

Whereas police never detected Cowen's involvement in their anxiety to find co-conspirators in the Orsini Affair, others were. Italian Felice Orsini had lived in exile in Birmingham in the months preceding his attempt in Paris on the French Emperor's life. There, he seemed to the Home Office to have had the assistance of a French exile, Dr. Simon Bernard. Bernard was arrested and placed on trial for murder. Two British Chartists were also accused of encouraging the attempt, albeit more indirectly. The State accused W. E. Adams of libel for his inflammatory tract entitled *Tyrannicide*, and printer Edward Truelove for publishing the piece in Britain. Adams escaped in time to America. Truelove and Bernard were both placed on trial in

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<sup>68</sup> O'Connor, 90; Lucy Riall, *Garibaldi: Invention of a Hero*, (New Haven: Yale University Press, 2007), 295. In the late 1850s Jessie White would marry nationalist fighter, Alberto Mario, in 1857; unlike Garibaldi's triumphs, the 'last Polish insurrection' failed miserably (W.E. Adams, 442-3).

<sup>69</sup> For what remains of this correspondence, see: Secret correspondence between Joseph Cowen and the Polish Leaders (1853-55), Cowen Collection, A189. The third letter in this series contains instructions on how to read the invisible ink. On Cowen's discretion in this matter, see, Nigel Todd, *The Militant Democracy: Joseph Cowen and Victorian Radicalism*, (Tyne and Wear: Bewick Press, 1991), 9.

the late winter of 1858. Fearful of such home-grown conspiracies, Palmerston brought a Conspiracy to Murder Bill before Parliament at the same time. Although targeting British radicals as well as foreigners in Britain, the bill would have made asylum for foreign nationals more restrictive. Like the Aliens Act of 1793, it would enable authorities to observe foreigners and extradite those determined – either by British authorities or by their foreign allies – to be dangerous revolutionaries.

I will elaborate on official and public concerns for conspiracy among refugee circles later.<sup>70</sup> For now, suffice it to say that the Conspiracy to Murder Bill and the trials of Dr. Bernard and Truelove provoked widespread public backlash that would extend far beyond the radical community. The way in which the campaigns against the state's actions were waged employed Chartists' discourse about the imperative to provide refuge and condemned the officials who could so turn on those whose freedoms and liberties they were supposed, as Englishmen, to protect.

For the public, especially the radical press, these three attempts provided ample evidence of the British government's hypocritical claims to freedom. The Liberal public and the radical press together denounced the Conspiracy to Murder Bill. As Bernard Porter has argued, the bill might have stood a chance in Parliament, had it not appeared to be a direct concession to the French Government. A violation of national sovereignty, the bill – as Edwin James argued at Bernard's state trial – offended a broad-based liberal ethos to the core.<sup>71</sup> For refugee supporters and the refugees themselves, the French imposition was yet another instance of the French Emperor's hypocrisy. As Mazzini wrote to Louis Napoleon in a letter written more for the British public, the French usurper had been “an exile in England” where he had “incessantly plotted against a constitutional king, to whom you had pledged your honour to conspire no more and you finally organized an armed descent on the shores of France.” That he could demand British assistance now would be, in the mind of an Englishman, to:

...[D]esert the old traditions of an individual liberty, which has proved a blessing to our land, but enacting measures implying, if they are to be enforced at all, a wholesale system of espionage, secret police doings and arbitrary interpretations? Why should we abandon our honest, clear precise method of legal definitions, and resort to those vague formulas of excitation and instigation, which gave rise, in your own country to précés

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<sup>70</sup> See Chapters Four and Five below. In truth, the Home Office had never ceased to keep tabs on foreign refugees. The refugees of allied states, particularly the Portuguese in the late 1820s-30s were cautioned not to engage in revolutionary activities at the risk of compromising British foreign relations. (See, Correspondence between Marquis de Palmella to the Duke of Wellington, London, Dec 3, 1828 in *Parliamentary Papers*, Papers respecting Relations between Great Britain and Portugal, 1826-29, (1829 [002]), 83.) In the 1840s and 1850s, Home Office agents infiltrated refugees' meetings and conveyed information to the Metropolitan Police *and to foreign governments*. Undercover detective John Sanders reported to the Home Secretary and to the Metropolitan Police on the activities of the refugees whose networks he had managed to infiltrate, especially of the radical, democratic-socialist refugees on Jersey (in the British Channel Islands). (PRO HO 45/4816, Refugees: Refugees, 1853.) By making conspiring against a foreign state a felony, however, Palmerston's 1858 bill would have given government the teeth once more to extradite refugees.

<sup>71</sup> As I set out in my introduction, Bernard Porter's study of refugees in mid-Victorian politics takes as its argument the point that the British would rather tolerate refugees than see their freedom of movement curtailed. (Bernard Porter, *The Refugee Question in Mid-Victorian Politics*, (Cambridge: Cambridge University Press, 1979). For Porter, thus, the Conspiracy to Murder Bill and the apparent foreign imposition on British sovereignty are central to making his claim. His last chapters focus on this 1858 moment in particular (Porter, Chapter 6, “The Orsini Affair”). The British, according to his argument, did not like these refugees at all, nor is there a sense in Porter's book of a broader cultural imperative to provide relief or refuge in a positive sense. He only addresses the concern in the negative: why did British authorities not expel refugees. (Porter, Chapter Four, ““Public Opinion””)

de tendance, so often branded by you when you were still an uncrowned conspirator?<sup>72</sup>

Though he claimed to be unable to speak for the British, Mazzini's letter captured British uneasiness with the Conspiracy to Murder Bill. The bill, according to Mazzini, would undo the long history of British refuge, would do so in a manner that abetted a French despot and that promised to unleash in Britain a system of espionage along a continental model. Liberal Britain, proud of its tradition of refuge, would hardly renege on it at the behest of a foreigner.

More serious to British liberties were the encroachments the British government made in trying Truelove and Dr. Bernard. To try Truelove was to undermine the supposed freedom of the press.<sup>73</sup> To try Bernard was to revoke a long-celebrated tradition of refuge. Bernard's attorney, Edwin James flattered the English jury's prudence in the face of French hysteria and attempted persecution of an individual who sought asylum in Britain. "Tell him [Napoleon III]," James exclaimed, "that on this spot your predecessors have resisted the arbitrary power of the crown, backed by the influence of crown-serving and time-serving judges. Tell him that under every difficulty and danger your predecessors have secured the political liberties of the people." "Tell him," he said, "that the verdicts of English juries are founded on the eternal and immutable principles of justice." In asking the jury to address Louis Napoleon, James highlighted the wisdom of the people in matters of personal and national liberty. Juries had long resisted crown encroachments. As Holyoake would celebrate, this successful apostrophe to the people's sovereignty spoke directly to the radical platform.<sup>74</sup>

Their arguments prevailed with the jury. Truelove and Bernard were both acquitted. Bernard was found not guilty, the court declaring that an alien cannot be indicted by current law "for being accessory to the murder of an alien by an alien abroad" if the only evidence of that crime was "evidence of acts done by him abroad."<sup>75</sup> The Conspiracy to Murder Bill failed in its next reading in Parliament. With the failure of the bill, Palmerston's government toppled. The administration that had become so popular in part thanks to its leader's support of foreign refugees had betrayed itself in the public mind.

The campaigns against the bill, and against the indictment of Bernard and Truelove were about the rules of evidence, about national sovereignty, and about the liberty of the press. Nonetheless, the campaigns were waged through the fulcrum of the refugee question and a British responsibility to provide refuge. As the Chartists had discovered, this moral imperative was not only about the lives of persecuted foreigners. The debate over British refuge and the rights of refugees in British refuge – so poignant for the public at large – invariably drew immediate attention to the British policies, foreign and domestic, that this imperative touched.

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<sup>72</sup> Giuseppe Mazzini, Letter to Louis Napoleon from the *Morning Advertiser*, March 29, 1858, as found in the Charles Bradlaugh Collection, Number 54, Bishopsgate Library, London.

<sup>73</sup> See, Charles Bradlaugh, Hon. Sec. to the Defence Committee to William Hilton, (Bolton): an appeal for help for Edward Truelove, (written on a Truelove Defence Fund letter), Bradlaugh/70 (undated), Bishopsgate Institute Library, London, UK.

<sup>74</sup> Too bad, reminisced Holyoake, Edwin James would turn out to be such a scoundrel when elected to Parliament, losing favor and standing. Edwin James as quoted in George Holyoake, *Sixty Years of an Agitator's Life*, 2 Vols. (New York: Garland Publishing, Inc., 1984), 32.

<sup>75</sup> "The Queen against Simon Bernard," in *Report of State Trials*, New Series, Vol. 8, 1850-1858, (London: Eyre and Spottiswoode, 1898, 887-1064), 887.



## CHAPTER FOUR

### GOVERNING MORALS? REFUGE ACROSS THE BRITISH EMPIRE

...[B]y the laws of England, I had a perfect right to take up my residence on English soil, which Malta, as an English possession, must be considered. But the governor was inflexible.<sup>1</sup> ~ Italian, Luigi Bianchi

Across Britain, refugee supporters might have disputed where British refuge was best provided over the long term. The assumption they shared, however, was that persecuted foreigners could find shelter on British soil somewhere, and that the outright expulsion of refugees was morally reprehensible. Moreover, by the middle of the nineteenth century metropolitan refugee supporters assumed that this moral norm was an imperative they shared with their compatriots in the expanding British Empire. Yet, three high profile cases at mid-century would make it painfully clear that this was not necessarily the case. On Malta, Governor O’Ferrall turned Italian refugees away at the port, and expelled others already on shore. On the Bailiwick of Jersey in the Channel Islands, Lieutenant-Governor Love ordered the police to escort several dozen *dangerous* republican refugees off the island. In Canada, colonial administrators and the local judiciary stood poised to render the *murderer* John Anderson – a refugee slave – to the United States.

Metropolitan refugee supporters were stunned that administrators in the British Empire could expel persecuted foreigners at will. Supporters rallied to the refugees’ defense and lobbied the imperial government in each case. A diverse refugee lobby demanded that the imperial government install on British soil overseas the same constitutional protections refugees enjoyed on English soil. They assumed that through the exertions of the government at Whitehall, London a moral imperative to provide refuge could be enforced across the Empire.

In each case, refugees, prominent officials, legal scholars, and the metropolitan public at large struggled to determine whether and how the imperial government could safeguard the right to asylum in overseas territories. At a time of attempted constitutional reform in Canada, on Malta and on Jersey, Whitehall’s legal and political powers to intervene were poorly understood at best. At worst, the imposition of the imperial government, though for a *moral* cause, threatened to sour tenuous colonial-metropolitan relations. Administrators on Malta and on Jersey in particular further argued that such metropolitan ignorance threatened the local peace. They challenged whether refuge was appropriate everywhere, suggesting that local exigencies made harboring these foreigners too dangerous to allow. For refugee supporters at the heart of the Empire, such local concerns were devastating, exposing Imperial Britain as insufficiently liberal to provide refuge to those persecuted by illiberal regimes overseas.

The chapter that follows examines metropolitan reaction to the treatment of Italians on Malta, the French on Jersey, and fugitive slave John Anderson in Canada.<sup>2</sup> I examine the

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<sup>1</sup> Luigi Bianchi, *Incidents in the Life of an Italian: Priest—Soldier—Refugee*, (London: James Nisbet, 1859), 282.

<sup>2</sup> Only the case of the Jersey expulsion has been considered as a part of refugee history and, even then, only as an extension of metropolitan refugee affairs, not as an outgrowth of local circumstances in a British dependency. I hope that this chapter redresses these oversights in the literature. Sylvie Aprile, “Voices of Exile: French Newspapers in England,” in *Exiles from European revolutions: refugees in mid-Victorian England*, Sabine Freitag (ed.), (London: Berghahn Books, 2003, 149-163) for the Jersey refugees; for Anderson, see David Turley, “‘Free Air’ and Fugitive slaves: British abolitionists versus government over American Fugitives, 1834-61,” in *Anti-Slavery, Religion and Reform: Essays in Memory of Roger Antsey*, (Folkestone, Eng.:

metropolitan campaigns and the imperial and colonial responses in each case. The final section of this chapter follows the implications of arguments made for the expansion of refuge in each of these cases. I highlight how the claims refugees and their supporters made – especially in the case of Italians on Malta and the French on Jersey – historicized British refuge for the first time. The British must provide refuge for these foreigners, they argued, because they had always done so.

The historical narratives they created were compelling, but also ironic. Refugee supporters – and the refugees themselves – conjured a history that aimed to make refuge more universal, more applicable to a broader number of groups than it had applied to in the past. But, they also attached increasing importance to an older confessional-cum-national morality, emphasizing traditional *Protestant* refuge as the antidote to Catholic persecution. Refuge was at once a very British endeavor and a less nation-specific, human one. This duality was uneasy and would become increasingly so. In origin it was a set of rhetorical arguments aimed at the inclusion of each group of foreigners. By the end of the century, however, whether one subscribed to the one history of British refuge or the other had grave implications as to which groups of foreigners could be included *and which groups would be actively excluded* from British refuge.

#### THE NEAREST FREE SOIL: REFUGE ON JERSEY, ON MALTA AND IN CANADA

Neither foreign refugees nor their British supporters could have anticipated the extent to which the three crises of 1848-49 on Malta, 1855 on Jersey or 1861 in Canada would challenge their assumption that refuge extended to all British soil: each of these locales had long been a shelter for foreigners from neighboring nations. In each, local relief efforts for foreign refugees were well organized and more or less tailored to the refugees whose presence caused political and imperial tumult in the moments under consideration. Despite these long-standing practices, new local exigencies particular to each dependency made challenges to standard refuge not just possible, but probable.

LIKELY PLACES OF REFUGE — Canada, Jersey, and Malta had long been first stopping-grounds for foreigners fleeing persecution in neighboring states. Canada, since the eighteenth century, had been a primary destination for American slaves, and became all the more so after the abolition of slavery in Canada in the 1830s. At the time of the revolutions on the Italian Peninsula in 1848-9, Malta was the nearest neutral territory for those fleeing both the initial revolutions and then the counterrevolutions. Jersey in the Channel Islands was likewise a practical haven for refugees. Only fourteen miles from coast of Normandy, the island had been a

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W. Dawson, 1980, 163-182). Turley rightly puts Anderson's case in a longer line of court cases involving slavery and the slave trade, including importantly the *Amistad* and the *Creole* cases of 1841. Each case involved slaves who rebelled against their captors on the seas and sought protection in a foreign territory, in the former America, and in the latter the British Caribbean. Both decisions involved determinations over whether a foreign nation could protect or free Africans claimed as slaves by a slaveholding power. I focus on the Anderson case here not because the others are not important, but because it tested British-refugee relations in systematic way that the others did not. The *Amistad* trial (an American court case but one closely watched in Britain) revolved around the interpretation of anti-slave trade laws, not asylum/refugee policies. The *Creole* case importantly took place on the eve of the Webster-Ashburton Treaty outlining extradition law, as I will discuss below. It would be in the wake of this treaty that the place of the fugitive slave in British law would become of particular significance. There has been no scholarship on refugees on Malta as far as I have found.

haven for French refugees for centuries. Fiercely loyal to Britain, Jersey had protected the victims of continental persecution since the 1685 revocation of the Edict of Nantes.<sup>3</sup>

Jersey — While French-speaking Jersey offered a practical shelter for French nationals, her population was relatively insular, leaving native/non-native relations tense in the nineteenth century. The native Jersey elite was comprised of a few dozen families, including the descendants of the Huguenots, most interacting with members of their extended family on a day-to-day basis. Their system of governance encouraged a degree of insularity as well. Jersey was a self-governing crown dependency with a lieutenant governor and bailiff appointed by the crown. While a local council could enact temporary ordinances, the States (their assembly) could not enact law without the approval of the crown. In this Jersey did not differ from other British colonies. However, the language and custom of the island prohibited ready translation for outsiders, even those used to the shared supervision of local and imperial authorities. The high barrier was noted within Britain. Metropolitan politicians commented on Jersey's government rarely and then only to complain, as George Hatfield (MP for Sheffield) did in 1858, about the incomprehensibility of the island's Norman-French customary law.<sup>4</sup>

Despite this relative insularity, Jersey – the town of St. Hélier, especially – had a significant non-native population: roughly 15,000 “foreigners” as opposed to 41,000 natives. Their presence was all the more noticeable by the middle of the nineteenth century given their concentration in St. Hélier, the population of which was approximately 30,000. With 12,000 English, Scotch, and Irish inhabitants, this large “foreign” minority tended to be more politically progressive than the conservative country parishes.<sup>5</sup> By the 1850s, prominent English inhabitants hoped for reform – or Anglicization – of the structure of Jersey's government.<sup>6</sup> Natives, by contrast, hoped to stave off change and continued to resist reform efforts from the outside.

It was into this political context that a new wave of continental refugees arrived in the wake of the 1848 revolutions. We do not know exactly how many refugees settled in St. Hélier, but in 1853 the Home Office estimated the number to be 126 political refugees in Jersey, including 108 French, 10 Italians and 8 Hungarians and/or Germans.<sup>7</sup> It is likely that the refugee community was relatively self-supporting or that they received assistance from the considerable French artisan community in St. Hélier, but the evidence is scarce.<sup>8</sup>

Between 1848 and 1854, the native population seems to have been more or less ambivalent to their presence. Occasionally the *Chroniques de Jersey*, a St. Hélier-based newspaper, covered refugee affairs. When it did, the newspaper tended to be more interested in

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<sup>3</sup> Since the fourteenth century, Jersey had been an important military bulwark. Carolyn Lougee Chappell at Stanford has been working on this early period on Jersey as a French Huguenot refuge.

<sup>4</sup> George Hatfield exclaimed that the “Jersey ‘residents’ were Englishmen enmeshed in a tangle of incomprehensible laws,” Jersey Heritage Society, “The Laurel and the Rose: Party Politics in Jersey,” (<http://www.jerseyheritage.org/media/PDFs/politics.pdf>), 6. Indeed, the Englishman Octavius Rooke undertook his history because Jersey was so little understood back at home. British subjects interested in Jersey law, nineteenth-century commentators noted, would find the best education not at Temple Bar, but in France. Rooke, *The Channel Islands: pictorial, legendary, and descriptive*, (London: L. Booth, 1857), preface; and David Thomas Ansted and Robert Gordon Latham, *The Channel Islands*, (London: W.H. Allen, 1862), 531 & 545.

<sup>5</sup> Ansted & Latham, 582.

<sup>6</sup> Anglo-Jersey inhabitant Abraham Le Cras called for a Royal Commission on the subject of reforming Jersey's legislative process. It convened in 1846. Whereas Le Cras took the extreme position that the Jersey Courts ought not to have any legislative power, the Commission ultimately recommended that the Jersey Court be run by three appointed judges and that it establish an English-style independent police force. These recommendations were left aside for more than a decade, until a second royal commission convened to contemplate Jersey constitutional rule in 1859-60. Jersey Heritage Society, 6.

<sup>7</sup> Sanders to Home Office, March 19, 1853, PRO HO 45/4816.

<sup>8</sup> Ansted & Latham, 582.

their mournful funerals than the politics of these “republicans.”<sup>9</sup> There is little doubt, however, that the generally conservative government became increasingly anxious about the presence of so many radical revolutionaries on the island. After Louis Napoleon’s *coup d’état* in 1851, the exile community became significantly more radical. These refugees tended to be republican in political outlook, more akin to British republicans and Chartists than to the more mainstream liberal nationalists and constitutionalists, such as Mazzini and Kossuth.

The presence of republicans (or democratic-socialists, as they could also be called) became particularly visible in St. Hélier thanks to the founding of *L’Imprimerie Universelle*, a radical printing office under the auspices of the most vocal Italian and Polish refugees. Leaders of the 1851 French radicals, including Charles Ribeyrolles, Charles Hugo, and his famous father, Victor Hugo joined the press in 1852. That year they introduced *L’Homme*, a newspaper which they used to connect to British radicals and to other exiles in the British Isles. Though the paper was published in French, articles from *L’Homme* were translated in the radical press throughout Great Britain, especially during the 1855-56 expulsion scandal.

The presence of *L’Imprimerie Universelle* hardly endeared the new refugee population to Jersey’s officials. Lieutenant-Governor James Frederick Love, known for his military role in quelling riots in Britain in the 1830s and early 1840s, contacted the Home Office in London immediately, concerned that the refugees actively fomented revolution.<sup>10</sup> The Home Office monitored the refugees for signs of intended violence and, from 1852 forward, employing Detective John Sanders to infiltrate French refugees’ political meetings on the island. Detective Sanders was relieved by what he saw. He assured Love, the Home Office, and the Metropolitan Police that their anxieties were unfounded: the refugees might speak with passion, but they were ultimately harmless.<sup>11</sup>

Malta — Like Jersey for the French, Malta offered a logical refuge for Italians, with Sicily 58 miles away. Having once been ruled by Sicily, Malta’s upper classes spoke Italian long after the island became a crown colony, captured from the French in 1800.<sup>12</sup> After the Austrians pursued revolutionary exiles across Europe in the 1830s, refugees from every part of Italy made Malta their home.

Maltese authorities, local leaders, and crown officials were uneasy with the presence of refugees on their shores from the first. The untold number of Italian political refugees became an immediate source of political discontent within Malta, mapping onto longer-running tensions between the Protestant British authorities and the powerful Maltese Catholic Church. The anti-revolutionary Church feared that the refugees – many of whom openly opposed papal power – would corrupt their parishioners. Although the small British elite tended to support the refugees, their support only exacerbated British-Catholic relations.

Prior experience showed that such threat to the balance between British Protestantism and local Catholicism tended to galvanize a vocal nationalist party on the island. In the late 1830s, the British antagonized the Church in Malta, abolishing the legal censorship that had been in

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<sup>9</sup> See for instance *Chroniques de Jersey*, March 13, 1853. Unfortunately the British Newspaper Library’s holdings for Jersey’s 1850s newspapers are incomplete, barring a more in depth account of the period.

<sup>10</sup> John Sweetman, ‘Love, Sir James Frederick (1789–1866)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [<http://www.oxforddnb.com/view/article/17040>, accessed 27 July 2009]

<sup>11</sup> Report of Sanders dated February 25, 1852, PRO HO 45/4302, nf.

<sup>12</sup> The British captured Malta from Napoleon in 1814, and the Island remained a strategic military base. The loyalty of the Maltese is the stuff of British legends, which focused on the population’s readiness to defend herself against invaders, from Napoleon through the Nazis. However, the acceptance of British colonial rule was far from absolute. For a typical British account: Society for the Diffusion of Useful Knowledge, “Malta,” in the *Penny Cyclopaedia*, (Vol. 14, London, 1839, 343-51).

place to date. Although this liberal reform was much welcomed by the Maltese, the allowance of freedom of the press also threatened the Church's hold over the population and became another site for tension.<sup>13</sup>

Unfortunately for Anglo-Maltese refugee supporters, the freeing of the press in 1839 coincided exactly with the arrival of the first anti-papal Italian refugees, who established revolutionary newspapers upon their arrival. Within years, the island became a center for Italian nationalism outside of Italy, second only to London. Fearful of these developments, the Church and elite families repeatedly demanded that these *dangerous* refugees be expelled lest they radicalize the younger generation.

Officials seem to have taken heed. In 1843, the Queen's Council issued an order from the Court at Windsor clarifying the right of the colonial governor in Malta (and in Gibraltar) to expel foreigners, with no special reference made to the rights of refugees. But the order does not seem to have changed the situation. The refugee community at Malta thrived. It was from Malta that Mazzini directed letters to the revolutionary Bandiera Brothers. There, the Bandieras planned what would be an ill-fated attack on the Kingdom of the Two Sicilies in 1844.

Canada — American slaves had long found something of a refuge in British Canada, even before the 1836 official abolition of slavery. Refuge in British Canada was harsh, never free from local prejudice or the reaches of American slave catchers. Still, free black communities, together with abolitionist interest in the welfare of escaped slaves, made British Upper and Lower Canada a haven for thousands of American fugitive slaves between the Revolution and the end of American slavery in 1863.

From the time of the American Revolution, Black Loyalists escaped to Canada. While the majority of these initial refugee settlers were later resettled in Sierra Leone, small settlements remained.<sup>14</sup> By the 1840s, the number of fugitive slaves in Canada swelled considerably. Early waves became a deluge after the 1850 Fugitive Slave Act made it a felony to provide refugee slaves with asylum anywhere within the United States. By 1851, an estimated 50,000 American fugitives lived in Canada.<sup>15</sup>

To refugee and would-be refugee slaves Canada was a Canaan, a promised land of freedom. But American slave-catchers eyed the free black communities eagerly, and sought government support for the rendition of runaway slaves. The British Government in Canada refused official requests from the United States to permit authorities to pursue slaves across the border as early as 1819. Yet, the question of extradition was not settled and, from the 1820s, the Government continued to deflect requests for the extradition of runaway slaves.<sup>16</sup>

The need to turn compassion into law became all the more pressing when Britain and America signed the Webster-Ashburton Treaty in 1842. The treaty clarified border issues between the United States and the Canadian Territories, primarily dealing with trade issues and

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<sup>13</sup> Michael Refalo, "Present (and Past) Concerns, Future Directions: Religion and the Church in the Writing of 19<sup>th</sup>-Century Maltese History," *Religion, Ritual and Mythology. Aspects of Identity Formation in Europe*, Vol. III, Joaquim Carvalho (ed.), (Pisa: University of Pisa Press, 2006, 212-226), 218-219.

<sup>14</sup> See Chapter Two above, and Robin Winks, *The Blacks in Canada: A History*, 2nd Ed. (Montreal & Kingston: McGill-Queen's University Press, 1997).

<sup>15</sup> The British and Foreign Anti-Slavery Society, *Anti-Slavery Reporter*, (Vol. VI, No. 1, 1 January 1851), 5.

<sup>16</sup> In what would be a forerunner to the Webster-Ashburton dilemma discussed below, the Executive Council in Lower Canada issued a general order in 1829 that no fugitive slave should be remanded to America unless "his offense would have made him liable to arrest by the laws of Canada." This did not resolve the issue either: what if the slave stole a horse or committed some other crime en route to Canada – could he or she be extradited? An 1833 ruling in Upper Canada explicitly gave the Governor-in-Council the right to refuse extradition on a case-by-case basis. But there was no guarantee that compassion for the refugee slave would rule the day. (Winks, 168.)

where to establish the border in a period of westward expansion. Article Ten of the Webster-Ashburton Treaty bore directly on fugitives. It set out an extradition agreement under which an individual who committed one of a number of felonies, recognized as such by both British and American law, could be extradited to face prosecution in his or her home country. Antislavery factions in Britain protested the agreement vehemently at the time, highlighting its implications for fugitive slaves. British laws no longer allowed slavery, so simply running away from a master was not an extraditable offense. However, the Treaty provided no guidance on what would happen if a slave committed theft – or murder – en route to freedom.

The British and Foreign Anti-Slavery Society's protests produced few results. The Foreign Secretary, the Earl of Aberdeen, acknowledged that the Treaty did not specify what would happen to slaves if the extradition clause were invoked. Nevertheless, he insisted, it was not the intention of the British Government to jeopardize these refugees and the Government would go so far as to prevent the extradition of slaves if requested.<sup>17</sup> The language remained unchanged, and British abolitionists waited anxiously. After the American Fugitive Slave Bill passed in 1850, the American Government threw its weight behind southern slave-hunters. Who was to say that their influence would not provide confidence to American slave raiders who crossed the northern border into free British soil? Who was to say that the British Government would not go back on Aberdeen's promise from 1843? A test case seemed inevitable.

With the situation increasingly tense, British and Canadian abolitionists joined free blacks to assist the growing refugee communities as best they could. Officials initially housed many of the refugees in empty barracks, but permanent resettlement would be necessary. Hundreds found relief, and later employment, in larger Canadian cities, especially Toronto.<sup>18</sup> Large-scale relief efforts centered on village life and purchasing tracts of land for the slaves to settle, as fugitives had in the older black Canadian settlements at Dawn, Elgin and Wilberforce. Missionaries and abolitionists on both sides of the Atlantic helped to fund refugee initiatives to build self-supporting settlements throughout Canada.<sup>19</sup> Fugitive slaves wrote directly to the British and Foreign Anti-Slavery Society and toured Great Britain, as Josiah Henson of Dawn did, to gain support for their communities.

Though thousands subscribed funds for the relief of these refugees, their asylum was never safe, no matter how entrenched the ex-slaves were in their new lives. Until the vagueness of the Webster-Ashburton Treaty was corrected, slave-catchers remained a threat.

LOCAL EXIGENCIES AND REFUGE IN CRISIS — Canada — Nearly two decades after the Webster-Ashburton Treaty was signed, British abolitionists would have their test case in the recapture – in Canada – of American fugitive John Anderson.<sup>20</sup> Anderson had been a slave and escaped to his freedom. However, he was also a suspected criminal under the law; he was suspected as a murderer. Could Anderson be extradited? Murder was extraditable; escape from slavery was not.

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<sup>17</sup> "On the Extradition Clause of the Treaty of Washington," Memorial addressed to Aberdeen, 13 Feb 1843, in Memorials and Petitions, E 2/19, f. 193, British and Foreign Anti-Slavery Society Archives, Rhodes House, Oxford.

<sup>18</sup> The *Anti-Slavery Reporter* enumerated the settlements as follows: the western district, Chatham, Ruiley, Sandwich, Anderton, Malden, Colchester, Gonfield, London, Hamilton, St. Catherine and settlements at Dawn and Wilberforce. "At Toronto there are about 400 or 500 variously employed, principally as domestic servants." *Reporter*, (Vol VI, New Series. No 1, 1 Jan 1851), 5.

<sup>19</sup> For the British missionaries who were involved, this was a project not wholly dissimilar to the missionaries village system in Sierra Leone, though here the emphasis was on the refugees' capabilities, not the need for Christian guidance.

<sup>20</sup> Concerns over runaways in the Caribbean had been relatively commonplace, if not widely discussed, since the Haitian Revolution of 1793. For the most part, however, they were more generally connected to concerns for international, rather than colonial, jurisdictions. Similar concerns were brought to the fore during the Fugitive Slave Debates of 1875-76 (Chapter Six).

Anderson had been a slave in Missouri until 1853. Recently separated from his wife, Anderson had been sold to a new master who refused to allow him to see his family again.<sup>21</sup> Rather than do this, Anderson took flight, first bidding his wife and children goodbye. En route to Canada, Anderson was stopped by Seneca Diggs, a local Missouri man who was suspicious of Anderson's claim to be on an errand for his master. When Diggs attempted to recapture Anderson, Anderson reportedly stabbed Diggs. In the commotion, Anderson managed to escape; Diggs died shortly thereafter.

Under a false name, Anderson established himself as a freeman outside Toronto, where he lived unmolested for years. In 1860, Anderson confessed the murder to a man he thought to be his friend. That friend informed the local authorities and Anderson was imprisoned. No witnesses appeared against him and Anderson was released. Within days, however, Detroit police officer – and slave-catcher – Mr. Gunning swore that Anderson was guilty of the murder of Diggs. Pursuing his case, Gunning secured the help of authorities in Missouri and of the US Secretary of State, who demanded Anderson's extradition for trial in October 1860. Anderson, imprisoned since the spring, would appear before the Canadian Court of the Queen's Bench.<sup>22</sup> Abolitionists had their test case.

Whereas abolitionists anticipated a case like that of John Anderson, there was no such preparedness in Britain for the expulsion of foreign refugees from Malta or Jersey. Although both had long been havens for French and Italian refugees, respectively, the injection of a new politics into asylum after 1848 dramatically altered these island refuges. So close to the upheaval on the Continent, local British officials feared the impact revolutionary exiles might have on the local peace.

Malta — The arrival of refugees from the Italian revolutions could not have occurred at a worse time for the colonial government on Malta. Governor O'Ferrall had arrived on Malta only a year prior in the midst of growing agitation in the region. Malta was hardly isolated from the revolutionary movements on the Continent. Worry over the need for liberal reform – beyond tensions created by religious difference – began to infuse Maltese political agitation.

Far less autonomous than the Bailiwick of Jersey, Malta was ruled almost entirely by the crown, a vestige of Lieutenant-General Thomas Maitland's military rule of the island during the Napoleonic Wars. As solidified in the 1835 Constitution, the crown appointed the Governor. Locally, the Governor formed a Council Board that shared legislative power with the imperial parliament, though all directives would have to come from the Colonial Office. In addition to the Governor, the Board consisted of four crown appointees, along with three Maltese appointed by the Governor. There was no system for elected representation.<sup>23</sup>

Whereas the British Government had permitted full freedom of the press in 1839 (much to the Catholic Church's chagrin), the system of government remained as it had been outlined in the 1835 Constitution. In the face of mounting agitation for reform, Colonial Secretary Earl Grey broke from the status quo after taking office in 1846. In 1847, he sent O'Ferrall as the first civil (as opposed to military) governor and the first Roman Catholic. O'Ferrall immediately set out to make key constitutional reforms. The Council Board became the Council of Government, with a

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<sup>21</sup> Harper Twelvetrees, *The story of the life of John Anderson*, (London: William Tweedie, 1863), 13.

<sup>22</sup> Twelvetrees, 25-26.

<sup>23</sup> Guglielmo Rapinet, *Lectures on the British constitution and on the government of Malta*, (Malta, A. Aquilina, 1883), 175.

critical addition of an elected component, making the colonial government at least partially representative.<sup>24</sup>

Late in the century, O’Ferrall’s reforms would be hailed as inaugurating a new period in colonial Malta’s history. As initially implemented, however, the appointed Council members still held the majority over the elected ones. Moreover, revolutionary upheaval continued to rattle nearby crown possessions despite attempts at constitutional reform across the British Mediterranean. On British Cephalonia (one of the Ionian Islands) a separatist ideology took root, and nationalists killed the colonial governor.<sup>25</sup>

It was in this context that ships of Italian refugees began to arrive in the spring and summer of 1849. Each shipload promised between fifty and three hundred additional refugees.<sup>26</sup> Whereas in the wake of the 1848 uprisings the refugees had been conservatives, now they were hardly the ideological comrades of the Jesuit priests who had been welcomed to the island the prior spring. Now the refugees were from across the Italian Peninsula, but most were Romans, Neapolitans, or Sicilians. The Neapolitans and Sicilians fled from the Kingdom of the Two Sicilies (Sicily and Naples) when the Bourbon King defeated insurrections in both areas. The Roman refugees fled the return of the Pope backed by the French military. These refugees, mostly soldiers and their dependents, brought O’Ferrall’s fears to life, threatening to make a volatile situation worse.

After May 1849, O’Ferrall begged the Foreign Office to bar refugees from making Malta their destination. Using the port as a point for transmigration was one thing, but the Governor did not believe Malta would survive continued migration onto the island. In a June letter to Colonial Secretary Lord Grey, O’Ferrall demanded whether “Malta is to be the refuge of the outcasts of all adjoining countries.” He expressed fear at the prospect of having within the fortifications of Malta “men of desperate fortunes” who could have a “corrupting influence” “on the minds of young men, and that the best disposed may be corrupted.” O’Ferrall hated to use the “power of expulsion” – a power he said was “very liable to abuse,” but he could not let this influx continue.<sup>27</sup>

In the ensuing months O’Ferrall made two significant changes to previous practices. He invoked an 1818 set of Maltese Police instructions from the then-Governor that promoted vetting *dangerous* and non-*dangerous* foreigners. Drawing from this order, O’Ferrall held that foreigners could remain on Malta only if they reported themselves to the authorities. Upon reporting themselves (or being reported by the captain of their vessel), the foreigners were to give assurance (through a respectable third party) of their good character and that they would not become dependent on the government for their welfare. If a foreigner did not meet these criteria, he or she was liable to be removed from the island.<sup>28</sup> In effect, the Governor of Malta had in his hands the equivalent of an aliens act, one that was more severe in criteria than either the 1848 or the 1793 Acts in Britain.

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<sup>24</sup> Rapinet, 177; Hilda I. Lee, “The Development of the Malta Constitution 1813-1849,” *Melita Historica : Journal of the Malta Historical Society*, (Vol. I, 1952, pp. 7-18),15; Taylor, 172; CO “Confidential Memorandum on Malta Government in 1848 and 1849” PRO CO 325/31.

<sup>25</sup> Taylor., 172.

<sup>26</sup> For instance, the “Peloro” had 272 refugees and the “Lycurgue” and “Ruben” had 150 and 124 refugees respectively. *Parliamentary Papers*, “1850 (134) Malta. Copies or extracts of dispatches between the Governor of Malta and the Secretary of State for the Colonies, relating to the admission of foreigners into the island of Malta,” 14, 28, 33.

<sup>27</sup> “Extract of a Letter from Governor the Right Hon. O’Ferrall to Grey,” June 2, 1849, No. 9 in *Ibid.*, 19.

<sup>28</sup> “Instructions regarding Foreigners,” signed Richard Plaskett, Chief Secretary to Government, January 1, 1818, in *Ibid.*, as enclosure 2 to No. 6, a May 17, 1849 letter from O’Ferrall to Grey, 14.



Second, O’Ferrall asked the Superintendent of Quarantine and Marine Police to hold all refugees onboard ship. The only individuals allowed to land were those who fit the criteria of the deserving or those in need of extraordinary medical attention. The ships that arrived after May 1849 thus remained in quarantine in the port. Maltese authorities ensured that the passengers had supplies, but they were detained until they could be transferred to second ship bound for their final destination. As before, most refugees were en route to Britain or the United States, and continued there without further concern.

Yet, O’Ferrall’s policies elicited grave concern on Malta and from London. The first cause for concern was the case of Neapolitan “deserters” – soldiers, Bourbon officials claimed, who had deserted their army during the insurrection. Upon their arrival at Malta, O’Ferrall refused to admit them onto the island, concerned that they were “not the type to follow the law.” He instead secured them passage to Algiers that June. But, they were not accepted in Algiers either, and the ship of refugees sailed around the Mediterranean for weeks in search of safe harbor. They returned to Malta in early August 1849. O’Ferrall was at a loss. He attempted to secure *in writing* that they would not be punished if he returned them to Naples. Unsuccessful in this request for amnesty he kept them uneasily on Malta, while Palmerston tried his hand with the Neapolitan Government.<sup>29</sup>

The case of the Neapolitan “deserters” might not have come to the metropolitan public’s attention if it had not been for the simultaneous refusal of asylum for Roman refugees. One of these refugees, the Italian nationalist writer Christine Trivulce, Princess of Belgiojoso (near Milan) wrote Palmerston to express her outrage. She had arrived at the port “relying fully on the justice of the English and on my own character” but had been refused. She was ultimately admitted, along with some of her entourage, but could not secure the safety of the others onboard. She was convinced that such a barbarous act could not have taken place with the full knowledge of the English Cabinet, as the “English humanity and justice are too well known to the whole world.”<sup>30</sup> It would not be long before the matter circulated around Westminster and reached public ears. For a metropolitan public that was increasingly leery of Roman Catholicism in their midst, the Governor of British Malta, who had admitted Jesuit refugees in 1848 and turned Romans away, needed to account for his actions.

Jersey — Although, on Malta the Colonial Governor had worried that the exiles would incite the Maltese to further insurrection, on Jersey, the concern in the 1850s was not ultimately over the prospect of revolution. Rather it was over the prospect that a fiercely loyal, local population would, in their protests against the refugees, disturb the peace.

Lieutenant-Governor Love might initially have been concerned about revolutionary violence from the refugees. After all, he had made his career in the army as a keeper of the peace and the French revolutionaries made no secret of their distaste for the status quo. Love remained on edge even after Home Office spy Sanders assured him that the refugees did not pose a threat. By the mid-1850s, however, he was less concerned about the refugees’ “threat” than by souring views of the refugees from among his conservative subjects. From August 1855, Love corresponded with the Home Office about options available to him to expel the editors of *L’Homme* and other “obnoxious” foreigners. The Home Office affirmed that, by a 1635 Jersey code, the lieutenant governor had the power to summarily expel “obnoxious or violent” foreigners.<sup>31</sup>

<sup>29</sup> See correspondence on the Neapolitan deserters from the “Archimede” in *Ibid.*, 19ff, 37ff, 41ff and 64.

<sup>30</sup> Letter to Palmerston, August 6, 1849, enclosure in No. 9, in *Ibid.*, 66.

<sup>31</sup> Letter dated August 15, 1855, PRO HO 45/6188/20.

Lieutenant-Governor Love's eagerness to be rid of the refugees climaxed in the fall of 1855, when exile and socialist Félix Pyat (who was living in London, not Jersey) published a letter in *L'Homme* against Louis Napoleon. Pyat directed his isolated and, ultimately innocuous rant against British-French diplomatic relations. Nonetheless, local agitation on Jersey broke out against the refugees with Pyat's remarks serving as a rallying point. The London *Times* and irate St. Hélier constituents construed Pyat's letter as a libel on the Queen's character, and a direct attack on Britain. Posters sprang up across Jersey with the expressed aim of directing anger against the "miscreant" republicans, as they were termed.

At a town hall meeting filled with 1200 irate Jersey inhabitants, the Lieutenant Governor succumbed to this anger. He dismissed his bailiff's more tempered calls to bring the publishers of *L'Homme* before the court.<sup>32</sup> Rather than rely on the Courts to punish the refugees for libel, Love informed the Home Office that he planned to use the authority invested in him by the 1635 laws to expel foreigners.<sup>33</sup> Accordingly, on October 18, 1855, he expelled three men associated with the newspaper, Charles Ribeyrolles, the editor of *L'Homme*, Italian Colonel Pianciani and a Mr. Thomas from the island.

In each case, metropolitan refugee supporters and the public at large were caught by surprise. The prospect of a forcible removal of foreign refugees from their British shelter seemed impossible. The immediate reaction was disbelief, followed by anger in each case. What was at stake in each of the three cases was different. If Anderson were denied continued asylum on British soil the outcome would be his death. The American courts might not condemn him to death as a murderer; yet abolitionists feared that Anderson would be lynched. Removal for Italian and French refugees was ultimately less dire: they could continue to seek asylum elsewhere, even elsewhere in the British Empire. As far as the public was concerned, however, the removal from Malta or Jersey, even if the refugees could find shelter elsewhere, was as unjust as a more complete refusal of British asylum would have been. For refugee supporters, the injustice of removal would necessitate examination into colonial law. Law that gave local officials the authority to refuse shelter for foreign refugees, they would argue, could not be tolerated. It was un-British.

#### SOUNDING THE BATTLE CRY

At mid-century supporters focused on the unjust treatment of the refugees as an abuse of *proper* power within the colonies. Only through a reinstatement of central imperial governance, supporters implied, could rogue administrators be brought into line. Just how endemic the injustice was to the local institutions in question was unclear to the metropolitan public. Yet, in each case, the public attempted to determine what constitutional rights accorded to local authorities were, and what they ought to be. In Anderson's case, the problem seemed to lie with the courts, not the administration more widely. On Malta, Governor O'Ferrall caused the crisis according to the metropolitan press. But the root cause was an insidious Catholic faction, which, the press insinuated, was running contrary to existing British policy. The source of Lieutenant-Governor Love's authority was something more mysterious to the public. Few could discern whether his action was technically unconstitutional.

<sup>32</sup> Proceedings of the meeting as published in *Reynolds's Newspaper*, October 21, 1855.

<sup>33</sup> The Home Office assented to his actions, after agreeing that Jersey's libel laws were too ill-defined to adequately try the case. Waddington to Love, Oct 24, 1855. PRO HO 45/6188/39

How did the government respond? Whereas the public appealed to the central government for intervention, the state's ability to intercede on the behalf of the refugees was all but certain. Seldom did official claim to understand exactly what the law required them to do. Few failed to grasp, however, the weight of their decisions, which could set new precedents in the relationship between metropolitan and local authorities, reinterpreting the colonial constitutions.

THE ITALIAN REFUGEES AND A ROGUE GOVERNOR ON MALTA — The metropolitan press painted Governor O'Ferrall as a rogue, who ignored a particularly British moral imperative to provide shelter for persecuted foreigners. From August of 1849 through the spring of 1850, news that refugees were refused landing on Malta wrought sharp criticism. Those who were permitted to land, the British discovered, were often only allowed into the port long enough to be herded from one vessel to another. Worse yet, many were turned away outright, the *Morning Chronicle* reported on September 8, 1849.

By and large, metropolitan criticism focused on the dreadful condition of the ships, lamenting how tragic it was that wounded heroes were being thus treated. Still bleeding for the sake of country, the refugees ought to be provided with better succor, supporters argued. Instead, they were simply left to bleed. The outrage transcended political division. The conservative *Morning Chronicle* and the liberal *Daily News* (Dickens's paper) reported the same abuses.

The *Daily News* went further in its attacks. O'Ferrall's treatment of Roman liberals was especially appalling, the editors argued. Without guarantee that they could pay for their onward passage to Britain, the newspaper reported, O'Ferrall would not allow Roman liberals to land at all, insisting that they could not make Malta their residence.<sup>34</sup> The newspaper's editors noted the Colonial Government's apparent preference for Jesuit refugees. By contrast to the Roman liberals, the Jesuits had, in fact, been allowed to land on the island. The editors decried O'Ferrall's papal sympathies. The *Belfast News-Letter* followed suit. The Catholic Maltese population, led by an Irish Catholic Governor, was making a mockery of British liberalism.<sup>35</sup>

Parliament and the Colonial Office responded to the accusations immediately, though members of both bodies were uncertain if O'Ferrall's actions were technically illegal. Members of Parliament, based on popular public demands, questioned the Colonial Office. Uncomfortable with the apparent vetting between refugees of different politics, MP Monckton Milnes demanded answers from the State. He asked the Undersecretary for the State of the Colonies (Mr. Hawes) "whether it was true that those persons ["whose bravery had undoubtedly excited the admiration of the civilized world"] had not even been allowed to land in Malta." If this were true, the implications were dire, Milnes continued. He posed the alternative to Hawes. If British Malta did not shelter persecuted foreigners, he wondered if the Colonial Office was ready to "imitate that want of hospitality, of which there had been such flagrant instances in a neighbouring nation?" Hawes tried to dismiss the semi-veiled accusation and retorted that the colony simply could not accommodate so many refugees. Unsatisfied with this response, MP Joseph Hume pointed out "even the report of such a transaction was disgraceful of the country."<sup>36</sup>

The Colonial Office's representative withstood much abuse at the parliamentary investigation. But, the Colonial Office itself refused to treat O'Ferrall's treatment of refugees on

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<sup>34</sup> O'Ferrall explained his treatment of Jesuits thus: he had allowed them to land at the behest of the Sicilian Government. When several of these men played active roles in the 1848 insurrectionary activities in Malta, this allowance was promptly discontinued, and the *dangerous* refugees removed. *Daily News*, April 15, 1850; *Belfast News-Letter*, April 23, 1850.

<sup>35</sup> *Belfast News-Letter*, April 23, 1850; *Daily News*, April 15, 1850.

<sup>36</sup> Parliamentary Intelligence from August 1, as reported in the *Times* of London, August 2, 1849.

Malta lightly, whether justified or not. The Colonial Office, in turn, investigated the Colonial Governor.

Whether the Colonial Office officially recalled Governor O’Ferrall during the inquiry is unclear in the archives. O’Ferrall ceded responsibilities on Malta temporarily as he and his family returned to Britain that fall. In September 1849, the *Daily News* asserted that O’Ferrall had been recalled from Malta, reprimanded by the Imperial Government, and had promptly resigned his post. The conservative, Anglo-Maltese *Malta Times* denied allegations of the reprimand, but not the temporary recall. O’Ferrall had not resigned his post, the editors corrected. Caught in the false report, the London *Times* and the *Globe* printed corrections, their editors admitting that O’Ferrall had not been so treated while at the Colonial Office. Whatever his treatment while in London, the Governor and his family returned to Malta at the end of October to celebrations on a great “scale of magnificence,” according to the *Malta Times*, which remained staunchly loyal to the Governor. In addition to chastising the metropolitan press for its outrage, the newspaper defended O’Ferrall and the authorities’ efforts to rid the island of these *agents provocateurs*.<sup>37</sup>

What is clear in the archives is that Governor O’Ferrall continued to work at justifying his actions to the Imperial Government long after his return to Malta. He too railed against metropolitan intrusion and argued that a single policy of asylum was dangerous to the safety of the colony. Colonial Secretary Earl Grey supported him. Still, O’Ferrall did what he could to assure both the Colonial Office and, through it, Parliament, that he had treated the refugees with consideration. O’Ferrall provided Grey with documents demonstrating his attention to the needs of destitute refugees on the one hand, while outlining the threat they posed on the other hand.

Through the fall and winter of 1849-50, O’Ferrall took pains to show that his government was responsive to the refugees’ physical needs and highlighted the attention to medicines, food and supplies while in the port in attempt to refute accusations of neglect. The death of one Neapolitan deserter, Ferdinando di Bartolomeo, he argued, occurred despite the expert attention his officers provided. O’Ferrall argued that the reverse was true; Her Majesty’s attendants did not neglect the sick, but ventured among dangerous diseases to assist Bartolomeo and others like him.<sup>38</sup>

O’Ferrall used the accusation of medical neglect to further outline how, given his responsibilities to the colonial population, he had to contain these foreigners. Leaving politics aside for the moment, he cited conversations between refugees and the Superintendent of the Quarantine. In so doing, O’Ferrall tied his seeming indifference to refugees to larger responsibilities toward the public health. With an outbreak of cholera already ravaging the island, resources and space necessary for quarantine were scarce, he claimed. The best place for the quarantine was often onboard their ships.<sup>39</sup>

The bulk of his correspondence did attend to the political threat, however. He had repeatedly made this point before. Now, O’Ferrall emphasized how the local population shared his concern for these foreigners. To this end, he attached a letter from the Archbishop on Malta to his correspondence with the Colonial Office. According to the Archbishop, “the corruption of manners and the immoralities generated in these islands by the contact of inhabitants with

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<sup>37</sup> *Malta Times*, October 30, 1849; the *Times* of London, September 18, 1849 (reprinting a paragraph from the *Globe*).

<sup>38</sup> O’Ferrall to Grey, Dispatch No. 24, December 11, 1849, PRO CO 158/148 Malta 1849. Vol. 4 Refugees.

<sup>39</sup> See, for example, the Report of the Superintendent of Quarantine and Marine Police on the English Barque “Michelina,” with 87 Refugees, Enclosure 2, in No. 22, Dispatch from O’Ferrall to Grey, December 5, 1849, (PRO CO 158/148 Malta 1849. Vol. 4 Refugees, ff. 50-56), ff. 53-54.

persons, who at various periods repaired hither from Italy” now “sow amongst the youth the wicked ideas wherewith their minds are unfortunately filled.” The Archbishop found that the government therefore could not be warned enough that: “Your Excellency refuse an asylum to the number of similar beings.”<sup>40</sup> Appended to the Archbishop’s letter was a petition to the local government signed by 210 loyal Maltese that reiterated the same points.<sup>41</sup>

THE FUGITIVE ANDERSON, INTERNATIONAL MORALITY AND LOCAL PRIDE — The Canadian press took a great deal of interest in Anderson’s case from the first, reporting daily and “comparing Anderson to Garibaldi, to a ravished negro maid seeking to escape from her abductor, and to the manly symbol of all Africa.”<sup>42</sup> The Anderson case did not become a broad metropolitan concern until the justices of the Canadian Court of the Queen’s Bench ruled against Anderson by a vote of two to one. Then the matter became one of imperial concern, Canadian and British abolitionists argued that if the British Government in London did not step in this man would be sent to his death.

The Canadian Court’s decision to extradite Anderson produced a massive public response in Canada and in Great Britain. In Toronto, the meeting convened to protest “the danger to the cause of humanity and liberty which would result from the rendition to the US of the fugitive Anderson.” The meeting was reportedly the “largest the city had seen.”<sup>43</sup> In Britain, antislavery advocates went to work immediately, collecting funds for Anderson’s defense through advertisements in the Sunday newspapers.<sup>44</sup>

At last, the British and Foreign Antislavery Society had their test case, juxtaposing international and moral obligations. Technically, Anderson’s case would be appealed to the Canadian appellate court, not to London. However, abolitionist demands, from the first, focused on Her Majesty’s courts in London, away from the Canadian justices who had seen Anderson first as a murderer and his slave status only as an unimportant detail. Abolitionists hoped that in Britain Anderson would be acquitted and safeguarded from what would be a certain death if he were returned to the United States.

Although the British and Foreign Anti-Slavery Society had every confidence that the British Government did not want to see Anderson returned, they could not be certain that the British Government would, in fact, intervene. This was all the more true in 1860-61 than it had been at the time the Webster-Ashburton Treaty had been signed. In the years since 1842, the jurisdiction of Canadian affairs had begun to devolve away from central imperial oversight and onto independent local institutions. The watchword for the day was “Responsible Government” within Canada. This meant that, though Canada remained a colony, they maintained a separate legislature to whom the Colonial Governor – and the Imperial Parliament – deferred. The only power Britain maintained in Canadian Governance was over the Colonial Governor directly.

But what did this mean for the court system? That was the question at hand. The Queen’s Bench in Westminster was the highest court of appeal in England. Did it extend to Canada? Had new power invested in Canadian institutions gone so far as to negate the Westminster court’s ultimate jurisdiction? English barrister Thomas Tapping wrote in the *Law Magazine and Law Review* that the question was “the most important point of colonial law that has occurred within

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<sup>40</sup> [Translation] Archbishop of Malta to the Governor (July 26, 1849), Enclosure 4, in Dispatch No. 16, Dispatch from O’Ferrall to Grey, August 13, 1849. PRO CO 158/148.

<sup>41</sup> Memorial of the Maltese to the Governor of Malta, July 22, 1849, Enclosure 3 in *Ibid.*

<sup>42</sup> Winks, 175-176.

<sup>43</sup> Twelvetrees quoting Rev. Principal Willis, 43-4.

<sup>44</sup> Minutes of the British and Foreign Anti-Slavery Society, January 25, 1861, ff. 142 & 151, Rhodes House Library, Oxford, UK.

modern times.”<sup>45</sup> Canadian law journals echoed Tapping, emphasizing concern for their rights at the same time as they felt for the imprisoned fugitive slave. As British officials nervously watched the Canadian courts, they wondered whether the Imperial Government could risk the offense they would cause in trying Anderson’s case in London.

The British and Foreign Anti-Slavery Society and the British press were confident that the State would intercede in the case. The British and Foreign Anti-Slavery Society took their case to Parliament and, after many failed attempts, brought their protest before the Administration. In Parliament that January, Edwin James, the barrister who had successfully argued on the behalf of French refugee Dr. Simon Bernard in 1858, undertook Anderson’s case. Confident that antislavery sentiments and moral right would win in the end, the *Times* of London reported, the decisions of the Canadian courts aside,

The suggestion [that they would abandon Anderson] is preposterous. That we, who look with such scorn upon the little State of Saxony for delivering up a Hungarian nobleman who had trusted to her hospitality, should, in our strength and our grandeur, deliver up a wretched slave who had run for our soil as to the ark of freedom, may be argued as logical necessity in a court of law, but is an obvious impossibility as a fact.<sup>46</sup>

The Ministry seemed genuinely amazed that they were forced to confront this test case at all. Lord Lyons, the British Envoy in Washington, lambasted the United States for the extradition request, claiming that he had not known that Anderson had been a slave. Lyons had initially agreed to the need to return a *felon*; US Secretary of State General Cass had failed to mention when he wrote to British authorities in London that the escaped ‘felon’ (Anderson) was a slave. Had he known, Lyons implied, he would have viewed Anderson as a refugee from unjust governance instead.<sup>47</sup> Now that initial steps had been taken by the Canadian authorities to return Anderson, the request could not be dismissed.

The Imperial Government was likewise appalled that Canada stood poised to extradite a fugitive slave to the United States and demanded that Canadian authorities consider carefully the implications of the action they were about to take. The Duke of Newcastle, Secretary of State for the Colonies, implored Canadian authorities to consult with them before executing the extradition order, insisting that the interpretation of the Webster-Ashburton Treaty was in jeopardy. Newcastle was himself convinced that extradition in this case would run counter to the terms of the Treaty. As a matter of diplomatic significance, he argued forcefully – with a decided note of disappointment in the Canadian proceedings – that the Canadian courts did not, in fact, have the power to make this sort of determination. Anderson could not “be delivered over to the United States’ authorities by the mere action of the law.” Still, Newcastle had to admit that the power to extradite Anderson could well be in the hands of the Canadian authorities, though it

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<sup>45</sup> Thomas Tapping, “Art. III. The Case of Anderson, the Fugitive Slave. The Application for the Writ of Habeas Corpus and Judgment Considered,” *The Law Magazine and Law Review*, (No. XXI, 42-73), 42.

<sup>46</sup> Twelvetrees, 67, citing the *Times*, January 5, 1861.

<sup>47</sup> Twelvetrees, 26. Lyons and Russell had been informed that Anderson was a “man of colour,” but not that he was a slave. Correspondence between Irvine and Russell, October 8, 1860, No. 1 and enclosure 1 in *Parl. Papers* (1861 [2813]), “Correspondence Respecting the Case of Fugitive Slave, Anderson,” 1; Lyons to Russell, April 8, 1861, No. 20 in *Ibid.*, 46. According to the official correspondence on the matter, it would be another three months before Anderson was referred to as a “fugitive slave,” not simply as a “man of colour,” in a letter from Downing Street dated January 9, 1861 (*Ibid.*, 2).

would have to “be done by a warrant under the hand and seal of the Governor.”<sup>48</sup> Buying time, the Imperial Government corresponded with the United States, hoping that transparency in the matter would curry favor with members of the US Senate, if not the administration itself.

Correspondence with the US was, however, secondary to imperial interest in seeing the decision of the Canadian Court reversed and Anderson freed from jail. BFASS secretary, L.A. Chamerovzow was – at last – able to convince the government to consider issuing a writ of *habeas corpus* to bring him before the Courts in the metropole. The Imperial Government, if it could claim jurisdiction, might override the decision at the Canadian Court of Queen’s Bench. Yet, there could be untold consequences of such a display of imperial power on Canadian-British relations.

The government debated whether they could, or should, circumvent the authority of the Canadian courts and issue a writ of *habeas corpus*. On one side officials deferred to the authority of the Canadian courts, determining that the Imperial Government had no right to intervene in the matter. This argument struck most as odd because Canada was not yet independent, even though devolution had begun. Still, it underscored the good faith with which the imperial government viewed Canada’s ultimate sovereignty in these matters.

It did, however, make the pro-removal case rather cut and dry. Edwin James argued that precedent was in their favor. Canada was still a colony and “the Court had as much right to issue this prerogative writ into Canada, as a position of the British crown, as into the Isle of Wight or Yorkshire.” This right had been used in case after case, as “these writs had gone to Calais, when a possession of the British crown, and also to Ireland, and he should contend that Canada stood in precisely the same position, as a possession of the British crown.”<sup>49</sup>

The Westminster Court issued the writ of *habeas corpus* on November 23, 1860. Lord Chief Justice Cockburn’s ruling was nonetheless careful to recognize the propriety with which the Canadian court system had acted, if not their decisions. He praised the advance of modern rule and the devolution of authority onto local administrators. He acknowledged that “it may be felt to be inconsistent with that higher degree of colonial independence, both legislative and judicial, which has happily been carried into effect in modern times” and assured those affected by his decision that “we are quite sensible” that they might feel it as an offense. The fact remained, he continued, that, “in establishing local legislation and local judicial authority, the legislature has not gone so far as to expressly abrogate any jurisdiction which the courts in Westminster Hall might possess with reference to the issuing of a writ of *habeas corpus* to any of HM’s dominions.”<sup>50</sup> Citing opinions from Coke in the seventeenth century through Mansfield in the eighteenth, Cockburn found assurance that “nothing short of legislative enactment, depriving this court of such a jurisdiction, would warrant us in omitting to carry it into effect, where we are called upon to do so for the protection of the personal liberty of the subject,” though that subject was in fact a foreigner.<sup>51</sup>

Despite Cockburn’s confidence, the matter was not as cut and dry as proceedings at Queen’s Bench made it seem. Tapping argued that Cockburn had ignored fundamental changes in the colonial case law that curtailed Westminster’s ability to intervene in the court system if they ever had such jurisdiction.

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<sup>48</sup> Letter of the Duke of Newcastle to the Officer Administering the Government of Canada, January 9, 1961, No. 5, inclosure 1, in *Parl. Papers*, “Correspondence relating to [...]Anderson,” 3.

<sup>49</sup> Edwin James as quoted in *Twelvetrees*, 56-57.

<sup>50</sup> Judgment of Lord Chief Justice Cockburn, cited in *Twelvetrees*, 62-63.

<sup>51</sup> *Ibid.*, 63.

Tapping first insisted that the Court of the Queen's Bench in Westminster had never held such jurisdiction. That the justices could hear cases regarding any territory beyond England, Wales, and Berwick-on-Tweed (a disputed area at the Scottish border) was legal fiction. Only those areas had been specified in the Court's seventeenth-century patents from the reign of Charles II (31 Car. II. c. 2). In fact, whenever presented with the opportunity to hear a case from overseas, Tapping explained that the justices "have so constantly refused (except where specially authorized by statute) to accept jurisdiction over a local action arising, or crime committed out of England, that the jurisdiction of the court is [still] practically and actually coextensive with its judges' patents."<sup>52</sup>

Second, even if the justices had expanded their jurisdiction, Tapping explained, the recent establishment of a separate Canadian judiciary made the North American colony wholly independent, invested with all the same powers to hear cases and their appeals without deference to Westminster (22 Vict. c. 10 section 3). To deny this, as the Westminster court did in issuing the writ of *habeas corpus* for Anderson, was tantamount to reneging Canada's independence. Leaving his strict study of the law behind, Tapping concluded with a dire prognostication. He asserted that, in the act, a "dangerous and alarming precedent has been established, which sooner or later may be made the stepping-stone for further encroachments, and may ultimately lead to a collision between the judicatures [...], to end, probably, with a second declaration of American independence."<sup>53</sup> The *Upper Canada Law Journal* was less dire in its assessment of Canada-Britain relations. Nonetheless, the editors explained that: "men of all politics [...] pronounced the act of the English court both high-handed and unfounded. Birth was given to a feeling of resistance, which will not in all probability slumber till the assumed jurisdiction of the English court is tested and defeated on national grounds."<sup>54</sup>

THE AUTHORITY TO EXPEL: THE PUBLIC EVALUATION OF CONSTITUTIONAL LAW ON JERSEY — In contrast to the other two cases, the refugee crisis on Jersey did not become a concern for the British state. The Home Office was aware of Lieutenant-Governor Love's desire to remove the most prominent radical refugees and agreed prior to their removal that such an action was within Love's authority. But Love was sorely mistaken if he believed that expelling the three *troublesome* refugees would quiet local agitation. Agitation on behalf of the three expelled French refugees escalated in St. Hélier and captured national attention thanks to the protests of prominent members of the refugee community on Jersey.

Within days of the expulsion, Victor Hugo wrote a scathing declaration condemning Love's action. Hugo vindicated the refugees, while comparing the government's actions to those of Louis Napoleon. Hugo signed the declaration along with thirty-five other refugees on the island, including his two sons and several Polish, Hungarian and Italian refugees. They posted the letter throughout St. Hélier, succeeding in gaining the public's attention both on Jersey and among radical circles throughout Britain.

On Jersey, the conservative population treated Hugo's declaration as outright provocation. Love responded in kind, forewarning the thirty-six refugees that they would meet the same fate as their expelled friends. On November 2, these thirty-six men were likewise escorted from Jersey, some sent post-haste to neighboring Guernsey in the Channel Islands and some to London. Chartists, especially those in London and Newcastle, undertook the refugees'

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<sup>52</sup> Tapping, 53.

<sup>53</sup> Tapping, 60 & 63.

<sup>54</sup> *The Upper Canada Law Journal*, March 1861, appended to Tapping, 64.



cause with alacrity. They organized public outrage meetings throughout October and November, keeping the matter in front of the reading public for the remainder of the year.

The agitation about the French refugees' removal, as taken up by metropolitan journalists, barristers, refugees and residents of Jersey, quickly mapped onto the broader concern about the "inscrutability" of governance on Jersey from the late 1840s, and a concern for how un-English it seemed. It was un-English in its expulsion of foreign refugees, supporters argued in the first place. In this, they echoed accusations levied in the case of the Italians on Malta. Radicals took this argument farther, collapsing Jersey and Britain to blame the expulsion on the British government as a whole. The British public, moreover, used this case to question minutely whether Love's actions, even if technically legal according to the laws of Jersey, were consonant with British liberal rule. If they were not consonant with British liberalism, then reform of the colonial constitution was all the more necessary, they argued.

Following the first line of attack, radicals readily blended concern for the nature of Jersey/British rule with an unrelenting commitment to refuge on all British soil. The editors of *L'Homme*, reestablishing their offices on Guernsey and in London, led the attack. In a poignant article entitled "The 2 November 1855," the editors wrote of their own expulsion from Jersey as a corollary to their expulsion from France after Napoleon's 1815 coup. In this story, the refugees had a right to their second home and a right to maintain their community within exile. Napoleon had been the author of their first banishment; the authors of their 1855 banishment were the same hosts who pretended to be the providers of refuge *par excellence*.<sup>55</sup>

Radicals within Britain echoed *L'Homme* and declared that Britain (through Love's action) was as oppressive as Louis Napoleon's France. Not only was Britain like France, radicals argued, she was catering to France in reneging their tradition of asylum. The expulsion of the exiles from Jersey was little other than a means of appeasing the vengeance of Louis Napoleon. Josiah Thomas underscored this point at the Newcastle meeting. Joseph Cowen further insisted that, though it may be a time of war, Britain had never been a nation to yield to another country's demands regarding the persecuted. Whereas they were now "yielding to the demands of Louis Bonaparte," the British had "risked war with Russia and Austria rather than give up Kossuth" only a few years before.<sup>56</sup>

Yet, the claim to traditional hospitality rang hollow to many in Britain, among them barrister John Davis, who undertook the government's defense in the mainstream press. The English might tout their long history of asylum, however, the barrister from Temple Bar argued that such sentiment could not reign when refuge was not in Britain's best interests. Now was such a time, Davis believed: at the height of the Crimean War, Britain could not afford to offend her ally France. In this moment, Davis claimed, "No commonplaces about hospitality and the right of exile can be an answer to the question—"What shall we do when there are men among us whom we know to be plotting against our ally, and consequently against ourselves?"<sup>57</sup> The French Emperor was hardly loved in Britain.<sup>58</sup> Nevertheless, Davis argued, "If the great war in which we are engaged is not a comedy to be lightly and carelessly considered, it was necessary for a state like England to interfere in the present case."<sup>59</sup>

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<sup>55</sup> Charles Hugo, "Le Deux-Novembre 1855," *L'Homme*, March 15, 1856 (article dated Jan., 1856).

<sup>56</sup> *Daily News*, November 15, 1855.

<sup>57</sup> *Times*, November 4, 1855.

<sup>58</sup> For the largely negative view of Napoleon III, see Richard Koebner and Helmut Dan Schmidt's 1964 *Imperialism: The Story and Significance of a Political word, 1840-1960*. For the British, this "political word" was originally a negative one, the authors argue, tied – as they show in their first chapter – to the persona of Louis Napoleon.

<sup>59</sup> *Times*, November 4, 1855.

Constitutional arguments in the refugees' favor enjoyed more success, as they pinpointed discomfort with the difference between legal norms on Jersey and in Britain proper. Even those who would not ordinarily have supported refugees' causes took interest in the implication of Love's actions for British constitutional law. These arguments centered on the question of whether it was consonant with British liberties to subject anyone to summary removal, without even the benefit of a trial.

Before the expulsion, Jersey Advocate François Godfray had pleaded with Love to try the editors of *L'Homme* in a court of law before removing them. Metropolitan radicals made the same point; they decried Love's disregard for such a basic British liberty. Had the case been decided by proper trial, the result could have been that the refugees were guilty of libel. In such a case, however, the rule of law would still have been observed. In Sheffield, outraged members of the public formed an investigative association that petitioned the Queen on the refugees' behalf, advocating proper trial by jury.<sup>60</sup> The *Daily News* called the affair an "attempt to carry out Lynch law" on the part of the inhabitants of Jersey. When that failed, the Governor "brought the terrors of martial trial to bear upon the offenders."<sup>61</sup> Richard Cobden, hardly an open advocate of political support for refugees' causes, echoed this concern. He put the case before the mainstream metropolitan public most bluntly a month later. He called the official actions dangerous, befitting a nation consumed with fear for its own security, dependent on martial law, not liberal rule. In this, Love's summary expulsion became, for Cobden, a slippery slope back to the days of Lord Sidmouth, who had tampered with basic liberties in the hopes of quieting reform agitation in the 1810s and 1820s.<sup>62</sup>

The difficulty with this line of analysis, however, was that such "despotism" could well have been technically legal by the constitution of Jersey and the special ordinances under which she was ruled. The *Daily News* acknowledged this fact, and the obscurity of Jersey law. Radicals and mainstream liberals alike still rallied against the violation of the spirit of English law. Writing to *Reynolds's Newspaper*, Chartist and barrister Samuel Kydd echoed points made as early as 1831 by the Literary Association of the Society of Friends of Poland. The point was not whether or not the law had been violated; the point was that it was their "duty" "to check the march of barbarism at home." Kydd argued that foreigners and British nationals must be protected.<sup>63</sup>

Though he alluded to the Napoleonic wars in this editorial, Kydd did not expound upon the status of foreigners in the British law. At a meeting in Newcastle, Josiah Thomas did. Speaking before a meeting that included Joseph Cowen and other regular refugee supporters, Thomas argued that the distinct treatment of the refugees on Jersey was tantamount to a reinstatement of the lapsed 1848 Aliens Act. That Act had been considered loathsome, and in point of fact had never been put to use. The expulsion from Jersey was even more loathsome, Thomas continued, because it was not the product of proper parliamentary proceedings.<sup>64</sup> The pro-refugee contingent held to these points as outlined in the press and at public meetings. Their unconcern for the technicalities of Jersey law, and especially for the nature of that law with regard to foreign nationals, became the subject of a much larger debate.

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<sup>60</sup> National Archives, HO 45/6188/50a.

<sup>61</sup> *Daily News*, November 19, 1855.

<sup>62</sup> Letter from Cobden read at St. Martin's Hall, London published in *Lloyd's Newspaper*, November 18, 1855. Sidmouth was the Home Office Secretary who issued the 1819 Six Acts that restricted political and public activities in a time of great agitation for parliamentary reform, restricting liberties to eliminate supposed seditious activity.

<sup>63</sup> *Reynolds's Newspaper*, November 11, 1855.

<sup>64</sup> November 11, 1855 meeting in Newcastle, Cowen Collection, Tyne & Wear Archives Service, UK.

The *Daily News* investigated the technicalities of jurisdiction in the case, including a more academic and legal discussion not of the hurt refugees as much as of the state of the law itself. One anonymous letter writer, identified only as a barrister, demanded whether “the power of summary deportation is not a power legally possessed by the governor of any British possession.” The anonymous barrister argued that the foreigner, if so illegally treated, “has a plenary right of redress in our superior courts of common law.”<sup>65</sup> According to him, if the present case was subject to British common law precedence on this score, then there was no doubt that the refugees had been wrongly treated. They should be allowed to return and, moreover, to revisit their wrongs in the British courts. The barrister’s claims provided the public with insight into the technicalities of different legal rulings and brought to the public a presumed legal justification for their present outrage.

Though they had the support of the Ministry, Jersey officials undertook their defense in the metropolitan press. Jersey was not like other British dependencies, its High Sheriff explained; because of her strategic location, officials were entitled to treat foreigners differently, even if that meant summary expulsion. The High Sheriff retorted that radical – near republican – claims that the action was “unconstitutional” ignored Jersey’s separate legal code. Sheriff J. Le Couteur did not explain how their code enabled Love’s actions. But he assured the readers that it could never be applied to British subjects, only to foreigners. He continued to cite Jersey’s passed suffering and long-tested loyalty to Great Britain. Having deflected one threat to the British Isles after another, the inhabitants would only do what was best for Britain. In addition to Jersey’s strategic position, this steadfastness, Couteur implied, gave local officials license to treat foreigners differently than they might be treated within England herself.<sup>66</sup>

The Sheriff’s editorial was among the last major arguments made in the case of the Jersey expulsion. His point of self-defense, and the allowance of a near martial rule, as the metropolitan public viewed it, did not sit well. But it did shed some light on the technicalities of Jersey governance and jurisdiction. Though the public would have to accept this point, radicals continued to contest the assumption at the base of the Sheriff’s argument: that the refugees posed a real threat to Great Britain. In this, the debate circled back to and expanded upon John Davis’s claims. Both traditional hospitality and even the right of foreigners to trial were contingent upon what was or was not *possible* during a time of war and shifting alliances.

## OUTCOMES AND LONG-TERM CONSEQUENCES

JOHN ANDERSON’S LUCKY ESCAPE — In Anderson’s case, the Imperial Government ultimately issued the writ of *habeas corpus*, but it was never executed. However, nor was the order to return the fugitive to Missouri where he was sure to face a cruel death. On February 1, 1861, Canadian Chief Justice Draper of the superior Court of Common Pleas issued a writ for Anderson to be remanded to his court. On February 16, Draper issued a decision that reversed the initial ruling. Anderson was free.

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<sup>65</sup> *Daily News*, November 8, 1855. The “Barrister” based his claims on the 1774 case *Fabrigas v. Mostyn* in which a Minorquin (Anthony Fabrigas) sought to sue the governor for having had him imprisoned (“falsely”) for trespass. The question was whether Fabrigas as a native Minorquin could sue the governor in English courts, and whether the governor was himself subject to English legal oversight. In the 1774 case, Mansfield ruled that the governor was indeed subject to legal suit. For an analysis of this case with regard to British constitutionalism, see Nasser Hussein, *The Jurisprudence of Emergency: Colonialism and the Rule of Law*, (Ann Arbor: University of Michigan Press, 2003), 76-78.

<sup>66</sup> *Morning Chronicle*, December 6, 1855.

As far as the *Toronto Globe* was concerned, Draper's writ was issued as a direct counter to the writ issued in England. Writing to the Duke of Newcastle in early February, Sir W. Williams, Commander-in-Chief of the British Army in Canada, forwarded the newspaper's unofficial take on the matter from February 2, fourteen days before Draper's decision was handed down. The *Globe* assured readers that "we think there is now every ground for the assurance that Anderson is safe." Moreover, the *Globe* was convinced that the Chief Justice would do all in his power that Anderson "may get a speedy discharge, without the trouble and cost being incurred of sending him to England."<sup>67</sup> Within two weeks the *Globe's* hunch proved correct.

The superior Court's reversal hinged on a technicality – the warrant used to detain Anderson had not specified a charge of murder. Under the Webster-Ashburton Treaty and the Consolidated Statutes of Canada (May, 1849, Chap. 89), the Canadian Government could properly detain and hear evidence against an American felon accused of murder, provided that the claims against the defendant were sufficient to hold that charge. Draper did not specifically state whether that would not hold in the case of a fugitive slave. However, given that he dismissed the defense's attempts to throw the case out as a matter of improper jurisdiction, the assumption was that a fugitive slave could indeed be so tried.

Though the jurisdiction might have been properly assigned, Draper held that, in the Anderson case, there had been no accusation of murder: the warrant specified only that, "he did willfully, maliciously, and feloniously stab and kill one Seneca T. P. Diggs." The word "kill" did not make it possible to treat the charge as "assault with intent to murder" – what would have been a proper charge for the case to be considered. Draper admitted that such burden did not necessarily rest on the warrant, as it would on an indictment. Nonetheless, the wording of the initial complaint – even in the warrant – was of particular importance in this case, a case in which not all felonious acts could be heard by the Canadian Courts under the operation of the Treaty.<sup>68</sup> The narrow ruling freed Anderson; but Draper avoided setting a precedent for future extradition requests.<sup>69</sup>

On both sides of the Atlantic, the concerned public was elated. The ruling was by no means sweeping, but it did not set the precedent for extradition they had feared most. Anderson was now free. However, the decision in his favor did not bar US authorities from making another attempt in his case – this time adhering to the technicalities required under the Webster-Ashburton Treaty. Rather than tempt fate, Anderson fled to England shortly after his liberation.

The sigh of relief was perhaps greater with regard to Canadian independence than to abolitionist sentiment. Shortly after the February 16 ruling, the *Toronto Globe* admitted general uneasiness over the possibility of ceding jurisdiction. A *Globe* article argued:

[W]e entirely sympathize with the feeling which induced the application for, and the granting of the writ. The peculiarity of this case of Anderson would have justified a great stretch of authority that tended to save the unfortunate man from the vengeance of his enemies; but it would be neither convenient nor consistent with the independence of the Canadian

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<sup>67</sup> *Ibid.*

<sup>68</sup> Judgment of Chief Justice Draper, enclosure 3 in number 19, Correspondence of Sir Edmund Head to the Duke of Newcastle, March 28, 1861 in *Parl. Papers*, "Correspondence...Anderson," (35-46), 37.

<sup>69</sup> Twelvetrees, 76; Fred Landon, "The Anderson Fugitive Case," *Journal of Negro History*, (Vol. 7, No. 3, Jul., 1922, 233-242), 242.

people that English judges should have the power to ignore our courts, and issue their writs to our sheriffs and jailers as if we had no provincial judges.<sup>70</sup>

The threat of intervention had *led* the Canadian Court to rule in a manner consonant with public sentiment. In the end, Canadian and English authorities were doubly fortunate on this score. The limited ruling, though it freed Anderson, did not set precedence for future cases. Only the outbreak of the American Civil War two months later made precedence unnecessary, at least for this particular region of the world.

So, what became of John Anderson? He wisely made a quick departure for England to head off the possibility of a renewed extradition attempt in Canada. We do not actually know what Anderson thought of his time in England. In typical fashion for a celebrity refugee, he was welcomed by mass public meeting led by London notables. His triumph was the British abolitionists' triumph. Following this grand welcome, however, his hosts' sentiments began to cool. After a tour around England, Anderson was slated to become the pupil of a London clergyman under whose care Anderson was to be molded into an ideal, sober, hard-working and self-supporting liberal individual. He was supposed to "[devote] himself exclusively to learning, to enable him to transact the ordinary business of life creditably."<sup>71</sup>

This was the standard expectation of metropolitan refugee supporters. If the refugee could not return home, the next best thing was to see him or her holding down an honest job. Relief societies, as we have seen, often contained the testimonials of proud refugee employers. The dedication with which the refugee attended to his or her newfound work fit middle-class morality.

Anderson did not readily fit this mold, however. He was apparently too distracted by the sights and sounds of London and got packed off to the countryside to concentrate on his studies. After a year's residence in the countryside, his hosts held "emergency" discussions about where to settle him permanently. From the sound of it, Anderson himself did not have much of a choice in the matter. Nor did his hosts sound enthusiastic about keeping Anderson in their neighborhood. Shortly thereafter, the Abolitionist Society paid for Anderson's passage to Liberia. Anderson spent his few remaining years there. Having shipped Anderson to Africa with great pomp and circumstance, British abolitionists closed their story of Anderson's triumphant rescue. They idealized Anderson the iconic refugee slave, and promptly forgot Anderson the man.<sup>72</sup>

CONTINGENT RIGHTS: REFUGEES' FATE ON JERSEY AND ON MALTA — For the cases of Malta and Jersey, the responses had been similar to those in Anderson's case. The government in the former and the public in the latter reconsidered what it would take for authorities at the outposts of empire to act in a manner in keeping with British ideals. Ideally, foreigners had the same rights as British subjects to settle where they chose, and the right to legal recourse, not summary judgment, should expulsion be deemed necessary. However, the government ultimately decided not to intervene with a challenge to local jurisdiction. On the one hand, this was an admission that British rule was not everywhere as secure as it was in Britain. On the other hand,

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<sup>70</sup> Twelvetrees, 84.

<sup>71</sup> Twelvetrees, 135.

<sup>72</sup> *Ibid.*, 151ff. Note that Anderson goes to Liberia, not Sierra Leone. The fact that his supporters did not even mention Sierra Leone as an option is, I would highlight, a good indicator of how far the latter had disappeared from the British public consciousness. Plagued with difficulties at this point, Sierra Leone hardly seemed the abolitionists' ideal anymore.

imperial reactions to each case demonstrated concern, despite local security anxieties, with the wellbeing of the foreigners. In neither case would expulsion mean extradition to their home country. The refugees could still find asylum, just elsewhere.

Regarding Jersey, the Home Office continued to permit the local government to control the admission of foreign refugees themselves. When Napoleon issued a general amnesty of his exiles in 1858, fears for their revolutionary activity diminished rapidly. Families of refugees expelled from Jersey petitioned the imperial government for their pardon on Jersey. The home secretary left it to the lieutenant governor to sift through claims based on the refugees' connections to Jersey "business or otherwise."<sup>73</sup> It had become increasingly clear that any reform of Jersey's government would have to be the result of internal political and legal reform. No reforms would change the Bailiwick's relationship with these particular refugees, however. The *dangerous* refugees who applied for their return after 1858 were refused, even when that refusal meant the continued separation of men from their businesses and from their families.

Regarding Malta, the Colonial Office accepted local authorities' argument that the colony could not afford asylum to foreign refugees in all cases, despite public opposition at home. Whereas in the Jersey case the ministry left decisions to the discretion of the local government, the Colonial Office set out instructions for the colonial government on Malta in February 1850, purposely enabling officials to vet foreigners. The Malta Aliens Act of 1850 did not permit indiscriminate refusal of aliens at the port, however. The Act specified the appropriate behavior by which foreigners could live peaceably. If and only if they violated this code was the Governor permitted to expel them.

While in Britain no barriers were imposed on the entry of foreign refugees, the Governor General of Malta had no option but to enforce entry requirements in direct response to local pressures of space, public health and political intolerance. Ultimately, Earl Grey backed the Governor General and issued instructions for the vetting of foreigners on that island.

Akin to the British Aliens Act of 1793, the instructions for Malta did not regulate the influx of foreigners at the port as much as it provided authorities with the means of keeping tabs on *dangerous* foreigners in their midst. The instructions forbade the Colonial Governor to "prevent the landing in Malta of persons who may seek refuge there from political troubles in any of the countries bordering on the Mediterranean." Grey provided a significant caveat, however. These refugees could land only "provided such persons are in a situation to comply with the law of the island, which requires that before strangers are allowed to land they shall have security against becoming a burden upon its resources from their inability to maintain themselves."<sup>74</sup> Grey further attended to the safety of the colony, indicating that the Governor ought to dictate where the refugees lived in the hopes of keeping them from such strategic sites as the fortifications in the capital. Finally, he gave O'Ferrall the ability to "order the removal from the island of every foreigner who shall be proved to have abused its hospitality" and in instances where "offense is given to friendly powers, by its [Malta's] being allowed to become a place from whence plots may be carried on against the existing government of any state in amity with Great Britain."<sup>75</sup>

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<sup>73</sup> For one such case, *see*, Channel Islands: Jersey: Application from Edouard Biffi to be allowed to return to Jersey after expulsion in 1855, PRO HO 45/6406/3, 1857-1858. For Waddington's correspondence on the refugees' fate, *see* Channel Islands: Jersey: Return of those who have been expelled from the island, PRO HO 45/6333/22, 1856-1859.

<sup>74</sup> Grey to O'Ferrall, reported in the *Daily News*, April 16, 1850.

<sup>75</sup> *Ibid.*

The editors of the loyalist *Malta Times* supported expulsions on this final point, taking the power now invested in the colonial government as a moral one aimed at rooting out dangerous individuals, not innocent victims. The editors took it upon themselves to make their dislike for these refugees known. Addressing the refugees, the editors also admitted that they had a right to the asylum they had procured on Malta. Here, they could “remain in peace and security, *provided you are so inclined*” (emphasis mine). The editors accepted that the refugees may actually be *so inclined*, but they highlighted the refugees’ history of violence. They insisted that “many of you owe your very means of subsistence to the families of that country, which you have deceived, by betraying its confidence, and endeavouring to cause riot and bloodshed.”<sup>76</sup> Having received word that the Colonial Government had actually instructed three such refugees to quit the island in March 1850, the editors of the *Malta Times* preemptively wondered at anyone who could possibly “feel for these ungrateful men.” To feel for these refugees “would be to participate in their crimes towards their own country, as well as in their base ingratitude to the flag that protects them.”<sup>77</sup>

In one document, Grey granted O’Ferrall and the small British colony in the Mediterranean the right to vet foreigners and to regulate their activity within their domain. On the one hand, these were rights that the home government had flirted with in times of great danger, as had been the case in the 1790s. On the other hand, this set of directives far exceeded those that would ever be instituted closer to home in placing a greater emphasis on local sentiment and political fears than on the personal safety of political dissidents. Far from Britain, however, and surrounded by revolution, the Colonial Government on Malta indeed felt itself to be under siege.

The metropolitan public relented in its cries for changes in policy. Ultimately, it had been the imperial government’s decision to allow the vetting of foreigners in Malta. However, that is not how it would be remembered in the long run. The story of the Italians’ treatment on Malta lived on in cultural memory as a condemnation of those who treated refugees improperly. To be forced to give up political agitation on pain of expulsion was inimical to the point of British refuge in the first place. Luigi Bianchi published his memoirs in which he demonized O’Ferrall ten years after his expulsion from Malta. Though the affair was long in the past, the charge continued to galvanize sympathetic support for refugees more generally. Moreover it would become the basis for a new account of British refuge.

#### CREATING HISTORY: THE DRIVE TO MAKE PAST REFUGE PARTICULAR AND UNIVERSAL

Metropolitan campaigns succeeded in expanding refuge as a moral norm. In their campaigns, metropolitan refugee supporters and foreign refugees – particularly the French from Jersey and the Italians from Malta – employed a tactic new to this period: an emphasis on refuge in *British* history. They painted refuge not just as a British responsibility in the contemporary context, but a long-standing, foundational act. The British ought to provide refuge because that is what the British had done. Even though their campaigns failed to change colonial practice and imperial law to meet their ends, this new historical bent has shaped the refugee question in British culture and moral politics ever since.

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<sup>76</sup> *Malta Times*, March 26, 1850.

<sup>77</sup> *Ibid.*

In the section below, I examine the major strands of this new tactic. There was a tension, I argue, inherent in these strands of new historical argument: between refuge as a particular act, aimed at refugees of a certain sort, and refuge as a more abstract charitable act, independent of the politics of the particular group in question. Supporters of Italians argued, for instance, that these men ought to receive refuge because they – like previous refugee groups – had been the victims of Catholic despotism. French republicans argued, by contrast, that they ought to be properly treated in their exile because Britain had long offered such hospitality to past influxes of refugees, regardless of their political or religious background. The first implied a continuation of the older, confessional model of refuge: refuge in Protestant Britain was part of her existential battle against Catholicism. The latter carried the seeds of universal humanitarianism: refuge was a moral imperative, independent of the national interest. I conclude with a third variant on the history of British refuge employed at the time. More akin to the latter in its moral generosity, this strand of argument tended less to paint the British as historically consistent in their treatment of the persecuted and admitted that the British too had a darker past. England had been to William Wallace what Austria was to Mazzini; and to the Irish what Russia, Prussia and Austria were to Poland.

REFUGEES AND THE BRITISH PAST: THE PARTICULAR — An “English Republican” wrote to *Reynolds’s Newspaper* in 1855, exclaiming that the actions of Lieutenant-Governor Love and his deputies were “so cunning, disingenuous and Jesuitical as to endeavor to make of this great question a stalking-horse for their own politico-religious nostrums.”<sup>78</sup> For the radical *Reynolds’s Newspaper*, the point was to paint those who opposed refuge not simply as inhumane, but as posing a threat to British liberties. The writer was not alone in his return to the confessional language of pre-French Revolution refuge. The arrival of new waves of continental refugees generated broad cultural interest in those of the past, in the Huguenot Diaspora especially. Coinciding with contemporary fears of a Catholic resurgence at home and overseas, the version of Huguenot history employed at mid-century was replete with images of Protestant suffering. Refuge, as it had been through the seventeenth and eighteenth centuries, was again about the bolstering of Britain as the Protestant antidote to such threats overseas and within the Empire.

Cultural interest in Huguenot persecution departed dramatically from standard depictions of the Huguenots in nineteenth-century Britain. Prior to the mid-1840s, references to either the persecution of the Huguenots in France or to the considerable Huguenot Diaspora to Britain, Ireland and British North America were few and far between. Whether they were discussed in the British media or in politics, the Huguenots were depicted as immigrants, not as refugees.<sup>79</sup>

Only in the wake of renewed political unrest on the continent in the late 1840s did the Huguenots emerge from obscurity and *become* refugees in cultural parlance. The phenomenon was international. French historian Jules Michelet’s histories of France and of revolution brought Catholic France’s history of religious persecution to the fore. Across the Channel, John Southerden Burn published his 1846 tome on not just the French Huguenots, but on Protestant

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<sup>78</sup> *Reynolds’s Newspaper*, November 18, 1855.

<sup>79</sup> Huguenots were then defined by their industry, not by their former persecution. Huguenot weaving was the pride of Britain’s liberal immigration policy: an unregulated in-take of foreigners brought the nation Huguenot commerce. Fondness for the Huguenots was not universal. Economic difficulties in the 1830s hit the domestic textile industry particularly hard. In this context, working-class radicals argued that Huguenot industry had only served to aide in their economic oppression. See, for example, “Reports from Assistant Hand-Loom Weavers’ Commissioners, Part III,” in *Parliamentary Papers* (1840, 43-II), 592. In the debates over the nationality laws in 1844, the Huguenots were again referenced for their industry among other migrants, not for being refugees in particular. I make more of this distinction in Chapter Seven.



refugees more generally, concentrating on their settlement in England.<sup>80</sup> By the close of the decade, that trickle of interest became a deluge. Swiss historian Charles Weiss emphasized the importance of British refuge for these persecuted foreigners in the international context. His 1853 *Histoire des Réfugiés Protestants de France, depuis la Révocation de l'Edit de Nantes jusqu'à nos jours* gained fame in Britain even before its 1854 English edition. *Blackwood's Edinburgh Review* was quick to review the detailed text, its editors highlighting Britain as foremost among the places of Huguenot refuge. Weiss's meticulous work showed that the Huguenots did not merely find asylum in the British Isles, they were also instrumental in the course of British history. Huguenot soldiers assisted in the Battle of the Boyne and, despite fears to the contrary, demonstrated great loyalty to the British state and to the stability of William's reign following the Glorious Revolution.<sup>81</sup>

British curiosity had been piqued; the popularity of the earlier refugees and their plight was unparalleled. In 1848, Giacomo Meyerbeer's 1836 opera *Les Huguenots* debuted in London. Despite the expense of the production, *Les Huguenots* would play consistently for the next ten years, playing at Covent Garden until 1857 and touring urban areas across the British Isles.<sup>82</sup> The opera focused on the sixteenth-century wars of religion in France and told the story of a star-crossed love affair that fatefully ended in the massacre on St. Bartholomew's Day. Other tales emphasized the triumph of the Huguenot struggle. The first published Huguenot memoirs and novels appeared for the broader British public in the first half of the 1850s. William Anderson's 1853 *Blanche, The Huguenot: A Tale* described the harrowing ordeal of one Protestant family in their struggle to remain true to their faith and flee those who persecuted them for conscience's sake. Like the fictional and non-fictional accounts of continental refugees at mid-century, these individuals suffered terribly for their beliefs, swearing to uphold their family's faith even as those families were being torn apart.

Curiously, this phenomenon rarely addressed the continental crises – or that of the American fugitive slaves – raging at the time. Neither Meyerbeer nor Weiss, nor their mid-century British reviewers, commented on British aid to subsequent influxes of refugees from the continent or elsewhere. Nor would the reviewers explicitly draw the parallel to the persecution of political dissidents on the continent.

More broadly, however, both Italian refugees and their British supporters used the refugees' experience fighting papal corruption to popularize their cause among Britons of all classes. They emphasized that, like the French Huguenots, Italian refugees of the day (though themselves Catholic) also fled the machinations of the Pope and his minions. Like the French Huguenots, continental refugees in this period seemed to look to Britain as a Protestant bulwark. Almost a decade after his expulsion from Malta, Luigi Bianchi published his memoirs in which he too accused the Colonial Governor of falling prey to Jesuitical influences. Bianchi described his expulsion from Malta, where he had intended to take up residence to work at the university after fleeing Rome. According to Bianchi, the island was a haven for continental Jesuits with "hearts burning with anger and hatred, and thirsting for vengeance." In their eyes, "the protestant government of England was a continual irritation," and they worked to "inspire the governor

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<sup>80</sup> John Southerden Burn, *The History of the French, Walloon, Dutch and other Foreign Protestant Refugees settled in England*, (London: Longman, Brown, & Green, 1846).

<sup>81</sup> Weiss, 13-15.

<sup>82</sup> Clarissa Lablache, "Meyerbeer at London's Covent Garden," <http://www.meyerbeer.com/covent.htm>.

with their feelings towards Italians, and especially towards those who had fought against the Pope, assuring him that our dismissal was his most sacred duty, as a band of desperadoes.”<sup>83</sup>

The history of Huguenot persecution, together with the renewed use of anti-Catholicism as a reason for refuge, became powerful when it did because it grew from and fueled Protestant fears of resurgent Catholicism at home at the same time as the Pope, backed by France, reasserted his oppressive rule in Rome.<sup>84</sup> Within Britain, elite and ordinary Protestants felt they had reason to fear for the security of Protestant England. They watched what seemed to them to be a re-institution of the Catholic hierarchy in England after 1850. Not only did the increasing numbers of Irish in England after the Potato Famine mean a greater demand for Catholic parishes, it seemed to take its toll on British Protestantism. At the same time as Anglican Church attendance was on the wane, the conversion of prominent Anglicans to Catholicism seemed to make matters worse.

To combat this apparent onslaught of Catholicism and to reinvigorate Protestantism, the conservative refugee supporter Lord Shaftesbury founded the Protestant Alliance in 1845 – the same year as John Henry Newman’s famous conversion to Catholicism. But concern was much more widespread. By the mid-1850s, articles on this “Papal Aggression” saturated both the mainstream and the radical press.<sup>85</sup> On both ends of the social and political spectrum, fears for Catholic “aggression” brought concerned Protestants into direct contact with refugee affairs.

In 1852, for instance, one French Protestant reverend wrote to Lord Shaftesbury’s Protestant Alliance, begging the English to beware of the encroachments of popery and the relative weakness of Protestantism to resist. Reverend Piaux asserted that he had the authority to address the English audience on this topic because he was himself the descendant of a Huguenot. As such, he hoped to repay British hospitality by helping to save England, the bulwark of Protestantism, from this current threat.<sup>86</sup>

At least in once instance, the metropolitan working classes worked out their fears for the encroachment of Irish immigrants and of Catholicism through their relationship with foreign refugees. As historian Sheridan Gilley has described, the 1862 Garibaldi Riots across London combined agitation over social and economic competition with immigrants with working-class concern for popery and excitement over the Italian cause. In the event, English crowds lashed out against the Irish in “the back streets of their slums and in Hyde Park.” The resulting violence, though little studied, was an “unusually unambiguous outburst of anti-Irish prejudice” that had long plagued these quarters of London.<sup>87</sup>

REFUGEES AND THE BRITISH PAST: THE UNIVERSAL — As early as the 1790s, concerned Britons had claimed that the miseries of exile – separated from the specific religious creed of the

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<sup>83</sup> Bianchi, 210-11.

<sup>84</sup> More generally, the 1840s witnessed a new interest in local and national histories. Philippa Levine, *The Amateur and the Professional: Antiquarians, Historians and Archeologists in Victorian England, 1838-1886*, (Cambridge: Cambridge University Press, 2003); See also, Patrick Joyce’s discussion of popular local histories in *Visions of the People: Industrial England and the questions of class, 1848-1914*, (Cambridge: Cambridge University Press, 1991).

<sup>85</sup> John Henry Newman converted in 1845, followed by Henry Edward Manning in 1851. For the latest work on lingering religious antipathies, see Michael Wheeler, *Old Enemies: Catholic and Protestant in Nineteenth-Century English Culture*, (Cambridge: Cambridge University Press, 2006). For the social impact of Irish immigration to England in this period, see Lynn Hollen Lees, *Exiles of Erin: Irish Migrants in Victorian London*, (Ithaca: Cornell University Press, 1979).

<sup>86</sup> Though his sentiment was no doubt a popular one, members of the Alliance seem to have been hesitant in their fear-mongering literature. They published his letter, enabling it to reach a wider audience. But, the editor’s preface made it clear that the Reverend was himself responsible for its contents, distancing his opinions from those of the Alliance. Rev. Piaux, *The Voice of a Huguenot; or, a French Pastor’s address to his British Brethren*, (London: James Nisbet and Co, 1852).

<sup>87</sup> Sheridan Gilley, “The Garibaldi Riots of 1862,” *The Historical Journal*, (Vol. 16, No. 4, Dec., 1973, 697-732), 698.

refugee – ought to justify British assistance to refugees. The French Catholics deserved support, liberal humanitarians had claimed, because of the unjust persecutions they had faced and the tribulations of exile. Yet there was a profound difference in the extent to which supporters in the 1790s and those in the 1850s began to rely on abstract claims for humanitarian assistance. Assisting the émigrés had been part of an existential British struggle against Revolutionary France with whom Britain was at war. Italian supporters tended to emphasize the same in their play upon popular anti-Catholicism. By contrast, other refugee supporters and foreign refugees themselves would begin to distance themselves from the depiction of British refuge as a part of continuous struggles between Britain and her sworn enemies.

To the extent that this was a conscious change, it was a practical discursive move for certain groups. Refugees and their supporters sought to promote sympathy with foreigners whose political causes did not necessarily coincide with British foreign policy. The editors of *L'Homme*, for instance, hoped to stake a claim for a group of radical French exiles with which the British shared little political affinity and they hoped to do this at a time when Britain and France were allied partners in the Crimean War. Empathy with the French on Jersey would not therefore be about specific geopolitical struggles.

This history of British refuge, as Charles Ribeyrolles, Charles Hugo, and Victor Hugo cultivated it, was thus quite different. It was a history not of rivalry between Protestantism and Catholicism, but of Britain's long-standing ethical commitment to foreign refugees whose misfortunes alone demanded empathy. This long and diverse tradition, they argued in *L'Homme*, ought to extend now to their community on Jersey: to expel the republicans, as local authorities threatened, was to betray all that was British.

In the middle of the expulsion crisis, *L'Homme* editor Charles Ribeyrolles reprinted sections of Jules Michelet's *L'Histoire des Guerres de Religion* in which Michelet enumerated the wrongs committed against the French Protestants. Ribeyrolles added that the "cruel circumstances" Michelet had described offered an education in how the Huguenot martyrdom led naturally to a "life of extraordinary purity" and "astonishing fraternity" in misery.<sup>88</sup> Ribeyrolles's claim, through Michelet, was that the sheer misery of exile ought to excite British sympathies, and hence support.

The editors did not stop there. They argued that Britain had for centuries been a refuge, the British saving lives and allowing for the "liberty of grievances." The Protestants of Rochelle not only found a home in Britain, but became British themselves: the people of Jersey were "this people, the sons of these martyred people."<sup>89</sup> In turning against the 1848ers, the British were turning on the likes of their own Protestant ancestors. They were, moreover, turning against strangers when their ancestors had made a point of aiding even those who were not Protestant. The editors tried to remind the British that the priests, the nobles and the officers of the French Revolution of 1789 had "all been unremitting enemies of your [British] institutions, of your religious sects, and whose fathers had drunk Protestant blood." Yet they too had a home in Britain.<sup>90</sup> The day the British did not recognize the sanctity of asylum, the editors exclaimed,

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<sup>88</sup> "[...]une] terrible education par le martyre leur rendait naturelle une vie de pureté extraordinaire, dans une étonnante fraternité. L'égalité de misère, de peril, faisait l'égalité d'esprit." J. Michelet as quoted in *L'Homme*, October 24, 1855.

<sup>89</sup> "Vous êtes ce peuple lui meme, les fils de ce peuple martyr, et vous priscrivez!" Charles Ribeyrolles, "Au Peuple de Jersey," *L'Homme*, October 31, 1855.

<sup>90</sup> "...c'étaient des nobles, des officiers, des prêtre catholiques, tous ennemis acharnés de vos institutions, de vos sects libres, et dont les pères avaient bu le sang protestant, le sang des apôtres, la coupe du Christ." *Ibid*.

would usher an era “more sad than the banishment itself,” when heads could no longer be raised.<sup>91</sup>

In *L’Homme*’s account of the British past, the British were inherently pure, but faced with the loss of respectability if they did not follow the lessons of past hospitality for foreign refugees. The picture was flattering, as befitted a group of exiles that hoped not to offend.<sup>92</sup> British refugee supporters, however, could be freer to examine their nation’s welcome to foreign refugees, past and present.

#### CONCLUSION: REFUGEE SUPPORTERS, CONTINENTAL AGGRESSORS, AND THE BRITISH PAST

Built into these attempts to historicize British refugee were assumptions that the persecuted in question were foreigners – that British-refugee relations, whether construed as universal or as particular, were essentially between British subjects and the State, on the one hand, and foreigners, on the other. Although the term ‘refugee’ might as easily have applied to fugitive English Catholics in British parlance, or to Irish nationalists, it was not so used, implying, as it did, bad governance on the part of the home government. It would have been impolitic, to say the least, to highlight this point in attempts to campaign on the behalf of foreigners in search of British support.<sup>93</sup>

By mid-century, however, a third strand in refugee literature had begun to historicize Britain’s past aggressions in relation to current refugee crises. While those who employed this approach did not go so far as to connect current *foreign* refugees with British *traitors* they made an important moral opening in a literature that otherwise whitewashed the British past on this score. These writers tended to celebrate an eventual founding of just governance in two of the original colonies. But it was this process of reform, they argued, that made Britain particularly suited to take on the challenge of seeing *similarly felicitous* change on the continent. Often pondering this historical comparison only in passing, however, refugee supporters assumed (rather than queried whether) such change was what the refugees wanted.

Not surprisingly, this strand of argument was more prominent in mainstream liberal, not radical, publications. In the Society of Friends of Poland’s journal *Polonia*, for instance, the editors reminded members of the parallels between Polish and Irish history - parallels that had been made first in Parliament in the official discussion of the condition of Poland after the 1830 Revolution. Quoting MP R. C. Fergusson, the editors found that Poland’s predicament was not necessarily unlike that of Ireland in the eighteenth century. Whereas Russia (and Austria and

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<sup>91</sup> “Car l’amoinissement est quelque chose de plus triste encore que le banissement, et le dédain de l’histoire ne vas pas au front haut, mais à la tête basse.” *Ibid.*

<sup>92</sup> There were, of course, exceptions. Ledru Rollin’s 1850 *The Decline of England* elicited sharp criticism for its uncharitable take on English society and colonial rule, akin to Pyat’s letter against the Queen. Whereas Ledru Rollin discussed Ireland he made no mention of political prisoners, only of English oppression. Karl Marx critiqued English society, describing England as the likely locale for the first Communist revolution. Guizot’s account of the English Revolution put England into a framework similar to that of the *more autocratic* continental neighbors. Each of these was a more general critique of English culture and governance. Alexandre Auguste Ledru Rollin, *The Decline of England*, 2 vols., (London: E. Churton, 1850); Karl Marx and Frederick Engels, *The Communist Manifesto* (first published in 1848, and, for the first time in English by the *Red Republican* in 1850); F. Guizot, *The history of the English Revolution of 1640, commonly called the Great Rebellion: From the Accession of Charles I to his Death*. Trans. William Hazlitt, (New York: D. Appleton & Co., 1846); BL MSS 41128, *Croker Papers, Vol. V. Letters of Guizot, French statesman and historian, to John Wilson Croker; 10 Dec. 1837-22 Dec. 1856.*

<sup>93</sup> The Jersey French refugees published an announcement in the *Weekly Dispatch* on April 13, 1851, in which the undersigned *proscrits*, declared their *disinterest* in Anglo-Irish affairs. Chartist and Irish Nationalist MP Fergus O’Connor attempted to gain their confidence. But the exiles denounced him as a “false democrat” whose true character they had long detected.

Prussia) “deprived four millions of Poles of their constitution,” the editors posed the question: was the conduct pursued by England towards Ireland after the rebellion of 1798” so different? After all “Ireland was in nearly a similar position to us as Poland to Russia.”<sup>94</sup>

The editors of *Polonia* assumed that Britain had grappled (past tense) with the woes of their first overseas colony. Along with MP Fergusson, the editors assumed that Ireland’s rights to redress ended with the Act of Union and parliamentary *representation* (of a limited sort) in London. Fergusson’s point was that, despite the apparent parallel, the response to his rhetorical question was that Britain *had not* succumbed to despotism in a similar situation.

Two decades later, popular novelist Mrs. C. G. Hamilton would take a similar tack, examining the annexation of Scotland in her 1857 *The Exiles of Italy*. In the novel, several of her English characters, engaged in lively conversation with Italian refugees about whether the Austrian occupation of Northern Italy could be approximated to the history of the English rule of Scotland. The English Mr. Mowbray assured the others that the comparison did not readily hold. He claimed, on the one hand. “The English and Scotch are as essentially one nation, as Austria and Italy are two.”<sup>95</sup>

On the other hand, Mowbray admitted that England and Scotland might not always have been so similar. Mowbray continued to say that the “spirit of [Scottish] patriotism took refuge in one man”: William Wallace, whose heroic struggle Mowbray could hardly deny.<sup>96</sup> Centuries later, when Wallace’s bid for independence was safely in the past, even the English could not fail to see the romance of his struggles.<sup>97</sup> Mrs. Hamilton’s novel thus endorsed revolutionaries’ bids for independence in the 1850s, romanticizing their struggles, just as Hamilton and her character Mr. Mowbray romanticized the Scottish nationalists of the fourteenth-century.

Yet, Hamilton admitted to a broader ethical concern in so doing. Her character, Mr. Lyndsay responds to Mowbray’s praise for Wallace with a woeful lament: “[If] They are compelled to relinquish the struggle, they are stigmatized as rebels and disloyal, and banned for disturbing the peace of mankind.”<sup>98</sup> Lyndsay admitted that the difference between dangerous criminals – traitors – and heroic patriots was slim.

Changes in the international scene in the late 1860s and the 1870s forced the British to pose the questions implicit in Mr. Lyndsay’s lament and in the discussions of a history of refuge more generally. What was the difference between foreign refugees and criminals? Was the difference simply a matter of sympathy for the one and none for the other? What would happen when Britain sought to bring a fugitive traitor to justice? Could the nation who provided refuge for all foreigners ask for the extradition of a fugitive British national? Beneath these concerns was a broader one over the nature of a *right* to refuge. Was this moral obligation a universal right? Did the British *have* to subscribe to it when it was not in their national or imperial interests?

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<sup>94</sup> *Polonia*. “Report of the Debate in the house of commons on the motion of R.C. Fergusson..., on 18 April, 1832,” *Regulations of the Literary Association of the Friends of Poland*, (London: G. Eccles, Vol. I. No. 2, September, 1832, 90-98), 93.

<sup>95</sup> Mrs. C. G. Hamilton, *The Exiles of Italy*, (Edinburgh: Thomas Constable and Co., 1857), 317.

<sup>96</sup> *Ibid.*, 310.

<sup>97</sup> Mrs. Hamilton, whose novel was published in Edinburgh, further honored the fallen fourteenth-century hero, including lines on his sacrifice at the opening of the chapter in which the debate takes place. The sacrifice was itself noble. For analysis on the distance between the Scottish present and the Scottish past, it is particularly useful to examine the literary scholarship on Sir Walter Scott’s *Waverly* novel, and the emergence of Scottish romantic nationalism and the image of the nation in the early nineteenth century. See, for example, Ian Duncan’s 1992 *Modern Romance and Transformations of the Novel: The Gothic, Scott, Dickens*.

<sup>98</sup> Hamilton, 317.

Debates over these concerns in the last third of the nineteenth century would have lasting consequences on the structure of British refuge. The mid-century cases anticipated these concerns and raised fundamental questions about the extent to which the British could receive every persecuted foreigner. Ultimately, the refugee supporters would have to consider whether and how to systematize who could receive refuge. As in Anderson's case, they would have to weigh moral right versus legal strictures – and international accord. As on Malta and Jersey, they would have to reconsider whether hospitality could go too far in protecting individuals they considered *dangerous*, inimical to peaceable rule.

Section Two of this dissertation, Chapters Five and Six, highlight significant cases through which the British tried to contend with whether their now traditional practice of providing refuge was a moral imperative that could and should be carried out in all cases, whether refuge was a universal right, and what the British position on this privilege/right would be in the international sphere. In this vein, Chapter Five examines the attempt post-1870 to distinguish between the political refugee and the criminal in the context of new international extradition laws. Chapter Six explores the new concern that fugitive slaves off the coast of East Africa made refuge too diplomatically *dangerous* to the sovereignty of independent nations to continue. Whereas the mid-century refugees were spared extradition – neither Anderson nor the Italians or French were refused refuge *somewhere* – after 1870, foreigners in search of shelter on British soil were in imminent danger of being returned home, not to a home freed of oppression, but back to face trial in the hands of their enemies in the case of dissidents and, in the case of fugitive slaves, back to their masters and a life of unfree labor.

SECTION II: A UNIVERSAL RIGHT?  
DEBATES OVER THE LIMITS OF *BRITISH* REFUGE, 1870-1900

CHAPTER FIVE

CRIMINAL OR POLITICAL? FOREIGN REFUGEES, IRISH FENIANS  
AND INTERNATIONAL EXTRADITION LAW, 1870-1900

A June 1871 issue of London's *Penny Illustrated* satirized an encounter between British supporters of French Communist refugees and supporters of Irish Fenianism on Clerkenwell Green in Central London. The purpose of the meeting was to sympathize with the Communists, but the focus of the article was on an altercation that ensued between the chair of the meeting and an Irishman in the audience. The chair denounced the French Government. French ministers, he declared, wrought bloodthirsty vengeance on the Communards after the fall of their short-lived Paris Commune the previous month. To this, the Irishman shouted: "that is a lie, Johnson, and you know it; you would all be as bloodthirsty if you dare."

A "great uproar" ensued. Although the chair, Mr. Johnson, tried to quiet the opposition, he succeeded only in getting more Irishmen involved. Another Irishman condemned British support for the French Communists. He shouted, "The Irish Fenians were gentlemen compared with the Communists! (Oh, Oh and interruption [from the crowd].) Well, the Fenians committed no robberies (cheers) nor would they hold with such robbers as the Communists (groans and cheers [from the crowd])."<sup>1</sup>

The fight over the relative merits of continental Communists and Irish Fenians was meant to be uncomfortably amusing for the audience of the *Penny Illustrated*. Public support for the Paris Communards was tentative from the first news of the declaration of the Commune that March. Tales of assassination, robbery, and arson abounded. The British public ultimately supported Communard refugees, but that support was a cautious and quiet affair. Classic outrage meetings, like the June 11, 1871 meeting on Clerkenwell Green, were few and far between, and the Clerkenwell meeting only took place after news of the French Ministry's *semaine sanglante* (week of bloody reprisals) reached Britain.

Despite the Irishmen's assertions, Fenians were hardly "gentleman" either. The Fenian Brotherhood was a new, more violent group of Irish nationalists, increasingly popular in Ireland and in America, where they raised funds for their cause. By 1871, they were known for their bombings and violent raids in Ireland, Britain and Canada. In bids to free their comrades, Fenians attacked a police wagon in Manchester and a prison in Clerkenwell in 1867. The British response to the "Manchester Outrages" in particular was decisive: three of the conspirators were executed. But the two men freed from the prison wagon in the attack fled. They were later known to have resumed their agitation in America, safe there from the arm of the British police.

The subtext of the article was thus a pointed commentary on the relative nature of radical violence and governmental response. One country's criminal was another's persecuted refugee. The open comparison between Britain's *criminals* and foreign *refugees* was entirely new in this period, and extended well beyond the pages of the *Penny Illustrated*, mapping onto a growing

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<sup>1</sup> *The Penny Illustrated*, June 17, 1871.

public and official concern over the boundary between the two. In a period in which Britain increasingly relied on international law to regulate the extradition of criminals (forgers, murderers, and the like), there was a pressing need to distinguish the criminal – who was to be prosecuted – from the political refugee – who was to be sheltered.

The potential cost was immense. If Britain failed to extradite fugitives, she would become (as many conservatives feared) little more than a den of refuge for foreign criminals. If Britain failed to carefully discern the nature of the prosecution the fugitive would face overseas, however, she stood poised to abandon her commitment to liberal *refuge*, and to extradite persecuted foreigners for the first time. The chapter that follows focuses on the period between the 1870 Extradition Act and the first international anti-Anarchist conference in 1898. I examine how the British grappled their traditional welcoming of foreign refugees at a time when foreign refugees espoused increasingly radical and violent political ideologies. While the public's commitment to foreign refugees made it impossible for government officials to abandon this tradition wholesale, this commitment to asylum made seem impossible for British officials to request Irish Fenians from overseas. What, in the end, was the difference between the domestic "traitor" and the foreign revolutionary "refugee"?

I begin this chapter with an explanation of the lead-up to the 1870 Extradition Act. The Act – the first to codify a right to refuge in British domestic and international law – brought the domestic "traitor" and the foreign revolutionary "refugee" into a single political and cultural framework. For the first time, the British admitted that the Irish could be considered refugees, though no British official, philanthropist or foreign refugee had ever made that comparison explicitly in previous decades.

The Act's protection of foreign political offenders appeared almost immediately to be too broad, however, and systematic efforts to narrow the exemption became a standard popular and legal debate for the next thirty years. I argue that attempts at a systematized refugee policy only occurred thanks to fear of Irish Fenianism and increasingly radical political ideologies on the Continent which diminished public sympathies for "political offenders," foreign and domestic.

Yet, despite these diminished sympathies, any revision of extradition or asylum policies would involve a delicate balancing act between imperial security, international accord, and metropolitan moral norms. While, in the wake of the Paris Commune, the public did not celebrate the arrival of foreign refugees as they had in the past, the notion that foreigners were entitled to asylum remained deeply entrenched in British culture. The nation that had promised shelter to all "refugees" could not bow to new imperial and international demands and refine what had become a capacious moral category.

Whether and how reform could be achieved thus became a matter for consideration well beyond the Ministry itself; debate raged in mainstream, radical and legal journals, at international congresses and in a specially appointed Royal Commission on Extradition. This was not a debate that would end in these last decades of the nineteenth century. In many ways, the same debate over what constitutes a political offense remains part of extradition law today. It was in these early, formative years of the debate, I argue, that Britain's traditional interest in foreign refugees became a matter for multilateral international discussion. Although few Continental powers then supported liberal asylum policies, it was Britain's reticence to change



that, in the long run, helped to introduce asylum in modern international law as an assurance that foreigners received *just* justice.<sup>2</sup>

#### BACKGROUND: FRAMEWORKS FOR COMPARISON, 1830-1870

We might assume that comparisons between foreign prosecution of political revolutionaries and the British prosecution of domestic and imperial *traitors* would have been impossible to avoid even before the advent of international extradition law. After all, Britain imprisoned and transported “political offenders” long before 1870. Political radicals and Irish nationalists had long fled to France and to America to escape trial at home. Moreover, many of these “offenders” had comrades in Britain who not only befriended foreign refugees, but also supported their causes and became vocal proponents of the rights of asylum. Yet, seldom was the treatment of the two by their home authorities compared. How was this separation possible?

The two groups – the foreign and the domestic political offender – were rarely compared because the celebratory post-1815 refuge for foreign nationals was predicated on an assumption that British jurisprudence in general, and the meting of British justice, in particular, was relatively stable and liberal. By consequence, there seemed little with which to upbraid the local treatment of domestic or imperial political offenders. In contradistinction to counter-revolutionary and pro-slavery persecution on the Continent and in America, this assumption appeared to be correct. This distinction between foreign and British political offenders was

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<sup>2</sup> Historical scholarship that mentions foreign refugees has tended to focus on the 1870s-1890s for the emergence of an Anarchist community in Britain and as a period of increased police surveillance. More generally, scholars have assumed that, as Continental radical politics transformed, asylum changed. Scholars hold that the British “refugee question” became marginal and that Britain’s reaction to refugees was more in-line with Continental conservatism. (For example, see Bernard Porter’s *The Origins of the Vigilant State* [Woodbridge, Suffolk: Boydell Press, 1987]; John Quail, *The Slow Burning Fuse: the Lost History of the British Anarchists*, [London: Paladin, 1978]; and Hermia Oliver, *The International Anarchist Movement in Late Victorian London*, [London: Croom Helm, 1983].) While I agree with Porter in *Origins* that new policing units were important components of Britain’s national security in this period especially, I have found this scholarship inadequate in helping us to understand the transformation of the “refugee question” and continued British commitment to the rights of asylum. The attempt to systematically define the “political offender” had the effect of narrowing the application of the refugee category. But, it hardly marginalized the refugee question. Rather it caused a crisis in which officials could not afford to ignore the crossroads before them. In terms of scholarly debate, this chapter then is about placing the history of the refugee exemption in extradition law in the broader history of British refuge. It takes extradition out of the context of high political and legal history, and offers the most comprehensive account of British extradition history to date. Changes in the law, I argue, can hardly be accounted for without an attention to broader cultural changes in perceived responsibilities to would-be refugees, foreign radicals and Irish nationalists alike.

I am indebted to a number of scholars whose work touches on central components of this thesis. In addition to those mentioned above, they include: P.K. Martinez’s unpublished dissertation, “Paris Commune Refugees in Britain, 1871-1880,” (Ph.D. Diss. University of Sussex, 1981); Nicholas Adams and Christopher Pyle. Adams, “British Extradition Policy and the Problem of the Political Offender, 1842-1914,” (PhD Thesis, Hull University, 1989); Pyle, *Extradition, politics, and human rights*, (Philadelphia: Temple University Press, 2001). Adams’s dissertation on British extradition law and Pyle’s account of American extradition are the only scholarly attempts to tell the history of the “Political Offender” exemption in extradition law in a way that touches upon both British ‘traitors’ and foreign refugees. Their accounts of the laws/treaties alone cannot account for normative interest in the “political offender” – or, by extension, the refugee. I argue that we cannot understand the legal history, unless we understand how immediately enmeshed British extradition policies were in a larger response to foreign refugees and a new international framework.

For further accounts of British/European ‘political crime’ see Barton Ingraham, *Political Crime in Europe: A Comparative Study of France, Germany, and England*, (Berkeley: University of California Press, 1979); Leon Radzinowicz & Roger Hood, “The Status of Political Prisoner in England: The Struggle for Recognition,” *Virginia Law Review*, (vol. 65, no. 8, Dec., 1979, 1421-1481; Seán McConville, *Irish political prisoners, 1848-1922*, (London: Routledge, 2003). These are helpful conceptual studies, but limited in that they do not account for the important difference between domestic and foreign ‘political offenders,’ both concentrating on states’ responses to domestic offenders. I would argue that we cannot understand nation/state relationships to ‘political offense’ without understanding it in correlation with the history of foreign refugees.

largely maintained until 1870, but, as I emphasize in the section that follows, this separation was uneasy at best for two main reasons:

First, British officials could not ignore entirely the fact that most revolutionary refugees on their shores had blood on their hands and, moreover, often used their exile to plot further insurrection overseas. The vocal British refugee lobby overlooked or excused their foreign heroes' actions. Indeed, the political point of refuge was a show of support for the refugees' campaigns against foreign despotism. State officials and diplomats could not always follow suit, however, especially when the refugees conspired against an allied power.

Secondly, neither British officials nor the public at large could ignore the fact that, despite Britain's relative stability and liberality, they still had to punish those who threatened the state by crossing what was often an ambiguous line between political dissent and criminal-cum-political offense. Calibrating punishments was hardly straightforward for the reputedly liberal nation. Unlike on the Continent, there was no separate category for political crimes in Britain. Under British law, treason, sedition and the lesser crime of libel were criminal offenses. By the late 1830s, this lack of distinction was becoming problematic. For Chartists and Irish Nationalists, criminalized *traitors* became popular political martyrs, as I will outline below. Interest in lionizing political offenders within radical groups was hardly new; one need only look to the French Revolution and post-Napoleonic War reform agitation for examples. What was new by the 1840s was the degree to which public support for domestic political offenders used the same language popularized in campaigns for foreign refugees. Knowing the power of this discourse, even prominent liberals feared that Britain ought not treat even convicted political offenders as common criminals.

Such inherent tension between and within the categories of foreign and domestic/imperial political offense made reform seem necessary. Yet, it was only with the 1870 Extradition Act, as I argue below, that the need for reform would bring the two into a single framework and set the stage for the first attempt to systematize international asylum policies for political offenders.

FOREIGN REFUGEES, CRIME, AND POLITICS — Although Britain's beloved refugees often had committed acts of violence, few doubted that their actions were political, not criminal. For foreign refugees, a broad swathe of the British public overlooked the blood on their heroes' hands. As far as they were concerned, it was in the pursuit of a higher cause that was in line with national morality: the pursuit of liberty.

Prior to 1870, any hint that the British Government did not share this view caused great consternation. For instance, Italian Giuseppe Mazzini famously plotted the Bandiera brothers' armed attack on the Austrian-backed Kingdom of the Two Sicilies from England. Yet, the discovery that the Home Office had forewarned Austria of Mazzini's plans caused such public protest that Parliament undertook an investigation of the affair in 1844. American fugitive slave John Anderson had murdered Mr. Diggs en route to Canada. Nevertheless, the prospect that Britain would extradite Anderson for murder in 1861 threatened imperial crisis. Part and parcel of British support for refugees' causes was the fear that the justice these foreigners would receive at home would not be proportionate to their crimes and that politics, not studied considerations of right, would taint the proceedings. British supporters believed that the Bandiera brothers, for instance, were killed upon their arrival in Italy thanks to Home Office information. They believed that even if John Anderson had been acquitted in American courts he would fall pray to the mob.

This did not mean that British officials thought refugees should be allowed to use their refuge to plot freely. It was hardly politic to allow foreign refugees to conspire against Britain's

allies, especially when Britain herself hoped to remain neutral in an overseas contest. Although the British Government would not consider extraditing a “political offender” between 1815 and 1870, Government officials relied on internal legal and administrative means of policing the foreigners in their midst. Whereas the metropolitan refugee lobby did not condone legal recourse to Aliens Acts, these practices nonetheless provided a framework for internal vetting that later shaped official responses to Continental Anarchism.

Diplomatic pressure from allied powers pressed heavily on the British Government’s relationship with foreign refugees who were assumed to be plotting insurrection. The public and Parliament derided the type of assistance that Sir James Graham had offered to the Austrian Government in 1844, but there were other means by which the State could assure worried allies that British refuge was not intended to provide a cover for fomenting conspiracy. In the late 1820s, for example, Wellington sought to reassure the Portuguese Government of his good faith by allaying concerns about the Portuguese military exiles then assembled at Plymouth. Wellington refused to treat the refugees as prisoners – indeed, they were celebrated subjects of liberal charity at home. Along with the Spanish and Italian refugees in the period, they were fêted at elite balls and bazaars that were held in their honor. Nonetheless, Wellington assured the Portuguese attaché that the exiles were carefully watched. Moreover, Wellington dispersed this exile group to different towns in an effort to discourage conspiracy among them.<sup>3</sup>

Such concern was not the sole purview of the conservative Wellington. Palmerston warned the same foreigners against plotting on English shores: refugees, he declared, “were bound to abstain from courses calculated to give umbrage to foreign Governments, and to disturb the internal tranquility of any foreign country.”<sup>4</sup> Indeed, this had been part of Palmerston’s argument that his attachés used in securing the release of the Hungarians from Asia Minor in 1851. By allowing them to find refuge elsewhere, they would be further from the Austrian border.<sup>5</sup> Palmerston went further still; he sanctioned the surveillance of refugees. The Home Office corresponded with foreign diplomats regarding their activities. British spy John Sanders’s reports about the French refugees on Jersey, in particular, were relayed to the French Ambassador Count Walewski, though this was done more to allay the Count’s concerns for conspiracy than to inform him of their every move.

Surveillance of this sort served double-duty. In addition to allaying allies’ concerns, it alleviated British domestic and imperial fears for the influence on British dissidents at home. At times of extraordinary fear, British officials resorted to aliens acts, as they had at the time of the French Terror in 1793. The 1848 Aliens Act in Britain and the 1850 Act on Malta gave British authorities the legal teeth to act on suspicion that particular foreigners threatened the security of the British/colonial state. Whereas the 1793 Aliens Act effectively created the modern refugee category by enabling officials to separate “dangerous” Jacobins from French refugees, the latter targeted “refugees.” The change reflected a shift in who the British state considered to be the victims of revolution and who were now the victimizers. This had the effect of blurring the line for the first time between foreign refugee and criminal in British law.

Though the years 1848-50 were extraordinary in Britain and on British Malta, neither the public nor Parliament was comfortable with this change in the State’s relationship with foreign

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<sup>3</sup> Wellington to Pamella, December 30, 1828 in *Parliamentary Papers*, 1829 (002) “Papers respecting Relations between Great Britain and Portugal, 1826-29,” 102.

<sup>4</sup> Sir George Cornewall Lewis (Bart. MP), *On Foreign Jurisdiction and the Extradition of Criminals*, (London: John W. Parker & Son, 1859), 69, quoting Palmerston before the House of Commons on 1 March, 1853.

<sup>5</sup> *Ibid.*, 69.

refugees, even if it was temporary. Ultimately, the British had never threatened to extradite these foreigners. Even if they were subjected to surveillance or removal, refugees could find asylum somewhere within the British Empire: if not on Malta, if not on Jersey, then in London. If the foreigner committed a crime during his or her stay in Britain, they would be subject to the law within Britain and safeguarded from what the liberal public believed was the worse fate of facing *justice* at home.<sup>6</sup>

BRITISH SUBJECTS: CRIMINALS OR POLITICAL MARTYRS? — By the 1830s scenes of foreign political imprisonment were part and parcel of the expanding national imperative to help refugees. Yet, British officials were simultaneously concerned with their own treatment of “political offenders” in the context of increasingly popular Chartist and Irish nationalist agitation. Though neither movement would be compared openly to those of the foreign refugees, liberal politicians feared that Chartists and Irish Nationalists would make martyrs of their convicted comrades, using their treatment as evidence against the British government. By the late 1830s, officials struggled with a dilemma utilitarian Jeremy Bentham had explained a decade prior: that an official should avoid setting punishments that were so harsh as to “turn the tide of popular opinion against himself.”<sup>7</sup>

The 1839 Newport Rising brought what radicals found to be the problematic treatment of political dissidents as criminal offenders to the fore. In the event, physical force Chartist John Frost had lead a group of 3,000 armed men to the Westgate Hotel in Newport, Wales. The 3,000 men, mostly miners, were part of an increasingly organized workers’ movement, reacting to the ongoing economic depression and seeming disinterest of the Government for their plight. Through physical force, this contingent of Chartists hoped to see Parliament reform further and make access to government more democratic. Their ill-fated attack on the Westgate Hotel was quelled immediately, and Frost and two other leaders arrested. The three men were tried in December 1839 and sentenced to death for levying war.<sup>8</sup>

Even though these men had indeed raised arms, they could not be so easily dispatched: balancing necessary punishment and popular political opinion required caution. On the one hand, the Administration responded forcefully, imprisoning radical commentators for seditious speech. On the other hand, suppressing freedom of speech was a provocative act and, in sentencing radical commentators and insurrectionary leaders, Members of Parliament were fearful of making the men into popular martyrs. In the wake of the Newport Rising rulings, Parliament immediately undertook the question of their punishment. For advocates of clemency, like MP John Temple Leader from Westminster, the point was their sentence must be commuted so as to avoid any appearance of a miscarriage of justice. Their trial had been hastily assembled, Leader argued, and he feared that the laws of treason had not been properly applied in the interest of appeasing a fearful middle class. Leader’s point was hardly part of the political mainstream. But,

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<sup>6</sup> See Chapters Three and Four above. In *The Refugee Question in Mid-Victorian Politics*, Porter argued that the 1861 Consolidation Acts, which allowed the trial in Britain of crimes committed overseas, brought the British in-line with Continental powers and ended open-ended British asylum. The act passed into law what Palmerston could not achieve in the wake of the Orsini Affair of 1858. Attempting to do so had toppled Palmerston’s government. Porter, *Refugee Question*, 211. I agree with Porter about the significance of the time elapsed between 1858, when refugee Bernard was on trial, and 1861. Nevertheless, I do not agree that this irrevocably altered British asylum. Policing refugees’ activities and attempting to impose limits had long been a fact of British exile. Moreover, bringing foreign offenders to trial did not mean denying protection from *unjust* justice overseas, just a faith in the propriety (whether warranted or not) of British justice. This point came to the fore after 1870.

<sup>7</sup> Bentham, *Works*, Vol I, (Edinburgh, 1843), 427 as cited by George Sigerson, *Political Prisoners at Home and Abroad*, (London: Kegan Paul, Trench, Trübner & Co., Ltd, 1890), 15.

<sup>8</sup> Matthew Lee, ‘Frost, John (1784–1877)’, *Oxford Dictionary of National Biography*, Oxford University Press, Sept 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/10198>, accessed 23 Sept 2009]

with popular petitioners already demanding the prisoners' release, commuting their sentences appeared to be the most politic course to take.<sup>9</sup>

Despite their caution, the Government did not avoid popular backlash. In the wake of the Newport Rising, Chartists were quick to trap British officials in a tactical bind: although officials mitigated the sentences of the Newport Rising leaders, Chartists still denounced the lesser sentences as hardly appropriate for their acts. These men, Chartists argued, were hardly ignoble criminals. Indeed, they were often figures of higher class and great local respectability. Adopting much of the same language used in the support of foreign refugees who also had taken up arms, Chartists adopted critiques of state punishment – imprisonment and transportation to penal colonies – into their pro-reform agenda. In this, the treatment of the Newport Rising leaders became the very stuff of radical martyrology politicians had feared.<sup>10</sup>

Chartists deployed this line of argument through the 1840s on the behalf of their imprisoned comrades and Irish nationalists as well. The unhealthy conditions and physical labor forced upon “political prisoners” was a particularly poignant subject. Chartist newspaperman George Holyoake recalled that fellow Chartist Ernest Jones, imprisoned for unlawful assembly in June 1848, was very nearly killed by his conditions in prison. Irish nationalist William Smith O'Brien fared little better in Tasmania, the penal colony whence officials sent O'Brien and other Irish nationalists in the wake of a revolt in the summer of 1848.<sup>11</sup> O'Brien was forced into two years of solitary confinement. As Holyoake explained, nothing could have prevented their jailors from “lawfully” killing these inmates. The treatment of both became popular causes in the radical press.<sup>12</sup>

British radicals argued relatively effectively for a prison policy for “political offenders” that recognized the difference between the political offender and the common criminal.<sup>13</sup> The arguments they popularized would remain potent through the turn of the century. In 1854, radical MP Thomas Duncombe finally won a conditional pardon for John Frost. He could leave Van Diemen's Island on the condition that he could not return to British territory. Importantly, the condition of his reprieve set precedence for liberal discussion of political offense in the decade to come: political offenses were by definition only local crimes, caused by circumstances specific to the time and location in which they took place. Outside British territory, Frost was a political exile, just as European political offenders were in Britain. Palmerston took this liberal pardon a step further two years later. He issued a full pardon to transported political prisoners. Frost and the others were free to return to Britain, the immediate context of their crimes now passed and their presence not a threat to national security.<sup>14</sup>

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<sup>9</sup> Hansard. *Parliamentary Debates*, 3<sup>rd</sup> Series, (March 10, 1840, Vol. 52), c. 1136.

<sup>10</sup> Radzinowicz and Hood, c. 1424ff.

<sup>11</sup> As with the leaders of the Newport Rising, O'Brien's initial sentence had been death, but that sentence was commuted for fear that he would thus achieve martyr status.

<sup>12</sup> George Jacob Holyoake, *Sixty Years of an Agitator's Life*, 2 Vols. (New York: Garland Publishing, Inc., 1984), 172-3. For coverage of both in the radical press, see especially *The Red Republican*, *The Reasoner*, and *The Examiner*, 1848-1855.

<sup>13</sup> Administrators tended to agree that something ought to be done to make it clear that the seditious libelers, at least, ought to be separated from common criminals. Finally, the matter passed to the Home Office. Upon the arrest of Chartist Feargus O'Connor for seditious libel, the question for the Home Office became how best to make the sentence as conducive to the prisoner's health as possible. In addition to a clean, separate room, O'Connor was permitted to carryout his political readings and correspondence. (Radzinowicz & Hood, 1430-31.) In other cases, well-to-do offenders were granted great leniency in prison. Radical publisher Richard Carlisle had his own room, special food, and could entertain visitors (*Ibid.*, 1423-25). Reform was not reserved for well-to-do prisoners though the well-to-do were allowed greater leniencies. The Home Office conducted interviews of less notorious Chartist prisoners aimed at improving the condition of all “Political Offenders” (*Ibid.*, 1432-33).

<sup>14</sup> The Irish Amnesty Movement brought similar arguments before Gladstone in the 1870s. Forming in the late 1860s, the movement began as a campaign for the relief of political prisoners' wives and morphed into a campaign for full pardon in the

It would be hard to argue that the British treatment of this class of criminals was not more lenient than on the Continent. However, as the nation became more democratic, tolerance for apparent illiberalities lessened. In the context of British national support for Continental revolutionaries, the fact that Britain had her own political prisoners and refugees begged closer comparison. Yet, it was hardly politic for British refugee supporters to compare their government's treatment of "political offenders" with the treatment of those on the Continent. Scenes like that portrayed in the June 1871 *Penny Illustrated* account of the French Communist rally were rare before 1870. Even Chartists did not draw direct comparisons, though they described the miseries of exile in similar terms for William Smith O'Brien, Ernest Jones, and for their Continental counterparts.<sup>15</sup>

THE 1870 EXTRADITION ACT: A LIBERAL TRIUMPH? — The 1870 Extradition Act (33 & 34 Vict. c. 52) was a great triumph for the British commitment to the protection of foreign refugees from *political* prosecution overseas. The Act, which aimed to ease the process by which *criminal* offenders could be extradited for trial in their home countries, offered the first explicit exemption of the political offender from extradition demands. Section 3.1 of the Act stated: "a fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded is one of a political character." But why, after so many years of providing refuge did the "political refugee" appear in law? Why did the British feel this was necessary?

Parliament wrote and passed the Extradition Act of 1870 in the wake of renewed international interest in the utility of extradition treaties to bring fugitive criminals to justice. Such treaties were increasingly of interest given the ease with which criminals could escape across national borders via train and across oceans via steamship. Of particular interest to major powers, worldwide, were murderers and those whose crimes were against property – including frauds and thieves more generally.

There was British precedent for the bilateral extradition treaties that became so popular in the latter decades of the century. The British had two prior treaties: the 1842 Webster-Ashburton Treaty with the United States and an 1843 Treaty with France. Neither of these treaties exempted political offenders. On the one hand, the British tended to assume that political offenders would be exempt anyway based on historical practice. On the other hand, popular opinion and practical politics were countervailing forces against extradition for refugees. The absence of clear directives regarding fugitive slaves, for instance, challenged British asylum practice under the Webster-Ashburton Treaty. Whereas British officials never intended the Treaty to be used to surrender fugitive slaves, Anderson's case threatened to undercut that assumption. Louis Napoleon's *coup d'état* of 1851 likewise made the silence of the French Treaty on that score seem problematic. A new convention written and presented by Lord Malmesbury in 1852 would have provided a remedy. Clause Seven of the proposed convention specified that "political

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context of the Irish Land Wars of the 1870s. McConville, Chapter 5 (214-75). As James Vernon helpfully points out, the struggle to distinguish between the political and the criminal plays out in hunger strikes, the hunger strike being an attempt to enforce that distinction.

<sup>15</sup> Ernest Jones and Feargus O'Connor were the only exceptions I have found. O'Connor sought Continental refugees' support for the Irish cause, a point that even the French democratic-socialists studiously avoided. For an excellent treatment of British radical politics and political action in these years see James Epstein, *Lion of Freedom: Feargus O'Connor and the Chartist Movement*, Croom Helm social history series (London: Croom Helm, Ltd., 1982).

offenders” would have been exempted from extradition. The terms would have been groundbreaking, but the bill never passed Parliament and was eventually dropped.<sup>16</sup>

By the 1860s, when the 1843 French Extradition Treaty had been in place for more than twenty years, the question of whether to renew the Treaty came before Parliament.<sup>17</sup> In point of fact, the Treaty, though several times invoked by France in the hopes of bringing French criminals to justice, had never been put into operation. In considering its renewal, Members of Parliament – Liberal and Conservative – weighed the benefits of an act which placed so much trust in a foreign legal and political system. On the one hand, the British (Conservatives especially) seemed to have even less cause for alarm at the silence of extradition treaties on the “political offender.” The liberalization of life in Louis Napoleon’s Second Empire made the Emperor a more palatable ally. Napoleon had amnestied the 1851 exiles in 1858 and the British now had an expanded commercial alliance with France. On the other hand, despite increasing trust in just governance overseas, British Liberals remained fearful that France in particular would use a new treaty extradition as a political tool. After all, this was the country known for her revolutionary temperament whether or not Louis Napoleon’s rule now seemed secure and the last refugees safely returned. Members of both parties nevertheless agreed that, if well formulated, an extradition agreement was desirable – no one wanted to see *real criminals* evade justice. The stakes for the treaty were high, and the 1843 French Treaty as it stood lapsed in the late 1860s while the British studied whether and how to write a new act.

The Liberal argument against the French treaty framed the discussion over extradition in general and, ultimately the parameters of the 1870 Extradition Act. Their main concern was at once a traditional worry about the well-known vicissitudes of French politics and a normative claim that all political offenders – whether foreign or not – deserved protection from local political vengeance. At issue was whether the British ought to sign a treaty that abrogated their responsibility to vet evidence used against foreigners whose extradition had been demanded. Trust in French evidence seemed dangerous. John Stuart Mill declared before Parliament: “The great majority of people, especially people in power, are ready to believe almost anything against their political enemies, especially those who have said or published things tending to excite disapprobation of their conduct.”<sup>18</sup> For Mill the point was a normative one. British officials were as likely as the French to be so blinded by momentary or local politics. A check was as necessary for them, as it was for Louis Napoleon.<sup>19</sup>

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<sup>16</sup> It failed because, in the meantime, France passed a law that would have made French fugitives answerable to French tribunals for crimes committed overseas. Clarke, 135. Hansard. *Parliamentary Debates*, “Surrender of Criminals,” House of Lords Debates, (8 June 1852, vol 122 cc. 192-214 & 25 June 1852, vol. 122, cc. 1278-84).

<sup>17</sup> The status of the political offender was also the talk of an 1865 case then before the Canadian Courts in the same period. The US demanded the extradition of Confederate soldiers who had raided a bank in St. Albans, VT during the Civil War. The question in that case was whether the robbery was political or not. While the substance of the case speaks very much to the subsequent debate over the line between the political and the criminal that I discuss in this chapter, the case does not seem to have informed the conversation on the matter within the subsequent documents/conversations I have seen.

<sup>18</sup> John Stuart Mill, *The Collected Works of John Stuart Mill, Volume XXVIII - Public and Parliamentary Speeches Part I November 1850 - November 1868*, ed. John M. Robson and Bruce L. Kinzer (Toronto: University of Toronto Press, 1988). Chapter: 36.: The Extradition Treaties Act [1] 3 August, 1866; Pyle 86-87.

<sup>19</sup> As evidence of this, Mill compared the French Treaty to the case of Jamaican General Eyre whose recourse to martial law in 1865 seemed to Mill equally likely to have abrogated the just rule of law even though the situation (in the wake of an uprising) was believed to have been a colonial emergency. Mill offered: “...by way of illustration [of the undue emphasis that could be placed on the evidence of a marital trial], a case fresh in the memory of every Member of this House, I will say that Governor Eyre felt convinced that Mr. Gordon was an instigator of the insurrection in Jamaica, and on that ground Mr. Gordon was put to death, although the evidence has been pronounced by those who have examined it judicially—one of them expressed himself very strongly on the point in this House—utterly insufficient to establish this charge.” *Ibid.* On the legal impact of the Morant Bay uprising in England, see especially, R. W. Kostal, *A Jurisprudence of Power*, (Oxford: Oxford University Press, 2005). For a

For other Liberals, like William McCullagh Torrens, the main point was less about the legal system than about political asylum more generally. If the French, or another nation with whom the British signed an extradition treaty, used the treaty to meet their political needs, this would be a violation of a sacred tradition.<sup>20</sup> Against the French Treaty, McCullagh Torrens quoted a letter sent to him by Frenchman (and former refugee) Louis Blanc who lamented: “To pass the present Bill would be, to a certain extent to make the right of asylum a snare; to forge a weapon not unlikely to be used against innocent persons, and to incur the accusation of having surrendered to a foreign despotic power the dignity of a free nation.” Where Blanc called asylum a right, McCullagh Torrens “for his own part” “looked upon the maintenance of the present law as part of the national religion, and any abandonment of it as a violation of the most sacred of our national traditions.”<sup>21</sup>

Rather than rely on foreign officials whose judgment likely was blinded by passion, Liberal MP Sir Francis Goldsmid (MP from Reading) recommended that any new extradition treaty include a clause for the protection of political offenders explicitly. Though members of the Liberal Party made the recommendation, they were readily joined by Conservatives who, though they did not necessarily believe the framing of such an exemption would be easy, were amenable to amending its language for added protection.<sup>22</sup> The House appointed a Select Committee to study the issue in 1867-68. I will explore the debates of this committee in greater detail below. Suffice it to say, however, that it was through this Committee that Mill, Goldsmid, and fellow Liberals McCullagh Torrens and Layard advocated vociferously for the exemption of political offenders in their broader outline of a convention that would be palatable to British officials and compatible with British judicial standards. It would take two years before the Administration introduced a bill to replace the lapsed French Treaty, but the recommendations of the Committee would be reflected in its language. The bill passed under Gladstone’s Liberal Administration, but it was the result of more or less bipartisan interest in a template for further extradition treaties. The result was the 1870 Act (33 & 34 Vict. c. 52), the Act which would become the basis for the thirty-plus extradition treaties the British signed between 1870 and World War One.

The Act enshrined Mill’s, Goldsmid’s, *et al*’s concerns for the destruction that passion could inveigh against political offenders or supposed traitors. For the first time in British history, Parliament identified the right of the “political offender” to asylum. The 1870 Act guarded foreign fugitives against extradition demands that might expose them to undue, political punishment. Section 3.1 outlined the exemption for “political offenses” and further guarded against foreign government’s claims that an extradition request was *not* political. Rather than rely on the evidence presented from the foreign government, the Act placed faith in the offender. It allowed the fugitive the right to instigate examination on his behalf. Demands for his or her extradition would be dropped if the fugitive “prove[d] to the satisfaction of the police magistrate or the court before whom he is brought on habeas corpus, or to the Secretary of State, that the

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discussion about Mill’s views of colonial law, its possibilities and its abuses, see Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France*, (Princeton: Princeton University Press, 2005).

<sup>20</sup> As became a point of discussion later in the extradition debates, Prussian politics were also suspect on this score.

<sup>21</sup> Hansard, *House of Commons Debates*, (3 August 1866, vol. 184 cc. 2004-30), c. 2015.

<sup>22</sup> As Lord Stanley declared early on: “I do not say that on principle I should have any objection to that [exempting the political offender], provided you define what is to be treated as an offense of a political character.” Hansard, *House of Commons Debates*, (3 August 1866, vol. 184, cc. 2004-30), c. 2007. Nonetheless, Stanley and other Conservatives wondered at how they could draw the limits of political offenders, making claims very similar to the ones I draw out in my discussion of the 1868 and 1878 debates below. The difficulty was assassination and whether the British would harbor the likes of John Wilkes Booth, Lincoln’s assassin, as a ‘political offender.’ *Ibid.*, (6 August 1866, vol. 184 cc. 2107-24), 2114. Mill – and other Liberals – were not certain either, and though the challenge would later be read as more of a partisan one, both parties grappled with the issue.



requisition for his surrender has in fact been made with a view to try or punish him for an offense of a political character.”<sup>23</sup>

There was another first in the 1870 Act. For the first time in British law, the “political offender” could be either a foreigner or a British national or a colonial subject.<sup>24</sup> In this, the Act recognized right to provide refuge as an international right. Irish nationalists had just as much right to asylum in America or in France as the Continental revolutionary enjoyed in Britain. The Act assumed that America and France could also refuse extradition for these “political offenders.” This first codified right to asylum thus was a triumph for a capacious liberalism, one that recognized that, though Britain might have been exceptional, its subjects too required checks against unjust justice. This was a particularly amazing triumph given that it passed in the wake of the Fenian raids of 1866-67. Despite concerns for their security, the British refused to narrow the definition of the “political offender” they now exempted in law. The foreign and the domestic “political offender” now existed in within a single framework in foreign policy.

Although the Act was a liberal triumph, it did not remain unchallenged for long. As the rest of this chapter will explain, the fact that the Act did not provide a clear distinction between the criminal and the political became the subject of much concern and close scrutiny. The continued radicalization of Irish nationalism, coinciding with the rise of Communism and Anarchism on the Continent after 1870, tested its broad exemption and brought it to the breaking point. It would not be clear that the state, private philanthropists or the public at large could afford to protect all foreign fugitives or to allow its own dissidents to escape overseas.

#### THE PARIS COMMUNE: A PRE-HISTORY OF “PROPAGANDA BY DEED”?

No sooner had the 1870 Extradition Act been passed than the broad exemption came under fire. With the fall of the Paris Commune, the British public and officials prepared for what they expected would be a significant flight of French Communist refugees to British shores. How should they receive these foreigners? These were hardly the stout-hearted, liberal revolutionaries of the past. Their seemingly violent Communism placed them further to the fringe of the moral category set out for refugees than had the republican tendencies of the Polish Democrats or French Democratic-Socialists of the 1840s and 1850s. Even before the collapse, the British openly wondered what the government ought to do should France demand the extradition of the Communards. The matter became one of public debate, turning on the scope of the 1870 exemption clause. Were these foreigners political refugees? Or, were there acts that were simply so loathsome that their immorality made them criminal, not political? Whereas the British Government would never have permitted the extradition of John Anderson for murder, the government now debated for the first time whether to render foreigners for trial overseas.

THE COMMUNE, BRITISH HORROR — Through 1870 and the winter of 1871, concerned British philanthropists had sympathized with the ravages of the Franco-Prussian War, sending what aid they could to besieged Parisians whose situation was becoming desperate. Sympathy ended abruptly, however, when Parisians took to arms against the French National Guard and

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<sup>23</sup> Section 3.1 in The 1870 Extradition Act (33 & 34 Vict. c. 52).

<sup>24</sup> This was perhaps an unintended consequence for J.S. Mill who was, by then, out of Parliament. Mill argued vehemently that in an emergency such as that in Jamaica in 1865, the British reliance on martial law could be just as unjust. However, in the course of the 1868 House Committee on Extradition he favored a definition of political that enabled the British to bring violent Irish nationalists to justice. More on the Irish and the 1868 Committee below, the points were important in the moment, but would take up increasing valiance in the later 1870s. I have consolidated my discussion there.

announced the formation of a commune that March.<sup>25</sup> News from Paris in the spring of 1871 struck most with horror at the sheer violence of the Paris Communards' destruction of the city and disregard for any vestige of social order.

The British wasted no love on Communism as a political creed, but the mainstream media noted the rise of Communist (or, more broadly, Socialist) communities within Britain with a degree of dispassionate interest. News from Paris in the spring of 1871 changed this tenor abruptly. The violence in Paris appalled the British public, and fueled reactionary condemnations of Communism as a creed for desperadoes. British commentators reviled the destruction of the city and were flabbergasted that the Communists would go so far as to kill their hostages – including the Archbishop of Paris – as the French National Guard was at the gates.<sup>26</sup>

Positivist Frederick Harrison tried in vain to stop the media from forming hasty judgment about the nature of the Commune or the Communards themselves. He insisted that the stories coming out of France were likely exaggerated and that the British public ought await firmer details. That there had been bloodshed, Harrison did not deny. But, he explained that:

A revolution may be very great and yet externally fail; very beneficent and yet marred by crimes. The movement of Cromwell was a failure; that of '89 had its terror. Christianity did not triumph without many a crime. And thus, disavowing communism, condemning insurrection, and abhorring terrorism, we may see a great future in the revolution of the commune.<sup>27</sup>

Few British radicals were so brave as to openly warn against overly hasty judgment. Radical MP Charles Dilke, for example, disavowed that the Parisian movement was actually Communist, but he kept his opinion to himself in this instance.<sup>28</sup> He did so with good cause.

Although he had published his article in the Positivist journal, the *Fortnightly Review*, Harrison was criticized immediately as too sympathetic to such a dangerous set of events. Harrison's fellow Positivist, the progressive W. R. Greg denounced the French Communards to be "desperadoes," and worried that communism's international scope would soon bring similar destruction to Britain. Emphasizing what he implied to be a proletarian character, Greg announced that they would readily band together across the Channel as "the lazy, loafing, intermittent labourer likes nothing better....[T]he call of arms will always be obeyed most readily and in greatest numbers by the most dangerous classes, and by the most dangerous of every class."<sup>29</sup> Greg further emphasized the connection between the Communards and Irish Nationalists, a point the *Liverpool Mercury* had already confirmed. The *Mercury* announced in early June that British subjects were most likely involved in the Commune already. The newspaper reported that a "number of persons who were identified with the Fenian movement in

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<sup>25</sup> Under the terms of French surrender to Germany in February 1871, the German army was permitted to enter the city of Paris triumphantly. The act outraged Parisians who had suffered incredible deprivations in their nation's cause. Parisians refused to disarm and, on March 18, Adolphe Thiers (the French President after the September 1870 fall of Louis Napoleon) sent troops to the city. The troops rebelled against their generals' orders to fire on the people, and many joined forces with the city, killing two of their generals in the act. For more on the French Commune see, among others, Marx, *Civil War in France*, Hollis Clayton, *Paris in Despair: Art and Everyday Life under the Siege*; and Stuart Edwards, *The Communards of Paris*, 1871.

<sup>26</sup> Martinez, 8ff.

<sup>27</sup> Frederic Harrison, "The Revolution of the Commune," *Fortnightly Review*, 9:53 (1871: May, 556-579), 557.

<sup>28</sup> Martinez, 17.

<sup>29</sup> W. R. Greg, "Suum Cuique: the Moral of the Paris Catastrophe, by W.R.G.," *Fraser's Magazine*, (July 1871. Vol. IV, no XIX, 115-134), 117-118.

London, Liverpool, Manchester and Dublin took their departure some time ago for France.”<sup>30</sup>  
The fate of Paris portended that of Great Britain.

Before the fighting in Paris even came to a close, British officials, Parliament and the public at large hoped to set out a single response to the defeated Communards they expected to arrive on British soil in the coming weeks. The State would not deny the Communards (or any foreigner) entry into Britain. Officials neither had the legal teeth of an aliens act nor the inclination to refuse entry. Rather, officials searched for a systematic response to the extradition requests they expected from the now triumphant French Government. Already, the French Foreign Minister seemed ready to make demands. He minced no words in claiming that the Communists had no right to traditional British refuge. He declared that these individuals who were “beyond the pale of civilization, outside of any right to refuge. [They were] demonic murders, [guilty of] infernal burnings, sacrilege and looting [which] cried to heaven for vengeance.”<sup>31</sup> The British would not be alone if they decided to refuse French Communists asylum. The Belgian Government went so far as to order Victor Hugo, then a resident of Brussels, out of the country for writing a letter in support of his fellow countrymen.<sup>32</sup>

THE SCOPE OF THE “POLITICAL” — Even if the British wanted to extradite the Communists, could they? If the category of political crime was expansive enough to include the French Communists, then could they not be extradited under the 1870 Extradition Act? Were arson, assassination and robbery – crimes that targeted the social order – political crimes? Where should they draw the line? Was the moral category of refugee large enough to include these fugitives as it had included the democratic-socialists a generation prior? The answer, very quickly became a “yes”: yes, the Paris Communards were political refugees. They were at the fringes of acceptability, but few could deny by early June that these fugitives fit the older pattern and were thus safe under the terms of the 1870 Extradition Act.

The British ultimately came to this determination for two reasons. First, no one could deny that the Communists had a political creed upon which they acted. Some commentators hoped to disprove that Communist crimes fell within the scope of the 1870 Act, testing whether or not their actions could be considered political. In this vein, the Home Secretary thought that a targeted test case might enable the Government to narrow the scope of asylum, recommending that a “notorious ‘scoundrel’” like Félix Pyat (who had libeled the Queen in 1855) be brought to trial. Wary of this possibility, even the once-outspoken Pyat took care to maintain a low profile in this new exile. The British would have had a hard time providing any evidence in such a test case.<sup>33</sup>

Most commentators agreed that the Communists were protected by the 1870 Act, even if they agreed to this begrudgingly. W. R. Greg himself acknowledged that one “could detect ‘some distinct political theory’ in the commune and could urge the extension of the right of asylum to the fugitive Communards.”<sup>34</sup> Parliamentary radicals planned to campaign on this platform in defense of the 1870 Extradition Act. Dilke and fellow MPs Whalley, Mundella, White and (Jacob) Bright were in the initial stages of organizing what they hoped would be a broad-based defense of asylum in late May 1871.<sup>35</sup>

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<sup>30</sup> *Liverpool Mercury*, June 3, 1871.

<sup>31</sup> The French Foreign Minister as quoted in Martinez, 55.

<sup>32</sup> *Liverpool Mercury*, May 31, 1871.

<sup>33</sup> Martinez, 56.

<sup>34</sup> *Ibid.*, 19.

<sup>35</sup> *Ibid.*, 55. Lord Lyons, the British ambassador to France, anticipated the moment when they would have to inform the French Government that extradition was, in fact, impossible. Letter dated June 5, 1871, National Archives, FO 391/13, ff. 297-98.

Ultimately their campaign did not need to be waged. Gladstone – though he like other Liberals distanced himself from the French refugees and from their radical British supporters – had committed himself to the right of asylum. Well in advance of expected demands for extradition, Gladstone had determined that his Government would refuse the French. Complying was simply impossible under existing law. In this sense, asylum for the French Communists was understood within the older framework for refuge encapsulated in the 1870 law.<sup>36</sup> While British officials deemed the Communists *proper* political revolutionaries, there was a crucial component missing from the older logic for refuge: sympathy. On the one hand, the French Communists were never able to win British support to the extent older refugee groups had enjoyed. This would have grave implication for the practice of British refuge. On the other hand, the unfolding of events in the wake of the Commune favored the Communists in this regard.

The second reason why the Communists had to be considered standard refugees followed the unraveling of circumstances in the wake of the Commune's collapse: the extent of French military and, later, court martial reprisals made it clear to English commentators that Parisians could not expect fair trial in the hands of the French Government. For British onlookers, the Communists increasingly appeared to be victims in the long run. The more exacting of punishment the French Government was, the more unfair their treatment of even violent political offenders became to the British public. News that the French Government indiscriminately killed 30,000 Parisian men and women in the final days of the Commune made the British application of the refugee category to these particular foreigners all the more apropos.<sup>37</sup> The official French trials that fall were no more just justice than the initial executions. Mainstream British reports of those trials confirmed the view that the victimizers were now the victims of disproportionate political vengeance. They were convicted, journalists reported, for crimes that were concocted. A *Times* correspondent wrote in horror of the sentencing to death of four women believed to be *pétroleuses*. "The whole affair must be considered tragic." He explained that the supposed female arsonists were, by many accounts, figments of the inflamed French imagination. To be condemned for imaginary acts was a grave miscarriage of justice.<sup>38</sup>

The French Government never requested the extradition of Communard refugees. It is not clear whether this was because the French knew the response would be negative. The French Government quickly recovered from their disappointment, however, and made the most of this situation. If Britain would insist on harboring her dissidents, the French would then use Britain as a makeshift prison for political offenders. Much to the chagrin of the British Government and social commentators, the French Government *assisted* additional Communists to British shores. Through the fall of 1871, approximately 750 male Communists and a thousand women and children arrived in Britain. Altogether, that number would double in the ensuing years as the French Government continued to prosecute the Communists.<sup>39</sup> As was typical, most ended up in the larger Continental communities of Central London, though many found employment

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<sup>36</sup> *Ibid.*, 5 & 55. In footnote seven on page 55, Martinez dispels misconceptions on this front that were prevalent in the 1870s. Though no demands were made, it seems that some were not aware that the Administration's position had been understood as so resolute in the French Ministry's view. (Martinez: "Eleanor Marx is quite wrong to suggest that P.O. Lissagavay's name headed a list of communards whose extradition was requested. No such request was made. [Karl] Marx also was misinformed when he asserted that the communards might be handled as bait to secure French commercial concessions.")

<sup>37</sup> *Ibid.*, 53. *Liverpool Mercury*, May 30, 1871. The *Mercury's* coverage changed tenor almost entirely in the space of twenty-four hours. In the May 29 issue, the editors detailed the supposed atrocities of the Parisian mob, and instances of arson. By the 30<sup>th</sup>, the headlines described the Government's brutal reprisals.

<sup>38</sup> *Times*, September 7, 1871.

<sup>39</sup> Martinez, 54; estimates have varied, from 1000 to 3500 were said to be in London in 1875 (103). National Archives, HO 45/9303/11335 French. *Communist Prisoners. 1872-1873*.

throughout the country through the efforts of supporters like Frederick Harrison. While there is a case to be made for the broad-geographic wake of the Communist migration, the tenor and scope of their reception was far different from that of previous refugee groups.

DAMPENED SYMPATHIES, AND A QUIETER REFUGEE RELIEF — Having just redoubled their efforts to uphold the 1870 Extradition, British refugee supporters nonetheless were hesitant as to how to receive these new foreigners. The refugees needed to be provided with relief; few could deny their poverty and utter want. However, supporters were less certain of how to provide relief when sympathy was thin at best. Traditional, large-scale protest meetings on the refugees' behalf seemed impossible. British notables could hardly endorse the refugees if endorsing refugees meant even tacit acceptance of their style of politics. There would have to be a new model of support for refugee relief. This new model characterized the relief efforts of the British metropolitan refugee lobby through the turn of the century and beyond. Moreover, this newly ambivalent view of foreign refugees made a re-conceptualization of the right of asylum itself conceivable even among one-time refugee supporters. Both British officials and philanthropists were increasingly willing to bar individuals from categorization as refugees in the first place.

British ambivalence did not mean an end to older models for relief. Rallies, standard between 1820 and 1860, occurred among more radical refugee supporters. Working class rallies like the Central London meeting depicted in the *Penny Illustrated* were infrequent but did take place. Supporters within British radical communities organized important relief schemes. Positivist Frederick Harrison established the largest relief operation, collecting funds and finding employment for more than a hundred French men and women and collecting subscriptions from private individuals ranging from the “M.P. [who] sends £100” to “an old housekeeper [who] sends £5.”<sup>40</sup> As in previous periods, refugees became central components of the radical political landscape. Socialists within Britain distributed Marx's account of the Commune, *Civil War in France*, as propaganda for the International Working Men's Association.<sup>41</sup>

That said, large-scale relief efforts and political propaganda did not go hand-in-hand in the wake of the Commune. Prominent politicians, including Dilke, contributed to relief funds so that the refugees would not starve, but they did so privately and quietly.<sup>42</sup> Harrison did not advertise their names, as had been the norm for refugee subscription lists in prior crises.

The conservative Baroness Burdett Coutts offered an alternate model of relief that broke with traditional relief within Britain but was in keeping with mainstream distaste for Communist politics. Through the Anglo-Huguenot Reverend T. Marzial, she funded a project to rehabilitate approximately forty of the most unrepentant French Communists – those who the French police had escorted to and left on English shores. Providing them with room and board in 1872, Marzials separated these Communists from their comrades in Central London, cleaned them and provided them “with a stock of bibles and other ‘good books.’” The point was to civilize them, turning them into ideal liberal subjects.<sup>43</sup>

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<sup>40</sup> Martinez, quoting Harrison, 66. Harrison did not preserve the more detailed correspondence regarding this relief effort, nor does a final report seem to have been published regarding the effort (an oddity given the usual importance of publishing accounts as I have found in other cases). £5 seems to be a rather large amount for a housekeeper to have sent.

<sup>41</sup> *Ibid.*, 37-38.

<sup>42</sup> Even Positivists, P.K. Martinez highlights, tended to disdain the majority of the French refugees for whom they provided so much aid with the expectation of finding intellectual comrades (69). I am sure this is true. It is a point in keeping with past refugee relief efforts. One need only think of the fate of fugitive slave John Anderson. Anderson was rescued from extradition to the US for murder, transported to safety in Britain. When his rescuers were disappointed with his *progress* under tutors in England, however, he was unceremoniously shipped to West Africa.

<sup>43</sup> Martinez, 68. There does not seem to be a connection made at the time between their scheme and the liberated African asylum, though the coincidence is in itself interesting. Marzial was not a stranger to refugee relief. He had been on the Central Committee

The Marzial/Coutts program was an isolated scheme and one about which not many details are known. Nevertheless, it emphasizes the break from British refuge before 1871. Revolutionary refugees were no longer held to be paragons of civic and moral virtue by their supporters as Mazzini, Garibaldi and Kossuth had been for their middle- and upper class supporters. Nor was it assumed that they would be dedicated, sober workers, as Chartists had portrayed the 1851 Polish-Hungarian contingent. Instead, they were treated as quintessential others, as in need of *civilization* as were the liberated African slaves in asylums in British Africa, India and the Caribbean. In both cases, the point of refuge was to provide moral guidance, a liberal, Christian structure to daily life which offered a stark contrast (so it was believed) to these foreigners' habitual practices.

Within a few years a new discomfort with the support of refugees pervaded British culture. The right to refuge – entailing, as it long had, political sympathy and compassionate assistance – had been thrown into doubt. Literary critic and popular novelist Edward Dutton Cook brought the matter forcefully before his readers in his last novel, *Doubleday's Children*. The novel, serialized in Dickens's wide-selling journal *All the Year Round* in 1876-77 and sold in at least two separate printed editions, grappled with generational differences in British sympathy for foreign revolutionaries. Set in late 1840s London, the novel projects post-Commune fears for refugees' violence onto the past, using each child's voice, in turn, to establish the range of responses available to those who come in contact with foreign refugees in their midst.

Raised in cosmopolitan Central London, the three orphans are surrounded by refugee supporters. Their father's closest friend, Mr. Grisdale is a classic radical who has romanticized refugees his entire life. Each Doubleday child – Nicholas, Basil and Doris – has to grapple with this romance and come to his or her own conclusions about how much sympathy refugees deserve. Their responses range from disdaining the foreign (Nicholas), to tenuous support for their causes, but not their tactics (Basil); and, finally, to unreflective empathy for their misery (Doris). It is Basil's voice of caution that carries the note of reason for the novel's author as he relentlessly feminizes wholesale support for refugees. Basil is a moral-force Chartist who is as hesitant in his views of Continental "conspirators" as he is of physical-force Chartism. He warns Doris, who has befriended a French exile (Paul Riel), that the Frenchman is a conspirator plotting against the French King. Basil adds quickly: though Riel might not be "directly chargeable," that "there is a certain line of conduct which seems to lead to assassination, or to nowhere." He adds that fighting for "liberty" is the refugee's term, "we will call it tyrannicide."<sup>44</sup>

When Doris marries Paul, the Doubledays face the prospect of having a French *conspirator* in the family. Nicholas despises Riel and attempts to shun his sister. Basil fears for his sister, but cares for the impoverished couple. Doris is initially defiant. She resists her brother's warning of refugees' violent tendencies. She retorts that "it is sufficient for me that M. Riel is a refugee, [...] surely he is well deserving of our sympathy and our assistance, if, indeed, we can assist him."<sup>45</sup> No sooner is Doris married, however, than she comes to understand what being an exile *means*. She recoils at the thought that her husband is more devoted to his country

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for the Refugees' Benevolent Fund for those forced to flee the Franco-Prussian War. Ironically, Marzial's small enterprise shared much in common with how at least one historian has characterized the French Government's transportation of Commune prisoners to New Caledonia. Alice Bullard, *Exile to Paradise: Savagery and Civilization in Paris and the South Pacific, 1790-1900*, (Palo Alto: Stanford University Press, 2000).

<sup>44</sup> Edward Dutton Cook, *Doubleday's Children*, (New York: G.P. Putnam's Sons, 1877), 161 (originally serialized in *All the Year Round* in 1876).

<sup>45</sup> *Ibid.*, 161-162.

than to her. In this, he is committed to (she repeats Basils words) “what we plain English prefer to call murder.”<sup>46</sup> Upon Paul’s inevitable return to France, Doris cannot but see his self-professed “duty” as a mistaken calling. Though desperately in love with him, she wonders whether she ought to pray for his safe return. “Can I pray,” she asks Basil, “that he may return a murderer?”<sup>47</sup>

#### THE ADVENT OF “PROPAGANDA BY DEED,” 1881-1882

Ultimately, the British had determined that the Communards “crimes” had been committed at a time of open insurrection, and in the broader context of the Franco-Prussian War. If their actions had not been admirable, at least they were somewhat understandable in the older framework of revolutionary upheaval. By 1880, however, a new “propaganda by deed” – political campaigns waged with dynamite and assassination – broke from these older models and deepened British ambivalence to the foreigners in their midst whose covert campaigns, like the Irish Fenians, now targeted the social order itself. The already questioned heroics of characters like Paul Riel gave way to images of unfathomable violence associated with dynamite and assassination. The Paul Riels of the world were now less likely to leave their British wives than to entrap their families in their machinations as was the case in Conrad’s 1907 *The Secret Agent* in which Mr. Verloc’s brother-in-law becomes the unsuspecting player in an anarchist plot, and its victim. How did the British grapple with this fear of new violent campaigns that seemed to know no boundaries? Did this fear impact British asylum or the life of a refugee in British refuge?

We can discern British public and official responses to the advent of new tactics and “political” ideologies in the juxtaposition of two key events, the 1881 Assassination of Russian Czar Alexander II and the 1882 Phoenix Park Murders – the assassination of the Chief Secretary for Ireland, Lord Frederick Cavendish and his Permanent Undersecretary, Thomas Henry Burke. To understand how the British attempted to systematize their refugee policy in the 1880s, it is essential to understand why supposed conspirators in the 1881 assassination were understood within an older framework for refuge, like the Communards, while the 1882 *murders* gave rise to a determined attempt to restructure extradition law in the decade that followed. In the context of diminished cultural sympathy for foreign refugees and outright fear of Irish Fenians, it became both conceivable *and likely* that the British would change the 1870 Extradition Act’s broad exemption for “political offenders.”

NEW RADICAL POLITICS AND BRITAIN, 1871-1881 — Broadly speaking, the British did not like Continental Communism or Socialism, but they did not feared it either. In the wake of the Paris Commune, the mainstream and conservative media fretted that the Parisians would find ready allies among the disaffected British working classes and Irish nationalists. Some took this fear to great heights of paranoia.<sup>48</sup> Mostly, however, the British believed that these Continental

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<sup>46</sup> *Ibid.*, 266.

<sup>47</sup> *Ibid.*, 368. Fortunately, perhaps, Paul dies of wounds he has sustained in ousting Louis Philippe. He is a revolutionary hero, but redeems himself (and Doris) by repenting his violent means before he dies.

<sup>48</sup> Samuel Bracebridge Hemyng’s *The Commune in London; A Chapter of Anticipated History* followed the destruction of the city following a series of mass uprisings in an alternate history of the present day. He imagined how a failure of military reforms under Gladstone had left Britain vulnerable to Prussia after Victoria’s death. Without Victoria’s connections to Central Europe, relations deteriorated and the Prussians invaded, and civil war ensued, as had been the case in France. Hemyng emphasized the barbarity of the lower orders, and of the women in particular. The most zealous of the insurrectionaries, these were the “Amazons of the East.” Akin to the stories of female *pétroleuses* said to have set fire to Paris in 1871, the Amazons were for Hemyng the absolute loss of any semblance of social order. (Samuel Bracebridge Hemyng. *The Commune in London; A Chapter of Anticipated History*, [London: C. H. Clarke, 1871], 17.)

ideologies were of no great consequence to their sense of overall security at home.<sup>49</sup> British radicals did what they could to lend credence to this mainstream belief.<sup>50</sup> Whereas these ideologies were more or less tolerated as fringe politics, Continental Anarchism, which took root in the latter half of the 1870s, seemed beyond the pale to the mainstream British press.

Modern ideological Anarchism was an outgrowth of a break within the International Working Men's Association between Karl Marx and Russian Anarchist Mikhail Bakúnin. Bakúnin was an active socialist. He and a contingent of fellow radicals disavowed the Marxist insistence on continued participation in parliamentary politics as a means to socialist ends. After being expelled from the International in 1872, Bakúnin's contingent formed a rival Congress that demanded the complete destruction of existing society and the formation of a "world-wide union of free associations for all existing authoritarian governments."<sup>51</sup> Bakúnin died in 1876, but his Anarchist creed continued to gain adherents.

By 1876, their separate Congress held that insurrection alone would bring about their goals and, in 1878, a German anarchist inaugurated what would be called their campaign of "propaganda by deed" in an attempt on the life of Kaiser Wilhelm in Berlin.<sup>52</sup> There had been assassination attempts in the past, notably on Napoleon III, a successful attempt on Lincoln, and several earlier attempts on Victoria. Now, however, there was a radical creed that, as anarchical journalist Paul Brousse exclaimed at his trial in 1879, explicitly advocated the assassination of hereditary rulers and members of state alike.<sup>53</sup> By this time, Anarchists also advocated the use of dynamite – a weapon previously employed by Irish Fenians and Russian Nihilists. By 1882, French anarchists adopted dynamite as a tool to create social disorder, targeting ordinary people as well as prominent leaders.

The British media did not react to Anarchism with the same detachment with which they had treated Communism and Socialism. The *Times* reported on the Anarchists' 1877 Congress, the assassination attempt on the Kaiser, and Brousse's trial with horror. Though these had also been Continental phenomena, Britain would not be isolated from the Anarchists' "propaganda by deed" for long. Bismarck's official exile of German Socialists post-1877 brought prominent

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<sup>49</sup> The mainstream *Times*, for example, reported on Communists/Communism only as a foreign phenomenon between 1871 and 1881, associated with the treatment of French prisoners post-Paris Commune. Socialism/Socialists was similarly foreign, though Continental democratic-socialism, present in British radical circles thanks to foreign refugees since the 1840s, would inflect the British socialist platform at the end of the century. Historians date British socialism (and Communism) primarily to the 1880s with the first official socialist platform in the formation of the Social-Democratic Federation in the "bleakest years of the depression." Though the organization was radical, their rallies (as historians Martin Crick and Gareth Stedman Jones have pointed out) were attended not by proponents of revolution, but by the casual poor at a time of need. The SDF splintered into many variants by the turn of the century, including Marxist, anti-Marxist, labor, and trade unionist. The most visible branch of agitation became part of the Trade Union Movement and ultimately the Labour Party, not a cohesive socialist party. Margot Finn, *After Chartism: Class and Nation in English Radical Politics, 1848-1874*, (Cambridge: Cambridge University Press, 1993); Martin Crick, *The History of the Social-Democratic Federation*, (Edinburgh: Edinburgh University Press, 1994), 70.

<sup>50</sup> For example, Positivist Frederick Harrison, a great supporter of the Communards in their exile, distanced himself from the violence in Paris. Harrison, who received much criticism for his public reminder that all revolutions were violent, soon found himself assuring the public that he did not endorse either the French Communists' violence or Communism as an ideology. In August 1871, Harrison insisted that he "was not, as has been assumed or insinuated, the unhesitating apologist of its acts. Believing as I do communism in all its forms to be a dangerous dream, I unhesitatingly condemned to all that was communistic in the movement." Harrison, "The Fall of the Commune," *Fortnightly Review*, 10:56 (1871: August, 129-155), 129.

<sup>51</sup> Bakúnin quoted in Ernest Alfred Vizetelly, *The Anarchists*, (London: John Lane, 1911), 33, 36-37. This destruction would include the complete ruin of "all existing national and territorial states," as well as social distinctions, religion and property.

<sup>52</sup> Vizetelly, 41.

<sup>53</sup> Brousse ran the French anarchist journal *Avant-Garde*, but was brought to trial in Switzerland after having been run out of France. *Times*, April 28, 1879.



Socialist-Anarchists to England, where they established newspapers and held meetings, as had other foreign refugee groups.

Although Socialist-Anarchist meetings generally went unnoticed in the British press, their members' advocacy of dynamite campaigns could not be ignored given the rising prominence of dynamite in Irish nationalist campaigns at the same time.<sup>54</sup> Between 1882 and 1885, Irish revolutionaries renewed their campaign of dynamite attacks targeting both prominent politicians and the public more generally. Irish nationalists were not Anarchists. But few could ignore that their tactics and their potential targets were one in the same.<sup>55</sup> Parliament passed an Explosive Substance Act in 1883 to enable the police to capture would-be assailants more readily. Whether the British should respond to the presence of Anarchist refugees directly remained an open question, however.

THE ASSASSINATION OF THE CZAR AND MURDER AT PHOENIX PARK: JUST AND UNJUST TRIALS — The violence of “propaganda by deed” further dampened British enthusiasm for foreign refugees, to say the least. But it was the assassination of two British officials in Phoenix Park, Dublin in 1882 which prompted the state to make a concerted effort to change Britain's foreign policy regarding “political offenders,” foreign and domestic. Despite diminished sympathies for foreign radicals and fear of Continental Anarchists' violent campaigns, the British public upheld the right of these particular foreigners to find safe refuge within Britain. Yet, British officials sought Fenians from America. These two positions were almost impossible to maintain simultaneously. The result was a moral and political dilemma that unfolded in the wake of the 1882 murders and would characterize extradition policy for the next twenty years.

The March 1881 assassination of Russian Czar Alexander II made Russia the fiercest advocate of international collaboration against international Anarchism. Each of the conspirators who planned the attack was killed or captured shortly after the assassination. The Russian state, however, believed the larger network of Anarchists to be equally guilty of the assassination plot as it was believed to include the “inciters” to murder. The new Czar Alexander III believed that these far-flung “co-conspirators” remained a danger to the Russian State.

Fearful of this extended network, Russia called for an extradition league to pursue political offenders. Belgium had already taken steps targeting assassins. As early as 1876, the Belgian Government proclaimed that any attack on a sovereign or the sovereign's family was a crime beyond the pale of traditional rights of asylum. In April 1881, the German Reichstag joined this cause, calling for extradition treaties to pursue all political offenders. With more Continental powers adhering to this banner, heads of state turned their eyes to Britain. Would Britain join?

It is unclear whether Russia or the other Continental rulers approached the British State to change her extradition policies for political offenders in the wake of the assassination. Members of both Houses of Parliament were well aware of Continental calls for collaboration, and confronted the Administration to demand if this had indeed taken place. The Earl of Granville flatly denied the charge in May 1881.<sup>56</sup> Yet, Russian interest in an extradition treaty – if not made in the spring of 1881 – had been hinted at in the previous year and, in the wake of the

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<sup>54</sup> It was at the London Anarchists Conference in 1881 that Prince Kropotkin advocated the use of dynamite. For British inattention to the conference, see Hermia Oliver, *The International Anarchist Movement in Late Victorian London*, (London: Croom Helm, 1983), 17.

<sup>55</sup> Vizetelly, 86.

<sup>56</sup> *Hansard's Parliamentary Debates*, House of Commons Debates 28 April 1881, (Vol. 260), c1312; House of Lords Debates 19 May 1881, (Vol. 261), cc785-9.

assassination, the Cabinet weighed such a treaty negotiation closely. Gladstone's Administration knew that signing such a treaty with Russia would be politically impossible, no matter how horrified Victoria had been at the thought that conspirators would be safe in England if they had managed to escape Russia.<sup>57</sup>

Although the Administration would not consider new extradition agreements, the Government turned its attention to the activities of Anarchist refugees in their midst. In response to the assassination of the czar, the British Home Office brought two counts of libel and ten counts of conspiracy to murder against German Johann Most's Anarchist newspaper, the *Freiheit*. Most's newspaper, which circulated throughout the Continent, was said to have played a key role in promoting Anarchists' assassination campaigns. Indeed, just after Alexander's death, Most published an article which "threatened in no uncertain language," the *Times* explained, "all rulers 'from Washington to Constantinople,' with a fate like that of Alexander II."<sup>58</sup> By bringing Most to trial the British State hoped to deflect foreign pressure for new extradition treaties.<sup>59</sup>

Though Johann Most was not in danger of extradition, the trial evinced public dismay at the Government's attack on the activities of a political refugee in British asylum. The trial appeared to be little other than a slight on the freedom of the press, and evidence of the reach of Continental powers into domestic British affairs (a point the Home Secretary tried to deny). In this, public response was akin to Chartists' response to Félix Pyat's letter to the Queen in 1855 and to the even broader disapproval of Dr. Simon Bernard's 1858 trial.

Johann Most was found guilty and sentenced to sixteen months in prison with hard labor. In some sense, his conviction was actually a victory for British asylum. As the jury declared in its verdict, Most's trial and sentencing in British courts was merciful. As Bernard Porter has argued, the alternative discussed at the time was surrendering him to foreign authorities, thus caving to Continental demands for a new British extradition policy. The mainstream British public might have been more willing to see Anarchists brought to justice, but they meant to British justice. In this, the 1881 trial was in itself a means of buffering the foreigner from overseas vengeance and protecting British asylum.<sup>60</sup>

Despite this victory for traditional asylum, the Liberal Government quickly became uncomfortable with a generalized right to refuge. The following year, the Phoenix Park Murders brought the concern to a head suddenly, exposing imminent threats to British security in a way that it had been spared, for the most part, since the 1860s. The Fenians directly responsible for the May 6, 1882 murders of Thomas Burke and Lord Frederick Cavendish were captured within British territory. As in the assassination of Alexander II, however, the network of conspirators was considered to be much larger.

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<sup>57</sup> Bernard Porter, "The *Freiheit* Prosecutions, 1881-1882," *The Historical Journal*, (Vol. 23, No. 4, Dec., 1980, 833-856), 847 and footnote 84 on 847.

<sup>58</sup> *Times*, April 1, 1881.

<sup>59</sup> *Ibid.*, 848 (Trial as a means of deflecting interest). Porter's broader point, similar to his thesis in his *Origins of the Vigilant State*, is that the British thus developed a wide reaching, continental-style police force.

<sup>60</sup> Quail, 17; George Browne, *Narrative of State Trials, 1801-1830*, Vol. I, (London: Sampson Low, 1882), Appendix B., abstract from *Reg. v. Most* (1881), 425-26; Porter, "Freiheit..." 846-847. Indeed, the following year, the British press and the Government unreservedly condemned the return to Spain of Cuban revolutionaries, who had escaped to British Gibraltar. This blunder forced the Foreign and Colonial Offices to go to great diplomatic effort to secure the prisoners return from the Spanish Government. Though they were not successful in the end, the attempt in itself demonstrates the survival of older British norms well into this period of international fear and diminished sympathy for foreign revolutionaries. National Archives CO 883/2/7 Gibraltar. *Correspondence Respecting the Expulsion of Certain Cuban Refugees From Gibraltar*. Dated Colonial Office, December 1882.

Just a year after the British rejected extended international collaboration on extradition, the British sought the rendition of these conspirators from overseas. The attempt to bring five main fugitives to justice failed utterly. In the early spring of 1883, the men believed to be the main conspirators behind murders (Frank Byrne, Patrick Tynan, John Walsh, P. J. Sheridan and John McCafferty) were tracked to France and America. Requests for their extradition from either country proved fruitless. French newspapers, in particular, denounced the attempt, running an “anti-British campaign, reminiscing on the themes of ancient Franco-Irish friendship and Britain’s refusal to extradite the communard refugees of 1871.”<sup>61</sup>

The British State was rebuked and America became to Britain what Britain had long been to the Continent: a refuge for foreign “desperadoes.” The British could do little but shrug their shoulders at “American sentimentalism,” as many termed it.<sup>62</sup> Lord Cavendish’s brother, the Duke of Devonshire, switched political allegiances over the matter. Once a friend of Gladstone’s and a proponent of Irish Home Rule, the Duke of Devonshire became the leader of the Liberal Unionists.<sup>63</sup>

Though these particular conspirators were lost, officials knew that there would likely be more criminals of this sort who made America their refuge. Gladstone’s Administration and the mainstream public, as well, were eager to pursue a new treaty with the United States that would permit the extradition of Irish Nationalists guilty of “propaganda by deed.” Was this hypocritical? Perhaps. By the 1880s, foreign powers, America and France in particular, would claim that it was hypocritical. Had British opinion changed within a single year, simply because they had been struck at home? Again, perhaps.

We cannot dismiss the fine line British officials began to draw between the propriety of demands to prosecute foreign “political” offenders in the one case but not the other. In the wake of these two cases, British officials were increasingly wary of the extent to which Continental powers – Russia in particular – would go to prosecute their perceived enemies abroad. British officials were similarly keen to suppress Fenian activities in America. Yet, any formal change in international extradition treaties that would enable the British to pursue Fenian fugitives meant finding a common ground with international powers that also allowed for the for the asylum of foreign nationals in Britain. What was that common ground? Could the nation that had demanded the return of “dangerous” Fenians continue to harbor Anarchists even if they had demonstrated a willingness to prosecute conspiracy within their borders?

#### IN THE SHADOW OF FENIAN VIOLENCE: THE SEARCH FOR SYSTEMATIZATION OF REFUGE IN LAW

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<sup>61</sup> Tom Corfe, *The Phoenix Park Murders: Conflict, Compromise and Tragedy in Ireland, 1879-1882*, (London: Hodder and Stoughton, 1968), 249. Only the Venezuelan Government complied with Britain’s request for the extradition of Westgate, who boasted of his involvement in the murders. Unfortunately, Westgate’s claim proved false (228).

<sup>62</sup> As Christopher Pyle has argued, the United States was taking its cue from British liberals. The 1866 debates over extradition in Britain also established the modern definition of “political offender” in the United States, Pyle explains. Pyle, 83*ff*. In general, the American case was more complex than it was understood to be in the British media. I have found no post-1870 official discussion of the fact that the United States actually deported the leaders of an 1866 Fenian Raid on Canada. More generally, the U.S. had a different policy regarding her nearer neighbors. American extradition treaties with Mexico and with Peru did not include an exemption for the “political offender.” (E. L. de Hart, “Extradition of Political Offenders,” *The Law Quarterly Review*, (Vol. II, No. 6, April 1886, 177-187), 186.

<sup>63</sup> Jonathan Parry, ‘Cavendish, Spencer Compton, marquess of Hartington and eighth duke of Devonshire (1833–1908)’, *Oxford Dictionary of National Biography*, Oxford University Press, Sept 2004; online edn, Jan 2008 [<http://www.oxforddnb.com/view/article/32331>, accessed 16 May 2009].

Two commissions, in 1868 and 1878, convened to discuss the scope of international extradition law prior to the rise of “propaganda by deed” in Britain. Each made recommendations about whether to exempt crimes considered to be “political” and what exactly constituted a “political crime” in the first place. Yet, only with the politics of the post-1882 period did action seem necessary. The section that follows examines the dilemma before the British government and legal authorities by 1882 and the decisions made in the years immediately following the Phoenix Park Murders. The action they took, the Harcourt Bill of 1885, finally refined the broad “political” exemption of the 1870 Act. The way in which the Bill envisioned new limits to refuge was a direct result of Britain’s tenuous position between American liberalism and Continental reactionary conservatism. Ultimately, the Harcourt Bill mirrored a public view that increasingly dismissed consideration for whether an act was politically motivated, emphasizing instead the context in which the offense had been committed.

FORMAL DEFINITIONS: WHERE TO DRAW THE LINE — The first commission was an 1868 House of Commons Select Committee called to explore potential issues related to proposed extradition law at the time when the 1866 French Extradition Treaty was still on the table. The second was a Royal Commission of appointees drawn from the legal establishment in 1878.<sup>64</sup> Their task was a revisionist one. Unhappy with the broad scope of the 1870 definition at a time when Anarchism was clearly on the rise, Disraeli’s Tory Administration called the Royal Commission to deliberate on the question of the political offense exemption clause. Despite the space of a decade between them, each Commission explored whether an attempt on the person of a sovereign ought to be considered a political act, and whether a political offender could be considered for asylum if his or her violent act was not at a time of open insurrection.

Though they considered these same points before making their recommendations, the ethos of each committee differed greatly. The 1868 House Select Committee heard in official testimony that Britain was as unlikely to be satisfied in a request for a Fenian who had, for instance, killed bystanders while freeing his comrades as Britain was unlikely to surrender a Mazzini, Kossuth or Garibaldi if asked.<sup>65</sup> They hoped to remedy this situation, J. S. Mill emphasized; indeed, they had convened to consider whether they could derive a system by which they could rightly request the Fenian. The Fenian’s actions, Mill argued, were hardly those of a political insurgent. However, deriving a definition would be difficult to say the least.<sup>66</sup> London’s Chief Police Magistrate T. Henry offered a definition that linked political exemption to civil war explicitly and disavowed assassination attempts. He explained that the killing of a police officer, for instance, might be political if part of an uprising, but it was not if committed in an isolated alleyway.<sup>67</sup> In this respect, Garibaldi and Kossuth, for example were still “legitimate” refugees.

Though there were recommendations for a narrower definition before them, the House Committee decided against making the definition of political offense explicit, except for

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<sup>64</sup> Among the members of the 1868 House of Commons Select committee were: J. S. Mill; Edward Egerton; E. P. Bouverie; William McCullagh Torrens; the Solicitor General (Sir Charles Selwyn and then William Baliol Brett); W. E. Forster; Percy Wyndham; August Henry Layard; Sir Francis Goldsmid; Sir Robert Collier; and James Stansfeld. On the Royal Commission were: Lord Chief Justice Sir Alexander Cockburn; Councillor Baron Selborn; Baron Blackburn (the Lords of Appeal in Ordinary); Russell Curney (Recorder of City of London); Sir Richard Baggallay (Judge of Court of Appeal); Sir William Baliol Brett (Judges of Court of Appeal); Sir John Rose (Canadian jurist and diplomat, now permanently in England); Sir James Fitzjames Stephen (Counsel); Sir William George Granville Harcourt (Consul); William McCullagh Torrens (Bachelor of Laws); and Alfred Henry Thesiger (Counsel). Only Torrens and Baliol Brett sat on both.

<sup>65</sup> Testimony of the Rt. Hon. E. Hammond before the Committee, *Parliamentary Papers*. 1867-68 (393) (393-1), “Index to the reports from the Select Committee on Extradition,” paragraph 207 (pages 12-13).

<sup>66</sup> Mill in *ibid.*, paragraph 208 (page 13)

<sup>67</sup> Testimony of T. Henry, May 19, 1868, in *ibid.*, paragraph 620 (page 33).

suggesting that assassination – or attempted assassination – should not be a political crime. Ultimately, the Committee’s Report recommended that the definition of political crime be left to the government of the country from which extradition was requested.<sup>68</sup> In 1876, lawyer and writer E. S. Roscoe had emphasized the emergence of a political offender exemption as a matter of liberal triumph, and a sign that Britain had moved passed her own political insecurities and become a nation apart from Continental despots.<sup>69</sup> Within two years, however, that open liberalism seemed too dangerous for even a modernized, relatively democratic nation to maintain.

In 1878, the recommendations were far more specific and aimed at the creation of a more systematic way of determining the boundary between the political and the criminal. Whereas the 1868 Committee admitted that the Fenian offender would not be brought to justice, the 1878 Royal Commission insisted that violent offenses – “propaganda by deed” – were beyond the pale of the political. The Commissioners highlighted that conspiracies to assassinate sovereign rulers were especially beyond the pale. Moreover, the Commission held that someone who set fire to a prison at the “risk of burning all those within the prison” could not possibly deserve to be exempted from extradition demands. The Commissioners admitted that the motive might have been political, but motive alone could not exonerate such criminal activities. In this, the Commissioners warned that: “these are crimes in respect of which – though the motive was a political one – we cannot think that any immunity should be afforded.”<sup>70</sup>

To ward against such exemptions as part of the “political,” the Commissioners recommended that “generally speaking, we would therefore decline to recognize the suggestion of a political motive as a ground on which a magistrate or judge should refuse a demand for the surrender of a person accused of what (in the absence of such motive) would be an ordinary crime.” Assassination and arson were thus extraditable. The only exceptions would be for acts committed “during a time of civil war or open insurrection” as such acts, whether or not they were “justified or excused by circumstances,” at least “take place openly, in the face of day” – so the Commissioners reasoned.<sup>71</sup>

The Commissioners recommended specific procedures in the operation of the anticipated new extradition act. First and foremost, the Commission insisted that Britain would never sign such an extradition treaty with a nation in whose judicial system they held no confidence.<sup>72</sup> Second, the Commissioners underscored the role of British magistrates in agreeing to the extradition of a particular offender. The magistrates were to make a study of the facts of the case to determine whether the crime of which the foreigner was accused was, in point of fact, a crime under British law. Furthermore, the accused had every right to make their cases before the British magistrate if they could provide evidence that they would be tried for a political or local offense even if their home government claimed otherwise. Only after the British magistrate had been satisfied that the crime was not political could the foreigner be remanded to face trial overseas.<sup>73</sup>

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<sup>68</sup> *Ibid.*, iv.

<sup>69</sup> See Roscoe, especially 167. Roscoe emphasized that Britain also demanded the extradition of Irish political offenders from other countries at one time, citing the case of James Naper-Tandy who was surrendered from his refuge at Hamburg in the late 1790s.

<sup>70</sup> Parliamentary Papers, 1878 [C.2039] Royal Commission on Extradition, *Report of the commissioners*, 7.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*, 6.

<sup>73</sup> *Ibid.*, 8-9.

In 1883, former Royal Commission member Sir John Rose lamented that the Government had not already adopted their reasoned suggestions for change. He argued that 1878 had at least been a “time when we were neither open to the imputation of panic, nor to the charge of asking other nations to stretch their previous systems to some special case in which we were immediately concerned.”<sup>74</sup> The changes they set out to make in the wake of the Phoenix Park Murders, Rose feared, would hardly be fitting for a modern, liberal nation.

THE HARCOURT BILL — The extradition bill Gladstone’s Liberal Government drew together for the purpose in 1885 was a peculiar attempt to refine international extradition law in a context in which the British continued to distrust Continental justice, but hoped to command international faith in her own meting of just law.

The most important point was that this first British attempt to formally change the scope of extradition did not bear directly on British-Continental relations, but on Anglo-American relations. The Harcourt Bill was a new extradition treaty the British hoped to sign with the United States alone. Reciprocity with America was a different matter than reciprocity with Continental powers. In the first place, it would have brought most of the Fenian leadership within their reach, the key motivation behind drafting a treaty at this time. In the second place, the British now tended to trust American justice and had shown themselves ready to consider surrendering American criminals – even politically motivated offenders – after the close of the Civil War. Whereas Victoria was terrified that the same would be true for the assassins of Continental rulers, it was the American case that most terrified the British. As proponents of extradition law reform had pointed out as early as 1866, the British had, in fact, agreed to surrender Lincoln’s assassin, John Wilkes Booth, if he had escaped to English soil. If they were not careful to define political offense, the likes of Booth – the loathed assassin of a much-loved president – would likely be safe.

Any new treaty would set out a definition for extradition that, even though written for the Anglo-American context, would have broader implications for British international law should Britain accede to new treaties with her less liberal Continental neighbors. The language would thus have to offer a definition that would be more or less palatable in a variety of contexts. There were several attempts to frame the treaty in a manner that accomplished just this, but it was Home Secretary (and member of the 1878 Commission) Sir William Harcourt who offered what seemed to the British, at least, to be the best compromise.

Harcourt offered a treaty in which neither arson nor dynamite murders nor assassination (or attempted assassination) could be considered “political.” In this respect, he adopted the recommendations of the 1878 Committee. Yet he made a key change to earlier attempts to draw a line between the political and the non-political in the abstract. They could not hope to determine who had a political motive, and who did not – almost any targeting of a public official could be seen as politically motivated, a realization that had long been at the core of reform dilemmas. Harcourt stipulated that, rather than using motive as a determination of any “political” context, they should simply use existing domestic law. If a “crime be in itself punishable by law,” then it is not political, “unless... connected with an existing condition of open warfare or insurrection.”<sup>75</sup>

In this, Harcourt’s emphasis on defining political only in relation to action, rather than “motivation,” was key in two respects. At a time when Continental powers sought to bring to

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<sup>74</sup> Sir John Rose, *Times*, April 20, 1883.

<sup>75</sup> Harcourt to Selborne, 22 February 1885, HO 45/9606/A2566/17a, quoted in Adams, 194.

justice Anarchists in general, Harcourt's language preserved the right to asylum for those who simply espoused *distasteful* political thought. Freedom of speech and right to political opinion – cornerstones of modern liberal rule – theoretically were safe.<sup>76</sup> Nevertheless, his emphasis on existing war or insurrection made the immediate intent of British officials clear. By this schema, Irish Fenian violence could not be political, and any attempt to conspire to open insurrection was to be deemed criminal.

In practice, the Harcourt Bill offered a view of contained political dissent, supporting the status quo, while protecting freedom of thought and speech against Continental reaction. American officials rejected this view immediately. The final version of the Bill that passed into international and national law in 1890 did not change the parameters of political offense. It would have been politically impossible for the American Government to appear to support British rule over Ireland. Irish nationalists would long remember this new official view with contempt.

Harcourt's new distinction was increasingly accepted at home. The legal community began to publish similar opinions on extradition both in professional journals and in the mainstream press. E. L. de Hart came to the conclusion that the 1870 Act must be amended to reflect a hierarchy of political crime, insisting that: "political motive is not in itself a sufficient reason for protecting the criminal."<sup>77</sup> Hart drew from a report of the transnational Institute of International Law<sup>78</sup> that subdivided "political offenses" into three classes. The first class involved acts done "in furtherance of insurrection or political tumult which would not be unlawful if committed against belligerents."<sup>79</sup> The second class included acts that would not be considered criminal, except for their political context. For instance, espousing Socialist opinions was then illegal in Germany, but this political opinion alone was not universally immoral or universally illegal. Political refugees who fell under either group could not be surrendered, members of the Institute held. A third group of political refugees could be extradited, however. That third class was set aside for offenses that contained ordinary criminal elements, though the object might be political.<sup>80</sup>

Even the London *Times* used the Phoenix Park murderers to demonstrate how despicable "political offenses" could be and demanded in 1886 whether it was right that the "authors of the crime escaped absolutely without punishment, because, forsooth, their offense partook of the nature of a political crime." The *Times* did not mince words, asserting that, though "they were political offenders, because the motive of their offense was political, but they were vulgar murderers, notwithstanding." The 1886 article insisted that:

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<sup>76</sup> As long as they did not conspire to murder – which was illegal by British law – political revolutionaries were safe. It is unclear whether Britain would even have extradited a foreigner who conspired to murder. As it was illegal under British law, they had the ability to try and imprison the offender within the United Kingdom. The cases in which extradition actually took place later in the century, as I will discuss below, were not cases of conspiracy to murder, but of murder itself.

<sup>77</sup> Hart, 187.

<sup>78</sup> The Institute of International Law was founded in Belgium in 1873 by a group of international jurists. Its meetings rotated – the report on the Political Offender Exemption was issued, in French, from Oxford. It is part of the growing movement toward international, non-governmental collaboration on issues that would also touch on the rights of refugees, as I discuss in the conclusion to this dissertation.

<sup>79</sup> As opposed to acts during a time of war committed away from the battle... In this instance, the assassination of Lincoln, though during the Civil War, would not be considered part of ongoing warfare.

<sup>80</sup> Hart, 180. These are mixed-political crimes as opposed to pure ones, as E. L. de Hart explains based on the findings of the Institute for International Law.

[The murderer's] escape, added to their later conduct, has, by rousing the moral sense of the world, dealt something like a death-blow to the principle that one country is bound not to deliver up to justice those who have conspired against the existing government of another. ...In short, the principle which prompts us to extend the aegis of protection over purely political offenders over men with whom we may from time to time sympathize warmly, is noble in theory; but practical men are beginning to doubt whether the balance of convenience does not lie with the arguments of those who contend that every state is capable of dealing with its own subjects and ought to receive every help in so doing.<sup>81</sup>

Belief in this “balance of convenience” was not sufficient to make these arguments for formal legal reform universally popular within Britain. Four years later, the *Times* struck a tone of disbelief that opposition remained to this “practical” change in asylum practices.

The opposition the *Times* cited does not appear to have come from the British press proper, radical or mainstream. Even the radical *Reynolds's Newspaper* reported with interest the discovery of the Phoenix Park Conspirators abroad and attempts to bring them to trial in the 1880s and 1890s. In this case, at least, *Reynolds's* editors seemed to have subscribed to a belief that the Phoenix Park Murderers – and assassins more generally – were not covered by the exemption to political offenders. However, they understood the challenge of arguing this case internationally perhaps better than did their more mainstream counterparts. Extradition of the Phoenix Park Murderers would only work if it could be argued effectively that the conspirators were not political actors, that they had no connections with organized Irish nationalist groups. The editors of *Reynolds's Newspaper* were proud that they would have to argue the case in this manner, for, they explained, it meant that “the lesson that we have taught the world as to the extradition of political criminals has happily been well learned by others.”<sup>82</sup>

#### FORMAL VERSUS SUBSTANTIVE CHANGE

MP William Torrens, a member of the Royal Commission, wrote a memorandum opposing the 1878 Commission Report's recommendation that a narrower definition of “political offenses” should be formalized in legislation and international law. Torrens urged that “Parliament cannot affect ignorance of the disparity of foreign laws, and the repugnance to our own of the principles on which criminal justice is frequently administered under them.” Only by upholding the 1870 Extradition Act's broad exemption, he argued, could the British guard “the presumption of innocence which we regard as fundamental” and which “is not acknowledged in several of the greatest States of Europe.”<sup>83</sup> As it would turn out, Torrens's memorandum captured a norm at the heart of liberal political culture. The campaign for extradition reform had become popular, but it turned out to be evanescent, passing as the horror of the Phoenix Park Murders became more distant. Further removed from Phoenix Park, the public returned to a

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<sup>81</sup> *Times*, 28 July 1886.

<sup>82</sup> In 1890, following a convention in which the United States again upheld the standard “political offender” exemption, a writer in the *Times* penned with open wonder, “would the men who plotted and executed the assassination of President Lincoln or of Lord Frederick Cavendish be safe, under its provisions, from the penalties of ordinary murders?” The terms of the debate remained the same. *London Times*, 28 January 1890; *Reynolds's*, 25 March 1883.

<sup>83</sup> Torrens's reasons for dissenting from Sect. VII of the 1878 Royal Commission Report (Section on Political Offense), *1878 Report*, (13-15), 14.



normative belief that refuge – even for loathsome Anarchists – was necessary to ensure just justice.

The failure to formally change the scope of the exemption did not mean the absence of substantive reform, however. The British would not cede the right to distinguish between *proper* refugees and foreign *criminals*. Nonetheless, officials refined the procedures by which they distinguished the one from the other at home. In extradition trials in 1890 and 1894, British judges weighed whether or not the foreigners in question could be considered “political refugees” and hence entitled to asylum. Although the offenders in each case had political motives, their fate rested on whether the judges believed their actions amounted to *legitimate* insurrection.

Through each ruling, the judges substantively changed the scope of British refuge in common law. This amounted to an open condemnation of “propaganda by deed” as outside *legitimate* revolutionary activity. In this manner, the court rulings of the 1890s eliminated any pretense of difference between the tactics of foreign refugees and those of violent Irish nationalists. I want to underscore, however, that this substantive change was in keeping with Britain’s now traditional logic for the refuge of foreign nationals: foreigners would be protected from the unjust justice of a foreign governments’ reaction. While the British set the precedent that asylum would be denied to foreign terrorists, they did not condone disproportionate government reaction to perceived terrorist threats thereafter.

BRITISH JURISPRUDENCE: A CAREFUL VETTING OF FOREIGNERS — The 1890 case of Angelo Castioni and the 1894 case of Théodule Meunier, whose arrest in England and extradition had been requested by the Swiss and French Governments, respectively, established contemporary precedents for determining cases fit for extradition and the distinction between political action and criminalized terrorism.<sup>84</sup> Whereas officials had not succeeded in introducing detailed procedures in formal law, the judges of the Queen’s Bench succeeded in instituting the narrower definition of “political” at the heart of the failed Harcourt Extradition Bill. In the wake of their ruling for Castioni and against Meunier, “political offenses” in British common law would be limited to those which occurred only at a time of open insurrection.

At the behest of the Swiss Government, Angelo Castioni was arrested on October 3, 1890 at his residence in London on the charge of having murdered Luigi Rossi. Castioni had shot and killed the Swiss State Councilor the previous month in Ticino, Switzerland. Taken before the magistrates at Bow Street, Castioni was held for extradition.<sup>85</sup> Castioni’s case was brought before the Queen’s Bench for review in early November 1890. The point, his lawyer Charles Russell demonstrated plainly, was that Rossi’s murder was a part of a revolutionary upheaval in the Swiss Canton, that Castioni did not target Rossi for assassination, or bear him private ill-will, but that his murder was part of a political uprising at the Ticino Government House in which an “armed multitude” faced the local *gendarmierie*.<sup>86</sup> Castioni was thus a “political offender,” to be exempted from extradition as set out in the 1870 Act.

Justices Denman, Hawkins and Stephen agreed. Whereas the lawyers for the Swiss side tried to represent Castioni as a man who took advantage of a moment of upheaval to commit murder, Justice Denman found that “it appears perfectly plainly from the evidence that this man

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<sup>84</sup> Pyle, 107ff.

<sup>85</sup> “Queen’s Bench Division, Nov. 10 and 11, 1890,” *The Law Times Reports*, (vol. 64, no. 8, May 16, 1891, 344-352), 344.

<sup>86</sup> *Ibid.*, 346.

Castioni was a person who had been taking part in that movement [political upheaval] at a much earlier stage.”<sup>87</sup> Castioni was discharged.

As legal historian Christopher Pyle importantly notes, the judges made Castioni’s case an opportunity to further specify a definition for “insurrection,” however. Offenses, they held, could only be political if there was an “open insurrection,” but what did this mean? Castioni’s lawyer, Russell, had argued that the political should include “any offense committed in the course of a furthering of civil war, insurrection, or political commotion.” As Pyle explains, this would have sanctioned refuge for “rioters of almost every stripe.” Instead, the judges emphasized that timing alone did not make for a political offense. More than happening at a time of “organized” revolution, the act would have to be “done in furtherance of, done with the intention of assistance, as a sort of overt act in the course of acting in a political matter, a political rising, or a dispute between two parties in the State as to which is to have the government in its hands.”<sup>88</sup>

Anarchists’ “propaganda by deed” hardly seemed to fit within this narrowed definition of insurrection. Mainstream commentators did not consider Anarchist “dynamitards” to be members of organized politics, though Bakúnin might well have disagreed with this assessment. The Queen’s Bench indeed used this specification from the *Castioni* case as a common law precedent within years. Whereas Castioni’s action had taken place as a part of open insurrection, the same could not be said by these standards about Théodule Meunier’s bombing campaign in France.

In March 1892, Meunier, it was charged, attempted murder by throwing a bomb into the Loban Barracks. A month later, he was believed to have thrown a bomb into the Parisian Café Véry, killing two people.<sup>89</sup> Using the justices’ language from Castioni’s case, the prosecution held that because “the prisoner did not belong to a party having a form of government of its own or which sought to impose a form of government upon another party” Meunier could not be considered a “political offender.” Anarchism more generally, Justice Cave held, “is the enemy apparently of all Government, and its operations are not directed primarily against the Government but only incidentally, and secondarily against the members of the political body.” Rather they “are directed primarily against the members of the general body, the citizens, and apparently only casually against the Government or governing body.”<sup>90</sup> As an Anarchist, Meunier was thus extradited, and would stand trial in France the following month.

RENEWED COMMITMENTS — If in their reaction to the Phoenix Park Murders the British public had forgotten older sympathies for foreign refugees, the lapse was temporary. On the one hand, this was the product of the rulings in Castioni and Meunier’s trials, which reawakened British campaigns for the right of asylum. On the other hand, the British public’s renewed commitment to the cause of foreign refugees came forcibly with the recognition that not all foreign governments could be trusted even in their treatment of “loathsome” Anarchists.

For British commentators across the political spectrum, the Castioni decision was a triumph. Having condemned Castioni’s initial incarceration, Tory and radical newspapers alike celebrated his liberation as evidence that it was “the desire of the English people’ that rebels ‘should not be surrendered to their victorious opponents.’”<sup>91</sup> At the Institute of International

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<sup>87</sup> *Ibid.*, 349.

<sup>88</sup> Pyle, 94.

<sup>89</sup> Meunier’s bombing of Café Véry was timed with the French trial of Anarchist Ravochol who had been captured after bombings at the same café.

<sup>90</sup> “Queen’s Bench Div., Monday June 11, Re: Meunier,” *Law Times*, November 17, 1894, (vol. 71, 403-406), 403, 405 & 406.

<sup>91</sup> Adams, citing the *Times*, 208.

Law's 1891 meeting in Hamburg, lawyer Lord Reay lionized the decision as evidence that the English had sanctioned the practice of "non-extradition for political crimes, whether simple or of a mixed character."<sup>92</sup> Institute members, Reay held, ought to advocate similar commitments in their home countries.

Although the mainstream British public continued to worry about foreign and homegrown Anarchists, outrage at the actions of illiberal regimes abroad displaced their interest in new asylum policies by the second half of the decade. This ability to refocus on oppression overseas was only possible because they trusted that their own police could adequately manage any threat posed by foreign Anarchists in their midst. Ironically, this faith in their own police intelligence was best articulated in the wake of the Greenwich Park Explosion in February 1894. The event – in which a bomb carried by French Anarchist Martial Bourdin exploded early, killing only Bourdin – could well have been interpreted as evidence that changes to the formal law were as necessary now as they appeared in the wake of the Phoenix Park Murders. Instead, Members of Parliament tended to see the explosion as a remediable failure of policing. Although the threat of "dangerous" aliens was part and parcel of debates over the need for a new aliens act that would allow Britain to vet foreigners more broadly upon their arrival, this point was only a secondary concern in the debates.<sup>93</sup> The far greater concern that drove the aliens debate through the turn of the century was for the arrival of destitute foreign Jews from Eastern Europe.

The British public seemed likewise unconcerned with the Anarchist threat within Britain, at least as it related to traditional British asylum. The public quickly returned their attention to fears of governmental persecution of political dissidents elsewhere, extending this sympathy even to Anarchists. In this vein, the Anarchist victims of the so-called Spanish Atrocities in 1896-97 elicited vast metropolitan interest. Spanish Governmental persecution of political dissidents had already been in the news for the military's unduly harsh treatment of Cuban revolutionaries.<sup>94</sup> On the heels of this colonial insurrection, someone threw a bomb into a Barcelona church procession of local notables on June 7, 1896, killing eleven. No perpetrator was caught at the scene. As the tactics were those used by Anarchists', the Spanish Government assumed that Anarchists were to blame.

In London, concerned on-lookers formed a protest committee and organized public meetings immediately to call attention to the Spanish Government's response to the bombing. British sympathizers did not excuse the real perpetrators of the act. They argued, however, that the Government's response was again disproportionate to the perceived threat: it amounted to a "new Inquisition." Rather than seek out the real perpetrators, the Spanish used the event to round up "more than four hundred" "dangerous" individuals, from members of working class associations to radicals, including Republicans and Socialists, as well as Anarchists. Their methods of inquiry fell "very little short of torture," the London Committee argued, and were unfortunately, hardly different from those the Spanish used in Cuba and also in the Philippines.

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<sup>92</sup> *Times*, September 12, 1891.

<sup>93</sup> Just days after the Greenwich Park Explosion, Home Secretary Asquith assured concerned members of Parliament that "the direction which International efforts can most fruitfully take is to be found not so much in an extension of the power of expulsion on suspicion." Such power, he insisted, "is apt to confound the innocent with the guilty, and to shift the burden and the danger from one country to another." Instead, protection would be found "in a more constant and concerted interchange of information" between the governments and the foreign and domestic police. Hansard, HC Debates, 19 February 1894, volume 21, c. 721ff. This is not to say, however, that there was no anti-alien sentiment, nor interest in restricting the entry of aliens into Britain. I turn to the impact of xenophobia and political restrictionism on British refuge in this period in Chapter Seven below.

<sup>94</sup> Spanish General Weyler would be responsible for the first "concentration camps," the full horrors of which would make the term a loaded one by the time of the Second Anglo-Boer War. Hitler took the term from the British use, however, as a part of his anti-British propaganda in the twentieth century.

Through the summer of 1897, evidence of Spanish barbarism grew. Long-imprisoned suspects attempted suicide and other Anarchists, compelled to confess to a crime they had not committed, were slated for execution.<sup>95</sup>

In the wake of such vivid examples, the British public was, once more, firmly of the opinion that such collaboration would only abet foreign despotism. By 1898, when Continental powers once more called for collaborative anti-Anarchist efforts, there was no chance that the British public would concede to formal changes in international law. The Marquis of Salisbury's Conservative Administration, in power from 1895, understood this public moralizing to be a sad fact, one that handicapped the Administration's foreign policy. Salisbury's Administration would attempt one last revision of the extradition act that year. As Nicholas Adams explains, the press' response was definitive; even those more willing to pass a new extradition act declared that the political exemption must be protected. The bill could not be passed.<sup>96</sup>

THE ROME CONFERENCE: EXPLAINING BRITISH LAW INTERNATIONALLY — International pressure for extradition law reform did not diminish. Despite the new common law precedents, Continental powers urged the British Government to sign formal international accords against Anarchists. This pressure only increased with ongoing dynamite campaigns on the Continent and the assassination of Austrian Empress Elisabeth in September 1898.<sup>97</sup> Though Salisbury could not afford to collaborate, the Administration sent delegates to the Rome Conference to participate in and report on the proceedings.

From November through December 1898, delegates from twenty-one European countries, including each of the Great Powers, convened to discuss how to organize the best defense against international Anarchism. Their purpose was first to define Anarchism, to then systematize international police collaboration, and finally to agree to the mutual extradition of Anarchists between the states which signed the final accords.<sup>98</sup>

From the outset, however, it was clear that the British delegates would have to explain carefully their continued refusal to sign onto any international accords that resulted from the conference meetings. On the one hand, their explanations offer clear evidence that the British distrusted the extent to which Continental powers would seek to police not just criminal action but political opinion. In a memorandum on behalf of Her Majesty's Government, Home Office Permanent Undersecretary Sir Kenelm E. Digby emphasized Britain's commitment to freedom of speech and the press:

In my opinion there should be no hesitation in adhering to the principle that expulsion as it is understood on the Continent is impossible in this country. [...] Who is to be expelled? Any person denounced as an anarchist by a foreign government? Or any person known to the Police as an anarchist? The only other course would be to give magistrates or judges

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<sup>95</sup> Spanish Atrocities Committee, *The Revival of the Inquisition*, (London: J. Perry, 1897), 2, 3 & 19 in National Archives, *Foreign: Resolution re: tortures inflicted on Spanish political prisoners (Anarchists)*. HO 45/9743/A56151C/3.

<sup>96</sup> Adams, 241. The *Economist* was willing to see a new law implemented but would not hear of any interference with the political exemption. The *Times* thought any change highly impractical.

<sup>97</sup> By the time President McKinley was assassinated by an American-born Polish anarchist in 1901, even the United States seemed prepared to agree to international anti-anarchist collaboration. Immediately following McKinley's assassination, Congress proposed bills to facilitate the expulsion of Anarchists from the country. The United States, however, like Britain, opted not to join renewed anti-anarchist meetings in St. Petersburg in 1904.

<sup>98</sup> For a history of international policing, see Mathieu Deflem, *Policing world society: historical foundations of international police cooperation*, (Oxford: Oxford University Press, 2004), 65ff.

a power to order expulsion on proof of sufficient grounds. But what would be sufficient grounds? [...] It must I think come to this that courts are to have a power of expulsion of a person known to hold anarchist opinions. It seems to me to be futile to entertain the idea that it is practicable to adopt a system of expulsion either by Police or administrative or judicial order. All we can do is to deal with men who do criminal acts, under the ordinary criminal jurisdiction.<sup>99</sup>

Salisbury directed the British delegate, diplomat Sir Philip Currie, to adhere to this principle, underscoring that Britain would not compromise on this point “so long as no evidence exists of criminal intent, or to our assenting to expel persons on any grounds from this country, or to interfere with the liberty of the press, unless a charge of incitement to crime can be made and sustained.”<sup>100</sup>

On the other hand, British delegates did not want to play into international concerns that the British did not intend to bring “criminals” to justice. Currie and Digby explained that a foreigner who assassinated a sovereign would be subject to extradition. In Britain, the assassination of a sovereign, Currie highlighted, would not be automatically viewed as a political act, as it was in other countries in which requests for the extradition of political offenders was permissible. Digby further explained the British Government accepted earlier recommendations that “‘political crime’ shall not include assassination or any attempt at assassination, and shall not include any other crime of violence committed otherwise than in furtherance of existing civil war or existing open insurrection.”<sup>101</sup>

What they could and did promise, however, was increased attention to the activities of foreigners in their midst and a continued relay of information from the Home Office to nervous foreign powers. Despite these concessions, the British Government never signed onto the conventions of the Rome Conference though they continued to ruminate over the matter through the turn of the century. Instead, as Digby insisted, they would rely on their own judiciary system to determine the difference between political and non-political offenses; this they would do on a case-by-case basis.<sup>102</sup>

Salisbury’s concern for public opinion at the time of the Rome Conference appears somewhat overblown. Metropolitan press coverage of the proceedings was minimal. What little coverage there was did not blame the Administration for taking part, quite the contrary. Reports conveyed either congratulations that Britain’s tradition of asylum would be protected from the outset of the proceedings or assurance that the British delegates would define “political offenses” cautiously, careful to protect revolutionaries if not Nihilists from extradition.<sup>103</sup> Salisbury’s concern demonstrates rather the degree to which even the Conservative Government had come to internalize the likely response to their actions had they followed a different tack. Extrapolating from the interest in the case of the Spanish Anarchists or that of the Paris Communards, the Government could easily imagine the impolitic alternative.

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<sup>99</sup> Kenelm E. Digby, “Minute given on behalf of HM Government at the Conference in Rome in 1898, January 2, 1899,” PRO FO 83/1970 Conference on Anarchists, 1899-1904.

<sup>100</sup> Marquis of Salisbury to Sir P. Currie, November 28, 1898, Number 7 in PRO FO 881/7179, *Correspondence Respecting the Anti-Anarchist Conference Held at Rome in 1898*, f. 10.

<sup>101</sup> Currie to Salisbury, December 5, 1898, Number 11 in *Ibid.*, f. 17; Digby quoting Lord Thring, *Ibid.*, f. 19.

<sup>102</sup> Digby, Memorandum on Sir P. Currie’s telegram of December 5, 1898 to Salisbury, Number 12 in *Ibid.*, ff. 18-19.

<sup>103</sup> *Reynolds’s*, 4 December 1899; *The Graphic*, 10 December 1898.

CONCLUSION: A SPECTACULAR FAILURE?  
THE POWER OF A MORAL CATEGORY

Though most international powers found this aversion to reforming formal extradition law inexplicable, Salisbury's hesitation made sense in a polity where the government was held publicly accountable for this liberal norm. The exemption of the political offender remained a great triumph for liberal advocates of a moral and political norm that would continue to shape extradition policy. As had long been the case in the logic behind British refuge, the nation's commitment to an expansive refugee category stemmed from fear for the meting of *justice* on the Continent, but trust in her own. The domestic vetting of foreigners for extradition ensured that justice would not be exacted in the heat of reaction. In place by the mid-1890s, this procedure triumphantly eschewed the difficulties inherent in attempting to settle on a definition of what was and what was not political at a time of reaction. Britain's refusal to narrow the formal definition of "political" crimes would have to be recognized internationally, if not adopted by foreign states themselves. Even more reactionary foreign states would, in this vein, have to admit that political offenders were safe on British soil.

The failure to refine formal extradition law did not mean that just anyone would be provided with refuge and excused of his or her crimes, however. This was not a boon for the revolutionaries. While the British did not send delegates to the 1904 international anti-Anarchist conference in St. Petersburg,<sup>104</sup> they were instrumental in vetting criminal offenders and policing "dangerous" foreigners. British judges importantly established a new category of crime in this period: terrorism. British case law – the rulings in *Castioni* and *Meunier* – provided the model for the separation of terrorism from political offenses, associating only the latter with open revolution and political refuge. Although this distinction did not become a part of formal extradition law in the period, the working definition of terrorism as a non-political act has remained a vital component of modern asylum law in domestic legal precedents in Britain and America, as it has in international law.

The timing of Britain's redoubled commitment to a broad refugee category is ironic, and telling. The British established their proud tradition of providing refuge to political offenders in law at the precise moment when they were themselves less likely to sympathize with the foreign refugees in their midst, and less likely to apply refugee status to the radical ideologues of the day. The British Government was not immune to international criticism on this score. Try as they might, they failed to convince American officials to return Irish "criminals." British commentators could only deride American sentimentalism just as Edward Cook's character Basil chastised his sister Doris for her unreflecting concern for foreign exiles in *Doubleday's Children*. No American judge would allow the extradition of an Irish nationalist to Britain until the last decades of the twentieth century.<sup>105</sup>

The British public and especially the Liberal Party remained steadfast proponents of asylum for persecuted foreigners. Yet this commitment was increasingly a commitment to a

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<sup>104</sup> In the future, the British Government avoided sending delegates to international anarchist conferences all together. America joined in this boycott in 1904 when Czar Nicholas II called a second anti-Anarchist conference in St. Petersburg. Even in the wake of President McKinley's assassination in 1901, the United States refused to collaborate with European powers to enable the extradition of foreign political dissidents. Still, the United States, unlike Britain, did not uniformly hold this position and, after 1901, enacted explicitly anti-Anarchist legislation.

<sup>105</sup> Pyle, chapter fifteen. As Pyle demonstrates, in the British case regarding foreign revolutionaries, there was much political capital for American judges and politicians in siding with Irish-American opinion on the matter. Pyle carries this point from the nineteenth through the end of the twentieth century.

tradition and a right – not to a sentimental or political attachment to the refugees themselves. In many respects, what had been an outspoken metropolitan refugee lobby adopted a new cynicism in their approach to foreigner refugees in their midst. Whereas a previous generation organized welcome meetings and rallied behind revolutionary refugees' causes, refugee relief remained a quieter affair at home in the decades following the Paris Commune. Within Britain the cause now promoted and celebrated was the institution of asylum itself as a humanitarian, liberal practice. More ambivalent toward radical revolutionaries in their midst, the now long-standing metropolitan refugee lobby looked further afield. Increasingly their charitable objects were refugees across the globe; in more remote persecuted foreigners, they still found the valor that seemed to be missing in the foreign dissidents in their midst.

Yet, as Chapter Six demonstrates, the challenge of how broadly the refugee category could or should be applied was hardly isolated to the reception of refugees in the British Isles. Even as the British metropolitan refugee lobby looked with more ease to the relief of foreigners further afield, they were forced to face the limits of their endeavor. British moralists faced a crisis of conscience in their anti-slavery endeavors in the Indian Ocean region, having assumed that all fugitive foreign slaves, like foreign political refugees, deserved British shelter – that they too ought to be exempted from foreign demands for their extradition. Indeed, John Anderson's case proved the Imperial Government's commitment to this cause even when the slave in question had committed murder. But could this be the case everywhere? Could the British afford to provide asylum for all potential fugitive slaves? From the 1870s the question was pressing. As we will see, the question similarly drew on concern for international legal procedures. Here too, any systematic vetting of foreign slaves recast British commitments to foreign governments, on the one hand, and to would-be refugees, on the other.

## CHAPTER SIX

### BRITISH LIBERTY AND SOVEREIGN RIGHTS: THE FUGITIVE SLAVE CIRCULARS AND REFUGE IN EAST AFRICA, 1875-76

It is the early 1870s. A British man-of-war ship sails near the Coast of Zanzibar, East Africa. The sailors eye each passing vessel, ready to pounce at the first signs of illegal slave traffic. A small Arab dhow filled with Africans catches their attention. Within feet of the British vessel, one of the Africans jumps overboard and swims to the British ship. The sailors eagerly pull the man to safety. The Arab master is irate. He demands that British captain return his slave. The captain hesitates. The slave, he discovers, was not illegally traded according to Britain's treaties with the Sultan of Zanzibar. The slave was not freshly captured from the interior of Africa, nor was he being transported outside of the Sultan's territories at and around Zanzibar.<sup>1</sup> He is the Arab's domestic slave. He works along the coastline at one of the local pearl fisheries, to which the dhow was in transit. This slave is a fugitive from *legal slavery*.

Is he a refugee? Should the British provide him with asylum? If the Captain returns the slave, he has violated a sacred British tradition of refuge – an act that will earn him the ire of the metropolitan public. If the Captain does not return the slave, he risks offending the Arab master and the Sultan of Zanzibar, to whose good will the Anti-Slave Trade Squadron owes its right to patrol in these waters. What can he do?

This chapter examines British responses to the three Fugitive Slave Circulars of the Admiralty of July 1875-August 1876. In the Circulars, the Admiralty issued formal instructions for Her Majesty's Ships regarding the admission of fugitive – or runaway – slaves on board her vessels. In effect, the first Circular of July 1875 limited the admission of foreign slaves so that no fugitive who escaped from legal slavery could be considered a refugee.

The dreaded case of a slave who asked for refuge in the manner outlined above was hypothetical. However, as far as the Admiralty was concerned, the proximity of the British Squadron and legal slave laborers on the East African coast made it only a matter of time before legal slaves escaped in the hopes of receiving asylum from British officials. In addition to being a diplomatic nightmare, this hypothetical situation also exposed a practical difficulty. Fugitives could not be provided asylum on board a British vessel permanently. So where would the Admiralty put them? This was not a concern specific to the care of runaway slaves. Rather, the fugitive slave question became the focal point of the larger concern for sheltering Africans liberated from the illegal slave trade in the Indian Ocean region. Sierra Leone and the Caribbean had provided a destination for liberated foreign slaves in the Western Hemisphere, but the British did not have a colonial foothold in East Africa. The small-scale African asylums in the region seemed woefully unequal to the task. Officials worried that providing asylum required colonial expansion, a cost the Imperial Government was not necessarily willing to shoulder.

In the chapter that follows, I argue that the question of whether and how to revise the Admiralty Circular of July 1875 became the first referendum on the costs of open British asylum and the lengths to which the British were willing to assert their global authority to this end. Protecting fugitive slaves remained difficult through the turn of the century, even after the Imperial British East Africa Company took control of the region in 1888. From 1875, however,

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<sup>1</sup> See below for an account of these treaties.



concern for the costs of continued refuge, diplomatic and financial, altered the way in which British officials would apply the refugee category to foreigners. For the first time, a whole category of people – foreign slaves – could be excluded from the refugee category because British officials feared they could not afford refuge. This spelled the beginning of the end of British imperial refuge. Fears about the costs of refuge took root in the metropole by the end of the century. But, I want to emphasize that at this critical juncture there was also a new beginning. Proponents of the Circular questioned whether British refuge was viable, and whether the slaves were not even better off at home than they were in poorly run British refuges. On the one hand, this language was tainted with racial prejudices regarding the possibility of “civilizing” liberated Africans. On the other hand, the critique of British refuge stemmed from new humanitarian concerns about the nature of indentured labor. Diplomats on the ground began to argue that true relief might be better provided by international collaboration, not imperial action.<sup>2</sup>

#### THE ORIGINS OF A HYPOTHETICAL FEAR: THE BRITISH AND EAST AFRICAN SLAVERY

The Circular, though based on a hypothetical situation, had its antecedents in the British involvement in the region in the decade prior to 1875. The British had anti-slave-trade treaties with East African rulers since the 1840s. But, the Eastern trade only became the focal point for the British Naval Squadron after the Atlantic trade was finally declared dead in the late 1860s. As with the Atlantic trade, a byproduct of policing the slave trade was the creation of a body of homeless Africans – those released from the illegal trade. Until the trade ended, there could be thousands of rescued Africans in need of shelter. Refuge on this scale had proved challenging enough in the West. How to do this in the East would be the challenge confronting missionaries and diplomats on the ground in this period.

The section that follows examines official concerns about the costs, diplomatic and financial, of providing refuge for Africans liberated from slave trade off the coast of Zanzibar in particular. I explain how this concern for costs turned into a concern about distinguishing between illegal slaves to be freed and slaves whose masters’ rights diplomats recognized. Fugitive legal slaves became a problem for the Admiralty because these slaves made distinguishing who was entitled to refuge all the more complicated. This concern came to dominate Admiralty, diplomatic and metropolitan attention by 1875 because failure to distinguish who was entitled to refuge would cause chaos in the region. Not only would it offend the Sultan, it put more pressure on asylums for liberated Africans than the British could bear.

SLAVE TRADE TREATIES: THE SQUADRON AND FORMAL LIBERATION FROM THE SLAVE TRADE — Beginning in the 1850s, the British Anti-Slavery Naval Squadron patrolled the Indian Ocean, acting upon treaties signed with Arab rulers. The treaties established a legal process for the recapture and liberation of illegally trafficked Africans. As in the Atlantic world, the responsibility to protect those liberated in this manner fell, by treaty stipulation, to the British.

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<sup>2</sup> William Mulligan’s article, “The Fugitive Slave Circulars, 1875-76,” *The Journal of Imperial and Commonwealth History*, (Volume 37, Issue 2 June 2009, 183-205) covers much of the same archival material I use in this chapter. The first to describe the Fugitive Slave Circular Crisis, he lacks an adequate sense of the events’ context in the history of British asylum. Mulligan is surprised by the humanitarian protest on behalf of slaves. He believes it to be the first expression of such interest since the 1830s, understanding these events in the context of earlier (pre-1840) anti-slavery movements and post-1880 new humanitarian movements (such as the anti-coolie labor movement). Thus, he misses the crucial connection between the fugitive slave question and the larger debate over the nature and extent of British refuge for persecuted foreigners. It is this connection that is the subject of the chapter that follows.

Until there was no slavery in the Indian Ocean world, the British would have to locate safe-havens where the liberty of the ex-slaves could be secured.

The British-Arab anti-slave trade treaties were signed piecemeal, the first with Persian rulers dating to 1820. An 1845 treaty with the Sultan of Muscat and Zanzibar outlawed the slave trade for the Sultan's subjects, but did not make it altogether illegal. By this treaty, slaves could not be traded to foreign nations, but the internal transit of slaves from the mainland to the islands in the Sultan's territories off the coast of East Africa remained legal (including the islands of Zanzibar and Pemba in what is modern-day Tanzania). By this treaty, the British had the right to patrol the coastline, including the territorial waters of the Sultan.<sup>3</sup> The Admiralty brought captured slave dhows to Admiralty Courts in their colonial territories at Aden (in modern Yemen on the Arabian Peninsula), in Cape Colony, South Africa, or in Bombay. Here, the slaves would be freed and shelter and employment of some sort provided (the dubious quality of which I discuss below). The location of these courts and asylums became inadequate, however, since the source of the slave traffic was near Lake Nyasa, southwest of Dar es Salaam, in the interior of Africa (now in Malawi). In 1866, the British established a Vice Admiralty Court in Zanzibar to be closer to the source.

These improvements created a new problem, however. Without a colony in or near East Africa, where were the British to take Africans liberated at Zanzibar? The problem was not insignificant. Estimates presented to the House of Commons in 1871 showed that the navy caught less than seven percent of the slaves trafficked illegally.<sup>4</sup> If the Squadron became as effective as diplomats believed it could be, how would the British manage the thousands of additional Africans who would then be in their charge?<sup>5</sup> The Admiralty could still transport liberated Africans to Aden, the Cape and Bombay. But officials generally considered all three places too far away and too inconvenient. Could the liberated Africans stay in Zanzibar, under the Sultan's watch? Diplomats considered this in the early 1870s. But, cautious not to disturb the Sultan's legal domestic slavery, officials did not stress this option in the 1860s.<sup>6</sup> Moreover, abolitionists feared that the freed slaves could easily be re-enslaved if left so close to the domestic slave market. Prior experience with liberated Africans in Cuba would have indicated that this was a likely occurrence. In Cuba, where slavery had been legal, countless liberated Africans disappeared into the slave-based economy.

So, where were the British to shelter liberated Africans? British missionaries had offered to shoulder the expense of asylum. The Church Missionary Society, in particular, sought to extend their system of liberated African asylums and industrial schools into the region. By the late 1860s, they spoke enthusiastically about establishing villages in and around East Africa as they had in Sierra Leone in the 1810s-1840s. The CMS was in communication with Sir Bartle Frere on the eve of his mission to Zanzibar in the early 1870s, having already purchased land on

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<sup>3</sup> The extent of territorial waters off any given coastline varied (and continues to vary) by country, but was generally determined by the line at which tidal waters began. Vattel found this determination to be a difficult one, (Emer de Vattel, *The Law of Nations* [1758] Book I, Ch. 23, §289). By 20<sup>th</sup>-century conventions, the line can be drawn up to twelve nautical miles from the coast.

<sup>4</sup> *Parliamentary Papers, 1871 (420) Report from the Select Committee on Slave Trade (East Coast of Africa); together with the proceedings of the committee, minutes of evidence, appendix and index*, vii.

<sup>5</sup> Members of a House of Commons Select Committee on the eastern slave trade summed up the matter thus: "assuming that an efficient squadron is maintained, [...] the disposal of the liberated slaves becomes a matter of large importance." *1871 Committee Report*, ix.

<sup>6</sup> Earl Russell's 1864 letter seeking to calm the Sultan's concern for legal slavery as quoted in *1871 Committee Report*, v & vi.

the British Seychelles, just north of Madagascar, and eyeing additional acquisitions on the mainland within the Sultan's domain.<sup>7</sup>

RETRENCHMENT OR NEW INVESTMENTS: METROPOLITAN DEBATE, 1871-1874 — The cost of ending the Eastern slave trade weighed heavily on those involved. Despite the Church Missionary Society's offer to shoulder the expense, the Government began to scrutinize its financial commitment. By 1871, with a new treaty proposed for the region, the Government found itself at a critical juncture.

By 1871, the Ministry kept close tabs on costs of the anti-slave trade treaties. In a confidential memorandum to Gladstone, the Treasury balked at the expense of renewed abolitionism in the East. The squadron's cruisers already cost £130,000 annually, the memorandum stressed, and the maintenance of liberated Africans £15,400.<sup>8</sup> The author of the memorandum considered it inappropriate that such costs should fall to Britain alone. He demanded whether "we to constitute ourselves alone the naval police of the world, or can we hope for effectual cooperation from other European powers, or from America? Experience has hitherto proved the contrary." "The consequence of any such attempt," he continued, "would probably be that we should have to bind ourselves to keep up large squadrons in many quarters... and we should find ourselves encumbered with greater expense and greater responsibility than ever."<sup>9</sup>

Fiscal concern quickly became subsumed into a larger debate over how Britain ought to wield its international clout in the region. The debate came to a head in the early 1870s because Sir Henry Bartle Frere, member of the India Council and former Governor of Bombay, planned to bring a new anti-slave-trade treaty before the Sultan of Zanzibar (now under separate rule from Muscat). The proposed treaty stipulated that Indian subjects living in Zanzibar be forbidden to hold slaves; in general the draft treaty aimed to close down the domestic slave market at Zanzibar. In addition to targeting the market, the treaty would restrict the legal transport of slaves to routes via Dar es Salaam and Zanzibar, making the otherwise 350-mile Zanzibar coastline more manageable for the Squadron to patrol.<sup>10</sup>

Parliament examined the new treaty and the role the British proposed to take in East Africa prior to Frere's departure. An 1871 House of Commons Select Committee enthusiastically supported the abolitionist endeavor and gave Frere *carte blanche*. The Committee recommended that the British impose the full weight of "all legitimate means" available behind the abolition of the trade in the region.<sup>11</sup>

As far as the Treasury was concerned, however, the British could hardly afford the additional responsibility. Financial costs aside, the author of the Treasury memorandum argued that further treaty negotiations with the Sultan of Zanzibar threatened imperial imposition. He

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<sup>7</sup> Edward Hutchinson, *The Slave Trade of East Africa*, (London: Sampson Low, Marston, & Searle, 1874), 95. At an anti-slavery conference in Paris in 1867, representatives extolled the "romance" of Sierra Leone's history and hoped that that history could now be repeated for the Eastern slave. The Reverend George Knox used the history of Sierra Leone as the preface for his call to action at the meeting. (*Special Report of the Anti-Slavery Conference, held in Paris in the Salle Herz, on the 26 and 27<sup>th</sup> August, 1867*, [London: British and Foreign Anti-Slavery Society, 1867], 20-22 & 49.)

<sup>8</sup> "Confidential. Slave Trade on the East Coast of Africa, (November 1871)," *Gladstone Papers*, (BL Add. Ms. 44617, Vol. DXXXII, June-December 1871), f. 132. (p. 1 of the memorandum). The author of this confidential memorandum was very likely H. C. Rothery, a high-profile barrister who would later be a conservative voice on the Fugitive Slave Commission of 1876. He had, since 1860, been the Treasury's expert counsel on matters relating to the slave trade.

<sup>9</sup> "Confidential. Slave Trade on the East Coast of Africa," f. 133 (p. 3 of memorandum).

<sup>10</sup> Parliamentary Papers, 1871 (420) *Report from the Select Committee on Slave Trade (East Coast of Africa); together with the proceedings of the committee, minutes of evidence, appendix and index*, vi.

<sup>11</sup> *Ibid.*, viii.

asked with a note of bewilderment if “the Imperial Government [was] prepared to reduce their [the Sultan’s and Arab chiefs’] territories to the condition of the protected states of India, or to go even further, and absolutely annex them?”<sup>12</sup> The implication was that they were not prepared to do so.<sup>13</sup>

Gladstone’s Administration took the Treasury’s concerns to heart and restructured Britain’s treaty commitments prior to Frere’s departure. The Administration took the unprecedented step of altering Britain’s commitment to liberated Africans. The 1873 Treaty and, the corresponding 1873 Slave Trade Consolidation Act which codified the Treaty in British law, mirrored Treasury and diplomatic uneasiness with the costs of refuge. Rather than provide for them on British soil, as had become standard practice since the 1824 Slave Trade Act, the Act specified (Article III) that the “Sultan [not the British] engages to protect, to the utmost of his power, all liberated slaves, and to punish severely any attempt to molest them or reduce them again to slavery.” This Act did not mean that the British would abandon the project of protecting liberated Africans – not all slavers were captured in or near the Sultan’s territories. Nevertheless, the practice of leaving the ex-slaves’ liberty to the Sultan so as to spare “no inordinate expense to the English treasury” left liberated slaves vulnerable to abduction by domestic slavers.<sup>14</sup>

FUGITIVE SLAVES: THE POTENTIAL NIGHTMARE — When the British created the slave trade court at Zanzibar in 1866, the British faced two problems. On the one hand, they had to grapple with a several-fold increase in the number of slaves being rescued from the illegal slave trade if the naval squadron in the region proved to be as effective as officials anticipated. On the other hand, the increased British presence in the region around Zanzibar threatened to destabilize legal domestic slavery. It became all too probable that legal slaves would flee *en masse* to a nearby naval squadron that was tasked with an expressly anti-slavery mission. In 1875, this nightmare scenario provoked action from the British Admiralty, which had first-hand experience with the difficulties of providing for liberated Africans in the region. They knew they could not afford to provide asylum for a whole population of would-be refugees.

Although there was a great deal of official and metropolitan discussion about how to provide refuge for freed slaves, there was no public discussion for what to do about fugitive slaves in East Africa.<sup>15</sup> The nightmare situation the Admiralty feared for East Africa was most

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<sup>12</sup> “Confidential. Slave Trade on the East Coast of Africa,” f. 133 (p. 4 of the memorandum).

<sup>13</sup> Frere tried to counter this impression in his testimony before the Select Committee. His greatest object was that abolition was conducted in a manner that demonstrated to the Sultan that he was “being carried with us, and the native local authorities being carried with us in all that we do.” (Frere before the Committee, *Report from the Select Committee*, 25)

<sup>14</sup> Treaty between HM and the Sultan of Muscat, signed April 14, 1873, enclosure 1 in No. 48, Sir B. F. to Earl of Granville, April 14, 1873 (received April 28), 91 in *Parliamentary Papers*, 1873 [C.820] Correspondence respecting Sir B. Frere’s Mission to E. Coast of Africa, 1872-73; “On disposal of liberated slaves,” No. 53 in *ibid.*, Letter from Sir B.F. to Earl Granville (received June 1), May 7, 1873, 118-119.

<sup>15</sup> In British colonial territories, in Canada, India and West Africa, individual fugitives could be accommodated without undue inconvenience to the British Government. British Canada, like Sierra Leone, needed colonial settlers and, to that end, could afford to absorb tens of thousands of fugitive slaves. Outside British colonial territory, fugitive slaves were more often than not returned to their masters – a fact of which few in Britain were aware. British consular agents tried to ensure that each master treated the fugitive well, and did not subject him or her to exceptionally severe punishment after their return to bondage. In India, fugitive slaves from domestic slavery caused administrative difficulties and taxed a colonial ideology that recognized both British law and local custom. The “Indian model” of abolition was designed to recognize local custom and to avoid the expense of emancipation incurred in the Caribbean. From 1833, slavery in India was officially outlawed, but Administrators did not advertise this change in the hopes that emancipation would occur slowly and organically, with a minimum of disruption to local customs. In fact, since the 1810s, the East India Company’s policy had been to free slaves who fled to the authorities because of cruel treatment. Similar judicial authority developed in the British Gold Coast (West Africa) and in British East Africa after it became a British protectorate in 1895. This policy of gradual emancipation continued to govern colonial administrative and judicial responses to slavery well into the twentieth century.

akin to cases in which legal slaves fled to British consular houses outside the British Empire. In these situations, as on board British man-of-war vessels, British agents could hardly keep the foreigners in their care permanently. These islands of extra-territorial English jurisdiction had to take local custom into account.<sup>16</sup> In practice, most of the fugitive slaves were returned to their masters. But if this was the unwritten protocol, why did the Admiralty feel the need to impose formal instructions on Squadron officers off the coast of East Africa, despite the absence of previous incidents?

Prior to the Circular crisis, few officials spoke openly of this concern, but former British consular agent at Zanzibar Henry Adrian Churchill made the link between Admiralty fear and the peculiar situation of the Squadron in the coastal waters of East Africa in his testimony before the 1871 House Select Committee. It was too easy, he argued, for misunderstanding to take place between British sailors, local slaves and their masters. He told of a scene outside the window at his house in Zanzibar. A group of eager British sailors had pounced upon a supposed slave vessel. The slave dhow's captain carried papers indicating that these slaves were being legally transported, as it turned out. However, from Churchill's position on land it looked unlikely that the British sailors would let the prize capture go so easily. Churchill intervened to diffuse the tense situation. As one of the very few British operatives in the region, Churchill was certain that, had this incident not occurred right outside his window, the matter might have ended quite differently.<sup>17</sup>

Churchill's example pinpointed the difficulty in regulating the tough distinction between legal and illegal slavery, especially where eager British sailors disliked having to watch the legal slavery that surrounded them. Though this could have happened anywhere along the coast, Churchill's worry was quite local: that slaves working on the shoreline, particularly in the pearl fisheries, would take advantage of their proximity to British ships anchored in the Sultan of Zanzibar's territorial waters. Working in the water, slave laborers might swim to British ships in great numbers especially if they knew – as increasingly they did – that British officials promised slaves their freedom.<sup>18</sup>

Should droves of *legal* domestic slaves seek asylum on British ships, it was not too difficult to imagine that chaos would ensue. The flight of legal slaves *en masse* would devastate the pearl fishery industry, enrage the Sultan and his subjects, and inundate the British with more

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W.H. Macnaghten, *Reports of Cases Determined in the Nizamat Adalat*, Vol. I, 1801-1819, (Calcutta, 1827), 55-56, cited in Radhika Singha, "Making the domestic more domestic: Criminal law and the ['head of the household,' 1772-1843]," *Indian Economic & Social History Review*, (1996; no. 33, 309-343), 311. For the distinction between the Indian and Caribbean models of abolition and emancipation, see Suzanne Miers, *Slavery in the Twentieth Century*, (Walnut Creek: Altamira, 2003), chapter three; and Howard Temperley, "The Delegalization of Slavery in British India," *After Slavery: Emancipation and Its Discontents*, Temperley (ed.), (London: Frank Cass, 2000, 169-187).

The Americas provided something of a similar situation to East Africa, but only in that the American context provided the most celebrated cases of fugitive slaves in the British cultural memory. Whereas these cases also created tense international situations, as did American fugitive slave John Anderson's case in 1860-61, Canadian administrators had the right to protect these fugitives as refugees. Slavery in British Canada was neither legal after 1836, nor tolerated unofficially. The only way another country could demand the surrender of a refugee slave in this case was if the slave had committed a crime recognized as such by both countries. As the Anderson case demonstrated, British abolitionists, in Canada and in the metropole, would go to great lengths to avoid this eventuality.

<sup>16</sup> The French, by contrast, were allowed under French law to purchase slaves in order to set them free. This practice was a felony in English law.

<sup>17</sup> *1871 Select Committee Report*, Testimony of Henry Adrian Churchill, 24.

<sup>18</sup> Parliamentary Papers, 1876 [C.-1516.] *Royal Commission on Fugitive Slaves, Report of the Commissioners and Minutes of the Evidence*, Qu. 173, p. 6; q. 365, p. 13; Q. 727, p. 27, Q. 754, p. 28; Q. 1002, p. 40; Q. 1181, p. 46; Q. 1228, p. 49; Q. 1250, p. 50; Q. 1310, p. 53.

potential ex-slaves than it could afford. It was in this context that the Admiralty issued the first circular in 1875.

THE FIRST FUGITIVE SLAVE CIRCULAR — The context in which the Admiralty felt the pressure to systematize official responses to fugitives from legal slavery was connected in all respects to local exigencies in and around Zanzibar, East Africa. By contrast, we do not know the exact origins of the Circular, its author, or any more detailed official account of why it was issued when it was. Nonetheless, the sweeping terms of the first Circular, issued on July 31, 1875, offered what amounted to a broad-based condemnation of asylum on board British ships.

The Fugitive Slave Circular divided asylum into two categories: asylum in the territorial waters of foreign nations and asylum on the high seas. In territorial waters, the Circular ordered naval officers to return the slave to his or her master unless it could be proved that he or she had been enslaved contrary to existing anti-slave trade treaties. Only if the slave had been illegally traded would British officers be allowed to offer asylum. On the high seas, officers would have to take any fugitive onboard and provide asylum if that slave was in imminent peril (e.g. risk of drowning). However, the instructions stipulated that the slave must be returned to the master if request was made when the British vessel entered the territorial waters from which the slave had fled. There was only one caveat in these instructions. The Circular specified that officers ought to “exercise their discretion [when returning slaves to their masters] in endeavoring, according to the circumstances of each case, to obtain an assurance that the slaves will not be treated with undue severity.”<sup>19</sup>

The Admiralty issued the July 31 Circular when Parliament was out of session. No one in Britain took note until someone at the Admiralty leaked the Circular to the metropolitan press. We do not know how it was leaked that fall or why. But the response once it came to public attention was deafening.

By October 1875, the British press from London to the provinces responded vociferously to the Circular. Metropolitan politicians and the public at large had, in fact, been concerned with narrowing the formal application of the refugee category. In the wake of the Paris Commune, sympathy for foreign refugees was at a low, and experts were in the process of determining how to redefine the terms of the 1870 Extradition Act so as to distinguish between deserving refugees

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<sup>19</sup> The July 31, 1875 Fugitive Slave Circular:

- 1) Classes:
  - a. The question of reception in Foreign Harbors or Territorial Waters
    - i. Where slaves allege their masters' cruelty; or are fleeing “to avoid the consequences of their misdeeds.”  
--If proved a slave, cannot be retained onboard.
    - ii. Where slaves allege to be detained in slavery “contrary to the treaties existing between Great Britain and the country from the shores of which he escapes.”  
--Upon satisfaction that this is indeed the case, the commanding officer should consult with local and British authorities onshore and take steps to ensure that he is not re-enslaved.
  - b. The question of reception on the High Seas, where the fugitives' life would be in danger if not rescued.  
--The slave may remain onboard, the vessel being a part of the Queen's dominions, until the vessel returns to the territorial waters from which the slave has escaped. At this point the slave must be surrendered, if demand is made and proofs of slave-status provided.
- 2) As a general principle, care should be taken that slaves are not misled into the belief that they will find their liberty by getting under the British flag afloat, or induced by the presence of a British ship to leave their own ships, if at sea, or their employment if on shore.
- 3) When surrendering fugitive slaves, commanding officers should exercise their discretion in endeavoring, according the circumstances of each case, to obtain an assurance that the slaves will not be treated with undue severity.
- 4) A special report is to be made of every case
- 5) The above instructions are also to be part of the General Slave Trade Instructions.

and foreign criminals – a distinction that had never seemed less murky. Despite this context, the Fugitive Slave Circular revived traditional moral protest. Although many feared that the right to refuge had been construed too broadly in the 1870 Extradition Act, a broad swathe of the British public became irate at the Admiralty for limiting refuge so much that slaves were now all but excluded. From the end of September 1875, abolitionists, local government councils and private associations organized protest meetings on the refugee question on a scale not seen since the early 1860s.

#### METROPOLITAN REACTION: SOVEREIGN RIGHTS AND IMPERIAL ASSUMPTIONS RESPONSE

Most commentators agreed that the Circular flouted Britain's humanitarian traditions and kow-towed to an institution against which she had long fought. The protests allowed the abolitionist public, which already opposed the 1873 Slave Trade Act, the chance to focus their anger.

In the section that follows, I argue that the Circular incited such a strong reaction because the metropolitan public had long assumed – based on their experience with slavery in the Americas – that fugitive slaves were refugees. The public and officials likewise assumed that it was Britain's sovereign right to provide refuge on her own soil. They assumed that the British man-of-war ship was included in this sovereign right to provide refuge. But were public claims that the Circular was unjust correct? While the public was unanimously appalled at what seemed like undue deference to slave-holding powers, few could agree on the precise scope of Britain's international rights and obligations in the region. Could the British follow their humanitarian impulses wherever they led? In the winter of 1875-76, the argument increasingly became a partisan one, with Liberals taking the lead against the Circular. By February 1876, the Tory Government began to look for more systematic answers to whether the public's assumptions were right.

METROPOLITAN OUTRAGE: A REACTION READY IN THE MAKING — Although the Circular itself came as a surprise, news of the Circular reached a metropolitan public that was ready to rally around the refugee slave's cause once more. Whereas few had openly supported the French Communards in their exile four years before, slaves were Britain's most celebrated refugees. More than Continental refugees, fugitive slaves were Britain's refugees, the nexus of two equally long national traditions of abolitionism and asylum for persecuted foreigners.<sup>20</sup> Prominent abolitionists, already suspicious of the Government's commitment to the campaign against the Eastern slave trade, had been harnessing public interest in liberated Africans for the last five years. The Circular would give them – and the public at large – a focal point for outrage at Treasury and consular retrenchment in the East.

British abolitionists had been skeptical about the strength of the Government's commitment to ending slavery in the East. After the 1873 Slave Trade Consolidation Act ended the Government's obligation to care for liberated Africans, Missionary groups – the Church Missionary Society ("CMS") especially – continued to press for the expansion of African asylums in the Indian Ocean region and close to Zanzibar in particular. They condemned the Government's retrenchment in no uncertain terms. But the CMS also looked ahead, working

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<sup>20</sup> As I demonstrate in Chapters Two and Four above, refugee slaves in the Western Hemisphere had long been equated with famed European revolutionaries. They were entitled to the same support in their exile as Hungarian and Italian Nationalists. They were likewise the paragons of moral virtue, sorely tested by a cruel institution.

with Frere to solicit public funds for African asylums. By 1874, the CMS was in possession of land on the Seychelles and the promise of £1000 from the Baroness Angelina Burdett Coutts for the establishment of an African asylum on the East African mainland.<sup>21</sup>

Until 1875, the scope of CMS public antislavery meetings had been limited; the condition of liberated Africans had never been immensely popular in the metropole. Tales of heroics of British captains in hot pursuit of illegal slavers were more dramatic and satisfying than the ongoing task of *civilizing* the liberated Africans in their care. Public outrage in the fall and winter of 1875-76 became as widespread as it did because abolitionists now focused their concern for liberated Africans in the East on the celebrated figure of the fugitive or refugee slave.

The Circular became the talk of newspapers in London and in the provinces. By January, prominent local organizations held meetings across Britain to discuss the Circular and make their opinion heard. As with refugee meetings in the past, the proceedings of each were reprinted in the local and national press. Thus, the London *Times* printed fifty-four articles about the Circular between January and February 1876. In January alone, the *Times* reported on seventeen separate meetings in town halls and other public venues across the country.<sup>22</sup>

The outcry was a testament to power of the refugee question in British moral politics. This was hardly new. In this particular crisis, however, three points ultimately came to the fore, three assumptions on which the British based the rights of refugee slaves that would soon be subject to scrutiny in the year ahead. First, the British assumed that slaves were just as entitled as political offenders to be included in the refugee category. Second, the British had the sovereign right to provide refuge on British soil anywhere in the world. Third, this right, associated with British soil, extended to British ships. As English soil, British ships maintained the same right to provide asylum as England proper. If these three assumptions were correct, then the Circular was not only unjust; it compromised Britain's interests as a sovereign nation, a point that resolutions underscored at meeting after meeting.

A UNITED FRONT: BRITISH SOVEREIGNTY ON THE HIGH SEAS — It was this last point about British sovereign rights that united the public against the July Circular. Legal scholars and politicians, Tory and Liberal alike, condemned the Admiralty's instruction that slaves rescued on the high seas would have to be returned to their masters, when the ship returned to that foreign port. The command, legal scholars argued, violated recognized international law.

The public tried out a variety of analogies and characterizations of the Admiralty's Circular. Notables denounced the Circular as either an intentional slight to British and international law or as "slipshod nonsense," "a crime and a great blunder." Radical Joseph Cowen's *Newcastle Chronicle* proclaimed that even "Jefferson Davis himself did not dare to dispute the right of the bondman to liberty, if once fairly under the British flag." The Admiralty's dictate, the *Chronicle* continued, was like a Russian *Ukase*, not worthy of the country whose courts had, since the days of Somerset, upheld the rights of the slave to liberty.<sup>23</sup> This "obscure"

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<sup>21</sup> Hutchinson, *The Slave Trade of East Africa*, 95; and Hutchinson, *The Fugitive Slave Circulars; or, England the Protector of the Negro Slave. A Letter to the Baroness Burdett-Coutts*, (London: Edward Stanford, 1876). I will return to Frere Town in my concluding sections below.

<sup>22</sup> The *Times* reported town-hall meetings in Birmingham (January 8), Worcester (January 10), Culper (Jan 17), Reading (January 17), Manchester (January 20), Salford (January 20), Brighton (January 24), Lambeth (January 26) and London (January 29); and association meetings for the Liberal Association in Oxford (January 10), the Chichester Conservative Association (January 10), The Heywood Conservative Association (January 13), Liberal meeting in Gloucester (January 17), Liberal Reform Association in Maidstone (January 19), Junior Conservative Club in Cambridge (January 18), and the Kiboworth Working Men's Constitutional Association (January 25).

<sup>23</sup> *Newcastle Chronicle*, 18 September 1875.



document, might have simply warned officers not to encourage slaves to run to British ships, MP Sir Henry James argued in the *Times*. James argued that the Circular instead appeared to surrender the recognized sovereignty of British soil itself, to say nothing of compromising Lord Mansfield's 1772 ruling that forbade slavery on English ground.<sup>24</sup>

The legal community was amazed at the Admiralty's calm disregard for British law on board man-of-war ships, anti-slavery traditions aside. A Cambridge legal scholar, styling himself "Historicus," believed the Circular was more than an unfortunate "blunder." He found that the Admiralty had pitted itself against international law. Historicus underscored that national vessels were "domestic soil" on which the laws of England applied. This was fact, he claimed, on the high seas *and in territorial waters*.<sup>25</sup> You may shut the door of your own house against a man, Historicus explained, or turn him out if he comes in without your leave." "But," he continued "if you admit him you cannot while he is there deal with him contrary to [English] law." Slavery was not recognized in the laws of England. So a British officer could not lawfully return a foreign slave to his or her master from a British vessel.

In point of fact, Historicus's argument was only partially true according to internationally recognized rights on the seas. By the middle of the nineteenth century, legal theorists on international and maritime matters agreed that no one state could claim jurisdiction on the high seas.<sup>26</sup> A ship on the high seas fell under the jurisdiction of the laws of the nation under whose flag the ship sailed.<sup>27</sup> Thus, Historicus was correct – English laws presided over British vessels based on the conventions of the day. In territorial waters, however, the jurisdiction of the ship was less certain, a point that would become grounds for investigation later that year.

Members of the Conservative Party, which was then in power, tried to downplay the widespread outrage against the Circular's interpretation of rights on the high seas. They tended to view the Circular as simply a "mistake," a muddling of international laws that anyone could have made.<sup>28</sup> Disraeli's administration suspended the Circular in early November. In the face of forceful legal objections, the Administration withdrew it and formally issued a second Circular in December 1875. Unlike the "hastily" constructed first circular, the December circular granted that a British man-of-war was – in point of international law – English soil, even in foreign waters.<sup>29</sup>

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<sup>24</sup> Sir Henry James, letter to the editor, *Times*, 27 October 1875. This is Henry James lawyer and MP, not the novelist.

<sup>25</sup> "Historicus," *Times*, 5 November 1875. Historicus cites Theodore Ortolan, the French maritime expert who issued a widely used guide for the French navy in the 1840s. There was no similar guide, others would bemoan, for the British navy.

<sup>26</sup> George Davis, *The Elements of International Law with an account of its origin, sources, and historical development*, (New York and London: Harper & Brothers Publishers, 1887), 57. Among others, Davis relies on the following for his point: French maritime lawyer Théodore Ortolan; Henry Wagner Halleck, an American maritime law expert; Sir Robert Joseph Phillimore, Lord Judge for the British Admiralty and a member of the Fugitive Slave Commission in 1876; Frederick De Martens, the Russian diplomat and jurist who dealt with international arbitration in this period; Travers Twiss, Advocate-General to the British Admiralty and author on the law of nations; and the eighteenth-century Swiss theorist Emer de Vattel who was among the earliest international legal theorists and drew from Christian Wolff and Hugo Grotius. Vattel explains that this doctrine of the high seas had not always existed, but was contested through the early eighteenth century as a part of the commercial conflict between expanding European empires, England and the Netherlands, in particular (*Law of Nations*, Book I, Chapter 23).

<sup>27</sup> Davis, 70-71, citing similar authorities.

<sup>28</sup> *Pall Mall Gazette*, 5 November, 1875.

<sup>29</sup> The Second Fugitive Slave Circular:

The major achievement of the second Circular was that it recognized that a slave who gained asylum on board a British ship on the high seas was free. While the slave could not remain on the vessel permanently, he or she could only be removed from its shelter in territorial waters if the receiving nation guaranteed the ex-slave's liberty.

Although the Circular recognized the ship as English soil anywhere, the Circular did not hold that the same procedure ought to be followed if the slave reached the ship in foreign territorial waters. Here, local custom trumped British jurisdiction, the Circular proclaimed in a didactic tone. The Circular declared that, "you are bound by the comity of nations, while maintaining the proper exemption of your ship from local jurisdiction, not to allow [the ship] to become a shelter for those who would be chargeable with a violation of the law of the place." Only if the fugitive's life was in danger could he or she be taken on board, and then only until the imminent danger had passed.

The new Circular appeased conservatives who had mainly been concerned with British rights on the high seas. The return of slaves to their masters in territorial waters seemed less offensive. As proponents argued, the new Admiralty instructions rightly respected the "comity of

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Text of the 5 December 1875 Fugitive Slave Circular (The text has been divided into paragraphs by the British and Foreign Anti-Slavery Society, published in their *Anti-Slavery Reporter*, Vol. 19, No. 10, [December 1875]):

The reception of fugitive slaves on the high seas to be reduced to a minimum.

When any person professing or appearing to be a fugitive slave seeks admission to your ship on the high seas beyond the limit of territorial waters, and claims the protection of the British flag, you will bear in mind that, while the British government desires to mitigate the horrors of slavery, HM's ships are not intended for the reception of persons other than their officers and crews. You will satisfy yourself, therefore, before receiving the fugitive on board, that there is some sufficient ground in the particular case for thus receiving him.

When received, their freedom is to be secured.

In any case in which, for reason which you deem adequate, you have received a fugitive slave into your ship, and taken him under the protection of the British flag upon the high seas, beyond the limit of territorial waters, you should retain him in your ship, if he desires to remain, until you have landed him in some country, or transferred him to some other ship where his liberty will be recognized and respected.

In territorial waters fugitives must not be received on board.

Within the territorial waters of a foreign State, you are bound by the comity of nations, while maintaining the proper exemption of your ship from local jurisdiction, not to allow him or her [*sic.*] to become a shelter for those who would be chargeable with a violation of the law of the place: unless their lives be endangered; - in which case any demand for surrender is not to be entertained - thus violating territorial law. If therefore, while your ship is within the territorial waters of a State where slavery exists, a person professing to be a fugitive slave seeks admission into your ship, you will not admit him unless his life would be in manifest danger if he were not received on board.

When danger to life is past, fugitives must not remain on board.

Should you in order to save him from this danger, receive him, you ought not, after the danger is passed, to permit him to continue on board, but you will not entertain any demand for his surrender, or enter into any examination as to his *status*.

Where Treaties exist, fugitives may be received subject to an investigation into each case.

If, while your ship is in the territorial waters of any chief or state in Arabia or on the shores of the Persian gulf, or on the east coast of Africa, or in any island lying off Arabia, or off such coast or shores, including Zanzibar, Madagascar, and the Comoro islands, any person should claim admission to your ship and protection, on the ground that he has been kept in a state of slavery, contrary to treaties existing between Great Britain and the territory, you may receive him until the truth of his statement is examined into. In making this examination it is desirable that you should communicate with the nearest British consular authority; and you should be guided in your subsequent proceedings by the result of the examination. In any case of doubt or difficulty you should apply for further instructions either to the senior officer or your division or the commander-in-chief, who will, if necessary, refer to the admiralty. A special report is to be made of every case of a fugitive slave seeking refuge on board your ship.

[Note: This last section bears direct resemblance to the Slave Trade Treaties operative in the Atlantic Trade and now the Indian Ocean trade. Where these treaties were operative, trafficked slaves were to be freed and their liberty guaranteed. See Chapter Two above for operation of the Atlantic Treaties in my discussion of the judicial procedure regulating the liberation of slave vessels.]

nations,” the technical term in international legal theory for the recognition of local custom. A British ship might be English soil wherever in the world she traveled, but legal theorists and officials had long debated the proper jurisdiction over emissaries (ships and ambassadors alike) in foreign territory. By custom and government practice, these emissaries of foreign governments had been accorded immunity from local jurisdiction. But this custom was not without reciprocal expectations, as Emerich de Vattel argued in the mid-eighteenth century. He explained that, the emissary “needs to conform to the customs and laws of the country in all his external actions, so far as they are unconnected with the object of his mission and character.”<sup>30</sup> It was time, proponents of the second Circular argued in 1875-76, that British naval officers had instructions to ensure that they acted accordingly.

MORAL INTERVENTIONISM: A LIBERAL TRADITION — In the wake of the December 1875 second Circular, a firestorm ensued. Public meetings, begun that fall, now took place with greater and greater regularity. At each, notables lambasted the Administration’s support for the new circular, declaring the Admiralty’s instructions nothing less than a reversal of British moral norms and a disgrace to her international power. Opponents underscored that the officials missed the basic fact that slaves were the same as political refugees and Britain could never do too much for either.

At the a large meeting at Exeter Hall (London) on February 15, covered in the press across the country, Liberal MP Professor Henry Fawcett summed the matter succinctly. He demanded rhetorically: “Where was the man who in the face of his countrymen would declare that England had done too much in giving freedom to slaves – that we had gone too far in offering an asylum to political refugees?” Fawcett echoed what had become, by February 1876, the dominant Liberal position with regards to “countries with local laws so opposed to our institutions.” He claimed that the British could not simply defer to the comity of nations, since “we cannot give them any recognition [that] constitute [*sic.*] exceptions which we should leave to the experience and judgment of individual commanders.”<sup>31</sup> Lawyer Arthur Cohen from the Temple Bar outlined the same position in greater detail a few weeks later. He explained, that:

It is important to remember that there is a class of persons who stand in exactly the same position as fugitive slaves – namely, political refugees. They, too, have violated the laws of their own country but they have done nothing which our law recognizes as criminal; and if our officers were instructed to treat fugitive slaves in the same manner as political refugees, no principle of international law would be violated while England would support the sacred principle of human freedom in the manner in which the country is resolved it shall be upheld.<sup>32</sup>

Cohen’s insistence on the parallel between political refuge and asylum for escaped slaves brought weight to Fawcett’s insistence that the refugee slave and the political refugee were part of one category.

Criticisms took on a sharp partisan cast that winter at a key moment in Disraeli and Gladstone’s contest for control of the Government. In this vein, the writer of one letter to the editor denounced the Tory Party’s false antislavery sentiment, citing their defense of Jamaica’s

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<sup>30</sup> Vattel, *The Law of Nations*, Book IV, Chapter VII, §§ 92 & 93.

<sup>31</sup> *Times*, 15 February 1876.

<sup>32</sup> *Times*, 24 February 1876.

Governor General Eyre ten years prior.<sup>33</sup> For another writer, this was the very “nature of Toryism to favour privileges and to oppose freedom.” Whereas the Circular had been a “cabinet issue,” it had become for the Tory Government a point of principle and they had “decided to stand or fall by it.”<sup>34</sup>

Liberals carried the sentiment of the press from the outdoor meetings to the floor of Parliament. Their intent was to demonstrate the force of popular opinion against the Administration’s attempt to draw “a direct difference between the treatment of fugitive slaves and political refugees,” as one Member of Parliament called it.<sup>35</sup> MP Evelyn Ashley declared that “all that was wanted was that slaves should be treated on just the same footing as political refugees [...], and he, for one, for once should rejoice that it was a Conservative majority in this House” that would prove the matter beyond party squabbles, and safe-guard “our consistency and reputation as an anti-slavery Power.”<sup>36</sup>

Tories insisted that public outrage against the Circular was blindly sentimental, just as public support for the dangerous continental Communists had been four years before. But Conservatives keenly pointed out that the problem was larger than party-politics, despite the Liberal attempt to make it so. When the Liberal Opposition decried the Tory’s pro-slavery circular, Disraeli’s Government unearthed Gladstone’s embarrassingly similar instructions from 1871. Tory MP C. E. Cawley would find similar instructions from the Liberal administration dating to the 1860s.<sup>37</sup>

For the public at large, the finer points of legal and political argument ultimately meant little. A man described to be a “working man” identified the issue clearly at the February 15 Exeter Hall Meeting. As the *Liverpool Mercury* reported, the man said:

He knew nothing of international law, but if it supported slavery the sooner it was “knocked on the head” the better. What this remark lacks in polish is amply compensated for in force. [...] Slave-holding states, who cannot understand the extreme sensitiveness of Englishmen on this subject, may perhaps feel surprised that we should speak so lightly of the obligations which rest upon our ships whilst in their ports. But they may be sure that, whatever the risk and whatever the cost, the people of this country will insist that the deck of a British ship shall never be made into debatable ground when the question of slavery is involved.<sup>38</sup>

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<sup>33</sup> *Newcastle Chronicle*, 9 October 1875.

<sup>34</sup> *Daily News*, 13 January 1876.

<sup>35</sup> *Hansard’s Parliamentary Debates*, “Reception of Fugitive Slaves—The Circulars,” House of Commons, 24 February 1876) vol. 227, cc. 820-902), c. 825. Herschell found it abhorrent to think that British moral actions could be restrained by international law. He claimed, that, “With regard to the question of international law, he asserted that its principles had been largely created by the action of England herself, and that she had not been slow, even although there might be danger, in asserting propositions which she believed to be right and just. Was England now to be no longer in the van in procuring the acquiescence of other nations to beneficent principles of international law?” (*ibid.*). A Mr. Forsyth doubted that any nation would truly take action against Britain for providing refuge to fugitives, exclaiming “But he (Forsyth) would like to know what slave-holding state would dare to do this? Would Spain, or Brazil, or Madagascar, or Zanzibar venture to shut their harbours against the British Navy and British commerce? He believed that they would not - that the danger was absolutely chimerical” (*Ibid.*, c. 834).

<sup>36</sup> *Parl. Debates*, c. 735. Ashley was the son of the 7<sup>th</sup> Earl of Shaftesbury, a Tory who had also been a supporter of Continental refugees (notably the Neapolitan refugees in the late 1850s) and fugitive slave supporter, especially in the wake of the American Fugitive Slave Act of 1850.

<sup>37</sup> *Times*, 27 January 1876. For Gladstone’s knowledge on this question and the evidence his administration gathered, see Gladstone Papers. Brit. Mus. Add. Ms. 44617. Vol. DXXXII. June-December 1871, ff. 132.

<sup>38</sup> *Liverpool Mercury*, 17 February 1876.

As far as the public was concerned, to accept the Circular would be more of a reversal of past anti-slavery precedent than the British could bear.

Therein lay the difficulty of the task at hand. As the editors of the Society of Friends' journal wrote, "we suspect it will be found extremely difficult to reduce to writing any directions that shall at once do justice to the anti-slavery feeling of the British nation, and be also just to those countries in which slavery exists."<sup>39</sup> At an impasse, Disraeli turned to a Royal Commission.

THE ROYAL COMMISSION: AN INQUIRY INTO INTERNATIONAL RELATIONS,  
IMPERIAL POWER AND THE RIGHT OF ASYLUM

On February 14, 1876, Disraeli appointed a Royal Commission to examine whether the British were contravening international law or custom by providing refuge in territorial waters. As with the inquiry into extradition laws, the point was to determine whether or not asylum was always possible. In extradition law, however, any limit placed on asylum was a matter of bilateral agreement at most. Here, by contrast, the unsavory task was to determine whether or not the British could intercede in the international realm on the behalf of these particular foreigners.

One *Punch* cartoonist lampooned Disraeli's motivation in appointing the Commission. In cartoon, the cartoonist explained that Disraeli's decision was an "extinguisher trick" and depicted Disraeli whisking a ball labeled "the Second Fugitive Slave Circular" under a hat labeled "Royal Commission."<sup>40</sup> The assumption was that, by handing the decision to a Commission, he would receive a response in keeping with cautious diplomatic concerns. If this were the case, Disraeli sorely miscalculated how best to achieve this result. The eleven appointed Commissioners were eminent jurists and international theorists, all well established in their careers on the bench, as theorists, or as colonial administrators.<sup>41</sup> They were not uniformly proponents of international legal systems, however. Nor were they uniformly imperialists or anti-imperialist, and so had different positions on the exercise of British global power.

The Commission ended up issuing three contradictory opinions on the extent to which the British could and ought to intervene in foreign crises in order to provide refuge. The opinions ranged from the radical moralist-cum-imperialist to the *realpolitik* model of the more conservative diplomat. Commissioners attempted to minimize the differences between their varied opinions. Commissioner H. C. Rothery claimed that these differences were simply theoretical. Yet, these "merely" theoretical differences highlighted opposing views of global affairs. On the one extreme, George Campbell sought to strengthen British international authority

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<sup>39</sup> "The Second Fugitive Slave Circular," *The Friend*, New Series, (Vol. XVI, 25 February 1876), 25.

<sup>40</sup> *Punch, or the London Charivari*, (Vol. LXX, February 19, 1876), 60.

<sup>41</sup> The Commissioners included the Lord Chief Justices A. E. Cockburn (the Duke of Somerset) and T. D. Archibald, several with experience adjudicating cases of illicit slave trade and others with particular expertise in international law and diplomatic policies more broadly. Sir Robert Phillimore, Leopold G. Heath, and H. C. Rothery each had expertise with the Admiralty. Phillimore had been general counsel in admiralty. Heath was now a retired rear-admiral, who had served in the Near East. Rothery's experience was tied directly to the anti-slave trade squadron, as legal adviser to the Treasury on matters relating to the slave trade. James Fitzjames Stephen, Montague Bernard and Henry Maine were legal scholars. Stephen and Maine were experts in comparative and international law (India especially), and Bernard in diplomacy. Sir Henry T. Holland and Sir George Campbell had experience in the Colonial Office and in Parliament. Holland, a Conservative MP, had been assistant colonial undersecretary (and would later be Secretary of State). Campbell had just returned from India where he was Lieutenant-Governor of Bengal. Upon his return he was elected as Liberal MP to Parliament from Scotland.

and justify humanitarian interventionism. On the other extreme, the Lord Chief Justice Cockburn emphasized diplomatic caution and, ultimately, moral relativism.

THE TASK BEFORE THE COMMISSION — The Commission's primary task was to determine whether or not the British could – or should – accept refugees on board her ships in foreign territorial waters. More than a question of international law and courtesy, the Commission was a referendum on the scope of the refugee category. The Commissioners were evaluating the metropolitan assumption that all foreign slaves could be refugees. The Commissioners, furthermore, evaluated a deeper claim underneath the metropolitan assumptions. They investigated whether all foreign refugees could even receive British asylum.

While the task before the Commission might have seemed like a relatively simple examination of legal precedence, the task actually demanded a thorough investigation of the specific juncture in diplomatic and imperial history in the Indian Ocean region and around Zanzibar in particular. The Commissioners did not limit themselves to the study of the reception of refugees. They heard testimony on the living conditions of liberated slaves in East Africa and in British-run refuges and pulled relevant Colonial Office and Admiralty files relating to liberated Africans in Sierra Leone between the 1820s and 1840s.

The Commissioners began with a survey of domestic, international and foreign protocols regarding the reception of fugitive slaves. Nowhere among the anti-slave trade treaties could they find rules pertaining to the reception of fugitive (as opposed to illegally-trafficked) slaves. Their survey of foreign protocols uncovered a range of responses to the reception of fugitive slaves. The United States, Germany and Italy would not surrender a slave who sought asylum on board a national vessel. Portugal and the Netherlands would. Russia and France reserved discretionary power to the officers in cases of distress, though Russia generally prohibited strangers from coming on board in the first place.<sup>42</sup> On this spectrum, British officers, like all but the Portuguese and Dutch, had been given discretionary power.

The absence of single protocol for asylum in territorial waters made the decision before the Commission a profound one. The Commissioners' response would set precedent for how Britain would act as a global power, either following the suggestions of international legal theory or pursuing her own course.

This was not an easy decision to make, especially since British politicians and legal scholars were divided on the utility and desirability of international law from the start. International law was an inherently amorphous concept as there was no international tribunal to enforce it. Rather than a legal code, "international law" derived from the sometimes religious, sometimes secular "natural law" theory. In practice, states abided by its norms according to an accumulation of common practice, any breach of the "law" was subject only to the moral opprobrium of other states. The British in particular had been crucial in driving international standardization through individual treaties.<sup>43</sup> Nonetheless, British theorists and diplomats remained hesitant to bind the Empire to international convention and the utility of international law, its sources and its future theorization, became the subject of scholarly investigation.<sup>44</sup>

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<sup>42</sup> *1876 Report*, viii.

<sup>43</sup> The Courts of Mixed Commission, established to adjudicate cases of suspected slave traffic in the Atlantic world (Chapter Two), were a significant contribution to how future international tribunals could be established. They were established under anti-slave trade treaties.

<sup>44</sup> Casper Sylvest offers an insightful account of the trouble Victorians had with "natural law" as a source for "international law" and scholars' search for new foundations that would earn "international law" respectability. "The Foundations of Victorian International Law," *Visions of Global Order: Empire and International Relations in Nineteenth-Century Political Thought*, Duncan Bell (ed.), (Cambridge: Cambridge University Press, 2007, 47-66), 51ff, especially.

Broadly speaking, the Commission divided into two camps, those who believed that discretionary power ought to remain with British officials, and those who opted for imposing limits in the interest of preserving a comity between nations. What is surprising about this division of opinion is how unpredictably the differences were aligned. Political affiliation was not a reliable indicator of opinion; James Fitzjames Stephen – whose rationalist outlook, or empiricism, defied political categorization – ultimately sided with the conservative Lord Chief Justice Cockburn.<sup>45</sup> Nor was association with the Admiralty a reliable indicator of opinion, since Phillimore and Rothery, both with legal experience working for the Admiralty, took opposing views.

THE BRITISH AND MORAL PROGRESS IN INTERNATIONAL LAW — Commissioners who took the first tack held that, because a British ship was English soil, the British had no need to adhere to local law. Maintaining courteous relations with host countries was certainly desirable, these Commissioners argued. However, the British ought to be at the vanguard of international morality, not comply with a law as distasteful as slavery.

Sir George Campbell held the most radical views on this score. Echoing Liberal arguments against the Circular, he represented party claims eloquently at the Commission. Campbell believed that Britain was morally obligated to side with the slave, not the master or the slave state. Since no international law or treaty required the contrary, Campbell hoped to see Britain “advance with the times” alongside “all the most civilized and powerful nations.” He held that the “time has come when this country may fairly say, ‘we will under no circumstances aid in the enforcement of slavery, – we will have nothing to do with this nefarious and accursed thing.’” More than opposing the terms of the Circular, Campbell argued that he would go so far as to “prohibit” officers from surrendering slaves who had received asylum.<sup>46</sup>

Phillimore, Bernard, and Maine echoed Campbell’s claim that it was high time international law advanced to an unequivocal denunciation of slavery. In their statement for the Commission, they argued that international law “is not stationary” and “admits of progressive improvement” that “varies with the progress of opinion and the growth of usage.”<sup>47</sup>

Whereas international law was flexible and capable of progress, British law was quite unambiguous. Phillimore, Bernard and Maine argued that British officers could not legally return a slave to his or her master once that slave had been admitted to British refuge because English law did not recognize slavery. In this, fugitive slaves were exactly like political refugees. In both cases, the foreigners in question had violated only local laws. Her Majesty’s Government would be remiss in instructing its officers to uphold these laws onboard her own vessels, where English law reigned.<sup>48</sup>

THE TIES THAT BIND: CUSTOM AND CAUTIOUS DIPLOMACY — Archibald, Thesiger, Holland, Stephen, Rothery, and Lord Chief Justice Cockburn did not agree that Britain could, in good faith, keep fugitive slaves onboard British ships in territorial waters. In their statements, this group – the majority of the Commissioners – sought to correct the legal assumptions made by their peers on the Royal Commission and by the public at large. This group agreed that fugitive slaves were not necessarily the same as political refugees. Moreover, even when slaves could be considered as refugees, they argued that this categorization did not necessarily allow the

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<sup>45</sup> For close consideration of Stephen’s rationalism/utilitarianism, see K. J. M. Smith, *James Fitzjames Stephen: Portrait of a Victorian Rationalist*, (Cambridge: Cambridge University Press, 2002).

<sup>46</sup> *1876 Report*, xix-xx.

<sup>47</sup> *Ibid.*, xxv.

<sup>48</sup> *Ibid.*, xxv.

British to provide asylum. The British could not ignore local customs in the territorial waters of foreign states; respect for local laws compelled the return of slaves and of political refugees in some, if not all instances.

Contrary to popular opinion, Cockburn and Stephen argued that the British could not help fugitive slaves as they helped political refugees because doing so would help slaves evade local justice. Unlike the political refugee, who fled the suspension of justice, Cockburn held that the fugitive slave's flight was a "breach of the local law committed by the slave in withdrawing himself from the possession of his master, in derogation of the rights which the law gives to the latter."<sup>49</sup> He tried to emphasize an analogy between the slave and the fugitive criminal. Whereas a British officer could protect a refugee, Cockburn was not "prepared to assent" to actions by which "within the waters of a foreign state, the law of that state shall be powerless to arrest the criminal and bring him to justice."<sup>50</sup> His point was that the slave needed to be distinguished from the refugee category in the same way the criminal offender needed to be separated from the political refugee.<sup>51</sup>

In his statement, Stephen was more understanding of how outrageous this would sound to a British audience. But he was no less exacting. Though slavery might be revolting to the English, he was not ready to allow the British to ignore the local rights of the slave master, citing the expense the British had undertaken to compensate slave owners in the 1830s as proof that there was precedent even in anti-slavery British law for slavery as a legitimate property right.<sup>52</sup> If Britain did not return the slave, Stephen continued, the action would be an act not of a neutral or allied power, but of an imperial power. It would be akin to an act of war.

From this point, Cockburn and Stephen's statements diverged based on the degree to which each felt the comity of nations to be absolute. Stephen avoided claiming that asylum should never be allowed to fugitive slaves. While he hoped the British would not so disrespect their hosts in territorial waters, he allowed for an imposition of British norms. However, he insisted, "if it is done it should be done openly and avowedly as an act of power, as an invasion on moral grounds of the sovereignty of independent nations."<sup>53</sup> In this, Stephen might have more readily agreed with Phillimore, et al. However, as a Commissioner with the task of determining the legality of refuge for fugitive slaves, he did "not see how it [could] be justified as an exercise of a legal or quasi-legal right."<sup>54</sup>

By contrast, Cockburn was more absolute in his opinion. Cockburn called extraterritoriality – the notion that British ships were English territory in foreign waters – a "fanciful appellation."<sup>55</sup> For Cockburn, this had grave implications for fugitive slaves and for political refugees. He argued that there was actually no basis in international law for asylum for either group. The revolutions in the nineteenth century had made asylum on board British vessels seem to be a standard practice. But, he argued, it was only the frequency of such extraordinary

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<sup>49</sup> Cockburn, *1876 Report.*, xxx.

<sup>50</sup> *Ibid.*

<sup>51</sup> In *The History of English Criminal Law* (3 Vols., London, 1883), Stephen reiterated Cockburn's findings, using the Fugitive Slave Question to explain the limit of British criminal law in the territorial waters of a foreign nation. (Vol. II, Ch. 16).

<sup>52</sup> Cockburn, *1876 Report*, xivi.

<sup>53</sup> Stephen, *1876 Report*, lx & lxi.

<sup>54</sup> *Ibid.*, lx. See also p. lxi for more of Stephen's acknowledgement that this would necessarily cause "every humane person" to revolt.

<sup>55</sup> Cockburn, *1876 Report*, xxxii.



circumstances that made the practice appear routine.<sup>56</sup> Consequently, the British could talk of no legal right to provide asylum in the territorial waters of a foreign state.

A DIVIDED FINAL REPORT — The Final Report of the Commissioners was a strange combination of divergent opinions. Campbell's populist outlook was excluded, and Campbell refused to sign the joint Report. The ten others recommended that ship captains retain the right to vet would-be refugees, as Maine *et al.* had hoped. However, the Report was not a simple victory for open refuge. The didactic tone of the conservative Commissioners permeated the Report, making it a strange mixture of arguments that left the decisions to individual officers, but missed no opportunity to check officers' enthusiasm for exercising this right.

The Final Report dwelled on the general character of Eastern slavery. The Commissioners did so, I would argue, because they hoped to paint a picture of slavery that contradicted metropolitan belief in the utter obnoxiousness of slavery and the universal appropriateness of flight from bondage. The Commissioners reaffirmed Britain's commitment to end slavery eventually. But they emphasized the difference between Arab slavery and the more oppressive system of bondage in the Americas. There, perhaps flight was justified. In the Indian Ocean region, and on the east coast of Africa, by contrast, slavery was relatively benign, they argued.<sup>57</sup> The British could only make a decent situation worse by interference, according to what Commissioners heard: any rumor that the British "navy would liberate all fugitive slaves" would "irritate the Arabian masters, and induce them to regard their domestic slaves with suspicion and distrust, and possibly to treat them with severity."<sup>58</sup>

Given this context, a slave ought not flee, argued the Commissioners. Nonetheless, there needed to be criteria by which individual officers judged whether or not the slave deserved to be considered a refugee and provided with asylum. Among their criteria, two recommendations stood out. First, the Commissioners held that the officer should only keep the slave onboard if, in doing so, he was protecting the slave from something other than slavery itself (e.g. cruel treatment). Only in this situation did the Commissioners liken the slave to a persecuted refugee, who fled the hot-blooded vengeance of his master, just as the refugee fled the mob. The second criterion was particularly vague. Commissioners asked that the officers consider what was best for the slave when weighing whether or not to provide asylum.<sup>59</sup>

Together these criteria irrevocably changed the application of the refugee category. Previously, the fugitive who could tell an effective tale of persecution had met the first barrier to becoming a refugee. Now, however, it could no longer be assumed – as the public had long done – that a slave had such a tale of persecution to tell simply by virtue of being a slave. Furthermore, concern that British refuge might not be better for the slave/would-be refugee was

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<sup>56</sup> Here Cockburn draws from an 1820 case in which Lord Stowell held that he knew "of no such right of protection belonging to the British flag, and that I think such a pretension is unfounded in point of principle, is injurious to the rights of other countries, and is inconsistent with those of our own. The rights of territory are local, and are fixed by known and determinate limits. Ships are mere moveables and are treated as such in the general practice of nations." (Cockburn, citing Stowell, xxxv)

<sup>57</sup> Admiralty officers confirmed that this slavery was "the mildest possible form," on the basis that they had never seen ill usage. Fugitive Slave Commission Hearings, paragraphs 75 (Rear Admiral A. Cumming, C.B. claims that they are well treated on the African coast and would not leave even if enticed), 247 (Captain George Sullivan, RN claims that "they laugh at everything," and...never see them unhappy), 364 (none ran, even where policy was to free), 374, 526, 756, 817, 824, 1019, 1105, 1155, 1160, 1164, 1178, 1188, 1231, 1472, and 1483. Quoting Livingstone, the Commissioners claimed that "it is the mildest possible form; the master lives with his slaves as the father of the family." The end of the slave trade would make Arab slavery even more benign, Livingstone had argued. As masters could not afford to "discard" their slaves, each slave would be treated better. (Livingstone to Lord Clarendon, June 11, 1866, 1876 *Report*, xvi.)

<sup>58</sup> 1876 *Report*, xvii.

<sup>59</sup> *Ibid.*, (points III, IV & VIII, p. xviii)

a major break in the refugee narrative that called into question the practical possibility of creating a viable, liberal asylum. If refuge was not viable, ought it to be continued? For the first time, the Royal Commission weighed this alternative seriously. It is to the implications of the second point that we turn below.

IN SEARCH OF THE WAY FORWARD:  
REFUGEE RELIEF IN A “NEW WORLD”

The metropolitan public assumed that freedom was self-evidently more humane than slavery. Was this true? For the Fugitive Slave Commissioners, inclusion in the refugee category depended for the first time on whether or not a slave would actually find a “better” life in British refuge than he or she had at home. Could the British adequately care for an untold number of ex-slaves when resources – diplomatic and financial – were so scarce? The Commissioners (Campbell excepted) were not so certain.

Their doubt rested on concern for the scale of the endeavor, a point that had caused anxiety since at least 1871. Whereas that concern had been about financial resources, the Commission turned the Treasury’s concern into broader conceptions of socio-economic viability. The Commissioners’ doubt rested on evidence that the African asylums struggled to produce the ideal hard-working liberal subjects even with the manageable numbers at present. There had been ample discontent with the “progress” of liberated Africans in West Africa. But, the Commissioners offered the first systematic study that asked whether the poor quality of refuge was itself a reason to refuse the admission of foreigners in the first place.

In their quest to systematize asylum policy, the Commissioners examined the past and future viability of British refuge. There was a liberal humanitarian element in this line of inquiry, a real concern that the lives which the liberated and fugitive slaves were promised in British asylum was little better than slavery by another name. At a time when metropolitan philanthropists had begun to decry coolie labor across the Empire, the Commissioners wondered whether the forced indenture of freed slaves in these asylums was really an improvement for ex-slaves.<sup>60</sup> There was a darker side to the Commissioners’ concerns as well. For the first time the character of the would-be refugee, long assumed to have been heroic and independent-minded, was called into question. This was the first real appearance of racist claims into the debate over

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<sup>60</sup> One would expect to find that the Aborigines’ Protection Society, concerned with coolie labor around the world, would have become involved in this question regarding the care of fugitive and liberated slaves in East Africa. Indeed, the APS shared a membership with the British and Foreign Anti-Slavery Society since their founding in the late 1830s. Despite these definite connections, I have not found evidence that the issues were openly linked at the time. Still, it is important to note the ideological similarities with the points espoused at the Royal Commission’s hearings. The APS had long concerned itself with the exploitation of locals associated with colonial expansion. Though they focused more on indigenous groups than on ex-slaves, they were concerned about slave labor and newer variants of it. APS members campaigned against what they found to be the slave-like acquisition of indentured laborers. We must be careful, though, not to assume that their anti-indentured labor stance would necessarily have made them opposed to the removal of fugitive and liberated slaves to British-run refuges, even if they were immediately indentured. The APS was generally enthusiastic about the renewed anti-slavery efforts in the East, and their belief that proper indigenous progress would still take place within a Christian framework would likely have mitigated their view of the role of missionary-run refuges. Their anti-coolie labor campaign, already prominent in the *Anti-Slavery Reporter* in the 1870s, would become all the more prominent after the “discovery” of abuses in the Belgian Congo (Kevin Grant, *A Civilised Savagery: Britain and the New Slavery in Africa, 1884-1926* (New York: Routledge, 2005); Adam Hochschild, *King Leopold’s Ghost*, (New York: Macmillan, 1999). For more on the Society, particularly its ambiguous relationship with imperialism, slavery and missionary work, see Zoë Laidlaw, “Heathens, Slaves and Aborigines: Thomas Hodgkin’s Critique of Missions and Anti-Slavery,” *History Workshop Journal*, (Issue 64, 2007); and Charles Swaisland, “The Aborigines protection society, 1837–1909,” *Slavery & Abolition* (Vol. 21, Issue 2, 2000, 265 – 280).

the “refugee question”: the Commission discarded the image of the refugee whose valor previously had made him/her an emblem of liberal ideology in favor of a view of liberated Africans as chronically in need of supervision in order to become “civilized subjects.”

THE VIABILITY OF BRITISH REFUGE — For the Commissioners, the viability of British refuge depended on mutual willingness among British officials, philanthropists and refugee slaves to view asylum as an ongoing effort to create self-sustaining liberal subjects. Thus far, the project seemed to be failing.

The evidence before the Commission emphasized the miserable conditions in which the British had long maintained their liberated African charges. For instance, the neglect of the liberated Africans in Aden was well known, as the Reverend Edward Steere told the Anglican Church Congress in 1871. Only half survived there their first year. Those who did survive were kept in prison until some employer at Bombay “will take them off its hands as apprentices.” Whereas the Government pays “£5 a-head to the sailors for every slave taken out of a slave dhow,” Steere lamented, “when he is landed, the English government grudges to spend five-pence for his welfare.”<sup>61</sup>

The initial settlements on the Seychelles in the late 1860s did not seem to fare much better. By most reports, conditions on the Seychelles had improved under Church Missionary Society supervision after 1871. Nonetheless, the general picture before the Commission was one in which liberated slaves “fall into the hands of French Creoles,” in whose employ they fared worse than they had in slavery, according to Captain Sullivan.<sup>62</sup> Bartle Frere agreed, stating that “they come into a system of compulsory labour, and there is very little power of looking after them” despite the best intentions of the missionaries. Worse was what happened to young women; Frere insisted that “unless some pains are taken with them they are very apt to go wrong.”<sup>63</sup>

Officials and missionaries reported that bringing liberated Africans to the Seychelles was tantamount to forcing them into exile. Though the asylum on the Seychelles was significantly closer than the other alternatives at Aden, the Cape or Bombay, Frere and Captain Sullivan called life on the Seychelles “banishment.” Frere testified that there were “very proper ordinances on the subject of their treatment, and there is a good climate” northeast of Madagascar. Nevertheless, “it is far from their own homes; they look upon it as great banishment.”<sup>64</sup> Captain Sullivan further emphasized how much “worse off” the slaves were when “taken and liberated and sent to the Seychelles.”<sup>65</sup>

Though disposed to question the “success” of the British civilizing endeavor to date, the Commissioners had to consider how to continue colonial asylums for liberated Africans. After all, they recommended that the naval officers had the right to admit refugee slaves who would then need resettlement. Furthermore, despite the dismal reality of British refuge, slaves might be so tempted by the prospect of liberation at British hands that they would continue to seek asylum despite its harrowing reality. Officials and missionaries recognized that they would have to

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<sup>61</sup> Steere, “Slave trade as at present existing,” in the *Authorized Report of the Church [of England] Congress*, held at Nottingham, 10-13 October 1871, (London, W. Wells Gardner, 1871, 179-181), 180. Steere presented at an October 11 Session on the “Duty of the Church in reference to the Slave Trade.” The charge was carried into the secular media as well, John Armstrong Challice of the Royal Navy wrote to the *London Times* on November 14, 1872 on the condition of life in British refuge.

<sup>62</sup> Commission Testimony, *1876 Report*, paragraph 254.

<sup>63</sup> *Ibid.*, paragraph 1703.

<sup>64</sup> *Ibid.*, paragraph 1702.

<sup>65</sup> *Ibid.*, paragraph 251.

provide constant supervision for their charges, a cost that the Government would have to help shoulder as it did in Sierra Leone.<sup>66</sup> The Commissioners thus noted that: “in all these cases it would appear that some plan of compulsory labour for a limited period, at regulated wages, is the only mode of providing for the liberated slaves.”<sup>67</sup> They made this pronouncement begrudgingly, knowing how difficult it would be to enforce this “free” labor and how the liberated African’s “condition must in great measure depend on the character of the master to whom he has been temporarily assigned.”<sup>68</sup>

The character of the ex-slave mattered equally and it was with this in mind that the Commissioners recommended that naval officers make a study of each slave whom they considered admitting onboard. Through able interpreters, the officers should explain to the would-be refugee slaves that, “although released from slavery, they cannot live in idleness.”<sup>69</sup> The Commissioners assumed that only slaves who had been truly poorly treated by their Arab masters would flee from their homes. The interpreter, it was thought, would easily detect the well-treated slaves who were of dubious character and intended to evade work altogether.

BRITISH ASYLUM OR COLLABORATIVE RELIEF? — If British refuge was simply a second exile in which the inhabitants struggled to become liberal subjects, could the British, in good conscience continue this practice? Arab domestic slavery might be more benign than British refuge. Those who testified at the hearings agreed that, if the British were to continue to provide refuge to fugitives, then further territorial acquisition on the mainland, closer to the Africans’ *home*, would be necessary. Loath to recommend imperial oversight in the region, which risked great animosity from the Arab elite, the Commission gathered information about how the British could provide a better quality of life for foreign slaves not by allowing them to cross international borders, but by collaborating with the Sultan to secure relief for them under his jurisdiction. Obtaining the Sultan’s protection of these individuals was in keeping with diplomatic caution and portended shifts in the relief of persecuted foreigners that would characterize humanitarian aid well into the twentieth century (see Section Three below).

Yet, it was far from clear to the Commission what precisely was entailed in collaboration with the Sultan. British officials’ opinions differed on this score, ranging from encouraging legal abolition as British did in India to expanding private British refuges within the Sultan’s domains.

In an ideal world, Frere wished he could convince the Sultan to set aside territory in which all adult slaves would be free and which would also act as a local depot for liberated slaves, as well as fugitives. In a document appended to the Commission’s report, Frere outlined a course by which the British could encourage the Sultan to declare “Mombaza to be free soil.” As the British had done in India, the Sultan would warn his courts throughout his territory “not [to] exercise their authority to support slavery,” but “simply [to] ignore it.” The result, Frere claimed, would be only to separate slaves from cruel masters, without upsetting much of the status quo.<sup>70</sup> Frere assumed that most slaves would not flee, but those who did would have been treated exceptionally poorly and so would be entitled to refuge. The escaped slaves would become internal refugees, never leaving the Sultan’s soil and, therefore, not depriving him of his population.

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<sup>66</sup> *1876 Report*, xvii.

<sup>67</sup> *Ibid.*

<sup>68</sup> *1876 Report*, xvii.

<sup>69</sup> *Ibid.*, xvii.

<sup>70</sup> Sir H. Bartle E. Frere, “Memorandum on the Establishments for Liberated Africans at Mombaza and Nyanza,” Dated May 10, 1876, appended to the *1876 Report*, 231.

Putting this into effect would necessitate a great deal of diplomatic leverage, however, and was not likely to gain the Sultan's favor as it had been difficult to secure the new slave trade treaty with him several years earlier. Few thought it likely that either the Sultan or local slave masters would agree to this scheme. Instead, refuge within the Sultan's purview could mean one of two other plans. Either the fugitives would be provided with wage labor at one of the local plantations, or – with the Sultan's permission – British philanthropists could establish asylum on his territory.

The Commission emphasized the possibility of Arab employers taking charge of the fugitive and liberated slaves. Rather than transporting them to British soil, ex-slaves could be set to work on the Sultan's plantation, for example. Frere explained that the Sultan was already employing liberated Africans as wage laborers, and could take more.<sup>71</sup> Diplomatically, this solution seemed suitable to the Sultan's immediate economic interests. The Commissioners had heard evidence suggesting that there was a need for labor of this sort within the Sultan's territory, and that the liberated Africans already working there were indeed paid for their labor.<sup>72</sup>

The other possibility was to promote new philanthropic asylums on the Sultan's land. Such projects were already underway. Although most liberated Africans were forwarded to the Seychelles by the mid-1870s, the Church Missionary Society also owned a piece of land just inland from Mombassa on the coast, north of Zanzibar. Frere Town, as it was called, had been established in 1874 and staffed with graduates from a small-scale African asylum and school at Nasik in India.<sup>73</sup> The crucial difference for British officials and CMS missionaries was that Frere Town was on the African mainland and it was not a British dependency, but a privately owned property under Islamic law and the Sultan's watch.

There was a thin line, however, between private British asylums in the Sultan's domains and the extension of British imperial authority. When the 1871 Select Committee asked Frere how the Sultan could guarantee the freedom of ex-slaves, Frere explained that it would be by the Sultan's power. But was the Sultan's power sufficient given the number of routine northern Arab slave raids into the Sultan's territories? To this, Frere admitted that ultimately "British power" would help to bolster him and protect the refugees.<sup>74</sup>

Proponents of British expansion lambasted the half-hearted protection that these schemes would provide for the liberated. CMS secretary Edward Hutchinson feared that it would be a mistake to support "a *quasi* free settlement under the Sultan's flag and rule, instead of a real one in British territory for the reception of the free slaves." His arguments revealed how little the public knew about British involvement in East Africa. Hutchinson likened the options as a choice between creating a Liberia or a Sierra Leone as America and Britain had done in West Africa decades earlier. Willfully blind to the difficulties the British had experienced in Sierra Leone, Hutchinson explained that "the colony of Liberia has lately been passing through scenes of anarchy and confusion for want of good government, contrasted with which the peace and

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<sup>71</sup> Commission Hearing, *1876 Report*, paragraphs 1704-1709.

<sup>72</sup> *Ibid.*, paragraphs 672, 935, 1704.

<sup>73</sup> The Nasik Asylum became famous in this period for the steadfast loyalties of its graduates. A group of Nasik men had accompanied David Livingstone to Africa on what would become his final mission. When Livingstone died in 1873, only the Nasik contingent remained with him. They trekked across the world with his body, bringing it from Africa to Westminster Abbey, London.

<sup>74</sup> *Report of the 1871 Committee*, 39.

prosperity of Sierra Leone stand out as a testimony to the wisdom and forethought of its protectors.”<sup>75</sup>

In policy terms, the Commissioners’ evaluation of asylum conditions would amount to an endorsement or repudiation of the popularly despised 1873 Slave Trade Treaty that had eliminated Britain’s legal obligation to care for liberated Africans. The Commissioners kept returning to basic skepticism that large-scale refuge was viable for the immediate need of so many would-be refugees. Despite their stern warnings, the Commissioners were divided on the implications of their investigation for the future of British involvement with fugitive slaves, whether or not they were to be refugees under direct British rule. Ultimately, the Commissioners did not subscribe to a single type of trusteeship, either direct British rule or Arab oversight, for fugitive and liberated slaves. Still, through their deliberation on fugitive slaves and eastern slavery more broadly, the Commission exposed the range of moral and practical challenges inherent in expanding refuge for humanity’s sake.

#### CONCLUSION: THE FUGITIVE SLAVE QUESTION IN THE HISTORY OF IMPERIAL REFUGE

The Commissioners published their final Report in June 1876 and the Government sanctioned the Admiralty’s third Fugitive Slave Circular in August of that year. The final Circular mirrored the Commissioners’ indecision. Its tone conveyed doubt as to whether British officers should provide asylum at all. In the end, the Circular tried to strike a balance between respecting local laws and relying on a British naval commander’s judgment. It held that “it is not intended, nor is it possible, to lay down any precise or general rule as to the cases in which you ought to receive a fugitive slave on board your ship.” Nonetheless, the instructions continued, “You are as to this to be guided by considerations of humanity, [...] whether your ship is on the high seas or within the territorial waters [...]; but in the latter case you ought, at the same time, to avoid conduct which may appear to be in breach of international comity and good faith.”<sup>76</sup>

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<sup>75</sup> Edward Hutchinson, *The Slave Trade of East Africa*, (London: Sampson Low, Marston, Low, and Searle, 1874), 92. This is the third incarnation of British views on Sierra Leone and matches British views from the 1820-30s when the point again was to sell the project in Sierra Leone to the public to counter perception that the colony was little more than a “white man’s grave” in the 1830s and 1840s (See Chapter Two). Naval officers who testified before the Commission also seemed forgetful of the difficulties inherent in the Sierra Leone project. They compared a future endeavor to Liberia. In Liberia, Admiral Lord Frederick Grey testified, the system and infrastructure was impressive, but he did not “form a very favourable opinion of the character of the grown-up liberated Africans.” They “seemed [to him] to be very idle and very listless.” It would be different under the direct supervision of the British flag.” Report of the Royal Commission, 16.

<sup>76</sup> “The New or Third Fugitive Slave Circular,” *British and Foreign Anti-Slavery Reporter*, (1 November 1876: 159-160), 160. The Circular read:

“To all commanders-in-chief, captains, commanders, and commanding officers of HM’s ships and vessels. The following are to be considered as superseding all previous instructions –

- 1) In any case in which you have received a fugitive slave into your ship, and taken him under the protection of the British flag, whether within or beyond the territorial waters of any state, you will not admit or entertain any demand made upon you for his surrender on the ground of slavery.
- 2) It is not intended, nor is it possible, to lay down any precise or general rule as to the cases in which you ought to receive a fugitive slave on board your ship. You are as to this to be guided by considerations of humanity, and the considerations must have full effect given to them whether your ship is on the high seas or within the territorial waters of a state in which slavery exists; but in the latter case you ought, at the same time, to avoid conduct which may appear to be in breach of international comity and good faith
- 3) If any person, within territorial waters, claims your protection on the ground that he is kept in slavery contrary to treaties with Great Britain, you should receive him until the truth of his statement is examined into. This examination should be made, if possible, after communication with the nearest British consular authority, and you should be guided in your subsequent proceedings by the result.

Thus neither the Commission nor the third Admiralty Circular solved the problem at hand. Nonetheless, the crisis of 1875-76 allowed for a focused study of concerns entailed in the provision of refuge both to fugitive slaves and to Africans liberated from the illegal slave trade.

In the decades to follow, these concerns would become more pronounced in East Africa as the Imperial British East Africa Company gave Britain a stronger foothold in the region. The rapid increase in the number of fugitives in British refuges, Frere Town especially, caused much anger and nearly provoked armed conflict between the refugees and the local population. By the later 1880s, IBECA director George McKenzie had to defuse the situation by securing the official manumission of the fugitives in CMS refuge. With “no personal investment” in the endeavor, however, Mackenzie forced the CMS to end its intake of fugitive slaves.<sup>77</sup>

From time to time, the metropolitan press covered the triumphant escape of a fugitive slave to British soil in East Africa. More generally, however, the metropolitan public forgot about the Fugitive Slave Circular and the distinct problem of the refugee slave. The Admiralty issued its third Circular without much public reaction or commentary from the metropolitan press. There had been some interest in the Commission’s Final Report of June 1876, but no public demonstrations as had taken place at town hall meetings the previous winter. Perhaps the Commission had succeeded in communicating the legal and diplomatic difficulties inherent to a policy of open asylum in all cases. More likely, the Bulgarian atrocities – the massacre of Bulgarian Christians in the Ottoman Empire – deflected attention from the Circular at an opportune moment. News of these atrocities reached the metropolitan public within weeks of the Commission’s Report and the final Circular. If there was doubt that slavery was tantamount to persecution, there was no doubt in the public mind that the massacre of Christian minorities was persecution. Bulgaria offered a more satisfying outlet for Liberal interventionism, one on which Gladstone capitalized in the months that followed.<sup>78</sup>

The fugitive slave question never regained the metropolitan public, legal or diplomatic attention that it had commanded in Britain in 1875-76. Nonetheless, the investigation into the issue had a lasting impact on the refugee category and the provision of refuge, the consequences of which are the subject of Section III of this dissertation.

Concern for scarce resources caused a much wider retrenchment of British relief efforts on behalf of foreign refugees in the decades to come. In the wake of Eastern European pogroms, even refugee supporters were forced to limit the number of people to whom the category could apply. The British Empire simply no longer had the capacities necessary to assist in the migration of whole populations of persecuted foreigners. The contest over these resources had changed the refugee narrative itself. The narrative of valor and liberal individualism clashed with the reality of ex-slaves’ continued economic dependency in the Indian Ocean region. The narrative changed irrevocably as the British grappled with how to provide for those with claims on their hospitality. The national and imperial provision of refuge would narrow considerably.

Humanitarian concern for persecuted foreigners did not come to an end, however. As British diplomats turned to international collaboration to assist fugitive slaves – a pattern foreshadowed by British collaboration with the Sultan – so too would British refugee supporters begin to look outside the national and imperial framework. This is the story of the twentieth century and of the League of Nations. The origins of this international turn must be traced to

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4) A special report is to be made of every case of a fugitive slave received on board your ship.”

<sup>77</sup> Fred Morton, *Children of Ham: Freed Slaves and Fugitive Slaves on the Kenya Coast, 1873 to 1907*, (Boulder: Westview Press, 1990), 118-119.

<sup>78</sup> Shannon, R.T. *Gladstone and the Bulgarian Agitation 1876*. 2nd Ed. (Hassocks: Harvester Press, 1975).

these moments of crisis in the nineteenth century when standard approaches to the problem of refuge seemed unequal to the task.



### Section III: The Ends of British Refuge, 1880-1905

#### CHAPTER SEVEN

##### HUMANITARIAN DREAMS, DOMESTIC NIGHTMARES: PERSECUTION, RESETTLEMENT AND THE REWORKING OF BRITISH REFUGE, 1880-1905

If these men and women are political exiles and religious refugees, and we, in England, are bound in conscience, in faith, and in fealty to the splendid tradition of our freedom and our power, to give them protection, safety and home, then let us do it, as in the sight of God, with some thoughtfulness, some wisdom, and some care.<sup>1</sup>

Reverend G. S. Reaney

The “refugee” – a term that applied only to Protestants fleeing Catholic persecution through most of the eighteenth century – had far broader meaning by the close of the nineteenth century. A survey of British periodicals between 1880 and the turn of the century finds mention of refugees from nearly every point of origin, religion, and political persuasion. They include Russian prisoners escaped from Siberia to Switzerland; Cubans who fled from Spanish military reprisals; Spanish Anarchists; Muslims displaced by the Russo-Turkish War; Armenian Christians; as well as Russian and Romanian Jews.

Despite waning sympathies for revolutionary refugees and Continental Anarchists, the British public continued to rally to the cause of different refugee groups, condemning overseas oppression and raising aid for their relief. Not all of these refugees sought refuge on British soil, but tens of thousands sought British assistance across the globe, with the prospect of more with each passing decade. The popular consensus remained, as Reverend Reaney, a clergyman from London’s East End wrote, was that Britain was “bound in conscience, in faith, and in fealty” “to give them protection, safety and home.”

Ironically, in this heyday of refuge, tensions over the practice at the outposts of the British Empire came to the fore in metropolitan Britain as well. Looking around the East End, Reaney deplored the living conditions of Eastern European Jews in London. In point of fact, Reaney was an avowed anti-alienist and an anti-Semite. He was part of a growing contingent of conservative commentators who emphasized that the British might not be “bound” to assist foreign Jews and, if they did, they would have to do so cautiously, helping only *bona fide* refugees. Only careful discrimination between foreigners would ensure that their conditions in refuge were not so deplorable.

Reaney was not the first person to be critical of British refuge. There had, of course, been opponents of open asylum in the past. Indeed, his position was not very different from that of British officials who questioned whether fugitive slaves should be provided asylum. Nevertheless, in the last decades of the century, metropolitan refugee supporters could not ignore arguments like his.

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<sup>1</sup> Rev. G. S. Reaney, “The Moral Aspect” in Arnold White (ed.), *The Destitute Alien in Great Britain: A Series of Papers Dealing with the Subject of foreign Pauper Immigration*. (London: Swan Sonnenschein, 1892), 83.

Reaney's arguments for limiting immigration exposed a dilemma then facing British refugee supporters. The scope of persecution overseas, coupled with Britain's broad commitment to refugees, meant that an unfathomable number of foreigners were now potential refugees who could seek British protection. The British had not previously balked at the resettlement of large refugee groups, since they could rely on a colonial outlet or the transmigration of refugees elsewhere under the British aegis. After 1880, however, overseas outlets – already perceived to be under strain in the case of fugitive slaves – threatened to close entirely. Unable to move elsewhere, the increasingly visible foreign Jewish population in London became the focus of a small but vocal group of conservative commentators. With language tinged by racist anti-Semitic and anti-alien sentiment, these commentators made peacetime immigration restriction a matter of parliamentary concern for the first time in British history. In the wake of this agitation, even more moderate politicians had to reconsider whether Britain could afford to maintain her traditional open border policy. More than twenty years of debate culminated in an aliens act meant to curb the influx of destitute foreign immigrants – read, Eastern European Jews – for the first time in British history.

The chapter that follows focuses on metropolitan responses to Jewish migration in the wake of the Eastern European pogroms of the early 1880s. It ends with the 1905 Aliens Act, the capstone of a twenty-five year period that scholars often use as the starting point for histories of twentieth- and twenty-first-century British-immigrant relations. For the few immigration scholars who reach back into the nineteenth century, the rise of anti-Semitism and the Aliens Act itself serve as ample proof of British intolerance and of the origins of the tense race relations that have defined the past century. For these scholars, asylum had been a negative right, not a particularly British one.<sup>2</sup> Scholarship on the Anglo-Jewry tends to bolster this position, often underscoring how the foreignness of their Eastern Jews provoked the anglicized Jewish elite's disdain. So as to contain British anti-Semitism, Anglo-Jewish elites tried to manage the migrants themselves, going so far as to return as many as 75,000 Jews to the East. These developments have become the accepted point of departure for histories of modern British asylum policy. But scholars who draw on the history of British responses to Jewish migration tend to collapse refugees and immigrants into a single category. If they themselves recognize refugees as a distinct category, scholars dismiss this distinction as meaningless at this historical moment. Adequately vetting foreigners was too difficult, according to this line of argument, for contemporary philanthropists to distinguish refugees from other migrants with any degree of accuracy.<sup>3</sup>

But this dismissal misses the point. Yes, it was difficult to vet refugees, but the ways in which philanthropists, commentators and politicians attempted to do so were significant.

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<sup>2</sup> See, for example, Colin Holmes, *John Bull's Island: Immigration and British Society, 1871-1971*, (Houndmills, Basingstoke, Hampshire: Macmillan, 1988); Bernard Porter, *The Refugee Question in Mid-Victorian Politics*, (Cambridge: CUP, 1979); Tony Kushner, *Remembering Our Refugees: Then and Now*, (Manchester: MUP, 2006). David Feldman, "Was the Nineteenth Century a Golden Age for Immigrant? The Changing Articulation of National, Local and Voluntary Controls," in Andreas Fahrmeir et al eds. *Migration Control in the North Atlantic World: The Evolution of State Practices in Europe and the United States from the French Revolution to the Inter-War Period* (New York, Berghahn Books, 2005, 167-177).

<sup>3</sup> Severin Adam Hochberg, "The Repatriation of Eastern European Jews from Great Britain: 1881-1914," *Jewish Social Studies*, (Vol. 50, No. 1/2, Winter, 1988 - Spring, 1992, pp. 49-62), 52. Standard accounts of the Anglo-Jewry in this period highlight how closely the Anglo-Jewish elite's response to their foreign co-religionists mirrored the broader British attitudes toward the poor. While many less elite charities in the East End assisted the foreigners, the elite tended to view poverty as moral failure, emphasizing work rather than charity as the solution and rationalizing/rationing their charitable activities thus. In this respect their activities followed the changes to charities attempted by the Charity Organisation Society. For more on this see, for example, David Feldman, *Englishmen and Jews: Social relations and Political Culture, 1840-1914*, (New Haven: Yale University Press, 1994).

Although Britain abandoned her traditional liberal border policies in 1905, Parliament and even the conservative majority then in power did not abandon the nation-defining practice of sheltering those who were persecuted. The 1905 Aliens Act did not in itself change Britain's relationship with foreign *refugees*. Like the 1793 Aliens Act and the 1870 Extradition Act, it became a tool used to distinguish undesirable foreigners from deserving refugees. An amendment passed alongside the Aliens Bill ensured that the 1905 Act exempted refugees altogether.

Nevertheless, the ways in which British philanthropists, public commentators and politicians attempted to preserve traditional refuge for persecuted foreigners in philanthropic practice and in national policy could not but be influenced by the closure of overseas avenues for refugee transmigration and the consequent rise in the foreign population within Britain proper. How British refuge for persecuted foreigners changed at the turn of the twentieth century is the subject of the chapter that follows. I highlight the many ways in which British responses to Jewish refugees were typical of British refuge throughout the nineteenth century. Though much remained the same, I argue that the difficulty of calling upon national and private resources for refuge within Britain challenged British refugee supporters to rethink what amounted to persecution sufficient to make a foreigner a refugee.

#### CONTINUITIES AND NEW DEPARTURES: REFUGE AFTER 1880

In most standard accounts of mass migration in the twentieth century, the case of the Eastern European Jews stands out as the first such movement. In these accounts, the size of the potential migration made the governments of Western Europe, America, and British white settler colonies respond to the pressures of refugee movements for the first time.<sup>4</sup> This account is misleading. Though the size of the potential Jewish migration was vast – the Jewish population of Imperial Russia alone was estimated at more than four million people in 1880, this was not the first time that governments took notice of refugees, nor the first time that they worried about the number of refugees in their care.<sup>5</sup> Indeed, Sierra Leone was established as a crown colony with the express purpose of housing tens of thousands of fugitive slaves and Africans liberated from the slave trade. In the 1870s, the British Government again contemplated whether they *should* – not whether they *could* – provide refuge to an untold number of foreign slaves in the Indian Ocean region. What was new in the case of the Jewish exodus from Eastern Europe, from Imperial Russia and from the newly-formed nation of Romania, in particular, was that the size of the potential diaspora – a whole ethnic minority – challenged previous models for large-scale relief, pushing those models to the breaking point.

FOREIGN PERSECUTION AND BRITISH REFUGE: CONTINUITIES — The prominent position of Eastern and Southeastern affairs in the British media in the wake of the 1876 Bulgarian Atrocities and the 1876-1878 Russo-Turkish War meant that would-be refugee supporters were especially quick to recognize and condemn the mistreatment of religious and ethnic minorities in the East. But, British reaction to the persecution of Russian and Romanian Jews after 1880 was by and large an extension of traditional response to crises overseas. The process of identifying

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<sup>4</sup> See, for example, Michael Marrus, *The Unwanted: European Refugees in the Twentieth Century*, (Oxford: OUP, 1987), chapter one; and Claudena Skran, *Refugees in inter-war Europe: the emergence of a regime*, (Oxford: Clarendon Press, 1995), 14ff.

<sup>5</sup> Lara Marks, *Model mothers: Jewish mothers and maternity provision in East London, 1870-1939*, (Oxford: Oxford University Press, 1994), 15

the crises as refugee crises, and of mobilizing relief accordingly, stemmed from older models of outrage and relief organization.<sup>6</sup>

Russian despotism had long been a foil against which British commentators distinguished British liberalism. Imperial Russia commanded British attention, and – following the Russo-Turkish war of the late 1870s – British Liberals and Tories sparred over foreign policy toward the contending Great Power. While Gladstone in particular took to comparing Tory world-view with Russian despotism, Russian incursions into the Balkans and into Central Asia caused a great deal of imperial, as well as international, anxiety across the political spectrum.

These fears of Russian expansionism dovetailed with ongoing concern about Russian domestic policies and harsh governance. In the last third of the nineteenth century, the British government and public carefully skirted Russia's pursuit of international collaboration against Anarchists and Nihilists. Though few in Britain openly sympathized with destructive radical ideologies, the public was appalled by the harsh conditions of Siberian exile and skeptical about the fairness of the Russian legal system. Part and parcel of Russia's active campaigns against dissidence was her unsympathetic treatment of religious minorities, not least of which were the Jews. Official Russian policy toward the Jews was twofold. On the one hand, it involved forced integration – in particular, compulsory military service. On the other, it attempted to contain the Jews. In the wake of the pogroms that followed the assassination of Alexander II in 1881 and 1882, the Russian Government issued a series of restrictions on the Jews. The May Laws of 1882 forced Jews to leave towns smaller than 10,000 in Russia in the Pale of Settlement (the area of western Russia to which Jews had been periodically expelled since the eighteenth century). Further restrictions followed, on Jewish professions and on their education. By 1891, Jews were expelled from Moscow outright and pushed again into overcrowded towns in the Pale.<sup>7</sup>

British concern for minorities in Romania was relatively new, by contrast. Individual philanthropists, including the Anglo-Jewish giant Moses Montefiore, traveled to then-Ottoman and Austro-Hungarian Romania in the 1840s to help quell anti-Jewish violence. Britain's public and official interest in the Jews of Romania derived later when Britain along with the other Great Powers undertook to protect a semi-independent Romania at the close of the Crimean War. By the dictates of an international agreement, the fledgling local government was to insure the protection of minorities in civil society, including naturalizing their substantial Jewish population. By the early 1870s, it had become clear that the Romanian Government was not holding up its end of the bargain. The government enacted laws that made it difficult for Jews to become full citizens and also barred Jews from specific professions, the number of which grew year by year. Anti-Jewish violence also became endemic; though Romanian officials blamed these outrages on popular movements, they did little to curb them. As in Russia, government authorities tended to be conspicuously late in arriving to stop anti-Jewish violence and were lenient toward those perpetrators. In 1878, the Great Powers once more stipulated that the now fully independent Romania would have to recognize the rights of its minority peoples. The Romanian Government took little heed. They naturalized Romanian Jews at an appallingly slow rate.<sup>8</sup>

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<sup>6</sup> This was a model after which the 1870s/1880s response to the persecution of Christian minorities was also forged.

<sup>7</sup> For a broad account of the Jews in Russia which includes a detailed examination of changes in the Czar's policies toward the Jews in this period, see Simon Dubnow, *History of the Jews in Russia and Poland*, trans. I. Friedlaender, (Bergenfield, NJ: Avotaynu Inc, 2000), around page 260 especially.

<sup>8</sup> Israel Davis, *The Jews in Roumania; a short statement of their recent history and present situation compiled for the Anglo-Jewish Association*, (London: Trübner & Co., 1872); Carole Fink, *Defending the Rights of Others: The Great Powers, the Jews, and International Minority Protection*, (New York: Cambridge University Press, 2004), prologue.

Waves of Jewish refugees fled Eastern Europe to Western European countries, to the Middle East, and to the Americas following each wave of official repression and popular violence – from Romania in 1871-72, from Russia in 1881-82 and 1889-93, and from both Russia and Romania between 1900-1906. With each exodus, the British turn their attention to the situation of the Jews in the East – and of Jewish refugees in Britain and elsewhere, condemning the outbreak of violence and the failure of the foreign governments to protect their populations. As was traditional in response to oppression overseas, initial media coverage of the treatment of Jews in the East publicized local protest meetings, which, in turn generated additional media coverage. Protest meetings were held on the same model used for European revolutionaries and fugitive slaves from America, convening in the homes of local officials and at the seats of local government.

In 1872, the Lord Mayor of London held a meeting on behalf of the Romanian Jews at his Mansion House to protest the outbreaks of violence against Jews. In attendance was an array of notables. Among them were long time refugee supporter Lord Shaftesbury who served as chair, several prominent Members of Parliament, including James Kay Shuttleworth, Thomas Buxton, W.H. Smith, and Charles Treveleyn, and high ranking Anglican officials like the Bishops of Gloucester and Bristol.<sup>9</sup> At the meeting, attendees resolved that the outrages against the Jews was a “disgrace to modern civilization” and that “justice demands the relief and indemnity of those who have suffered,” including the “equality of civil rights.” They further resolved that the British Government ought to be prevailed upon to promote these ends.<sup>10</sup> Accordingly, Lord Shaftesbury led a deputation to the administration within days of the meeting.

Similar meetings convened in 1882 to protest the pogroms of the previous year, and again in 1890 in the wake of news that the Russian Government was weighing additional legal restrictions against the Jews. The Mansion House took the lead once more, as well as at Guildhall, the seat of the City of London’s assembly. On the eve of the February 1, 1882 Mansion House meeting, a writer for the *Jewish Chronicle* celebrated the “real although not immediate” “influence of such public expressions of feeling as that of which the Mansion House meeting has been the occasion.” Recalling the 1872 meeting, the writer admitted that the oppression of the Jews in Romania had not ended, but he argued that the Romanian Government had “taken care that their grievances should fall short of the measure which was sufficient to call forth the protests then publicly made in the city of London as well as elsewhere in Europe and America.”<sup>11</sup> Similar results, he implied, could be expected in the wake of public remonstrance against Russia.

Prominent members of the Anglo-Jewish elite, including Lord (Nathaniel) Rothschild, were present in force, but the meetings were conceived as British – not Jewish – affairs. As in the former cases, each meeting called upon the local notables. In 1882, the Mansion House meeting drew heavily on religious figures, including the Archbishop of Canterbury, the Bishop of London and the Catholic Cardinal Manning. The proceedings further relied on notables known for their vocal opposition to the treatment of Bulgarian Christians in 1876, and of other Christians in the region. Anglican Canon Frederick William Farrar addressed the connection between the plight of the Jews and that of the Christians in the former case. Professor Bryce (MP for Tower Hamlets in

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<sup>9</sup> *Times*, 31 May 1872.

<sup>10</sup> Resolutions drawn up at a meeting of the Anglo-Jewish Association on May 27 for the May 30 Mansion House meeting, AJ 37/6/2/7, f. 9, Anglo-Jewish Association. Roumanian Committee Minute Book, 1872-1876, University of Southampton Special Collections, UK.

<sup>11</sup> *Jewish Chronicle*, February 3, 1882.

London's East End and an author of an 1877 book on the Armenians) admitted that the violence was, fortunately, more minimal than it had been during the Bulgarian persecutions. Nonetheless, he addressed the broader flight of Jews from persecution across Southeastern Europe, drawing from the Romanian example, as well.

The 1882 and 1890 protest meetings generated similar sets of resolutions to those of the early 1870s and previous remonstrance meetings dating to the 1820s. In 1882, those present at the meeting adopted resolutions condemning violence against the Jews and, after acknowledging the impropriety of intervening in the internal affairs of a foreign nation, they hoped that Gladstone's Administration would exercise a "friendly influence with the Russian Government" to bring these incidences to an end.<sup>12</sup> In December 1890, the Guildhall meeting attendees (some 2,000 strong<sup>13</sup>) produced a petition to this effect to present to the Czar, remonstrating against his treatment of the Jews. Two "representative Englishmen," the Earl of Meath and Sir Albert Rollit, personally traveled from London to Russia to deliver the memorial the next month. The "philanthropic mission," as the editors of the *Jewish Chronicle* apostrophized the journey, embarked in the hope that such a document "from the citizens of the greatest city in the world, craving justice and mercy for the Jewish subjects of the czar, would of itself have been a weapon of such enormous moral force as to be well-nigh irresistible."<sup>14</sup>

The local and national press condemned overseas oppression and helped to generate interest and participation in relief efforts for the persecuted. In 1881 and 1882, the *Times* of London reported extensively on the Southern Russian pogroms, the Czar's response and May Laws of 1882. Praising the conveners of the Mansion House meeting, *Times* editors joined in their call for remonstrance against Russian persecution. They joined in such readiness that they were forced to retract some of their statements when official accounts showed the violence to have been significant, but less than initially believed. Newspapers throughout Britain also contained articles about the Russian atrocities and the May Laws. To these reports editors added a sense of regional outrage by including the proceedings of local meetings for the Jews' relief.<sup>15</sup> Regional newspapers also covered the 1890-92 depredations extensively, retelling harrowing stories of individual Jews expelled from Moscow and of British and Anglo-Jewish involvement in their relief. Gladstone's May 28, 1891 open letter to Samuel Montagu, deploring Russian actions and urging further investigation of the situation of the Jews in Russia, was reprinted throughout the press, as were the proceedings of meetings in favor of Jewish settlements overseas, in Palestine, in particular.<sup>16</sup>

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<sup>12</sup> *Jewish Chronicle*, February 3, 1882; Dubnow, 347. As noted below, Gladstone did not see fit to so intervene in Russian affairs. This point bears further comparative analysis.

<sup>13</sup> Simon Dubnow, *History of the Jews in Russia and Poland*, trans. I. Friedlaender, (Bergenfield, NJ: Avotaynu Inc, 2000), 389.

<sup>14</sup> *Jewish Chronicle*, January 2, 1891.

<sup>15</sup> John Klier, "The Times of London, the Russian Press, and the Pogroms of 1881-1882," Paper No. 308, *The Carl Beck Papers in Russian and Eastern European Studies*, Wm. Chase and R. Linden (Eds.), (Pittsburgh, University of Pittsburgh, 1984), 14-15. For a sampling of the national press coverage, see: *Birmingham Daily Post* (May 24, 1881), *Pall Mall Gazette* (January 7, February 2 & 7, May 24, & June 1, 1882), *Western Mail* (January 20, February 14 & June 1, 1882), *Hampshire Telegraph & Sussex Chronicle* (February 4, 1882), the *Belfast News-Letter* (May 24, 1881), *Newcastle Courant* (January 20, February 11 & May 20, 1882), *Lloyd's Weekly Newspaper* (May 29, 1881), *Liverpool Mercury* (January 20 & May 25, 1882), *Glasgow Herald* (January 14, 1882), *Leeds Mercury* (January 16, 1882), *Bristol Mercury and Daily Post* (January 21 & 30, 1882), *Daily News* (February 1, 2, 10, 16, 23, & 25, May 13 & 25 & July 26, 1882), and *Reynolds's Newspaper* (February 5 & May 29, 1882).

<sup>16</sup> Gladstone's letter was printed within days in the *Birmingham Daily Post* (May 29, 1891), *The Leeds Mercury* (May 29, 1891), the *Daily News* (May 29, 1891), the *Aberdeen Weekly Journal* (May 29, 1891), and the *Northern Echo* (May 30, 1891), to name a few of the major publications. For examples of meetings on resettlement in Palestine, see (among others) *The Graphic* (June 13, 1891), the *Western Mail* (June 22, 1891), the *Daily News* (February 24, 1891 and November 13, 1891), the *Liverpool Mercury* (May 25, 1891 and January 29, 1892). More on overseas settlements below.

In conjunction with press coverage, meetings decrying the Eastern pogroms, like British moral protest campaigns of the past, generated funds for the relief of the refugees who fled the East. The final resolution of the 1882 Mansion House meeting established a relief fund for Russian Jewish refugees that was – and would remain – the primary avenue for relief for Jewish refugees through the turn of the century. The conveners raised over £100,000 at the meeting itself, and the 1890 Guildhall meeting raised a similar sum. Following the Mansion House Meeting, notable attendees formed a committee to oversee the distribution of the new fund. The resulting Mansion House Russo-Jewish Refugee Committee joined forces with the Anglo-Jewish Association.

The Conjoint Mansion House Fund (hereafter “MHF”) set to work immediately. They dispatched £500 as needed for the relief of Russian Jews forced to flee in the wake of the pogroms, assisting the refugees who congregated at the Russian-Austrian frontier.<sup>17</sup> Their funds helped the refugees to survive at the border town of Brody, in Austria, to migrate elsewhere, and to relieve those refugees who ultimately arrived on British soil. By time the MHF declared their work done in the winter of 1883, they had assisted 1,591 cases or 2,749 refugees arriving in Britain proper.<sup>18</sup> The remainder of the fund was kept for future use. Unlike past refugee crises, however, the MHF would not disband permanently. The cyclical nature of Eastern anti-Jewish violence and increasingly restrictive anti-Jewish legislation ensured that the MHF Committee would be convened again and again.

As was typical of refugee relief, the MHF was distinct from relief for foreign Jewish immigrants. Whereas the Jewish Board of Guardians, which also operated under the auspices of the Anglo-Jewish Association, assisted struggling Jewish immigrants, as well as the native Jewish poor, the MHF explicitly targeted the victims of foreign persecution. The separation of relief to foreign refugees from poor relief was traditional within British charity by this time, stemming from a belief that refugees deserved extra care. Unlike the immigrant or the native poor, the refugee’s forced flight – the emergency situation – denied him or her the ability to plan against such degraded circumstances. As, Julian Goldsmid of the MHF argued to the Jewish Board of Guardians in 1892 when the latter sought to further streamline relief to all Jews, whether immigrants or refugees:

We think that the functions of the Russo-Jewish visiting committee would be to a great extent different from those to the visiting committee of the Board of Guardians. The former must have to deal with cases of individuals who are by no means paupers, and who frequently have the disadvantage of entire ignorance of the circumstances into which the persecution of Russia has forced them, and of the surroundings in this country, into which they have come often only en route to their ulterior destination. It is inevitable inconsequence that, in the good sense of the word, there must be more “nursing “ of such cases than of the ordinary cases of paupers with which the Board of Guardians visiting committee has to deal.<sup>19</sup>

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<sup>17</sup> *Jewish Chronicle*, February 24, 1882.

<sup>18</sup> Eugene C. Black, *The Social Politics of the Anglo-Jewry, 1880-1820*, (Oxford: Basil Blackwell, 1988), Table 9.2, page 255.

<sup>19</sup> Page 2 of letter of the Russo-Jewish Committee (Julian Goldsmid) to the Jewish Board of Guardians, n.d. (1892) 1/11/2/75, MS 173. Jewish Care. Letter book. January 1890-Dec 1900, Special Collections, University of Southampton, UK. On the separation of Jewish refugee charities versus immigrant charities, see Feldman, *Englishmen & Jews*, 300ff.

Although the influx of destitute Russian Jewish refugees in England – particularly London’s East End – was quite noticeable in the wake of the 1881-82 pogroms and the restrictive May Laws, the vast majority of these foreigners used England only as a stopping-grounds for transmigration. As had become standard in the decades prior, asylum within Britain was but one form of British refuge. It was quite likely that their British hosts would encourage refuge by means of assisted transmigration elsewhere. Whereas transmigration schemes for larger refugee groups elicited controversy in the case of the Polish-Hungarian Contingent of 1851, most Eastern European Jews were keen to press onward to America in particular. Those who could pay their own passage did; many benefited from the assistance of local branches of the Anglo-Jewish Association, among other smaller philanthropic organizations.<sup>20</sup>

Of the 2749 of Russian and Polish Jews who entered Britain in 1882, for example, only 489 remained by the end of that year, the vast majority having voluntarily migrated onward. Of those who left, 616 men, 188 women, and 278 children continued to the United States and 11 men, 3 women, and 5 children to Canada.<sup>21</sup> Along with Continental and North American philanthropic organizations, the Mansion House helped the transmigrants to move elsewhere. To facilitate this process, the MHF provided provisions, defrayed transportation costs, and solicited further support from long-time refugee supporters like the Baroness Burdett Coutts to fund agricultural training and schools for children where they resettled.<sup>22</sup> Within Britain, Jewish communities and local officials at port cities established temporary housing for the expected transmigrants. In Liverpool, for example, the local branch of the Anglo-Jewish Association used Mansion House Funds to secure a building large enough to house the 400 Jews who would arrive there by the boatload via Hamburg. The Liverpool branch attended to the sanitary conditions of the building, provided the refugees with food and clothing and desks at which they could write letters which the committee would forward free of charge. By July 1882, they had already forwarded 6,274 to America alone. The pattern repeated itself between 1882 and the turn of the century, most years half or more of the new cases emigrated beyond Britain.<sup>23</sup>

Not all Jewish refugees left Britain. The Mansion House Fund also offered relief to those who remained, provided that they were refugees. If they were not refugees, the foreign Jews fell under the purview of the Jewish Board of Guardians and the Board’s rule that no *immigrant* was entitled to relief for six months after his or her arrival. Such a rule, they hoped, promoted thrift, industriousness and hence economic self-reliance.

Although few (if any) Jewish refugees or their supporters appear to have resisted transmigration, philanthropists’ eagerness to assist in this manner likely stemmed from concern for the foreignness of these particular Jews, a concern I will discuss in detail below. Nevertheless, the use of transmigration was not new. Resettlement elsewhere provided a place of refuge for larger refugee groups – particularly for those whose race, class, or religion made their

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<sup>20</sup> Unlike the Polish-Hungarian Contingent, these refugees neither expected nor wanted to return home, as far as the archives show. Their refuge would be permanent, making resettlement further a field more attractive as it had been in the cases of the Huguenots, Palatines and, to some extent, the liberated Africans.

<sup>21</sup> *The Jewish Chronicle*, January 5, 1883.

<sup>22</sup> See for instance Anglo-Jewish Association. Executive Committee Meeting Books. September 1874-November 1909. AJ 95/ADD/5 f. 441, Special Collections, University of Southampton, for request to the Baroness, the *Jewish Chronicle* also reported on her immense contributions to refugee Jews.

<sup>23</sup> *Persecution of the Jews in Russia, Mansion House Relief Fund, Liverpool Commission*, (Liverpool: Egerton Smith & Co., 1882), 7; Jacobs, Joseph [Secretary of the Russo-Jewish Committee]. *Statistics of Jewish Population in London, etc., 1873-1893*, (London: E. W. Rabinowicz, 1894), 5.



permanent resettlement in Britain seem less desirable. This was the case with liberated Africans and fugitive slaves. This was also the case for the impoverished Palatine and Salzberger Protestants in the eighteenth century. The French Refugee Priests likely would have moved to Quebec in great numbers had Napoleon not allowed for their return in 1801. Moreover, the Polish Hungarian contingent of 1851 would have been pushed to the Americas as well had the Chartists not intervened.

FOREIGN PERSECUTION AND BRITISH REFUGEE: DISCONTINUITIES — The British attempted to provide for Eastern European Jews by employing standard models for recognizing refugee crises and for assisting in the refugees' relief on a national scale. Despite these efforts, British supporters faced challenges after 1880 that would have long-term consequences for British refuge in the short- and long-term. Those challenges were: first, the difficulty of broadening British relief efforts beyond the Anglo-Jewish community and, second, hesitation over the effectiveness of protest against foreign atrocities. These two challenges were not new in 1880, but became more pronounced. The third challenge was particular to the period: a deep-seated fear that the avenues of overseas transmigration would close. As the subsequent sections of this chapter will demonstrate, that fear irrevocably changed Britain's welcome of persecuted foreigners.

Organizers of protest meetings on behalf of Russian and Romanian Jews did their best to foreground the involvement of local Christian elites so that the moral statement being made would appear to be genuinely "British" rather than the complaint of a single ethnic minority. The board members of the Anglo-Jewish Association instructed their local branch affiliates that "in all instances such meetings should be convened by Christians, and [...] Jewish speakers thereat should confine themselves to proposing and seconding votes of thanks to the respective chairmen."<sup>24</sup> Decades later, this was still deemed a crucial measure of success. The *Yorkshire Observer* explained that "it was especially gratifying to know that it was in no sense a distinctively Jewish meeting. There was naturally a considerable Jewish element present, but it was far from being predominant." Rather, "it was essentially a British protest in sympathy with an oppressed people."<sup>25</sup> When the AJA was less certain that an established set of local notables would rally on behalf of foreign Jews, the board and the Anglo-Jewish elite more generally were reluctant to call a traditional protest meeting at all.

We cannot be certain of the degree to which this careful orchestration of protest meetings was new or particular to the Jewish community. The Anglo-Jewish archives are quite simply more detailed on this issue than the surviving documents from philanthropic groups who organized on behalf of other refugee groups. It seems likely that any group of refugee supporters would have worked hard to enlist establishment speakers whenever possible. Not only did this lend an aura of legitimacy to the cause; it also helped to secure the local establishment's patronage thereafter. This was the basic cultural formula for legitimizing popular campaigns, and the Anglo-Jewish elite was extra careful about following this formula precisely because they felt insecure about their social status as a minority group trying to speak with the voice of the

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<sup>24</sup> January 24, 1882 entry in AJ 95/ADD/2, Anglo-Jewish Association, Council Minute Book, (October 1881-June 1895), ff. 13, University of Southampton Special Collections.

<sup>25</sup> *Yorkshire Observer*, January 9, 1906, in MS 173. Jewish Care. 1/5/1. Russo-Jewish Conjoint Committee Press Cuttings, 16 September 1904 through 10 July 1908), ff. 23, University of Southampton Special Collections.

“British” nation. Though the Anglo-Jewry enjoyed full civic equality by 1890, the community did not want to test British tolerance when the MHF funds dwindled.<sup>26</sup>

The second challenge faced by British sympathizers with Eastern Jews was a hesitancy to intervene in the internal affairs of another Great Power. Whereas the civil treatment of ethnic minorities in Romania was guaranteed by international treaty, providing British diplomats, as well as diplomats from other signatory powers a certain license for intervention, British officials were more hesitant to criticize Russia. A few days after the Mansion House meeting, Gladstone expressed horror at reports of Jewish persecution in Russia, but held that protesting officially would do more harm than good, a newly cautious tone for a politician whose popularity, like that of Palmerston before him, owed so much to popular interventionism.<sup>27</sup> Public commentators were equally cautious about condemning Russia wholesale. At the 1882 Meeting, MP Edward Lyulph Stanley (MP of Oldham) explained that:

It is a delicate thing so to interfere in the internal affairs of another nation as to secure good results from intervention. [...] For myself, I do not believe that the Russian people, if properly approached, have any desire for brutality and outrage in their midst, or that the Russian Government has any wish but for the progress of humanity. We know that in that country there is a Government penetrated with desire for western civilization, but that their environments are not of such a character as to enable them to carry out their design in that direction, and so when we make suggestions we must take care that we do not make them in such a way as to pique the national sentiment, and so injure the very cause which we have most at heart.<sup>28</sup>

This concern was not entirely new. In the 1830s Parliament was likewise cautious about attributing Russian treatment of the Polish revolutionaries and their families to Russian character. Palmerston’s diplomacy of the middle of the nineteenth century brought with it a greater license for interventionism. Even then, however, critics such as Richard Cobden condemned the eagerness with which the British public advocated war (in this case the Crimean War) based romantic sympathies for the plight of the oppressed. Concern over intervention again came to the fore in debates over extradition law and the reception of fugitive slaves in the territorial waters of foreign states. In 1877, public outrage over the Bulgarian atrocities of swept Gladstone back into power, rewarding popular interventionism in the teeth of Conservative caution.

Advocates of diplomatic tact toward Russia were correct in anticipating a hostile reception to British criticism of the pogroms and the persecutions of the May Laws. The Russian elite in St. Petersburg took vocal offence to British remonstrances. The petition signed at the Guildhall Meeting of 1890 faced an equally frosty Russian reception in January 1891. The Czar and his officials refused to receive the deputation of “representative Englishmen” or the petition.

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<sup>26</sup> By contrast, there was precedent for political minority groups and for working class radicals on this score. Indeed, popular politics had long-relied on such claims on the “British” or “English” nation and/or constitution. Vis-à-vis refugee relief Chartists, for example, had undertaken the relief of the 1851 Polish Hungarian Contingent in the name of the nation.

<sup>27</sup> Gladstone at the House of Commons, February 9, 1882, quoted in Dubnow, 347.

<sup>28</sup> *Jewish Chronicle*, February 3, 1882. Special Edition on the Mansion House Meeting.

Several British opponents of protests went so far as to argue that Russian ill treatment of the Jews increased out of spite at foreign meddling.

This wariness to intervene forcefully was coupled with an eagerness to believe that the Russian Imperial Government would voluntarily reform the injustices inflicted on its ethnic and religious minorities. British officials, commentators, and the Anglo-Jewish elite were tempted to conclude that no minority groups needed to flee if the Czar intended to rectify the situation and hence no intervention would be necessary. I elaborate on this point below.

This reluctance to act ran headlong into a worsening refugee crisis on the ground. In the wake of the 1881-82 pogroms and May Laws, an estimated 20,000 Jews fled Russia, alighting in the town of Brody at the eastern edge of the Austro-Hungarian Empire. Many refugees remained at makeshift shelters in Brody for weeks as they awaited resettlement. As they waited, most of the refugees depleted what few resources were in their possession. Their increasing poverty and misery “demoralized them,” making even the able-bodied refugees dependent on charity.<sup>29</sup> The Anglo-Jewish community lamented the conditions at Brody. In an attempt to impose greater cleanliness and order, the Russo-Jewish Fund committee asked the India Office to send an ex-Indian civil servant to attend to the conditions at Brody. The MHF hoped that such an individual, with experience gathered from the recent Indian Famine camps would command much authority in the East.<sup>30</sup>

By July 1882, philanthropists had managed to provide for the Jews at Brody. Most were sent on to other destinations, via Hamburg and Britain to the Americas and to other British dominions as well. Three thousand of those who remained in Brody – those deemed unable to work – were returned to Russia, where philanthropists believed they would now be safe.<sup>31</sup> Despite these relative successes, the Brody moment led to systematic retrenchment of British relief efforts.<sup>32</sup>

The Brody moment heralded a drastic narrowing of longstanding outlets for foreign refugees. Concerned about future waves of Jewish migration, governments of the United States and of the British dominions – the primary points for refugee transmigration from Britain – began to reconsider how many and whom they would allow to resettle on their shores. The first to close was New York in June 1882. Nine years later, the US Federal Government barred “undesirable” aliens on a national basis. To settle in the United States, prospective migrants would have to be “promising” immigrants, able to support themselves as artisans or agriculturalists. The British dominions followed suit. The Canadian Government enabled the Governor-General to bar destitute migrants in 1886, and Australia and South Africa followed in the 1890s. South Africa went so far as to force a ship carrying Jewish refugees back to Britain in 1903.<sup>33</sup>

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<sup>29</sup> Dubnow, 321. *Jewish Chronicle*, May 19, 1882; *Mansion House and JBG Report of Proceedings, 1883*, 70, in MS 173. Jewish Care 1/12/4. Jewish Board of Guardians, Annual Reports, 1880-1886, Special Collections, University of Southampton, UK.

<sup>30</sup> Letter of Lewis Emmanuel printed in the *Jewish Chronicle*, May 26, 1882. As Emmanuel celebrated, days later, the Jewish Hermann Kisch, Permanent Under-Secretary of State at Calcutta, joined the MHF. While Kisch does not seem to have been sent to Brody, Emmanuel felt “sure that Mr. Kisch will be able to afford the precise kind of technical knowledge derived from his experience during the Indian famine.” *Jewish Chronicle*, June 2, 1882.

<sup>31</sup> *Jewish Chronicle*, July 14, 1882.

<sup>32</sup> Thanks to David Feldman for a 2007 conversation on this moment as a critical turning point.

<sup>33</sup> Edward Manson, “The Admission of Aliens,” *Journal of the Society of Comparative Legislation*, New Ser., Vol. 4, No. 2. (1902), pp. 114-127; *Jewish Chronicle*, February 6, 1903. For the Americas and Australia, in particular, immigration restriction on a national level was an immediate response to Asian immigration – in the Americas, Chinese coolie labor especially. Nonetheless, the discussion of limits came in the immediate wake of the Brody moment, when absorbing those assembled there

British public commentators, officials and refugee supporters responded immediately to this turn of events. The Anglo-Jewish community sent one of their members to Washington as early as June 1882 in an attempt to convince the American Government to accept more Jewish migrants.<sup>34</sup> Although neither America nor Canada ever entirely shut off the immigration of Eastern European Jews in the decades to come, the conditions they placed on transmigrants, together with the threat of complete closure, plagued European philanthropists and especially the British. By 1890, British officials revived the lapsed 1836 Aliens Act which required ship masters to count the numbers of foreigners entering Britain, and to report their points of origin. Though the Board of Trade provided accounts of how many arrived, the number of foreigners leaving Britain was less easy to calculate. The MHF could provide some figures, but doubt over the accuracy of these numbers emboldened proponents of immigration restriction, becoming a favorite complaint of theirs through the turn of the century.

Doubts about the numbers of refugees accumulating within Britain itself fueled an anxious search for other overseas outlets. Several surprising public figures joined in this enterprise, including known anti-Semite Arnold White. White traveled to Russia in an attempt to persuade the czar at least to slow the pace of the Jewish expulsions. W. H. Wilkins became an unexpected proponent of new Jewish settlements overseas. In his 1892 *Alien Invasion*, the Conservative advocate of immigration restriction argued that, “there are many practical ways in which we can show our sympathy with the persecuted Russian Jews if we wish to do so, notably by combining to divert the stream of immigration from our now densely populated little island.” The more practical approach, he explained, was to help “the would-be immigrants to move on to some new land beyond the seas.”<sup>35</sup>

In this manner, older British overseas refuge models dovetailed with what was then a growing Zionist movement aimed at finding Jews a national homeland. Anglo-Jewish and Christian British philanthropists joined international efforts to develop alternatives. Just as refugee supporters had resettled liberated Africans and fugitive slaves in new colonies throughout the nineteenth century, the Jewish Colonization Association (“JCA”) and small-scale Christian organizations helped to establish self-sustaining Jewish settlements in Palestine and throughout the Ottoman Empire. German Baron Maurice de Hirsch and the JCA strove to provide incentives for settlement in Canada and in larger scale agricultural settlements in Argentina.

British notables like former diplomat Joseph Finn and his wife Elizabeth Anne Finn participated in each endeavor, and the Anglo-Jewish community eagerly reported on their progress. By the 1890s, British officials too became directly involved with Zionist calls for a Jewish homeland. In keeping with their earlier efforts in Sierra Leone and East Africa, the British Government looked for a proper place for asylum under their direct or indirect aegis. The proposed solution was to give Jewish settlers the British colony of Uganda as an asylum. As had been true for Sierra Leone more than a century earlier, British officials, including notably Joseph Chamberlain and a young Winston Churchill at the Colonial Office, believed Uganda to be in need of a settler population. Absent interested Englishmen and women, Jewish “Territorialists” (the term then used for Zionists who hoped to form a Jewish homeland outside of Palestine)

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became a major international endeavor, and would have an immense impact on Jewish refugee relief well into the twentieth century.

<sup>34</sup> *Jewish Chronicle*, June 30, 1882.

<sup>35</sup> W. H. Wilkins, *The Alien Invasion. With an introductory note by the Right Reverend the Bishop of Bedford*, (London: Methuen and Co., 1892) 11.

seemed to these officials to be ideally suited for the task. The Orthodox Jews who made up the Russian contingent of Zionists did not welcome the 1903 proposal as they were determined to make Palestine their homeland. Nonetheless, Anglo-Jewish author and leading Territorialist Israel Zangwill believed that it was essential to relieve pressures on asylum in Britain proper.<sup>36</sup>

Zionists turned down the Uganda offer in 1905. The 1917 Balfour Declaration by which the British Government declared the Palestine Mandate to be a future Jewish homeland was as much a logical extension of a long-standing imperial model for refuge as it was an outgrowth of late-nineteenth century Zionism. Private resettlement work likewise never ceased. The Hirsch settlements in Canada and South America continued apace through the turn of the century and, while Anglo-Jews generally took the lead in advocating for their co-religionists, Anglo-Christian refugee societies also tried to support overseas Jewish refugees. For a moment in the 1890s, even Armenia seemed a possible place for Jewish refuge.<sup>37</sup>

Though these semi-colonial destinations offered alternatives to the United States, none of them seemed adequate to the need. At the turn of the century, the fate of the Hirsch settlements in Argentina rested on settlers whom many thought would fail to adapt to agricultural life and who, ignorant of the local language, seemed likely to be cheated by the local population. Small-scale settlements in the Middle East seemed vulnerable as well. Though philanthropists and Zionists continued to forward settlers to the region, the Ottoman Government began to check the immigration of Jewish families in the 1890s. Tension between the Ottomans and Jews embroiled the British Foreign Office in debate over whether and how to protect those who traveled to the region on British passports or as part of charitable schemes organized by British subjects.<sup>38</sup>

The scarcity of large overseas outlets for foreign refugees had a profound impact on British refuge in the immediate- and long-term. The British, long the refuge providers *par excellence*, now faced the prospect of having to accommodate refugees within Britain proper. This realization did not end British interest in refugees, but it fundamentally altered how refuge continued to operate.

Limited possibilities for refugee transmigration had two major consequences for the place of the refugee in the British liberal imagination. First, it irrevocably altered the cultural status of the refugee as a model liberal individual, distinct from the larger population of foreign immigrants. Scholars, including Tony Kushner and Bernard Gainer, have identified this (newly low) cultural status of would-be refugees as evidence that the British treated all foreigners the same, whether they were refugees or immigrants, and that their welcome was cool at best. These scholars, however, are unaware of the novelty of this narrower turn-of-the-century distinction

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<sup>36</sup> Robert G. Weisbord, *African Zion: the Attempt to Establish a Jewish colony in the East Africa Protectorate, 1903-1905*, (Philadelphia: The Jewish Publication Society of America, 1968); Feldman, "Jews and the British Empire," *History Workshop Journal*, (Issue 63, 2007, 70-89), 81ff; Holmes, *Anti-Semitism in British Society*, (London: Edward Arnold, 1979), 118; David Glover, "Zionism, Territorialism, Race, and Nation in the Thought and Politics of Israel Zangwill" and Simon Rabinovitch "Imperial Zion: Israel Zangwill and the English Origins of Territorialism," in *'The Jew' in Late-Victorian and Edwardian Culture: Between the East End and East Africa*, Eitan Bar-Yosef and Nadia Valman (Eds.), (New York: Palgrave Macmillan, 2009, 113-143).

<sup>37</sup> Former diplomat Joseph Finn and his wife, Elizabeth Anne Finn were quite active, for example, in helping Jews to resettle in the Middle East and joined in helping to promote the "Committee of the Society for the Relief of Persecuted Jews," also called the "Syrian Colonization Fund." See, for example, coverage of meeting in *Daily News*, November 13, 1891); Arnold White suggested Armenia, a suggestion that was particularly odd at the time given the massacres of Armenian Christians then taking place (Bernard Gainer, *Alien Invasion*, [New York: Crane, Russak & Co., Inc., 1972], 127).

<sup>38</sup> *Jewish Chronicle*, January 2, 1891; National Archives, FO 78/5479, *Immigration of Jews into Palestine, 1891-1905*, ff. 75 and thereafter especially.

between immigrants and refugees. Furthermore, British politicians, commentators, and philanthropists struggled to preserve the distinction, as the remainder of this chapter recounts.

The imperative to shelter the persecuted remained at the core of a distinct refugee category. As the cultural prestige of the refugee declined, however, and as British elites sought to limit in-migration, they began setting a higher bar for what constituted persecution sufficient to merit refuge. Thus, British significantly narrowed their self-professed responsibility for foreigners in distress, but simultaneously reconfirmed their commitment to foreigners who had faced “real” persecution.

#### THE CHARACTER OF THE REFUGEE: LIBERAL IDEAL NO MORE?

British refugee supporters had long imagined all refugees to be ideal liberal subjects, brave, independent and willing to work. Distance helped to maintain this view of idealized refugee traits. When British abolitionists found fugitive slave John Anderson’s ‘progress’ less than stellar in the early 1860s, for example, he was unceremoniously transported to West Africa, after which his British biographer could continue to celebrate his refuge as a success story. After 1882, however, refugee destinations like the United States and Canada began refusing entry to migrants whom they deemed unfit for work. Consequently, those who remained in Britain shattered the image of the ideal, hard-working refugee of yesteryear.

IDENTIFYING THE MOST NEEDED: ANGLO-JEWISH PHILANTHROPY AND THE “REAL” REFUGEE — Limits placed on transmigration to the Americas made it incumbent upon the MHF committee and its affiliates to distinguish which refugees in their care were ideal candidates for resettlement elsewhere. Not all refugees were cut out for life on the frontier – especially now that fewer foreigners could resettle in urban areas like New York. Schemes to make Jewish refugees into agriculturalists assumed physical capacity to work in the fields. Moritz Ellinger of the New York Hebrew Emigrants’ Society clarified the burden that their resettlement schemes placed on their fellow philanthropists across the Atlantic: “Only those having a trade or able and willing to settle on the lands of the society, or to work as labourers on railways and otherwise should be selected for emigration.” Those who did not fit this description, he argued, “the aged and helpless[,] should remain in Europe at least until those on whom their care depends have been successfully established in their new homes.”<sup>39</sup>

If Anglo-Jewish philanthropists were to keep America as a possible place for Jewish transmigration, they were going to have to rework their expectations for the foreign refugees who remained in Britain. As early as 1882, they had to admit that selected transmigration promised to leave a sharp divide in abilities and in character between the refugees sent to America and those who remained in Britain proper. The Mansion House Committee reported that “those too old or too weakly, or deemed otherwise unfit for emigration, are kept here – a permanent burden on the Jewish community; but the most capable are sent to America at the sole cost of the mansion house fund.”<sup>40</sup> The MHF committee, then grappling with the refugees who remained at Brody, wrote that the misery of camp life itself seemed to reduce these refugees to

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<sup>39</sup> *Jewish Chronicle*, January 27, 1882. The Emigration of Russian Jews. Address by Moritz Ellinger of the Hebrew emigrants’ aid society of NY. See also, scholarship and contemporary media coverage on Baron de Hirsch’s schemes to resettle Jews in Canada and in South America. In particular, the concern was whether or not the Eastern European Jews would thrive as agriculturalists. The question tended to be answered in the negative.

<sup>40</sup> *Jewish Chronicle*, June 2, 1882.

despair. The MHF assumed that, de-moralized by their experiences, this remainder would never again be fit for emigration or capable of self-sustaining labor.

The Anglo-Jewish elite feared that the new image of a dependent, despondent charitable charge would become a target of animosity in England. Thus, Anglo-Jewish charity focused on mitigating the burden of the refugee community on British society, shouldering the costs of relief work almost entirely and helping their co-religionists assimilate into British society as best as possible. To a great extent, this worked. Eastern European Jewish migrants proved generally *upwardly* mobile. Anglo-Jewish charity was sufficient to keep most Jewish migrants off the poor rates and, within a generation, most of the foreign migrants were well settled according to witnesses at the 1903 Aliens Commission.

BRITISH ANTI-ALIENISM — Although many viewed Jews as generally upwardly mobile, this did little to diminish fears about their negative impact on British society.<sup>41</sup> The increased visibility of foreign Jews in the East End of London fueled a protectionism that, by the Khaki Election of 1901, had become widely popular among conservatives. Public opinion in the East End had become stridently anti-alien immigrant, anti-Semitic, and, at one extreme, anti-refugee. These threads of opinion were often so deeply entangled with one another that together they threatened to collapse the refugee category altogether.

At base, anti-alienism, in its more or less explicitly anti-Semitic forms, took three concrete forms in the 1890s and 1900s: concern about social welfare and the public order; fear about unfair labor competition and the social effects of capitalism more generally; and, by the time of the Second Anglo-Boer War (1899-1902), anxiety over the apparent degeneration of the British race. Conservative commentators cultivated and fanned these populist fears, making the foreign Jews the scapegoats for each concern.<sup>42</sup> In the last decades of the nineteenth century, Jews were typecast as racial others, a distinction that was as much a response to the problem of the “sameness” between Anglo-Jews and other white Britons as it was an attempt to categorize the new population of Eastern migrants.<sup>43</sup>

Conservatives as well as social reformers on the left demonized Jewish foreigners by portraying them as far from independent liberal subjects as possible. W. H. Wilkins and Arnold White equated Jews with the increasingly negatively perceived foreign Socialists and Anarchists – those proponents of the “vilest of political sentiments.” White went so far as to assert that the only “dangerous” form of Socialism in London was “either alien or semitic.”<sup>44</sup> Major William Evans-Gordon staked his career as MP for the East End district of Stepney on the need to end alien immigration, citing the “fact” that, although relatively few Jews were in English poor houses, thirty-nine percent of incoming Jews in 1901 found themselves in the books of the Jewish Board of Guardians. This figure was meant to inspire fear that Jews might soon wind up

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<sup>41</sup> According to one interpretation of Bram Stoker’s 1888 novel, Eastern European Jews preyed on British society as the fictional Dracula (an Eastern migrant himself) fed on the very English Lucy Westenra. Or the all-too-real Jack the Ripper who preyed on prostitutes in the East End and whom some believed to be Jewish, (Judith Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London*, [Chicago: University of Chicago Press, 1992] 200ff).

<sup>42</sup> Initially, as Bernard Gainer shows, the groups making these claims were remarkably insular, consisting of the likes of Arnold and high-ranking elite conservative recruits, like the Earl of Dunraven. This group remained the most influential. Their arguments became increasingly popular after 1900. At the time of the Boer War & the 1901 Khaki Election, popular organization emerged which provided these conservatives with more of an institutional footing among the working classes. Gainer, 60.

<sup>43</sup> Deborah Cohen, “Who Was Who? Race and Jews in Turn-of-the-Century Britain,” *Journal of British Studies*, 41 (October 2002, 460-483), 461.

<sup>44</sup> Wilkins, 47; White, *The Problems of a Great City*, (London: Remington and Company, Ltd., 1895 [first published 1886, second edition 1887]), xxvi.

in the workhouses as well.<sup>45</sup> Looking beyond the rates, Fabian Socialist Beatrice Potter (later Potter Webb) held the Jews responsible for degrading the quality of life for all laborers, since “they lacked pride and any definite standard of life” and “were able to live at a level Englishmen could not.”<sup>46</sup> White employed the same dehumanizing language that would be used against Boer families during the Second Anglo-Boer War: foreign Jews had “a scanty regard for cleanliness”; in short, they “nearly approach the conditions of animal life.”<sup>47</sup>

According to these outspoken critics of open immigration, Jews’ low standard of living allowed them to out-compete British men and women in East End trades. Proponents of restriction argued that Jewish labor competition was exacerbated by Jewish management practices. The Jewish capitalist now stood not only for the boom-and-bust of the Stock Exchange but also for the dreaded competition of the sweatshop. East End sweatshop owners were reputed to undercut native-English East End boot and textile industries especially effectively. They did this by using cheaper alien labor and working their laborers around the clock, even on Sundays – Sunday work, of course, furnished evidence of the “Jewishness” of sweatshops, for the more anti-Semitic of the anti-alien commentators.<sup>48</sup>

The Boer War brought concerns for the impact of this racialized population on the English has a whole to a fever pitch as critics blamed Jews for the war itself. Liberal war critic J. A. Hobson first made this claim in his 1902 *Imperialism: A Study*. Hobson accused Jewish financiers of propelling the British Government into the war. He claimed, that: “the business capital of every State” is “controlled, so far as Europe is concerned, chiefly by men of a single and peculiar race.”<sup>49</sup> British finance was no different, according to Hobson, and only this Jewish financial interest in South Africa brought the British into conflict with the Dutch Afrikaners. Though not on its face an argument against Jewish immigration, Hobson’s diatribe against Jewish interests helped to undercut British sympathies for foreign Jews. Though Hobson himself was Liberal, the point was a popular one for the Trade Unionists as well, who tended to favor immigrant restriction in order to check labor competition.<sup>50</sup>

Such were the sympathies of the most vocal commentators toward destitute foreign Jews and Jewish capitalists by the turn of the century. Though a minority opinion on the whole, this

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<sup>45</sup> Evans Gordon, *The Alien Immigrant*, (London: William Heinemann, 1903), 3.

<sup>46</sup> Feldman, *Englishmen & Jews*, 142, quoting Potter’s “East London Labour,” (*Nineteenth-century*, Aug 1888, 167).

<sup>47</sup> White’s testimony in House of Commons Parliamentary Papers, 1888 (305) Report from the Select Committee on Emigration and Immigration (foreigners), page 93, paragraph 1906.

<sup>48</sup> Wilkins made the connection to unfree labor explicit: “To call the place where these transactions are carried on a “slave-market” is perhaps an abuse of terms, since, in a strictly literal sense, nobody buys and nobody sells; but that it is a traffic in human beings cannot be denied” (Wilkins, 44).

<sup>49</sup> Hobson, *Imperialism: A Study*, (1902), 64. For the impact of this line of argument in Jewish literature, see Nadia Valman, “Little Jew Boys Made Good: Immigration, the South African War and Anglo-Jewish Fiction,” in *The ‘Jew’ in Edwardian Culture: Between the East End and East Africa*, Ed. Eitan Bar-Yosef and Nadia Valman, (London: Palgrave, 2008, 45-64).

<sup>50</sup> Colin Holmes, *Anti-Semitism in British Society*, (London: Edward Arnold, 1979), 68. As the war demanded more and more man-power, military recruiters found that fully two-thirds of the urban would-be soldiers were physically unfit for service (James Vernon, *Hunger: A Modern History*, [Cambridge: Harvard University Press, 2007, 87.]. One would think that this would further fuel anti-alienism and anti-Semitism given the popular concern about competition in the East End. Arnold White tended toward this point in his testimony at the 1902-03 Aliens Commission Hearings (1903 [Cd. 1742] Royal Commission on Alien Immigration. *Minutes of evidence taken before the Royal Commission on Alien Immigration. Vol. II*, p. 50). But the revelation that recruits were ill-suited to serve led more to a fear for the British race that ran separate from but in tandem with a fear for the growth of a racially other East End. Ironically, the 1904 Committee on Physical Deterioration studied the Jewish parents as models for good parenting, noticing that Jewish children were more likely to be strong despite their poverty and shared environmental conditions than their Christian counterparts (Mitchell Hart, *The Healthy Jew: The Symbiosis of Judaism and Modern Medicine*, [Cambridge: Cambridge University Press, 2007], 185).



group of commentators came to dominate the 1903 Aliens Commission.<sup>51</sup> But what did their opinion of *immigrants* have to do with their view on British refuge and asylum for foreign *refugees*? How did the assumed moral purity of refugees – as opposed to immigrants – fare in the eyes of would-be refugee supporters, conservative commentators, and the public at large? Did the British lose sight of refugees altogether?

IMMIGRANTS AND REFUGEES: A LOST DISTINCTION? — By the 1890s, public debate over foreign Jews indeed centered on their impact on British society, not on the oppression they faced overseas. This was a new emphasis in discussions of would-be refugees, and it threatened to occlude the careful distinction the British had long drawn between persecuted foreigners and foreign migrants more generally. For conservative commentators, especially, this was the goal. As historians Tony Kushner and Bernard Gainer have noted, Conservative commentators especially used the history of the Huguenots – the first “refugees” – to weigh the desirability of allowing Eastern European Jewish migrants to settle in Britain.<sup>52</sup> By the 1890s, accounts of the Huguenots increasingly dwelled upon the absorption of these religious refugees into British society.

Samuel Smiles led this new popularization of Huguenot history. Smiles was not of Huguenot descent, but he found in them a kindred commitment to religious and socio-economic independence.<sup>53</sup> The author of the immensely popular 1859 *Self-Help* published two books on the French Protestants: *The Huguenots; their settlements, churches and industries in England and Ireland* in 1867 and *The Huguenots in France after the Revocation of the Edict of Nantes* in 1873. His 1867 text went through seven editions before 1905.

The history of the Huguenots that Smiles depicts in *The Huguenots...in England and Ireland* mirrored Smiles’s arguments from his famous *Self-Help* and resonated with the classic refugee narrative in British culture. The Huguenots were refugees for conscience’s sake. Fleeing an oppressive government that would have forced their conversion or killed them, they arrived almost destitute on English and Irish shores (among other places). While they were destitute, they were not “idle,” Smiles highlights. Like the ideal liberal that Smiles described in *Self-Help*, the Huguenots were independent, industrious, and duty-bound. He wrote:

Fortunately for London, as for England, the men who now fled thither for refuge were not idle, dissolute, and ignorant, but peaceable, gentle and laborious. Though they were poor, they were not pauperized, but were thrifty and self-helping, and above all things eager in their desire to earn an honest living. They were among the most skilled and intelligent inhabitants of the countries which had driven them forth. Had they been weak men, they would have gone it the stream as others did, and

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<sup>51</sup> See Gainer, 183 for a discussion of the stroke of luck for the anti-alienists. They dominated the Royal Commission with only legal expert Kenhelm Digby and Lord Nathaniel Rothschild as countervailing forces. Indeed, only the latter two dissented from the final report recommending restriction.

<sup>52</sup> Harkening back to the history of the Huguenots was a new phenomenon. The resurrection of Huguenot history in the 1840s and 1850s had emphasized the persecution of the Huguenots in the hands of Continental despots (Chapter Four).

<sup>53</sup> Smiles was himself raised by a father who was a strict member of the Reformed Scottish Presbyterian Church (the Cameronians). Like the Calvinist Huguenots, the Cameronians struggled for recognition in the seventeenth and eighteenth centuries. Though, as Smiles does not seem to have made this direct comparison himself, I am leery of making too much of the similarity.

conformed; but they were men with convictions, earnest for the truth, and ready to sacrifice all to follow it.<sup>54</sup>

Smiles was not surprised that such men, women and children went on to found so many industries in England and in Ireland, their legacies still visible in English society. The newly formed Huguenot Historical Society took up Smiles's depiction of Huguenot industriousness with great zeal. From its 1885 formation, members investigated their refugee past and highlighted the ways in which that past had been a crucial foundation for Britain's economic might.

Neither the Huguenot Historical Society's publications nor Smiles's books addressed the relationship between new and old refugee groups. The ex-President of the Huguenot Historical Society and writer William John Charles Moens provided expert testimony at the 1903 Royal Commission on Alien Immigration, as Kushner and Gainer point out. As far as I have found, Smiles did not comment on the Jewish Question or the contemporary Aliens question. Nonetheless, Smiles's account was the classic liberal template for foreign refugees, and it was still popular as a mythology, alive and well throughout this period. Smiles's publishers appear to have recognized this fact and sought to capitalize on the connection. They had a knack for republishing Smiles's 1867 text in moments of increased Eastern European Jewish migration, releasing subsequent editions of Smiles's book in 1881 and 1889 – two such periods of increased migration – and a popular edition at the time of the Aliens Act debates in 1905.<sup>55</sup>

Simply making a connection between the Huguenots and the Jews did not mean that the commentator was necessarily pro- or anti-alien restriction, or predisposed to view Eastern European Jews as deserving of British refuge. Kushner highlights that Moens's testimony could have been read either way. Moens confirmed the integral role of foreign trades in founding innumerable *English* industries before and after the Reformation. But these early alien immigrants were isolated from English society at the time, lived together and only assimilated over time. Smiles made this point too; anger over labor competition had been fierce enough to provoke riots against their foreign guests. Indeed, it could easily be argued that the Anglo-Jewry themselves had imbibed a Huguenot model for their foreign co-religionists. They and other pro-alien commentators stressed Eastern European Jews' industriousness, sobriety and their contribution to trade. As historian John Garrard notes, Smiles himself would have admired their ability to live on little at a time when elite English society had become so dependent on its riches.<sup>56</sup>

Despite the even-handedness of these accounts of Huguenot history, supporters and opponents of Jewish refugees sought to mobilize the ongoing popularity of this mythology for their own cause. Conservatives juxtaposed the much-loved Huguenots against the “danger” of unregulated Jewish migration. In an 1893 novel that is little remembered today, Sir Arthur Conan

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<sup>54</sup> Smiles, *The Huguenots: Their Settlements, Churches and Industries in England and Ireland*, (London: John Murray, 1867), 111.

<sup>55</sup> Smiles makes an explicit reference to the Franco-Prussian War and the civilians displaced by the war in the preface to his 1889 edition, which is in itself an odd displacement as there were certainly newer groups to mention, not least of which were the Jews. His point, however, was to highlight that the first French translation appeared in the midst of that War, a time when France (once more) forced its population to flee. Smiles, *The Huguenots...*, Sixth Edition, (London: J. Murray, 1889), vi-vii.

<sup>56</sup> Tony Kushner, “Meaning nothing but good: ethics, history and asylum-seeker phobia in Britain,” *Patterns of Prejudice*, (Vol. 37, No. 3, 2003, 257-276), 266-67; Moens testified on May 18, 1903, 1903 [Cd. 1742] Royal Commission on Alien Immigration, *Minutes of evidence taken before the Royal Commission on Alien Immigration*, Vol. II., his testimony begins at paragraph 23062, page 847ff; Smiles, 101 (in 1867 edition); John Garrard, *The English and Immigration: A Comparative Study of the Jewish Influx 1880-1910*, (London: Oxford University Press & the Institute of Race Relations, 1971), 95ff.

Doyle – later a member of the anti-alien British Brothers’ League – tapped into popular interest in Huguenot history. Conan Doyle describes the history of the Huguenots in France in the years prior to the revocation of the Edict of Nantes before returning to familiar narrative style by having bloodthirsty French Catholics pursue the Huguenot protagonists in the Americas. In the preface to his novel, Conan Doyle contrasted these early modern refugee heroes with the contemporary Jewish migration. “Each immigrant foreign Jew settling in this country joins, not the English community as the Huguenot and Hollander refugees from the Roman Catholic prosecutions of the seventeenth century joined us,” Conan Doyle explained, “but a community proudly separate, racially distinct, and existing preferentially aloof.” There were two options before the nation, he claimed, “England [was] either compelled to abandon her secular practice of complacent acceptance of every human being choosing to settle on these shores, or to face the certainty of the Jews becoming stronger, richer, and vastly more numerous.”<sup>57</sup>

Conservative commentators who employed the Huguenot example shared Conan Doyle’s critique of Jewish “aloofness” – as opposed to the Huguenots’ apparent willingness to assimilate. “Aloofness” generally enabled the commentator to weigh whether Jewish trades benefited British society as well as their own “race.” More direly, it also enabled the commentator to pronounce whether the Jews would ever, or could ever, become simply a part of British stock, as had the Huguenots. Wilkins, for example, was disposed to believe that immigration into Britain was a good thing, on the whole, provided that immigrants were “gradually absorbed into our national life, and become good and useful members of the community. The skilled labourer, the decent artisan, the man with brains to work, or with money to spend, is always welcome to our shores.” “Such were the Huguenots,” Wilkins explained. Destitute Eastern European Jews were different, he argued; “It cannot be seriously maintained that these low-class Jewish immigrants have stimulated or created new wants. They have created no new trade; they have debased old ones.” Evans-Gordon described the Jews’ “ghetto-habit,” in his 1903 text, explaining the “vital difference between Huguenots and other Protestant immigrants and the Hebrew people” as the latter’s “clannishness” which derived from “a sort of historical fear of separation from their co-religionists.”<sup>58</sup>

The 1902-03 Royal Commission on Alien Immigration made a study of these points. This comparison was most pronounced in Moens’s testimony, but is also evident throughout the Commission’s two years of hearings. With regard to trade, debate revolved around a laundry list of Jewish trades, whether these trades were new and whether they detrimentally affected the native-born British population in London, in Manchester, or in other areas with rapidly growing Eastern European Jewish populations. The numbers showed that Jewish immigrants did introduce new trade and that this trade had relatively little impact on native industry and labor overall. Again, however, these facts did little to deter anti-alien commentators’ claims that the opposite was true.

Conversations about Jews’ assimilability followed similar lines. Hostile witnesses cited the formation of a “Jewish” East End in which English was hardly spoken and friendlier testimony cited Jewish immigrants’ ability, in the second generation especially, to learn English and thrive in English schools. Yet witnesses on both sides of the question of adaptability shared the belief that the only desirable immigrant was one who blended almost entirely with the English stock. However, witnesses disagreed on the meaning of assimilation. Firm proponents of

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<sup>57</sup> Conan Doyle, *The Refugees: A Tale of Two Continents*, (London: Longmans, Green, 1893), xii-xiii.

<sup>58</sup> Wilkins, 6; Evans-Gordon, 8.

liberal individualism, the Anglo-Jewry was confident that their foreign co-religionists would assimilate in time, losing their distinctive orthodoxy, if not becoming entirely secular.<sup>59</sup> For Conservative proponents of restriction, blending meant maintaining no religious difference at all, though British laws now allowed heterodoxy even in civic life. Arnold White described in his testimony that the ideal refugees in this sense were “the Huguenots and Flemish whose second generation [in England] was a negligible element.” They, “in the course of thirty or forty years,” “blended with the native population.”<sup>60</sup> By contrast, the Jews’ “ghetto-habit” – specifically their refusal to intermarry – made it impossible for them ever to blend into British society. Again White argued at the outset of the hearings, that:

...[T]hey do not plant as the Huguenots did; that is my point. Among the upper and middle classes, it must be admitted that a few mixed marriages have taken place, but they are the exceptions, like the conversions of the Hebrews to Christianity. It is a fact that I will undertake to sustain in evidence that the Russian immigrants, with which the Royal Commission is concerned, holding fast to the faith of their fathers, regard inter-marriage with the English as contamination; and assimilation, as involving tribal disgrace and religious delinquency.<sup>61</sup>

While Anglo-Jews did not comment on this specific point, Theodore Herzl was forced to do so. In questioning the Austro-Hungarian father of Zionism before the Commission, Evans-Gordon demanded to know whether the assimilation of such foreigners was possible. Herzl used the example of the Huguenots as evidence in favor of assimilation. Evans-Gordon seized upon this example immediately, dismissing any analogies between Jews and the Huguenots on the point of assimilation. “The Huguenots,” he explained, “were essentially an intermarrying people, and were speedily absorbed by marriage into the general population.”<sup>62</sup> Herzl, whose larger socio-political point was separatist to begin with, could do little other than agree that full Jewish assimilation was unlikely if foreigners’ assimilation or contribution to English society was so narrowly defined.

Arguments over assimilation drew force from contemporary conversations about “essential” racial differences and from the classic British refugee narrative. Though British welcome to foreign refugees had never before depended upon the possibility of their intermarrying, novelists had long depicted intermarriage as the second best outcome of exile, second only to a triumphant return to a homeland freed of persecution. The weary refugee found solace in the bosom of an English family, typically one as sympathetic to the exile’s political cause as the refugee was willing to embrace English ideals. Indeed, the Commissioners learned from the Reverend E. Canney, rector of a church in Holborn, Central London, that this was

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<sup>59</sup> Of course, within the Western and Central European Jewry the question of assimilation had long been a particularly vexed one; this was particularly so in this moment because of rising discourses on racial differences in lieu of simply religious ones and the growing tide of Eastern European Jewish migration. For a concise history of Jewish thought on assimilation in the century following the French Revolution, see Walter Laqueur, *A History of Zionism*, 3<sup>rd</sup> Edition, (New York: Tauris Parke Paperbacks, 2003), Chapter One.

<sup>60</sup> 1903 [Cd. 1742] Royal Commission on Alien Immigration. *Minutes of evidence taken before the Royal Commission on Alien Immigration*. Vol. II. paragraph 332, page 16.

<sup>61</sup> *Ibid.*

<sup>62</sup> 1903 [Cd. 1742] Royal Commission on Alien Immigration. *Minutes of evidence taken before the Royal Commission on Alien Immigration*. Vol. II. paragraph 6364, page 217.

common even among Italian Roman Catholics. Canney explained that many of the less zealous Catholics, e.g. those more attached to Mazzini than the pope, married English women.<sup>63</sup> Although these marriages were far from the norm at the time of Mazzini, the apparent absence of any such marriages at the end of the century became a case in point for anti-alien commentators, who did not believe that Jews could “become” British.

We risk giving these important comparisons too much agency in the history of British asylum, however. Debate over potential assimilation was a red herring when weighing whether the British ought to continue to assist foreign refugees. It deflected attention from the question of persecution. Whether or not Eastern European Jews were ideal settlers, weren't they still refugees? Wasn't it flight from persecution that made refuge a moral imperative? Did this imperative still have resonance?

One conclusion to draw from the prevalence of anti-alien rhetoric was that British refuge for the persecuted was on its deathbed. Historians have more or less implied that this was the case, accepting that the narrowed distinction between refugee and immigrant meant that the categories had essentially disappeared (or that the distinction had never truly mattered in the first place). In this model, apostrophes to asylum for *bona fide* refugees were political window-dressings or belonged only to fringe groups like the Anglo-Jewry, as some Conservative commentators attempted to argue at the turn of the century. The 1894 Board of Trade Report concluded that a “strong feeling of race patriotism among the Jews [that] leads them to lay great stress on the preservation of the right of asylum to refugees from political or religious persecution,” implying that this *right* was only being propped up through their efforts.<sup>64</sup>

Despite these claims, however, immigrants and refugees remained distinct – and would be treated differently in the 1905 Aliens Act. This is testament the durability of Britain's sense of moral obligation in the face of countervailing ideological and political forces. In fact, open disavowals of Britain's humanitarian commitment to refugees were rare. Understandably, proponents of restriction tried to avoid discussing the treatment of Jews overseas. They evidently feared that reminders of foreign persecution would activate old humanitarian commitments and distract their audiences from the task of immigration reform.

When pressed, even the most stridently anti-alien commentators did not argue for abandoning traditional British asylum. The Reverend G. S. Reaney could only allude to this possibility in his text. In the passage with which I began this chapter, he alluded to a responsibility to provide shelter to refugees in the conditional: “If these men and women are political exiles and religious refugees, and we, in England, are bound [...] to give them protection.”<sup>65</sup> After a failed attempt to pass more restrictive immigration policy in the mid-1890s, Arnold White proposed a bill in his 1899 text that “without in any way impairing the

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<sup>63</sup> 1903 [Cd. 1742] Royal Commission on Alien Immigration. Minutes of evidence taken before the Royal Commission on Alien Immigration. Vol. II, paragraph 12,676-77, page 430. The Commission tapped into the classic refugee narrative on this score, without indication that the standard narrative had itself begun to change in the 1870s, regarding political and religious refugees. We saw a shift in the narrative of acceptance in Edward Dutton Cook's *Doubleday's Children*, which centralizes the question of whether a political refugee can become part of a British family (Chapter Five). The same year, 1876, George Eliot's *Daniel Deronda* posed the same question vis-à-vis Britain's Jews. Though not about refugees as such, the novel explores the fate of characters who marry – for love or money – in and out of the Jewish faith. Deronda, once aware of his heritage, marries the Jewish Mirah Lapidoth. The two do not make their home in England, but set out for Palestine. Eliot does not deny that individual Jews might prefer to marry outside the faith – Deronda's mother, for instance, after being forced into marrying her first husband (Daniel's father), converts to marry her second husband.

<sup>64</sup> 1894 [C.7406] Board of Trade. (Alien immigration.) *Reports on the volume and effects of recent immigration from Eastern Europe into the United Kingdom*. Concluding Summary, 135.

<sup>65</sup> Reaney, *op.cit.*, 83.

protection and asylum hitherto accorded to political and religious refugees from other countries” “prohibit[s] the coming into this realm of such alien, unskilled, diseased or incapable paupers as are likely to become a public or private charge.”<sup>66</sup> Evans-Gordon, too, assured his readers that, though it would undoubtedly be alleged that they were abandoning a traditional practice by denying entry to any foreigner whatsoever, this was not the case. He insisted that he was “as unwilling as any man to deny the right of asylum to a political refugee.” “But,” he continued, “There is a great difference between that and admitting the professional criminal, or leaving unregulated an immigration *en masse* which is ousting our people from their homes and steadily building up a ghetto.”<sup>67</sup>

So who, if anyone, among these foreigners was a “genuine” refugee?

#### DEFINING PERSECUTION: THE HUNT FOR *BONA FIDE* REFUGEES

Few in Britain could deny that Russia treated its ethnic minorities unequally in the later decades of the nineteenth century. The May Laws burdened Jews with civic and socio-economic disabilities. Anti-Semitic hostility in the East led to intermittent pogroms. This was indisputable. But did this amount to persecution? After 1880, the ways in which philanthropists, officials and public commentators determined which foreigners were refugees changed. Through the middle of the nineteenth century any member of a persecuted group could be a refugee. Systems to check refugees’ statements were generally limited to identifying that they were actually from said group and verifying that the refugees were of good character, which British supporters were usually inclined to assume.<sup>68</sup> By the end of the nineteenth century the British were no longer inclined to make this assumption.

HOPING FOR THE BEST — Anglo-Jewish philanthropists significantly raised the threshold of persecution sufficient to merit British asylum. The Fugitive Slave Commissioners had been the first to assert that not every foreign slave was necessarily entitled to British refuge, and that to be a refugee a slave had to be persecuted in hot-blood. Post-1882, members of the MHF employed this model in treatment of refugee Jews. Rather than relying on membership to the particular group, which would have meant counting all Eastern Jews as refugees, philanthropists emphasized rather the moment of flight as a means of distinguishing the immigrant from the refugee in cases where the identity and character of the one was all but indistinguishable from that of the other.

The Anglo-Jewish relief committees required proof that would-be refugees from specific regions in Russia in which the Jews were being persecuted and that the would-be refugees fled at a moment in which persecution actually had been taking place. The Mansion House Committee insisted that they could only relieve those “who are strictly ‘refugees’ from violence and oppression” in this sense.<sup>69</sup> The Jewish Colonization Association similarly regretted that they could not help the Board of Guardians with “immigrants” from the East. Established to assist refugee, the association “cannot help with emigration where [those in question were] not from the country in which [Jews were being] being persecuted.”<sup>70</sup>

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<sup>66</sup> White, *Modern Jew*, 195-96.

<sup>67</sup> Evans-Gordon, 293.

<sup>68</sup> For this process of verification, philanthropists relied mostly on prominent, known members of a given exile group. In the case of fugitive slaves, they corresponded with American Anti-Slavery Societies, who were often responsible for having helped these refugees escape to the UK to avoid the reach of the Fugitive Slave Law. (Chapter Three).

<sup>69</sup> *Jewish Chronicle*, March 31, 1882.

<sup>70</sup> Southampton Special Collections. Hartley Library. Jewish Colonization Association, ff. 210, November 9, 1896.

Determining which foreigners fled “persecution” was a difficult task. It became the first closely parsed distinction between political refugees and those we now consider to be economic refugees. Whereas under contemporary United Nations refugee conventions intentional economic deprivation can entitle members of the targeted group to asylum elsewhere, fleeing home for a “better life” did not entitle a foreigner to refugee status at this time, although the philanthropists considered this possibility for the first time.

The MHF Committee continually lamented, as they did in June 1882, how difficult evidence of persecution was to gather as they found that “many Jewish families are daily arriving in London from the undisturbed districts in Russia and Poland, which they need not have left.” The MHF Committee concluded that these Jews had emigrated only “in the hope of being allowed to participate in the emigration afforded from the Mansion House fund.” A “considerable number” of others could not easily be categorized as “refugees” as opposed to immigrants,” since they were “unable to produce the smallest amount of evidence, except their verbal statements, which are generally far from concise and apparently very unreliable, even of the districts from which they are, as they assert, fugitives.”<sup>71</sup>

The MHF openly discussed whom they ought to exclude. For the first time in British history, they weighed whether economic in addition to political and religious oppression was sufficient “persecution” for foreigners to be admitted onto their refugee relief rolls. Eastern European Jews could not be refugees if they simply sought a better life overseas. Reverend Reaney and Anglo-Jews tended to agree that life in the East End was not necessarily any better on that score. With this in mind, two particular groups of Eastern European Jews were automatically to be excluded from the MHF rolls: men who left their wives in search of employment overseas and military deserters. In contrast to persecuted refugees, men who left their wives and families were deemed to be irresponsible and culpable for needless suffering. Russian military deserters (or draft-dodgers) were morally suspect as well. Since Jews were not religious pacifists, MHF officials judged that they had no legitimate reason to evade military service in their home country. Military conscription in and of itself did not amount to targeted persecution.<sup>72</sup>

The Anglo-Jewish Association strove to deter foreign Jews from even attempting to make use of the Mansion House funds only in order to secure a better life. To this end, the committee gave “notice to this effect is being circulated [in Continental newspapers] abroad, and will it is hoped, be strictly acted upon in turn by the intermediate committees, which have hitherto assisted many of such cases to London.” There was no other means, the *Jewish Chronicle* lamented, “to nurse the funds and ensure the assisting of cases proved to be worthy of help, before aiding very doubtful ones.” As the chairman of the Russo-Jewish fund noted, the committee was already under fire from philanthropists in America “for not having been severe enough in the selection of *bona fide* Russian refugees for emigration.”<sup>73</sup>

Deserters, men who had left their wives, and other non-refugees who made their way to Britain were liable to be returned to Russia. Though the Jewish Board of Guardians did not have

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<sup>71</sup> *Jewish Chronicle*, June 2, 1882.

<sup>72</sup> *Ibid.*; Anglo-Jewish Association Archives at the University of Southampton, UK’s Special Collections, MS 173 1/1/3, Minutes 1901-1911, ff. 133 June 19, 1905. This is in contrast to the Russian Mennonites, for example, with whom British Quakers readily identified for their shared pacifism.

<sup>73</sup> *Jewish Chronicle*, June 2, 1882 & July 21, 1882.

the legal ability to expel foreigners from Britain, the committee used its relief fund to pay return passage for “non-refugees.”<sup>74</sup>

The Anglo-Jewish Association did not limit returns to foreigners classified as immigrants; indeed, the MHF repatriated some *bona fide* refugees in the same manner on the grounds that, if the cause of their persecution were removed, then – even if they had had real cause to flee initially – they could return safely. The Anglo-Jewry has been much criticized by historians for returning Eastern European Jews. Yet, without excusing the act, it is critical that we understand that this practice derived from the logic of British refuge itself. The return of refugees to an improved situation overseas had always been the goal of British refuge. British refuge, though it often became permanent, was meant in principle to be a temporary shelter from the political storm. The refugee’s return was supposed to be triumphant, like that of Mazzini and Garibaldi to an Italy whose independence they had won. More often than not, however, refugees returned home after receiving a general pardon or reprieve from the worst of the oppression that had forced them to leave in the first place.

At the foundation of the Russo-Jewish Mansion House committee, the Anglo-Jewry had highlighted how optimistic they were that support of the Romanian Jews would soon become unnecessary. As one of the editors of the *Jewish Chronicle* noted, “the lives of Jews, the honour of their women have at least been safe in Roumania [*sic.*]” Unlike the Russian Jews, the Jews of Romania “have no longer been commonly turned out of their houses in winter or in the dead of night. Their sufferings have ceased to be dramatic, although they have not been entirely terminated. . . . Slowly but surely [they were] being made citizens. . . .”<sup>75</sup> Note the insistence on relative acceptance. It was not that the Jews were treated well, but rather that they were no longer “commonly” victimized in the most outrageous manner. Moreover, the *Jewish Chronicle*’s correspondent assumed that citizenship would surely give the Romanian Government an interest in their wellbeing. In short, the Anglo-Jewry need not concern itself with would-be Romanian refugees when the Russian case was more pressing.

By the beginning of 1883, however, the Anglo-Jewish community would turn from sharp critiques of Russian oppression to tentative hopes for Russian reform. As early as the summer of 1882, Jewish philanthropists expressed hope that the acute crisis in Russia was coming to a close and that it would thus be safe to stop refugee flight. While it is true that worst of the early-1880s pogroms were then in the past, the change in prognosis offered a much-needed let-up of relief provision at a crucial moment. Most the 1881-82 Russian refugees who had congregated at Brody on the Austrian border had been resettled. But, like other voluntary groups at work in the region, the MHF was at a loss over what to do with those who could not be forwarded to the US or elsewhere because they were too infirm or “demoralized” to make good settlers. Having determined that their home districts in Russia were then safe enough, the MHF could help 3,000 of these remaining refugees to return home to Russia.<sup>76</sup>

The following winter, the Russo-Jewish Committee also had on their hands several hundred Jewish migrants who “appeared to be quite unable to fight the battle of life away from their own country, amidst a people speaking a language unknown to them, and with habits

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<sup>74</sup> This form of relief was typical for foreigners (non-refugees) in distress. The Society of Friends of Foreigners in Distress (begun in 1806) had long used this as one of its standard models of relief based mostly on the assumptions that a) it would be less expensive for the SFFD and b) that the foreigner had better support networks in his/her home country. See, accounts of the Society for 1814, 1817, 1819, 1823-25, 1828, 1847, 1866, 1892, held in British Library Rare Books Reading Room; see also, Feldman, “Was the Nineteenth Century a Golden Age. . . .” 171.

<sup>75</sup> *Jewish Chronicle*, February 3, 1882.

<sup>76</sup> *Jewish Chronicle*, July 14, 1882.



somewhat different to their own.” Despite the fact that many Anglo-Jewish charities were established for the express purpose of helping Eastern European Jews adapt to English society, the Committee was relieved that “fortunately it was decided at the Vienna conference [of leading Jewish European philanthropists] that repatriation was possible.” Five hundred and ten adults and 114 children were thus returned home from Britain proper.<sup>77</sup>

*Jewish Chronicle* editors were circumspect in how they depicted this repatriation program. Knowing the wrong that they would be committing if they returned foreigners to face persecution, the MHF Committee, via the *Chronicle*, was careful to state that the returnees were, in large part, those whose flight had been opportunistic and not necessary. Moreover, they espoused a great deal of confidence in the rule of just law in Russia. The *Jewish Chronicle* followed suit. In stark contrast to their condemnation of Eastern oppression in “Darkest Russia,” the editors emphasized the end of violence and the prospect of legal reform in Russia. In February 1883, the *Chronicle* reported that there was a “silver lining” to the previous years of violence. The optimistic editors asserted that:

Slowly, but as we would hope, surely, the condition of our Russian coreligionists is improving. There are signs which indicate an amelioration of the exceptional position of Jewish students at the Universities. By a decree of the Senate the existing restrictions as to residence which are imposed in the case of Jews generally are to be realized in favor of the children of Jewish soldiers. The government is beginning to see that Jews are being entrusted with the privileges [that] are enjoyed by the great mass of her people.<sup>78</sup>

When there was fresh violence six months later, the newspaper highlighted how keen Russian authorities were to suppress anti-Jewish sentiment. It judged that the restoration of peace was guaranteed. Quoting the *Times* correspondent in St. Petersburg after a new outbreak of violence, the *Chronicle* explained that, “the Russian authorities have acted with great energy and severity in suppressing the anti-Jewish disorders. There has been no hesitation or loss of time in using military force against the rioters.” Unlike in the previous year, the editors claimed: “there is, therefore, some hope that the agitation will not spread as it did before. The town is now reported to be quiet.”<sup>79</sup> Nothing, it seemed, would bring a repeat of the level of violence – and necessary flight – that had accompanied the pogroms and May Laws of 1881-82. The editors again insinuated that, if the czar and his officers promised reform in the future, then the Jews need not be refugees now.

In communication beyond the Jewish circles, Anglo-Jewish philanthropists repeated this hope that the worst oppression was in the past. Anglo-Jewish philanthropist Hermann Landau testified before the House of Commons Select Committee on Emigration and Immigration in 1888. Asked to comment on the cause of increased Jewish migration to Britain between 1882 and 1886, Landau, who ran the East End Poor Jews’ Temporary Shelter, testified that Eastern European Jews had then been fleeing “persecution in Russia.” But, the “acute part of it [the persecution] has ceased,” he added when prompted, assuring the Committee that further flight would not be necessary. Landau went so far as to imply that, absent persecution, Russian and

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<sup>77</sup> *Jewish Chronicle*, January 19, 1883.

<sup>78</sup> *Jewish Chronicle*, February 23, 1883.

<sup>79</sup> *Jewish Chronicle*, August 10, 1883.

Polish Jews had little interest in leaving their homelands. Whereas there was a certain charm in emigration for the English, Landau explained that, “when a young man in Poland or Russia leaves for abroad it is considered quite a disgrace to his family; I can assure you that is a positive fact.”<sup>80</sup>

ANTI-ALIEN COMMENTATORS AND A NEW BRITISH RELATIVISM — Anglo-Jewish leaders’ assurances about the subsiding of persecution of Jews in Eastern Europe were later turned into rhetorical effect by anti-Semitic proponents of restriction. In the early 1880s, the MHF had employed optimistic pronouncements as a way of stretching limited resources for relief; by the 1890s and 1900s, commentators like Major William Evans-Gordon, Arnold White and G. S. Reaney were using the same sorts of claims to question whether any of the Eastern European Jews then in Britain had, in point of fact, ever suffered from persecution. If the Eastern European Jews were not *really* being oppressed then neither flight nor British refuge were necessary. Thus, anti-alien commentators argued, the British would not be reneging on a moral imperative if they passed legislation to curb the influx of destitute Eastern European Jews.

Conservative commentators generally doubted that Eastern European Jews were persecuted religious refugees and condemned the public’s readiness to assume otherwise. In his 1892 *The Alien Invasion*, for example, Wilkins condemned the “hearsay tales” taken as proof of persecution, likening reliance on these tales to assuming that the annals of murder in the English court records accurately reflected the English character writ large. Reverend Reaney, in his contribution to Arnold White’s edited volume of the same year, *The Destitute Alien*, demanded, “we must know more about them.” Without knowing more about the character of the would-be refugees, Reaney argued somewhat sarcastically, the British could not satisfy themselves that “the only reason for their expulsion from Russia is because they are so pure and saintly and true to the best traditions of the remarkable race to which they belong.” Reaney demanded pure victimhood – and purely religious persecution – from would-be Jewish refugees.<sup>81</sup>

By 1899, Arnold White took this skepticism further, blaming British officials for falsifying the refugee status of East European Jews. He accused English and Anglo-Jewish charities of enticing the “submerged tenth” from East European cities to British shores with their funds. White asserted that the Labour Department of the Board of Trade had conspired to perpetuate the “idea that the dregs of Russian cities who remain here are mainly refugees” in their hearings, presumably because the Board of Trade hoped to dilute the market power of domestic laborers. Their “device” of terming these destitute foreigners “refugees” was an outright fiction used to convince the public and the House of Commons that refuge was necessary. Though this accusation has no basis in the records of the Board of Trade’s 1894 investigation into alien immigration, White’s 1899 *The Modern Jew* claimed to be addressing the public “frankly” at last.<sup>82</sup>

Whereas White fingered only the Board of Trade, Evans-Gordon indicted the British public at large. Evans-Gordon, perhaps the most overtly anti-Semitic of the anti-alien commentators who headed the 1902-03 Aliens Commission, questioned whether the British public could identify “real” persecution at all. His 1903 *The Alien Immigrant* contained a chapter devoted to the notion of persecution, large sections of which were read into the 1903 Aliens

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<sup>80</sup> House of Commons Parliamentary Papers, 1888 (305) Report from the Select Committee on Emigration and Immigration (foreigners), page 112, paragraphs 2264-65.

<sup>81</sup> W. H. Wilkins, *The Alien Invasion*. With an introductory note by the Right reverend the Bishop of Bedford, (London: Methuen and Co., 1892) 11; Reaney, “Moral Aspect,” 79.

<sup>82</sup> Arnold White, *The Modern Jew*, (London: William Heinemann, 1899), 188 & 191.

Commission hearings. In both venues, this outspoken Conservative laid bare what he saw as inherent problems in popular outrage at alleged foreign despotism. Holding foreign governments to Britain's own liberal standards was wrong-headed, he claimed: "From an English point of view everyone in Russia is more or less persecuted. He argued that, by applying their own standards to Russia's Jews, they failed to notice that the Jews were treated on a par with all minority groups within Russia: "Quite apart from any special legislation against the Jews, it is a fundamental principle of Russian policy to Russianize, as far as possible, every subject of the Czar." Evans-Gordon asserted that Jews got off easily when compared with the Catholic Poles under Russian domination. The Jews might face civic and economic disabilities, but, he claimed, this hardly amounted to "distinctively religious persecution" sufficient to make this particular group refugees.<sup>83</sup>

By the standard nineteenth-century logic of refuge, any Russian discrimination against its minority subjects would have been taken as sufficient grounds for public umbrage. Outraged British voluntary groups would have welcomed Catholic Poles as well as Russian Jews in their broader critique of foreign despotism as it contrasted with British liberalism. At the turn of the twentieth century, however, Evans-Gordon warded against this interpretation of his evidence. He granted that Russianization was brutal. Yet, he argued in his text that one would find similar efforts to assimilate minority groups in the Kaiser's Germany, in democratic America, and in liberal Britain.<sup>84</sup> In so doing, he endeavored to turn the logic of classically British refuge on its head. Outrage at the illiberal treatment of foreigners overseas was the root of liberal interest in persecuted foreigners. Rather than assuming that illiberal treatment required British intervention, he reminded his audience that such experiences were the norm and he stated that liberal Britain could do little to change the situation.

Evans-Gordon tried to steer the Royal Commission toward the same conclusions during his questioning of Theodore Herzl. Exploiting ideological divisions between Herzl and the more assimilation-minded Anglo-Jewry, Evans-Gordon demanded of this Zionist leader what he meant when he said that the Jews were "persecuted," when even leaders of the Anglo-Jewish community admitted that not *all* Eastern European Jews had been so treated. Pressed to define "persecution," Herzl tried to explain that, though it took different forms, "everywhere the Jew is the scapegoat, the whipping boy; and one day he tries no longer to be a scapegoat, and he seeks other skies..." Doubtful, Evans-Gordon fired back that not even the Jews themselves would uniformly call themselves "persecuted," to which Herzl explained that "You have definite outbreaks and persecutions which come occasionally, and then you have the far-reaching pressure every day. A man who does not know what it is to be a free man says: 'no, I am not persecuted,' because he has not got his head wounded." Laying a trap for Herzl, Evans-Gordon then demanded whether "the economic conditions of overcrowding and so forth where there is great pressure, is a form of persecution which exists anywhere where people are overcrowded?" Herzl responded in the affirmative, adding quickly: "the Jew is not sure of his life to-morrow,

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<sup>83</sup> Major William Evans-Gordon, *The Alien Immigrant*, (London: William Heinemann, 1903), 50-53; 1903 [Cd. 1742] Royal Commission on Alien Immigration, Minutes of evidence taken before the Royal Commission on Alien Immigration, Vol. II, Paragraph 13,349, pages 450ff. Romania was a different case. Whereas, in Evans-Gordon's point of view, philanthropists encouraged Jews to emigrate from Russia even he had to admit that the government compelled the Jews to leave their homes in Romania, given their refusal to naturalize Jews as Romanian subjects. This, he admitted, qualified as persecution. Not terribly surprisingly, Evans-Gordon viewed Romanian Jews more leniently, believing them a cut above their Russian and Polish co-religionists and well cut-out for emigration – though he hoped that that emigration would not take them to London proper but to Argentina. *1903 Hearings, op.cit.*, page 460ff.

<sup>84</sup> Evans-Gordon, *The Alien Immigrant*, 52.

and if his house is burnt and his windows are smashed, that is nothing; he lives in a perpetual fear with the madness of persecution.” Pressed even further, Evans-Gordon forced Herzl to admit he “cannot write books and books about it [persecution], but I must employ a general term for it.” Defined generally, Herzl’s term “persecution” included racist sentiments then on the rise in England proper, explaining that he “included in it even the slight anti-Jewish feeling in society where it exists. Persecution may be a smile in society and a *coup de poing* in Stepney.” Stepping back, Evans-Gordon contended that this phenomenon was not persecution: “you say it produces persecution, but we will modify that, and say it produces anti-Jewish feeling or anti-Jewish action.” Knowing that he had successfully cornered Herzl, Evans-Gordon then asked if the desire to limit immigration into the overcrowded East End amounted to persecution. Herzl had to answer cautiously, toeing a line between admitting a right to “loyal self-defense” of one’s own population and emphasizing “a difficulty on humane grounds.”<sup>85</sup>

Evans-Gordon’s position required would-be refugee supporters to believe that ethnic minorities were never targeted for persecution and thus never qualified for the special assistance reserved for refugees. Although even the Anglo-Jewish community tried to reassure the British public and Parliament that acute persecution was in the past, few ultimately endorsed this position wholesale. Renewed outbreaks of anti-Jewish violence in Russia and in Romania challenged Anglo-Jewish philanthropists’ hope for reform. In the wake of renewed violence, they briefly suspended their policy of repatriation in the 1890s, after the Kischeneff Massacres of 1903, and in the wake of the Russian Revolution of 1905, ultimately admitting that real reform might never come.<sup>86</sup> Only Evans-Gordon clung to his belief that the Jews were never targeted for “real” persecution, though he later bracketed the Kischeneff Massacres as the lone example of persecution, but only once those “peculiar” depredations were “safely” in the past.<sup>87</sup>

#### CONCLUSION: AN ENDURING REFUGE FOR THE PERSECUTED

The 1905 Aliens Act is general described as ushering in a fundamentally new era of immigration restriction in Great Britain. Among other stipulations, it introduced a means test for entry into the country. Aliens who arrived in steerage would have to demonstrate that they had the means of supporting themselves and their dependents (with £5 in their possession) upon arrival; if they could not demonstrate this, they could still travel via Britain to their final destination. Otherwise, they were to be denied entry. Restriction on the immigration of destitute foreigners (read: Eastern European Jews) has been accepted as evidence that protectionist social concerns at last forced the British state to change its liberal open-border policy. This view carries over to scholars who have studied the history of asylum for refugees and with immigration in

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<sup>85</sup> 1903 [Cd. 1742] Royal Commission on Alien Immigration. Minutes of evidence taken before the Royal Commission on Alien Immigration. Vol. II, pages 215-216, paragraphs 6290-6309.

<sup>86</sup> In 1890, the Mansion House Committee reported that they would no longer consider returning anyone to Russia, even *opportunistic* immigrants could thus turn into deserving refugees as the situation on the ground changed. (*32<sup>nd</sup> Annual Mansion House Report, 1890*, 69 in MS 173. Jewish Care 1/12/5. Jewish Board of Guardians, Annual Reports, 1887-1893, The University of Southampton Archives Collection, UK.) Even in Romania, where there arguably had been real hope for reform, change did not seem forthcoming. In 1893, the Anglo-Jewish Association and the Jewish Board of Guardians sent a joint memorial to the Secretary of State expressing concern that the Romanian Government defined “alien” in a new way that defied the Treaty of Berlin. Whereas Jews were supposed to be made citizens, the new terms barred the naturalization of children born to Jewish parents. (Letter to Rosebury dated 8 December 1893 in Anglo-Jewish Association, *Conjoint Foreign Committee Minutes and Papers, 22 October 1878-4 February 1903*, Folder 2. AJ 95/ADD/8, The University of Southampton Archives Collection, UK.)

<sup>87</sup> *Hansard’s Parliamentary Debates*, House of Commons Debates, (25 April 1904, vol. 133 cc. 1062-131), c. 1085-86.

general. These scholars tend to view the 1905 Aliens Act as an abrupt change in British state policy and find that only electoral accident – the fact that Liberals regained power by the time the Act passed – gave meaning to the refugee opt-out clause which Liberal MP Charles Dilke managed to insert in its last stages.<sup>88</sup>

A close reading of the debates over the Aliens Bill in 1904 and 1905 challenges this assumption, however. Charles Dilke was indeed the chief proponent of an opt-out clause for refugees, and Herbert Gladstone, who became Liberal Prime Minister in January 1906, certainly encouraged a broad interpretation of the version of the clause when the Act went into operation in 1906. Nevertheless, a close reading of the debates that led up to the enactment of an aliens act reveals a consensus across the political spectrum that refugees ought to be exempted from the operation of immigration restrictions. The question was not whether the refugee would be exempted, but how narrowly or widely the exemption would be defined.

In essence the Aliens Act debate illustrates the existence of a broad and robust consensus that Britain should retain its now “traditional,” proudly maintained commitment to providing asylum. This proud moral imperative was a backdrop to the much more difficult pragmatic question of precisely who should be afforded asylum and how.<sup>89</sup> The question posed in the debates was *the* question that had come to define philanthropic efforts and conservative commentary in the previous twenty years: what persecution was sufficient to warrant flight and to trigger British asylum. The final shape of the opt-out clause was not the commitment open asylum that Dilke sought. Rather, it was an amendment that navigated carefully between a desire to maintain refuge for the persecuted and the sense that, without additional overseas outlets for refuge, Britain could not afford open-ended refuge to a whole population of ethnic minorities.

Parliamentary debate on an Aliens Bill began in earnest in April of 1904 and continued through the summer of 1905. Though members of both houses of Parliament continued to argue over the desirability of alien immigration on the whole, from the outset of the debate, A. J. Balfour’s Conservative administration was forced to defend itself against charges that the bill would end the British tradition of asylum for refugees. Dilke led the charge from the Liberal Opposition, but Home Secretary, Aretas Akers-Douglas, denied that the Government had any such intention: “This country has always been the asylum for the persecuted and the oppressed,” the Home Secretary continued to explain that “it would be a great breach of national hospitality if we were now, and for the first time, to close our doors against political refugees and against

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<sup>88</sup> Liza Schuster, *The Use and Abuse of Political Asylum in Britain and Germany*, (London: Frank Cass, 2003), 82. Bernard Gainer, though more attentive to the legislative process by which Liberals fought against the Bill, also attributes the entirety of the refugee opt-out clause to Liberals, and to Dilke in particular. (Gainer, 196.) For Gainer, Dilke’s victory has little to do with a history of British involvement with foreign refugees – though he sights apostrophes to this tradition from the debates. Rather it is more to do with the struggle between free trade ideology and protectionism (Gainer, Chapter 7). While I agree that the Aliens Act debate as a whole has much to do with the question of restriction versus liberal boarder/trade competition, it does not help us to understand the distinction between refugees and immigrants within the debate over the bill or within British liberal ideology more generally.

<sup>89</sup> Among scholars on 1905, Feldman alone minimizes the 1905 Aliens Act as a point of rupture, though he is not directly concerned with the refugee opt-out clause. He argues that it was the state involvement that was new in the 1905 Act, not the more general attempt to restrict immigration. Local government and voluntary groups had undertaken the role of restricting immigration in the nineteenth century. (Feldman, “Was the Nineteenth Century a Golden Age...”) While it is tempting to accept Feldman’s revision, he too ignores the distinction between refugees and immigrants in this context, a distinction that he himself recognizes in his discussion of the practices of voluntary groups in *Englishmen and Jews*. With regard to state involvement pre-1905, as we have seen, the state did become involved in cases where refuge for refugees was at stake; this was particularly true in the Empire. Still, I would agree with the more modest claim that the tendency (especially by 1870) was toward official and unofficial demands that the state be more direct in articulating the parameters of British refuge.

those who solely are the victims of political tyranny.”<sup>90</sup> Indeed, he had already offered an amendment to the Bill that, following the pattern of the 1870 Extradition Act, exempted those fleeing “prosecution for a political offence” from its operation, whether or not they met the means test. Only one Conservative Member of the House of Commons, Sir Carne Rasch, spoke against even this measure, defiantly stating that he “would welcome any Bill which would have the effect of keeping out political refugees of that [the French Communards] sort, some of whom had succeeded in getting here, and had done the country more harm than good.”<sup>91</sup>

By May 1905, members of the House of Commons – Conservative and Liberal – agreed that the exclusion of religious refugees from Bill’s exemptions was troublesome, especially in the wake of renewed violence against Jews in the course of the Russian Revolution. Even Evans-Gordon, who had once denied that the Kischeneff Massacres constituted real persecution, agreed in these debates that the “outbreaks of violence, such as have recently occurred at Kischineff, which the authorities took no immediate or adequate steps to prevent” were truly “deplorable.”<sup>92</sup> The Home Secretary offered to add a clause that safeguarded those who fled religious prosecutions as well.

For the next two months, the House of Commons debated whether asylum-seekers deserved protection from “persecutions” or “prosecutions.” As Charles Trevelyan (Liberal MP for Elland, Yorkshire) argued, the refugee “rarely comes having escaped from a Bastille or the Siberian Mines. He has to fly beforehand...” Yet, when ultimately put forward as a question to the House, Conservatives found it unconscionable to disagree with Trevelyan’s assessment. Lord Hugh Cecil (Conservative MP for Greenwich) poignantly insisted that the committee:

...[C]oncentrate their minds on the case of an individual who had been in a scene of massacre, had lost, it might be, some of his relations, and had escaped from a place where pillage, cruelty, and all sorts of horrible acts were being perpetrated. Was he to be told that because he had not a certain property standard he was to be sent back whence he came? He was sure there was no body of Englishmen who would tolerate such a thing. Therefore, he earnestly invited the Government to adopt some remedy which would prevent this Bill from being used in a way that would be an outrage on the moral sense of every Englishman.

Balfour too had agreed that, “there is not a man in the House who would not have the deepest sympathy for anybody of whom that [i.e., that he was a victim of religious persecution] could be truly said.”<sup>93</sup>

As the Home Secretary put it, the difficulty with a new amendment that included “persecution” was that it might admit too many potential refugees, too many people who could come here “saying they are suffering from political persecution.” Balfour agreed. He drew a distinct line between political refugees and those who sought religious refuge. Although he did not deny that foreigners could be entitled to asylum on the grounds of religious persecution,

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<sup>90</sup> Hansard’s Parliamentary Debates, House of Commons Debates, (25 April 1904, vol. 133 cc. 1131-63), c. 1145-46.

<sup>91</sup> *Ibid.*, c. 1160.

<sup>92</sup> Hansard’s, HC Deb (25 April 1904 vol. 133 cc.1062-131), c. 1085.

<sup>93</sup> Trevelyan in HC Debates, (2 May 1905, vol.145 cc. 687-768), c. 704; Cecil in HC Debates, (10 July 1905, vol. 149, cc. 163-203), c. 173); Balfour in HC Debates (2 May 1905, vol. 145, cc. 768-808 Evening Sitting), c. 800.

Balfour did not know how to define religious persecution narrowly in order to bar foreign opportunists from Britain. As he explained:

The real difficulty about this question was, after all, not the question of principle, but the difficulty of draftsmanship. There was a difficulty in the shades of difference that constituted religious or political persecution. When a man was brought up on a political or a religious charge, and given a definite punishment, the case might be clear. But by sensible modifications such cases shaded off to a point where it was almost impossible to say whether a man truly was the victim of what ought to be called religious persecution, or whether he was using the fact that his life was made rather disagreeable to him in his own country as a reason for making himself a charge upon ours.

The debate as it took shape was thus a more pragmatic, but no less significant debate over the breadth of “persecution” that ought to be included in an amended bill. Whereas Balfour dismissed much of Jewish life in Russia as merely “disagreeable,” Trevelyan believed that it was precisely this general tendency toward bad governance and disagreement with a bad government that made the option of asylum a moral necessity. Rather than limit British refuge, Trevelyan sought to expand it to these Jews as well as those who opposed the military draft that had been in place for the unpopular Russo-Japanese War.<sup>94</sup>

In a manner reminiscent of the challenges of the previous thirty years, the debate revolved around whether “persecution” would be left undefined, and hence potentially elastic enough to include a whole minority population, or whether “persecution” would be limited to cases of flight from hot-blooded pursuit as the Fugitive Slave Commissioners had stipulated in their 1876 Report. Though Conservative proponents of immigration restriction argued the latter position in the course of the parliamentary debates, their narrow definition mirrored the refined definition of “persecution” developed by Anglo-Jewish philanthropists in the early 1880s. Draft-dodgers those who did not come from areas in which violence was then taking place fell outside this narrower definition. Several Members of Parliament, including Conservatives Henry Duke (Plymouth) and J. F. Hope (Sheffield), suggested that “religious persecution” in the amendment apply only to a person who was “unable to live without danger to life or limb in the place of his domicile.” Even Evans-Gordon acquiesced to the use of the word “persecution” in a new amendment if so qualified.<sup>95</sup> This did not go far enough for the Opposition. Lord Asquith and Trade Unionist John Burns (MP For Battersea) both argued that the amendment ought to include individuals facing “danger to life, limb *or liberty*.”<sup>96</sup> For Conservatives, “liberty” was simply too wide a term. It would open the floodgates to those who fled conscription as well as actual persecution.<sup>97</sup>

One could debate which of the two options before Parliament would have been most in keeping with the ethos of British refuge since the Congress of Vienna. At mid-century, the refugee had been thought of as a protagonist in a virtuous struggle for political liberty overseas,

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<sup>94</sup> Akers-Douglas in HC Debates, (2 May 1905, vol. 145, cc. 687-768), 752; Balfour in HC Debates, (10 July 1905, vol. 149, cc. 163-203), cc. 179-180; Trevelyan in HC Debates, *op.cit.*

<sup>95</sup> Hope and Evans-Gordon in HC Debates, (10 July 1905, vol. 149, cc. 163-203), c. 175-76 & c. 180-81

<sup>96</sup> Asquith and Burns, *ibid.*, c. 180-81.

<sup>97</sup> Balfour in *ibid.*; Cecil in HC Debates, (17 July 1905, vol. 149 cc. 903-57), c. 950.

while (typically) his aged parents and children remained at home at the mercy of the illiberal foreign government. Now, however, refugees to Britain included whole populations – passive victims of persecution as well as their political heroes. The question was whether the British were willing to accept this change to the classic model of the refugee together with the larger waves of refugees who would arrive on British shores.

Thanks to Conservative political majorities, the final Act contained the more restrictive language. A destitute alien was to be considered undesirable unless he/she could prove that:

...[H]e is seeking admission to this country solely to avoid prosecution or punishment on religious or political grounds or for an offence of a political character, or persecution, involving danger of imprisonment or danger to life or limb, on account of religious belief (5 Edw. VII. c.13, sect. 1[3][d]).

The Act thus preserved the peculiarly British tradition of asylum to persecuted foreigners – or refugees. But the victory was a mixed one. It enshrined a broad exemption for foreigners in British law, one that was much broader than had been written into the 1870 Extradition Act. Nevertheless, the refugee amendment was significantly narrower than it might have been. By the turn of the century, British Liberals conceived of a broader, more inclusive humanitarian practice. In their quest to systematize refuge in a way that delimited the numbers of potential claimants on British hospitality, philanthropists and conservative politicians alike checked these expansive claims. Despite national consensus on a British commitment to refuge, refugee supporters were forced to compromise. For now at least, those who simply sought to escape from un-free, heavily regulated governance would be considered insufficiently persecuted to belong to the refugee category.



## CONCLUSION

### THE STRICTURES OF HOSPITALITY: UNIVERSAL RIGHTS AND THE LEGACIES OF BRITISH REFUGE

The 1905 Aliens Acts' exemption of persecuted foreigners who faced threat to "life or limb" was at once a triumph for asylum and a testament to a peculiarly British humanitarian imperative. Yet, a discussion of refuge as a *human right* would have struck the framers of the 1905 amendment – on either side of the political spectrum – as inappropriate. Members of Parliament were well aware of how unique their policy would be in the international setting. However, not even the most ardent proponents of British asylum described asylum as a *right*. Protecting the nation from unwanted intruders was Britain's sovereign *right*. Asylum for the persecuted was a British *tradition* and a moral imperative – a "virtue" as Balfour called it.<sup>1</sup>

Few deemed this moral imperative a human right that they were legally bound to uphold. The question had been posed in the 1876 Fugitive Slave Commission and again in the course of legal and political debates over whether to classify Communists and Anarchists as political or criminal offenders: Chief Justice Cockburn argued that there was no such thing as a *right* to asylum in his opinion for the Fugitive Slave Commission, and James Fitzjames Stephen repeated Cockburn's judgment in his 1883 *History of English Criminal Law*. Their concerted effort to downplay any *right* to asylum seemed to be part of a new legal/political campaign to dampen public expectations for the reception of foreign offenders and fugitive slaves in the post-1870 era.

In framing the refugee amendment for the Aliens Act, British politicians pointedly refrained from referring to asylum as a right, checking those who seemed to imply that such a universal norm existed. Conservative Home Secretary Akers-Douglas introduced the refugee question before the House as "what is generally known as the right of asylum." Before he could continue, Charles Dilke interrupted with the exclamation: "I did not use the word 'right,'" undercutting the Home Secretary's next argument which, as he continued, was going to "point out that there is no such thing as a 'right' of asylum, but the practice which has existed of welcoming foreigners who were flying from political or religious persecution in their own lands." Most Liberals were similarly cautious. Sydney Buxton called asylum a right, but later corrected his statement; Asquith hedged his bets, arguing for the "importance of preserving the right or privilege of asylum in this country," without committing himself to declaring it one or the other. Arguing on behalf of a wide amendment, Liberal Alfred Emmott insisted that he "was not going to say anything about the 'right of asylum,'" Though he "thought historically, undoubtedly, we could not talk very much about the right of asylum." Instead, he hoped they would "talk about the 'practice of asylum,' and that was the real point that they wanted, as far as possible, to keep up."

Parliament passed the opt-out clause for reasons that Emmott, among others, had highlighted: it would have been unconscionable for *Englishmen* to do otherwise, meaning that it was both morally unthinkable and, importantly, would have been too great a reversal of a long-

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<sup>1</sup> Hansard's *Parliamentary Debates*, House of Commons Debates, (19 July 1905, vol. 149, cc. 1257-95), c. 1281. Regarding the asylum as a part of immigration law more specifically, Lord Salisbury's Government conducted a comparative study in 1887 (Norman Wise Sibley, *The Aliens Act [Stat. 5 Edw. VII. c.13], and the right of asylum: together with international law, comparative jurisprudence, and the history of legislation on the subject, and an exposition of the Act*, [London: W. Clowes and Sons, 1906], 130-131); the study found that no immigration law in Europe alluded to the subject at all.

standing tradition of hospitality. As the Conservative MP Henry Duke chimed in, “There might not have been a right of asylum in this country in the past.” Nonetheless, he continued, “among the masses of the people there was an honest desire that they should do nothing to deprive themselves of a source of national pride in the sense that the oppressed of other countries were able to find a refuge here.”<sup>2</sup> The argument was not new but was the official endorsement of a popular cause. Whereas at the time of the Rome Anti-Anarchist Conference the Conservative government complained that popular opinion did not allow the administration to curb the admission of Anarchist refugees, Conservatives in Parliament were now prepared to concede even Anarchists could be refugees, entitled to asylum in Britain.

The irony, of course, was that in codifying this tradition in the 1905 Aliens Act, members of Parliament did precisely what they had so carefully tried to avoid implying during the debates. They expressed *tradition* as a legal obligation. In Parliament, Chartist Ernest Jones’s son, Llewellyn Atherley-Jones (then MP for NW Durham), stands out for his recognition of this fact. Arguing against the bill as a whole, he unabashedly exclaimed that:

...[T]he chief ground of the esteem and admiration felt on the Continent for Great Britain was on account of the liberty of our institutions and the right of asylum we had afforded to foreigners. Every Continental politician who had Liberal tendencies pointed with admiration to these shores as the great free commonwealth...<sup>3</sup>

Preserving that practice was a *national* necessity. The fate of this British self-image seemed entwined with that of the refugee, an icon of British liberal power and freedoms in the world. Codifying this tradition carried with it international recognition. As English Barrister and legal scholar Norman Wise Sibley proudly wrote in 1906, the Aliens Act contained the broadest declaration of asylum as a *right* to date. Sibley celebrated the refugee opt-out clause. He declared, with a good deal of patriotism, that:

It is probably the most important feature of the aliens act, the severest act on the subject of alien immigration in many respects, that has found a place on the statute book for eighty years, that it should contain the most comprehensive declaration of the Right of Asylum that is to be found in the whole range of municipal legislation, not merely in the history of this country, but throughout the civilized world.<sup>4</sup>

Indeed, Sibley saw British law as expanding the limits of international legal theory. Citing eighteenth-century theorists Pufendorf and Vattel, Sibley argued that their discussion of the

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<sup>2</sup> Dilke/Aker-Douglas exchange in Hansard’s Parliamentary Debates, House of Commons Debates, (2 May 1905, Vol 145 cc. 687-768), c. 750-51; Sydney Buxton, HC Debates (2 May 1905, vol.145 cc. 687-768), c. 760-61 and HC Debates, (10 July 1905 vol. 149 cc. 163-203), c. 176; Asquith in HC Debates (2 May 1905, Vol 145 cc. 687-768), c. 743; Emmott HC Debates, (10 July 1905, vol. 149 cc. 163-203), c. 165-66. Balfour had made this type of comment before and retorted with the same argument within moments of Emmott’s speech. Balfour (c. 178-9): “...Universal morality was not aided but hindered by diminishing the weight of the obligation to those nearest to us. It was the men who professed a universal cosmopolitanism who did least first for their family, and then for their country.” Duke in HC Debates, (10 July 1905, vol. 149 cc. 163-203), c. 166-67.

<sup>3</sup> Atherley-Jones HC Debates, (19 July 1905, vol. 149 cc. 1257-95), c. 1271.

<sup>4</sup> Sibley, 130.

Right of Asylum paled in comparison.<sup>5</sup> From the landmark 1870 Extradition Act forward, the British set the model, limited though it was at the time, for modern asylum law. No other European country's immigration laws made "the slightest allusion to the subject" of persecuted foreigners, said Sibley, echoing Russian diplomat and international legal expert Professor Frederic de Martens. While Martens gave some credit to Switzerland for its asylum policies, Swiss law limited the right to political refugees, saying nothing about those who faced religious persecution. The same was true of American law. Sibley noted that the "declaration of the Right of Asylum in the Act of Congress regulating Immigration, 1882" "has been compared with the declaration in the Aliens Act" and "constitutes the only other instance where a State has enforced by its municipal law [i.e., domestic law] the rule of international law declaring the right of asylum." But this, Sibley continued, "refers to the Right of Asylum conferred on 'foreign convicts who have been convicted of political offenses.'" <sup>6</sup> Rather than setting the bar, the American law was in essence catching up with the 1870 Extradition Act in England.

The generation of British refugee supporters that had made refuge a British humanitarian imperative was now gone, replaced as Edward Cook noted in *Doubleday's Children* by a generation less enthusiastic about (or confident in) refugees' political causes more generally. Nonetheless, this moment was their triumph; it offered the legal recognition of their moral norm – persecuted foreigners must be provided with shelter. Long-time refugee supporter, Joseph Cowen, who died in 1901, lived just long enough to see his successors take up the cause of British refuge: the man who helped to provide essential political and financial means for European revolutionaries was the one who suggested to Charles Dilke that he speak out in Parliament against threats to end British asylum as early as 1893.<sup>7</sup>

The triumph of the Aliens Act was bittersweet. Though few opposed the moral imperative to provide *asylum* to foreign refugees, even most ardent refugee supporters were increasingly uneasy about claiming *refuge* – the relief and social welfare of foreign refugees – as a national moral imperative. Conservatives like Balfour argued that the weight of relief for *bona fide* refugees should not fall on the localities. Henry Duke went further, finding that this responsibility belonged to the Anglo-Jewish community alone: "Could not we, for the purpose of securing that benefit to such deserving persons," he demanded, "arrange that the guarantee of the Jewish Board of Guardians should be accepted as a sufficient security that an otherwise deserving person would not become a burden on the rates."<sup>8</sup> Though British officials, civil servants and local town organizations continued to assist foreign refugees, refuge as a national humanitarian practice narrowed considerably. By 1907, the Aliens Act significantly limited the numbers of those who sought asylum in Britain proper. Although the state board, which vetted would-be refugees under the operation of the Act, continued to admit destitute refugees, fewer Eastern European Jews attempted to reach Britain than had done so in prior decades, since British refuge looked less hospitable than it had in the past.<sup>9</sup>

We should perhaps not be surprised that formalizing a right to refuge in national law in 1905 was followed by shrinking public involvement in refuge at home. The Aliens Act made the provision of asylum within Britain a bureaucratic decision. It no longer seemed that providing

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<sup>5</sup> *Ibid.* Sibley explains that: "It is signally characteristic of the constitution and history of this country that an English Statute should declare the Right of Asylum even more fully than International Law."\* [\*citing, Pufendorf's *Of the Law of Nature and Nations*, bk. iii, c. iii s. 9; Vattel's *Droit des Gens*, l.i.cxix. s. 231].

<sup>6</sup> Sibley, 26.

<sup>7</sup> Bernard Gainer, *Alien Invasion*, (New York: Crane, Russak & Co., Inc., 1972), 146.

<sup>8</sup> HC Debates, (10 July 1905 vol. 149 cc. 163-203), c. 167.

<sup>9</sup> Gainer, 203ff.

refuge required a deliberate expression of popular will. Nor did it appear incumbent on the public to aid the refugees who arrived in Britain, since many potential supporters were happy to rely on identity-based relief organizations for that task. But did this mean that British refugee supporters abandoned their grass-roots efforts on behalf of persecuted foreigners? What happened to this time-honored nineteenth-century practice?

AN ENDURING LOGIC FOR REFUGE? — The British imperative to provide refuge emerged from a particular moment in which political exigencies generated and fueled a commitment to foreign refugees. From the time of the French Revolution, refuge expanded in tandem with British liberalism on the world stage. The growth of the formal and informal empire in the same period provided the necessary spaces for refuge. The distance between refugee supporters and resettled foreign refugees also enabled a celebratory view of refuge under the British aegis. We would be right to call these celebratory views into question. Yet, overseas territory importantly made British refuge a peculiarly practicable humanitarian action in this period, and it was the loss of this “open space” which caused a humanitarian crisis at the end of the nineteenth century.

In the wake of this crisis, long-standing British refugee supporters tended in one of two directions: either they became more selective about *which* refugees they supported or they sought out new connections which would enable them to continue to provide broad-based refuge to a range of refugee groups. Proponents of this first tack did not deny that foreigners of any racial, religious or political background could be *bona fide* refugees. But, these commentators believed refuge ought to devolve on the identity group, not on the British as a whole. The Anglo-Jewish community was to care for its own, as MP Henry Duke assumed; Christian groups within Britain increasingly looked to their nearest coreligionists overseas as well.

Long-time refugee supporter Angelina Burdett Coutts, cousin of Lord Dudley Coutts Stuart who championed refugees’ causes until his death in 1854, took a second approach – internationalization. Always wide-reaching in her philanthropic outreach, the Baroness came to the aid of Turkish Muslim refugees in the late 1870s at the end of the Russo-Turkish War. At a time when the British public focused on the plight of persecuted Christians in the region, she mustered impressive support within England and, when the initial Fund closed in 1882, joined forces with German and American philanthropists to pursue the cause further. As British supporters of the French émigrés had done in the 1790s, Burdett Coutts’s international women’s organization sold artwork and crafts made by their charitable subjects, bringing Turkish embroideries into Europe and America to help fill their coffers. The organization, which operated into the 1890s, was a triumph celebrated at the Congress of Women at the 1893 Columbian Exhibition in Chicago.<sup>10</sup>

Tension between the two humanitarian directions could be debilitating for would-be refugee supporters. For example, it left the British Society of Friends, an organization whose involvement with diverse refugee groups was likewise long-standing, in something of a quandary at the century’s close. Though they were then expanding their relief efforts in general (to the victims of war especially), members of the Society of Friends were undecided as to whether to intervene on behalf of refugee Jews. Indeed, their journal, *The Friend*, was almost entirely silent on the Jewish Question, a silence that was conspicuous in the wake of the 1881-82 pogroms and

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<sup>10</sup> Cariclee Zaccaroff, “The Turkish Compassionate Fund,” in Mary Kavanaugh Oldham, (ed.) *The Congress of Women: Held in the Woman's Building, World's Columbian Exposition, Chicago, U. S. A., 1893*, (Chicago: Monarch Book Company, 1894, pp. 618-622), accessed online (3/18/2010) at A Celebration of Women Writers, <http://digital.library.upenn.edu/women/eagle/congress/zaccaroff.html>; H. Mainwaring Dunstan, *The Turkish Compassionate Fund: An Account of its Origin, Working, and Results*, W. Burdett-Coutts (ed.), (London: Remington and Co., 1883).

those of the early 1890s. Instead of discussing the condition of the Jews in each of these moments of vast Jewish flight, the editors focused on Christian minorities, especially Russian pacifist dissenters. When discussions of Jewish persecution and the first aliens bill saturated the British press, prominent Quaker George Cadbury – of Cadbury Chocolates and an important Birmingham-area social reformer – focused on the Stundists in an eager search for an appropriate private philanthropic outlet.<sup>11</sup> At a meeting, the proceedings of which were partially reprinted in *The Friend*, Cadbury suggested outright that the Society of Friends help the Stundists rather than helping the Jews. Discussion at the meeting centered on the allocation of the Society’s general funds. Several Friends advocated assisting the Jews, but Cadbury replied that the “Jews have used their influence and spent vast sums of money on behalf of their coreligionists in Russia.” It would be “cowardly,” Cadbury exclaimed, if the British Quakers did not do the same for their own [near] “coreligionists,” the Stundists. Cadbury himself pledged £1,000 to the general fund, but on the condition that the Society use it in support of the Stundists.<sup>12</sup> British Quakers were apparently uncomfortable enough with Cadbury’s stipulation that they dropped all discussion of an exclusive application for their funds. Helping one’s nearest coreligionists was one thing; it was another thing to refuse pointedly to aid visibly distressed non-Christian refugees.

The dawn of the twentieth century thus witnessed the end of the unique marriage between British trust in an abundance of private and imperial resources on the one hand and a moral imperative to provide refuge to persecuted foreigners on the other. Despite the uniqueness of this nineteenth-century imperial context, the legacies of the nineteenth century and the logic of the relief of persecuted foreigners have continued to influence national and international, official and private philanthropic relief for foreign refugees. The logic of refuge ultimately proved to be independent of Britain and the British Empire.

The classic refugee narrative was itself independent of its British context, teaching would-be sympathizers how to recognize and narrate the experience of refugees by general traits and experiences. Refugees were individuals who had been wrongly persecuted by unjust governments and had been forced to flee, not members of a particular social, political, cultural or racial background. This set of experiences invited a scripted response from onlookers: to sympathize with the refugees and by their actions to recall the refugees to life.

This was the great achievement of the nineteenth century. Prior to this point, the refugee had been a category that referred specifically to persecuted Protestants. Refuge itself had been a political act that provided shelter to the displaced but specifically did so in a way that served to bolster the English state. In a zero-sum game, France and England vied for commercial gains, and the English crown sought to prove its commitment to the Protestant religion. In this context, the English Government welcomed the Huguenots. By the end of the nineteenth century, refuge was still tied to British ideology, but now to its self-professed liberalism as opposed to its Protestantism. The logic for refuge no longer necessarily implicated the security of the British state. The expanded refugee category and the broader imperative to provide refuge to any persecuted foreigner was a freestanding moral norm. Any foreigner who was a *bona fide* victim of persecution in the hands of bad or unjust foreign governance deserved assistance.

Failing to provide refuge, or failure to live up to the humanitarian standards set out in the classic refugee narrative had political repercussions, domestic and international. By its own logic the liberal argument on behalf of persecuted foreigners called attention to the injustices or

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<sup>11</sup> I. A. Williams, “Cadbury, George (1839–1922),” revised by Robert Fitzgerald, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edition, May 2006 [http://www.oxforddnb.com/view/article/32232, accessed 2/21/2010]

<sup>12</sup> Society of Friends, *The Friend*, see for example: February 12, 1892 (New Series. vol. xxxii).

illiberality of foreign persecuting powers. Yet, the ill treatment of refugees could be just as readily used against refuge providers themselves. The popular and radical press called into question local officials over their reception of the Polish Hungarian Contingent in 1851, as well as their treatment of French refugees on Jersey and of Italians on Malta.

Moreover, noisy protests against foreign oppression ultimately helped to focus attention on abuses of governance closer at home. American and French refugee supporters turned these moral attacks on the British after the rise of Irish Fenianism in the 1870s and 1880s, holding the British accountable for the fact that the British Empire generated its own refugees. At the time, John Stuart Mill half recognized the need to hold Britain accountable for such infractions, becoming an outspoken proponent of the rights of British political dissidents to asylum in the lead-up to the 1870 Extradition Act. Yet, Mill, the champion of political asylum, also argued that Fenian activities were criminal rather than political.

In American and French support for the Fenians, the British confronted a general feature of moral politics: when you criticize others using strong moral claims, you invite others to hold you to your own standards. This has also been a feature of humanitarian logic and the logic of liberal progress, more generally. Liberal universalisms have tended to become increasingly inclusive. The logic behind refugee relief – a political identification with emerging colonial nationalist ideology – here outstripped British liberal views, or at least a segment of British liberal views as they stood in this period. As Jennifer Pitts has noted, Mill himself impugned British misrule in Ireland; yet, he believed liberal colonial rule could, with proper reform, improve the moral lot of the “backward” Irish. Even imperial despotism, Mill argued, would have been better than having left the Irish peasantry in the hands of rapacious Anglo-Irish landowners.<sup>13</sup>

Though much ink has been spilt discussing liberalism’s imperial (read: colonizing or despotic) tendencies, the liberal argument on the behalf of foreign refugees tended to lead to demands for greater inclusion even in the face of hardening lines of racial differentiation at the end of the century.<sup>14</sup> In this international setting, it was not only possible that an imperative to provide persecuted foreigners with refuge would outstrip British willingness to do so, it was quite probable that this eventuality would come to pass. Under constant watch, the liberal logic for refuge promised to become broader, more inclusive, than the British – or any other modern nation – ever imagined in the nineteenth century. Those we would call economic refugees might not have been included in the category at the turn of the century despite its many expansions; yet we include them today – targeted economic deprivations count as persecution sufficient to warrant flight, though we remain uneasy about whether to extend the label of refugee to those who, impoverished in their homelands, seek a better life overseas. Underwritten by an international human rights regime, the refugee category continues to expand alongside our commitments to universal moral norms and our beliefs in the possibility of humanitarian reform.

#### CODA: NEW ORGANIZATION, OLD MODELS FOR RELIEF

The moral imperative to provide for persecuted foreigners was and is underwritten by liberal universal ideals; yet, this imperative also was and is undercut by real material, political

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<sup>13</sup> Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France*, (Princeton: Princeton University Press, 2005), 146-150.

<sup>14</sup> For a succinct account of recent literature on liberalism and empire, see Duncan Bell’s review essay, “Empire and International Relations in Victorian Political Thought,” *Historical Journal*, (Vol. 49, no. 1, 2006, 281–298).

and social challenges. At the height of Britain's nineteenth-century empire, the British commanded the necessary authority to put power behind their commitment to foreign refugees. The British aegis provided an outlet for refuge overseas in a way that was no longer possible by the end of the nineteenth century and remains impossible today. We cannot – we must not – return to an imperial model for refuge. Nonetheless we need to understand how the dilemmas that followed from this loss of a ready place for refuge have continued to shape our human rights regime today. The politics of place – local socio-economic realities and related political concerns – check philanthropists' abilities to deliver on the moral promise of relief for foreign refugees.

As in the nineteenth century, the role of contemporary refugee supporters has been to try to overcome such challenges. Whereas, at the height of British refuge in the middle of the nineteenth century, British refugee supporters looked to their nation's imperial prowess for answers, philanthropists increasingly looked to the international realm by the century's close. In pooling private and national resources in an emerging transnational philanthropic sphere, refugee supporters hoped to overcome the limits occasioned by the loss of Britain's imperial refuge.

A TRANSNATIONAL MOVEMENT — British relief personnel, their standard practices and their models for relief became part and parcel of cosmopolitan humanitarian practices by the twentieth century and remain so today. The emergence of transnational organizations geared to refugee relief was in a large part the ironic product of the identity-based interest in refugees at the end of the nineteenth century. The Anglo-Jewish community, for instance, acted in concert with American and European Jewish philanthropists, convening to discuss plans for the relief of their coreligionists. Yet, British philanthropists, like the Baroness Angelina Burdett Coutts, also forged networks which, though very similar in model, were more universal in scope. Burdett Coutts's Turkish Compassionate Fund committee cultivated international connections between German and American female philanthropists, generating new networks for relief. They joined a patchwork of new organizations aimed at the relief of suffering in the aftermath of war. Among these organizations was the International Committee of the Red Cross which, though focused on soldiers at its founding in 1863, increasingly came to the assistance of all those displaced by war, as did the Society of Friends's War Victims Relief Committee founded at the outset of the 1870-71 Franco-Prussian War. Each of these organizations offered channels for the support of refugees that brought together older local organizations and gave them new life when combined under an emerging international regime.<sup>15</sup>

As Claudena Skran has shown, the League of Nations (and now the United Nations) offered its own support for refugees, joining this array of NGOs in the field, and also acted as umbrella supervisor for these individual groups operating at the local, national and international levels. Under Fridtjof Nansen, whose efforts on behalf of Russian refugees won him the title of first High Commissioner of Refugees in 1921 (and the Nobel Peace Prize in 1922), sixteen separate charitable organizations continued their operations. By 1936, by which point the High Commission on Refugees had become an established League office, that number was forty-eight.<sup>16</sup>

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<sup>15</sup> On the emergence of transnational movements, see: *Beyond Sovereignty: Britain, Empire and Transnationalism, c. 1860-1950*, Frank Trentmann, Kevin Grant, and Philippa Levine (eds.), (London: Palgrave Macmillan, 2007); Kevin Grant, *A Civilised Savagery: Britain and the new slaveries in Africa, 1884-1926*, (London: Routledge, 2005); Akira Iriye, *Global Community: the role of international organizations in the making of the contemporary world*, (Berkeley: University of California Press, 2002). Other similar organizations include Save the Children, founded in the interwar period by Eglantyne Jebb, who gained her experience with the British Charity Organization Society, and CARE, a US organization which began and spread rapidly after WWII.

<sup>16</sup> Skran, 79-81.

The emergence of a broad-based international refugee regime did not spell the end of official national involvement in refugee relief. Private and public refugees supporters pushed for government involvement. This did not change in the twentieth century; indeed, scholars have credited public support for refugees and critiques of government intransigence for the change in British policy in the 1930s. Relenting somewhat to public pressure – pressure spearheaded to a large degree by MP Eleanor Rathbone – the government increased its intake of refugees from the Continent by the close of the decade, though refuge in Britain was again meant to be temporary (as had long been the case for such large groups).<sup>17</sup> Nansen, too, relied heavily on League members, prevailing upon 51-member states to recognize the passports (“Nansen passports”) which he provided to refugees to start them on the path to more permanent refuges.<sup>18</sup> Indeed, the vetting of foreigners according to international standards took place locally, dependent on the adoption of these standards in domestic law and on the interpretation of local officials.

This reliance on national governments extended far beyond domestic policy. Neither the newer international voluntary organizations nor Nansen’s Office within the League of Nations could have operated without governmental assistance on the ground; each group drew crucial support for their endeavors from local consular services and from the British Foreign Office. Burdett Coutts’s Turkish Compassionate Fund relied on the assistance of consular agents on the ground in the Ottoman Empire; so did Jewish organizations. Though the British consular service offered expertise in a variety of regions at the end of the century, international voluntary organizations did not seek assistance from British agents alone but from each of the European Great Powers and, importantly, from American diplomats.

The dependence was mutual. British officials drew on their past expertise while seeking international answers to crises for which national/imperial resources seemed inadequate. Whereas Palmerston emphasized Britain’s leading role vis-à-vis foreign refugees, by the end of the nineteenth century, British politicians and officials increasingly relied on international conventions and cooperation in their intervention on behalf of foreign refugees. In this Britain remained a prominent actor on behalf of refugees on the world stage, but now – through the League of Nations and, later the United Nations – they acted as part of a concert of nations who were also active in their own right.

For refugee supporters, the emergence of this international complement to national involvement in refugee relief was something of a double-edged sword. While the British Government had long relied on voluntary organizations to assist in their efforts, the Government now seemed to prefer to externalize refugee relief entirely, assuming that the new international regime would provide the support these foreigners needed. Such willingness to externalize refugee relief was widespread, especially among liberal democratic countries including the US. Increasingly focused on the welfare of their own subjects, concern for persecuted foreigners became secondary. Indeed, we can see a variant of this tendency to juxtapose foreigners with the local working poor in popular conservative opposition to the Eastern European Jews at the close of the nineteenth century. Though British Liberals, as well as the emerging Labor Party, generally supported a right to British asylum, they would find it politically difficult to support refugees if that support appeared to hurt British subjects.

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<sup>17</sup> Susan Pedersen, *Eleanor Rathbone and the politics of conscience*, (New Haven: Yale University Press, 2004), part iv; Louise London, *Whitehall and the Jews, 1933-1948: British Immigration Policy, Jewish Refugees and the Holocaust*, (Cambridge: Cambridge University Press, 2003), 9 (regarding temporariness of refuge on British soil).

<sup>18</sup> Gil Loescher, *Beyond charity: international cooperation and the global refugee crisis*, (New York: Oxford University Press, 1996), 37.



International voluntary associations for refugee relief seemed to ease this moral and political conundrum, but the sense of relief was false. Reliance on an international humanitarian regime gave the appearance of commanding the resources necessary to meet the human need of foreign refugees around the globe. However, though financial resources and desire to do the right thing were (and are still) essential components of the equation, neither translated directly into solving the problem of place. For all the resources that the United Nations and international NGOs command for the immediate needs for relief in an emergency, they still have to resettle the displaced *somewhere*.

THE POLITICS OF PLACE — For refugee supporters, the international humanitarian dilemma remains precisely this dilemma of place. Here, too, echoes of the nineteenth century have reverberated in the attempts of the League of Nations and the United Nations to negotiate where and how displaced foreigners could resettle. Through the end of the Second World War, refugee supporters continued to look for older imperial alternatives for refugees even when the imperial model of refugee resettlement was under strain. Yet, as we know from the end of the nineteenth century, such overseas outlets for refuge were inadequate to the demands of the day. In light of Arab-Zionist tensions, for example, the British Government limited the number of European Jews who could resettle in the Palestine Mandate established for the purpose in 1917.<sup>19</sup> More broadly, refugee supporters under the League, the United Nations, and beyond have responded to the need for new solutions in three ways: prioritizing claims; propagandizing on the refugees' behalf to make room for them; and, attempting to make flight unnecessary. Each of these responses has become a defining feature of twentieth- and twenty-first-century human rights campaigns, and – in one way or another – informs much of refugee studies literature.<sup>20</sup> Yet each of these responses also bears the hallmarks of nineteenth-century British refuge, linking the challenges as well as the promises of refugee support in the nineteenth century with the present.

Prioritizing Claims — Who a refugee was in the nineteenth-century British context depended in large part on the willingness and ability of British would-be supporters to empathize with the foreigners' plight. To see a foreigner as a refugee, the supporter had to deem that person's experiences overseas to be the result of persecution, of bad governance. Yet, in the last third of the nineteenth century, the extension of British refuge also came to depend on a belief that the British could afford refuge and hence should provide it on British soil. In the nineteenth century, and today, the sense of affordability of refuge, political and socio-economic, has shaped the designation of refugee status. This has been the case in terms of emerging definitions of the refugee and in terms of philanthropic outreach.

In a world in which the number of potential refugees was growing exponentially, some British philanthropists increasingly focused their efforts on the plight of a single group, helping Christian minorities or targeting Muslims or Jews. Although some of this favoring of certain refugee claims over others was a matter of cultural preference and prejudice to be sure, such specialization was also a measure of apparent need. In a world with much suffering, philanthropists responded to those who appeared to be in most need. Indeed, Nansen's Office and the League of Nations's High Commission on Refugees responded in the same way in the 1920s and 1930s. Nansen himself targeted only Russian refugees at first, during and in the aftermath of the Russian Revolution and Civil War. As Claudena Skran notes, the 1933 convention on refugees likewise referred to refugees as specific groups of people, namely those

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<sup>19</sup> Bernard Wasserstein, *Britain and the Jews of Europe, 1939-1945*, (Leicester: Leicester University Press, 1999).

<sup>20</sup> See, for instance, Skran and Marrus, *The Unwanted*.

of Russian, Armenian, Turkish, Assyrian and Assyro-Chaldean descent; the 1938 convention focused on people of Jewish descent.<sup>21</sup>

Again, it is not as though there were not other refugees across the globe. As we saw in George Cadbury's attempt to limit the Society of Friends's funds to persecuted Christians, British Quakers were uncomfortable formally excluding visibly distressed non-Christian foreigners from their relief efforts. I doubt that Nansen or his successors in the League of Nations or United Nations would have denied that there were other deserving refugees either. Nonetheless, the use of the term as a specific referent has, I would argue, the effect of containing the philanthropic demand and directing attention to the charitable subjects at hand. Though we would not fault overwhelmed philanthropists for channeling their efforts, we could not but recognize that this falls short of universalistic moral aspirations.

The same tension between the universal and the particular has been evident even in the United Nations's formal attempts to define the refugee by international convention. There was much to be celebrated in the United Nations's 1951 Convention Relating to the Status of Refugees. It expanded the refugee category immensely from the ethnically defined focus of the earlier international refugee relief efforts of the League of Nations. Indeed, it was the first attempt at a broad definition of a right to refuge since the 1905 British Aliens Act and offered a definition that was broader still. In contrast to the 1905 Aliens Act, the UN Convention did not define persecution. Whereas the 1905 Act limited persecution to imminent danger to life or limb, the 1951 convention left open the door to new applications of "persecution," including economic deprivations, so long as these deprivations are directed at their targets because of "race, religion, nationality, [or] membership of a particular social group or political opinion." But the 1951 Convention, universal in ethos, was limited in time, applying only to those people who had been displaced by the events of the previous decade or so. Only with the 1967 UN Protocol Relating to the Status of Refugees was this specification dropped, making the refugee truly a universal human right.<sup>22</sup>

Yet, in this very move – the extension of a liberal humanitarian ideal – the new right hit head-on the challenge which had prompted attempts at delimiting refuge in the first place. The hard task of the philanthropists and of the officials in charge of helping refugees remains finding room for all the would-be refugees. Unfortunately, as in the nineteenth century, the result has been pressure among humanitarians and among conservative opponents of refuge alike to carefully police the refugee category keeping in mind the limits of a state's political and socio-economic willingness to take in all claimants. As in the case of the continental Anarchists, the task has been to continue to determine the difference between political offenders who are to be protected under the scope of the refugee convention and modern asylum law and criminals or terrorists who are to be extradited for trial. As in the case of the Admiralty's Fugitive Slave Circulars of 1875-76 and in the case of Eastern European Jews, the task has been to determine what counts as persecution sufficient for flight of an untold number of potential refugees. Though neither the 1951 Convention nor the 1967 Protocol defines persecution, that vetting continues locally, sometimes for better and sometimes for worse.

Making Room — In recent history, refugee law and asylum law have established normative codes that protect individuals from persecution. But finding a place for refuge remains a cultural, social and political struggle for refugee supporters, just as it was in the nineteenth

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<sup>21</sup> Skran, 72 & 174.

<sup>22</sup> *Immigration and asylum: from 1900 to the present, Volume 1*, Matthew J. Gibney & Randall Hansen (eds.), (Santa Barbara: ABC-CLIO, 2005), 616-17.

century. The task of resettling refugees has increasingly accrued to national governments. Although this task no longer belongs primarily to a voluntary refugee support network, publicity campaigns remain part of the process, making the plight of the refugee visible in cases where official and philanthropic support seems to flag.

As in the nineteenth century, the opposition to the resettlement supporters faced could be formidable especially when and where the foreigners in question were numerous, visibly different and seemed to promise competition for scarce resources. Resettling 80,000 displaced persons in Britain as “migrant workers” to fill labor shortages in the aftermath of WWII was one thing; rescuing the 1.5 million people suffering from illness and the stresses of persecution and poverty from camps under the United Nations’s purview fifteen years later was another matter.<sup>23</sup> It was hard in 1882 with hundreds of Jewish refugees camped at Brody on the Austrian border. It would be all the more challenging in the twentieth century.

Whereas British philanthropists and officials had looked overseas for places of refuge time and time again to mitigate this opposition, officials in the twentieth and twenty-first centuries tend to apportion the burden of hospitality to different communities or different countries. Chartist supporters of the Polish Hungarian Contingent of 1851 opposed plans to force these foreign revolutionaries to migrate to America by divvying them into small groups and dispatching them to willing hosts across the north of England, where they were more likely to find jobs than in Liverpool, where they landed. Similarly, relief workers continue to send manageable groups of foreigners to host towns like Leicester in the UK and Salt Lake City, Utah and Lewiston, Maine in the US where there is a strong local support group, a low cost of living and, it is hoped, gainful employment.

These campaigns rely on diplomacy and financial assistance, as well as propaganda, which importantly continues to solicit support for foreign refugees by explaining their plight, their experiences and their innocence, engendering a sense that you, the audience, can do something to improve the refugees’ lot. As Peter Gatrell demonstrates in his recent work on World Refugee Year, this British-conceived international campaign to resettle the last refugees from the Second World War relied on the publicity celebrities could provide. As Lord Dudley Coultts Stuart, Ellen Crafts and Eleanor Rathbone had done before, actors Yul Brenner, Audrey Hepburn and Lawrence Olivier, among others, spoke on behalf of displaced persons. Just as Mazzini and Kossuth offered signed certificates in return for campaign donations and the French Emigrés sold paintings, World Refugee Year organizers collected funds by selling consumer goods and tokens of support like collector stamps and lottery tickets.<sup>24</sup> Such campaigns increased public involvement in refugee relief across Europe and North America. The campaigns also pressured national governments to admit larger numbers of foreign refugees. As before, these campaigns could be fickle. World Refugee Year was a single year. The campaign was hardly geared toward ensuring the long-term welfare of the refugees that the campaign helped to place, as Gatrell importantly notes.<sup>25</sup>

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<sup>23</sup> Diana Kay and Robert Miles, *Refugees or Migrant Workers?: European Volunteer Workers in Britain, 1946-1951*, (London: Routledge, 1992), 1; 1.5 million is the estimated number of displaced persons under the UNHCR in 1958, not accounting for all the world’s refugees at the time, which was at least double that figure (Peter Gatrell, *Free World?: The Campaign to Save the World’s Refugees, 1956-1963*, [Cambridge: Cambridge University Press, forthcoming], 88. My thanks to Peter for permitting me to read and cite from his unpublished manuscript.)

<sup>24</sup> Gatrell, 261-3 & 271ff.

<sup>25</sup> *Ibid.*, 377.

Rendering Flight Unnecessary — Most twentieth-century and contemporary refugee resettlement campaigns have lost sight of one of the primary components of refuge in the nineteenth century: eliminating oppression.

In 1851, Chartists were unwilling to allow the British government to resettle the Polish Hungarian contingent overseas because this would take them too far from the home these revolutionary soldiers hoped to liberate. Refuge in Britain, in its ideal, was meant to be temporary; the British were to take part in the struggle to free the home country from persecution and therein alleviate the oppression the refugees – and their countrymen and women – faced in the hands of an unjust government. By the end of the nineteenth century, British refuge providers joined forces with other Great Powers to take a hand in assuring the rights of minority groups in Eastern Europe. If the Romanian Government could be made to respect Jews as naturalized subjects, for example, the Great Powers – British philanthropists and officials especially – believed that flight would be unnecessary. If the Russian Government showed interest in reform, Anglo-Jewish philanthropists hoped that they could return refugee Jews to their homes and that others would not have to leave their homes in the first place. This logic could be dangerous since it encouraged overtaxed philanthropists to be credulous of promises of reform.

Successful intervention was relatively rare. Supporters of the Italian cause lobbied Parliament relentlessly (and ultimately successfully) to back Garibaldi's bid for independence, as Maura O'Connor has shown. Individual officers helped to reconcile fugitive slaves in the Middle East with their Arab masters when refuge was impossible. But this was hardly the desired outcome – it was more disappointing to the idealist than a return by way of political amnesty, as ultimately took place for the Hungarians under Austrian rule and for the revolutionaries of 1848 later in Napoleon III's reign. Yet even at the pinnacle of imperial international confidence in the nineteenth century, determining how best to intervene in the absence of a treaty or other geopolitical leverage over the offending government could hamstring refugee supporters. Most British supporters of Poland simply waited for the right moment to arise to act. They would wait until the interwar period to see their dream (temporarily) realized. Most opponents of American slavery and the Fugitive Slave Law contented themselves with outfitting refuge when they could not otherwise strike the evil of slavery at its root.

Total war, decolonization and the establishment of ethnically distinct nations in the twentieth century have made a return to a home freed of oppression difficult, to say the least. The High Commission on Refugees has repeatedly attempted to intervene overseas on behalf of foreign refugees and would-be refugees. Under the League, High Commissioner James McDonald tried to stop the flight of refugees at its source, hoping – despite the League's reticence about intervening in Germany – to convince Hitler to ease his treatment of the Jews, as Arnold White tried to convince the czar in the 1880s and 1890s. Moreover, the League's Minority Rights Program attempted to ensure the safety and civic inclusion of ethnic minorities more systematically.<sup>26</sup> The United Nations's peacekeeping force intervenes in some of these situations, staving off the worst persecution where it can.

Historians of Britain now consider their historical interest in relief of foreign refugees to be a *myth* with little basis in reality. How could a people with such a checkered relationship with foreign immigrants in the twentieth century have been hospitable to persecuted foreigners in the past? The British Government ratified the United Nations's 1948 Universal Declaration of

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<sup>26</sup> Skran, 230-258.

Human Rights in 1951, making it among the first to sign the document. Yet Parliament did not adopt the 1951 Refugee Convention into domestic law until 1993. The idea that the British were the refuge providers *par excellence* now seems implausible and hypocritical.

To say that Britain deserves no credit for the development of refuge obscures the truth, however. Britain does deserve credit for developing a new moral politics which made it incumbent upon voluntary associations, the government and the public at large to sympathize with persecuted foreigners. The British were the first to institutionalize this broad moral imperative. They were also the first to encounter the practical limits of this kind of moral mobilization. British refuge in the nineteenth century involved a symbiosis between national/imperial power, security and wealth, and the ambition of delivering on liberal moral promises. The strength of British refuge in the nineteenth century – the nation's ability to deliver on this promise – required not only moral commitment but command of resources and power as well. Without these, the British began to scale back on their promises to the persecuted, hedging on their moral ambitions. As it turns out, however, this was not a peculiarly British shortcoming. In our celebration of human rights and the advancement of universal moral norms in the twentieth century, we forget how tied to our own sense of affluence and security those claims are. The clash between the urgency and the universality of our moral claims and the pragmatic limitations on our ability to bring them about is still with us just as it was for the British at the turn of the last century.

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