

ALIENS IN A REVOLUTIONARY WORLD: REFUGEES, MIGRATION CONTROL AND SUBJECTHOOD IN THE BRITISH ATLANTIC, 1790s–1820s*

I

On the morning of 30 November 1823, the British military brig *Helicon* set sail on a journey that would make waves for years to come.¹ The eight-day trip from Port Royal in Jamaica to Jacmel on Haiti's south coast set in motion a series of legal and political battles that extended across the British Atlantic. Three of *Helicon*'s passengers stood at the centre of these battles: Louis Celeste Lecesne, John Escoffery and John Gonville, all free men of colour in their late twenties who had been removed from Jamaica as aliens 'of a most dangerous description'.²

The forced removal of individuals considered dangerous—both free and enslaved—was far from unusual in Jamaica. What set this case apart was that two of the deportees, Lecesne and Escoffery, ultimately succeeded in challenging their removal on

*I would like to thank Lisa Ford, Kirsten McKenzie, Dane Kennedy, David Lazar, Jürgen Osterhammel, the audiences at Princeton University, University of Freiburg, University of Leipzig and the Free University of Berlin, and the 'Atlantic Exiles' team at the University of Duisburg-Essen for insightful comments and suggestions. Special thanks go to the Earl of Crawford & Balcarres for his permission to use and cite from his private collection deposited in the National Library of Scotland. Research for this article has received funding from the German Historical Institute in Washington and the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (grant agreement No 849189), including for its open access publication.

¹ Governor Duke of Manchester to Commodore Edward Owen, 28 Nov. 1823; Owen to Manchester, 2 and 15 Dec. 1823: The National Archives, London (hereafter TNA), CO 137/164, fos. 11^r–14^r.

² Governor's Order in Council, 28 Nov. 1823: TNA, CO 137/174, fo. 81. In the documents, the spelling of names varies. Common spellings include Lescene, Le Cesne, Scoffery, and Scofferie; Gonville is sometimes referred to as Valmour.

the grounds that they were British subjects. Their legal struggle began in October 1823, when, with the help of Jamaica's Supreme Court, they evaded — temporarily, as it turned out — forced removal from Jamaica. Following their deportation in November, they found support among Haiti-based British merchants. After unsuccessfully petitioning Jamaica's governor, Lecesne, Escoffery and Gonville sailed to Great Britain in March 1824 to plead their case. In the meantime, their removal had begun to make headlines in Haiti.³ Soon it also resonated in Great Britain. Radical activist and abolitionist, Stephen Lushington, brought their case before the House of Commons in May 1824.⁴ Four years of legal battles, inquiries, litigation, parliamentary debate and pamphleteering ensued. Finally, the British government brought the matter to an end in 1828. It resolved that the removal of all three men — even Gonville, who had largely remained out of the fray — had not been lawful.⁵

The case of Lecesne, Escoffery and Gonville is remarkable in many respects, not least because it represents a resounding victory for men of colour, and of modest means, over the strongest and most recalcitrant colonial government in the British Caribbean and its well-honed lobby at Westminster. Yet, despite its public resonance at the time, the case has not been explored in any detail by historians. Traces can be found in the historiographies of the Haitian diaspora and Jamaica's free people of colour. They point to two aspects of the litigants' background that helped turn a local affair into an empire-wide *cause célèbre*.⁶

³ *Le Télégraphe* (Port-au-Prince), 1 Jan. 1824, 2–4.

⁴ *Hansard*, 2nd ser., xi, cols. 796–804 (21 May 1824); Petition of Lecesne and Escoffery to the House of Commons, n.d. [1824]: TNA, CO 137/176, fos. 6^r–9^v.

⁵ For summaries of the affair, C. Wetherell and N. C. Tindal to Bathurst, 12 Mar. 1827; Huskisson to the Attorney and Solicitor General, 10 Nov. 1827; James Stewart to Robert William Hay, 8 June 1829; 'Narrative of the Facts', n.d.: TNA, CO 137/176, fos. 11^r–16^v, 22^r–25^v, 728^{r-v}, 741^r–751^r.

⁶ The earliest reference to the affair I could find are in the monuments of nineteenth-century Haitian historiography: Thomas Madiou, *Histoire d'Haïti*, 8 vols. (Port-au-Prince, 1984–91), vi, 368; Beaubrun Ardouin, *Études sur l'histoire d'Haïti*, 11 vols. (Paris, 1853–60), ix, 223 n. 1. Later discussions or references include Charles H. Wesley, 'The Emancipation of the Free Colored Population in the British Empire', *Journal of Negro History*, xix (1934), 154–8; Patrick Bryan, 'Émigrés, Conflict and Reconciliation: The French Émigrés in Nineteenth-Century Jamaica', *Jamaica Journal*, vii (1973), 16; Gad J. Heuman, *Between Black and White: Race, Politics, and the Free Coloreds in Jamaica, 1792–1865* (Westport, Conn., 1981), 33–43; Edward Bartlett Rugemer, *The Problem of Emancipation: The Caribbean Roots of the American Civil War* (Baton Rouge, 2008), 101–2; Matthew J. Smith, *Liberty, Fraternity, Exile: Haïti and Jamaica after Emancipation* (Chapel Hill,

First, it is unclear whether Lecesne, Escoffery and Gonville were aliens or subjects, and this uncertainty shaped the entire affair. The three men were children of refugees born at a time when the French colony of Saint-Domingue was engulfed in the Haitian Revolution (1791–1804). When their parents (and, possibly, they themselves) left Saint-Domingue, British troops occupied large swaths of the colony (1793–8).⁷ In 1798 alone, almost three thousand people — including some 1,600 slaves — were reported to have arrived in Kingston with the evacuating British troops, accounting for more than 10 per cent of the city's population.⁸ The refugees arriving in Jamaica were part of a heterogeneous diaspora of several tens of thousands of people from Saint-Domingue scattered across the Atlantic basin.⁹

Lecesne, Escoffery and Gonville were thus representative of a much larger group — the refugees of the so-called age of revolutions, the half-century of inter-imperial warfare, political upheaval and independence that rocked the Atlantic world in the decades around 1800. From North and South America to the Caribbean and Western Europe, revolutionary conflicts and the violence they generated put more than a quarter of a million people on the move. Contemporaries had no doubt that political modernity, brought about by the great revolutions and often identified with new concepts of citizenship and sovereignty, was inextricably connected with the emergence of political refugees as a mass phenomenon. While there is growing consensus that the revolutions in the Atlantic basin can no longer be studied in

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2014), 27–8; Daniel Livesay, *Children of Uncertain Fortune: Mixed-Race Jamaicans in Britain and the Atlantic Family, 1733–1833* (Chapel Hill, 2014), 382; Jan C. Jansen, 'Brothers in Exile: Masonic Lodges and the Refugees of the Haitian Revolution, 1790s–1820', *Atlantic Studies*, xvi (2019), 354; Michael Taylor, *The Interest: How the British Establishment Resisted the Abolition of Slavery* (London, 2020), 119–22.

⁷ The best account is David P. Geggus, *Slavery, War, and Revolution: The British Occupation of Saint-Domingue, 1793–1798* (Oxford, 1982).

⁸ Balcarres to Portland, 29 Oct. 1798: TNA, CO 137/100, fos. 161^r–162^v. Over five hundred slaves were initially admitted; see 'État des nègres cultivateurs français réfugiés à la Jamaïque en conséquence de l'évacuation de St Domingue', n.d. [1799]: National Library of Scotland, Edinburgh (hereafter NLS), Acc. 9769, 23/12/106. On the evacuation, Geggus, *Slavery, War, and Revolution*, 373–83.

⁹ Nathalie Dessens, *From Saint-Domingue to New Orleans: Migration and Influences* (Gainesville, 2007); Rebecca J. Scott and Jean M. Hébrard, *Freedom Papers: An Atlantic Odyssey in the Age of Emancipation* (Cambridge, Mass., 2012); Alejandro E. Gómez, *Le spectre de la révolution noire: l'impact de la révolution haïtienne dans le monde atlantique, 1790–1886* (Rennes, 2013).

isolation, scholars have been slow to recognize that the movements of loyalists, émigrés, exiles and refugees were as much a defining feature of this era as the circulation of revolutionaries and their ideas.¹⁰ As a result, what role these refugees played in the transformation of the Atlantic world is still largely uncharted territory.

Another important aspect leads us precisely into this territory. Lecesne, Escoffery and Gonville were all from mixed-race families and, along with many other refugees, they joined the growing free-coloured community in Jamaica. As Gad Heuman has argued, this social and political context was crucial for the escalation of the affair.¹¹ The men's deportation coincided with — and was prompted by — an emerging campaign for equality by Jamaica's free people of colour. Lecesne and Escoffery had social and professional ties to leading members of this movement, and throughout their legal battle they were supported by individuals whose project was to renegotiate the terms of Britishness for mixed-race people.

This local context was inextricably caught up in the crises, and reconfiguration of imperial rule around the world between the 1760s and 1820s.¹² In the Atlantic basin, all major imperial powers entered protracted processes of imperial restructuring, and these constitutional struggles provided the framework in which revolutions and nation-building processes in the Americas took shape.¹³ Great Britain steered clear of the empire-wide constitutions that were created to bind the metropolises and

¹⁰ Maya Jasanoff, 'Revolutionary Exiles: The American Loyalist and French Émigré Diasporas', in David Armitage and Sanjay Subrahmanyam (eds.), *The Age of Revolutions in Global Context, c. 1760–1840* (Basingstoke, 2010); Jan C. Jansen, 'Flucht und Exil im Zeitalter der Revolutionen: Perspektiven einer atlantischen Flüchtlingsgeschichte (1770er–1820er Jahre)', *Geschichte und Gesellschaft*, xlv (2018); Friedemann Pestel, 'The Age of Emigrations: French Émigrés and Global Entanglements of Political Exile', in Laure Philip and Juliette Reboul (eds.), *French Emigrants in Revolutionised Europe: Connected Histories and Memories* (Basingstoke, 2019).

¹¹ Heuman, *Between Black and White*, 33–43.

¹² C. A. Bayly, *Imperial Meridian: The British Empire and the World, 1780–1830* (London, 1989), 164–92; John Darwin, *After Tamerlane: The Rise and Fall of Global Empires, 1400–2000* (London, 2008), 157–217.

¹³ Jeremy Adelman, 'An Age of Imperial Revolutions', *American Historical Review*, cxiii (2008); Josep M. Fradera, *The Imperial Nation: Citizens and Subjects in the British, French, Spanish, and American Empires* (Princeton, 2018); Gabriel Paquette, *The European Seaborne Empires: From the Thirty Years' War to the Age of Revolutions* (New Haven, 2019), 190–221.

colonies of France, Spain and Portugal. And still, driven by military conquest and American independence, the British Empire underwent a transformation no less fundamental, characterized by an uneasy mix of three tendencies: the expansion of British rule over an ever-more diverse set of peoples; an authoritarian turn in government, both at home and overseas; and a paternalistic commitment to liberty, the rule of law and humanitarianism, both within the empire and beyond.¹⁴ The West Indies were a crucial arena of transformation and reform. It was here that archetypes of top-down Crown-colony rule emerged, and that efforts to reform and later abolish the trade and possession of enslaved people found their most immediate application. Their connection to these contexts launched Lecesne, Escoffery and Gonville into broader controversies about imperial governance across the British Empire, and beyond.

At the time, the case of the three deportees unfolded, ‘refugee’ was not a formally defined category in law at the national, colonial or international level.¹⁵ Nonetheless, law was omnipresent at each of these levels throughout the affair. The affair reflected the centrality of law in the imperial transformations under way at the time. Metropolitan governments and imperial officials considered law and legal reform the key regulatory framework for addressing problems of colonial governance.¹⁶ The case was shaped in large part by what Lauren Benton has called ‘legal politics’ — the strategic and inventive use of the law by actors on the ground —

¹⁴ On these transformations, see Bayly, *Imperial Meridian*; P. J. Marshall, *The Making and Unmaking of Empires: Britain, India, and America, c.1750–1783* (Oxford, 2005); Christopher L. Brown, *Moral Capital: Foundations of British Abolitionism* (Chapel Hill, 2006); Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800–1850* (Cambridge, Mass., 2016).

¹⁵ Sylvie Aprile and Delphine Diaz, ‘Les réfugiés et l’asile dans l’Europe du XIX^e siècle’, in Michel Agier and Anne-Virginie Madeira (eds.), *Définir les réfugiés* (Paris, 2017). The categories used to describe involuntary political migrants during this period included ‘refugee’, ‘fugitive’, ‘exile’, ‘emigrant’, ‘émigré’ and ‘loyalist’. British administrations, including in Jamaica, tended to refer to migrants from the Haitian Revolution as ‘emigrants’, underscoring their connections to the émigrés of the French revolution in Great Britain. See, for example, ‘Amount of Money Paid to French Emigrants’, 31 Dec. 1793: National Library of Jamaica, Kingston (hereafter NLJ), MS 72 (Nugent Papers), Box 1, 264N. I follow the broad trend among historians to refer to the migrants of the Haitian Revolution as ‘refugees’, a term already predominantly used for them at the time in the United States and France.

¹⁶ Benton and Ford, *Rage for Order*, 2–6.

and often outside the courtroom.¹⁷ The affair illustrates how marginal actors without legal training could intervene in that politics and shape patterns of imperial or international law. The three men's skilful use of the law resembles the legal struggles of black and mixed-race Saint-Domingue refugees against (re)enslavement, and it certainly built on long-standing engagements with the law in *ancien régime* Saint-Domingue.¹⁸

What made Lecesne, Escoffery and Gonville stand out was their ability to cast their case in general terms and to speak to a wider audience beyond the courtroom. They succeeded in turning a local affair into an imperial scandal.¹⁹ As it progressed, this scandal began to occupy the attention of the chief protagonists of imperial law and its politics: chief justices, ministerial bureaucrats, commissioners of legal inquiry, local governors and officers, and national and colonial legislatures.²⁰ It played out, not only in court proceedings, boardrooms and secret correspondence, but also before the public. Occurring at the confluence of the 'sensational

¹⁷ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge, 2010), 23–30; Lauren Benton, 'Law and Empire in Global Perspective: Introduction', *American Historical Review*, cxvii (2012), 1093–6.

¹⁸ See the case studies by Rebecca J. Scott, '“She...Refuses to Deliver Up Herself as the Slave of Your Petitioner”: Émigrés, Enslavement, and the 1808 Louisiana Digest of the Civil Laws', *Tulane European and Civil Law Forum*, xxiv (2009); Rebecca J. Scott, 'Paper Thin: Freedom and Re-enslavement in the Diaspora of the Haitian Revolution', *Law and History Review*, xxix (2011); Sue Peabody, '“Free Upon Higher Ground”: Saint-Domingue Slaves' Suits for Freedom in U.S. Courts, 1792–1830', in David Patrick Geggus and Norman Fiering (eds.), *The World of the Haitian Revolution* (Bloomington, Ind., 2009); Martha S. Jones, 'Time, Space, and Jurisdiction in Atlantic World Slavery: The Volunbrun Household in Gradual Emancipation New York', *Law and History Review*, xxix (2011). On enslaved and free-coloured people's engagement with the law in colonial Saint-Domingue, see Malick W. Ghachem, *The Old Regime and the Haitian Revolution* (Cambridge, 2012).

¹⁹ On the history of colonial/imperial scandals, see Nicholas B. Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge, Mass., 2006); James Epstein, *Scandal of Colonial Rule: Power and Subversion in the British Atlantic during the Age of Revolution* (Cambridge, 2012); Kirsten McKenzie, *Imperial Underworld: An Escaped Convict and the Transformation of the British Colonial Order* (Cambridge, 2016).

²⁰ Paul D. Halliday, *Habeas Corpus: From England to Empire* (Cambridge, Mass., 2010); McKenzie, *Imperial Underworld*, 4–6; Hannah Weiss Muller, *Subjects and Sovereign: Bonds of Belonging in the Eighteenth-Century British Empire* (Oxford, 2017), 33–40; Daniel J. Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664–1830* (Chapel Hill, 2005).

mode²¹ and the mundane mode of legal reporting, the affair generated a sprawling debate about the terms of membership in a British Empire undergoing profound transformation. It raised fundamental questions about who was an alien, the extent of state control over their lives, and their status within an empire in revolutionary turmoil. It morphed into a debate about who was a subject of the Crown, and how sovereignty was to be conceived in a period of continuous territorial transfer and shifting military occupations. In short, the controversy surrounding the deportation case engaged key transformations of the revolutionary era, and raised issues that would remain high on the agenda of international law throughout the nineteenth century. Following the winding course of this particular case, we can see how societies and states grappled with thorny issues of alienness, subjecthood and sovereignty in the midst of a major reconfiguration of the Atlantic world. And it allows us to examine the role of a crucial, but largely overlooked, set of historical actors.

II

In 1795, John Escoffery's father, Jean Marie, an Italian resident, and his mother, Louisa Eulalie Savarie, a free woman of colour, sailed from Saint-Marc to Kingston.²² Three years later, Louis Celeste Lecesne's parents, Louis Nicholas, a Frenchman from Normandy, and Charlotte, a black woman born in Saint-Domingue, arrived in Kingston from Port-au-Prince, along with Louis Nicholas's two older children and their mother, Mary Ann, a black woman.²³ They were accompanied by the single largest group of enslaved people from Saint-Domingue to be granted entrance to Jamaica during this period, consisting of some 120 slaves belonging to absentee planter, Joseph Hyacinthe François de Paule de Rigaud, Comte de Vaudreuil.²⁴

²¹ Epstein, *Scandal of Colonial Rule*, 42.

²² Extract from the Book of Report of Foreigners, Police of Kingston, 1808: TNA, CO 137/174, fo. 69^r.

²³ Extract from the Book of Report of Foreigners, Police of Kingston, 1803: TNA, CO 137/174, fo. 54^r.

²⁴ 'État des nègres cultivateurs': NLS, Acc. 9769, 23/12/106. Lecesne had been in Vaudreuil's service since 1792; see *Procès-Verbal de l'état de l'habitation Vaudreuil*, 12 Aug. 1792: Archives nationales d'outre-mer, Aix-en-Provence, France (hereafter ANOM), 6DPPC/26; Vaudreuil to Lady E. Foster, 23 Apr. 1794, in *Correspondence intime du Comte de Vaudreuil et du Comte d'Artois pendant l'émigration, 1789-1815*, 2 vols. (Paris, 1889), ii, 198-201.

Charlotte, Louis Celeste's mother, had been born enslaved on one of Vaudreuil's plantations and was manumitted by Louis Nicholas Lecesne, Vaudreuil's attorney, in 1794. In Jamaica, Louis Nicholas oversaw the purchase of an estate in St. Ann's and leased the slaves to other employers.²⁵ He and his family continued to reside in Jamaica, despite an order that he transfer the count's slaves to Trinidad, some of whom he purchased for himself.²⁶ The Lecesne family weathered major crackdowns against refugees on estates in St. Ann's and, later, St. Catherine before Louis Nicholas went into business as a merchant and distiller in Kingston.²⁷ The Escoffery family never left Kingston. Jean Escoffery became a shopkeeper in the same neighbourhood as Lecesne, along West Street near the wharves.²⁸

The migrations of the Lecesne and Escoffery households were but two examples of a colossal movement of people during the revolutionary era. The American Revolution had pitted champions of independence against those who remained loyal to the British Crown, and at least sixty thousand 'Loyalists', accompanied by some fifteen thousand slaves, fled the former colonies in 1782–3.²⁹ Roughly 150,000 individuals emigrated from revolutionary France

²⁵ Vaudreuil to Earl of Liverpool, 29 June 1798 and 5 Aug. 1798; Mémoire du Comte de Vaudreuil, 5 Aug. 1798: British Library, London (hereafter BL), Add. MS 38232, fos. 140^r–141^v, 185^r–186^f, 187^r–^v; De Ladebat, Order, 18 Aug. 1799; Memorial of the Comte de Vaudreuil to Henry Dundas, 17 June 1799; Vaudreuil to Balcarres, 5 July 1799; L. Lecesne to 'Mon Général' [Balcarres?], 17 Dec. 1799; Memorandum, 6 Jan. 1800; Note, n.d. [1800]; William Dundas to Henry Dundas, 21 July 1800: NLS, Acc. 9769, 23/12/61–67.

²⁶ Sale of Slaves, Edward M. Whitehead to Lecesne, 4 Feb. 1802: Registrar General's Department/Island Record Office, Twickenham Park, Jamaica (hereafter RGD/IRO), Deeds, Liber Old Series (hereafter LOS) vol. 482, fo. 181^r; 'Noms et état des nègres de MM. les Comtes de Vaudreuil et de Duras au 4^e février 1801': TNA, CO 318/66; Comte to Marquise de Vaudreuil, 6 May 1802, in *Correspondance intime du Comte de Vaudreuil et du Comte d'Artois pendant l'émigration*, ii, 303–7.

²⁷ Mortgage, William Liddell and Louis N. Lecesne, 20 Feb. 1802: RGD/IRO, Deeds, LOS vol. 498, fos. 141^r–143^f.

²⁸ The 1797 tax roll shows Escoffery as resident of West Street, Kingston Poll Tax Roll, 1797: Jamaica Archives, Spanish Town, Jamaica (hereafter JA), 2/6/105; Sale of Land, David Keith to John Escoffier, 9 July 1799: RGD/IRO, Deeds, LOS vol. 464, fos. 113^r–^v.

²⁹ For the figures in this paragraph, see Maya Jasanoff, *Liberty's Exiles: American Loyalists in the Revolutionary World* (New York, 2011), 351–8; John Dunne, 'Quantifier l'émigration des nobles pendant la Révolution française: problèmes et perspectives', in Jean-Clément Martin (ed.), *La contre-révolution en Europe, XVIII^e–XIX^e siècles: réalités politiques et sociales, résonances culturelles et idéologiques* (Rennes, 2001); Dessens, *From Saint-Domingue to New Orleans*, 15–20.

and scattered across Europe and the Americas in the early 1790s. Some twenty to thirty thousand people left Saint-Domingue during the Haitian Revolution, and thousands more escaped other political conflicts across Europe and the Caribbean in the 1790s and early 1800s. A few years later, tens of thousands of people from Spanish America fled to the Caribbean, the United States and Europe. Exile was becoming an experience shared by opponents and proponents of revolutionary change alike.³⁰ This massive refugee migration overlapped with other forms of coerced mobilities — of enslaved people, of convicts and deportees, of soldiers and prisoners of war, all of which surged in the decades around 1800.

Revolutionary-era refugee movements touched almost every corner of the Atlantic world.³¹ Most American Loyalists resettled within the British Empire, in Canada, the British Isles, Jamaica, the Bahamas and Sierra Leone. French émigrés from Europe moved across Europe, but also migrated to North and South America and to the Caribbean. Saint-Domingue refugees scattered across the Spanish, British and Dutch Antilles, the Gulf of Mexico, North and South America, and metropolitan

³⁰ The political emigrations of the Spanish American revolutions are the least understood so far. For overviews, see Edmundo A. Heredia, *Los vencidos: un estudio sobre los realistas en la guerra de independencia hispanoamericana* (Cordoba, 1997), 65–92; Paul Verna, *Bolívar y los emigrados patriotas en el Caribe (Trinidad, Curazao, San Thomas, Jamaica, Haití)* (Caracas, 1983); Karen Racine, 'Imagining Independence: London's Spanish-American Community, 1790–1829' (Tulane Univ. Ph.D. thesis, 1996); Edward Blumenthal, *Exile and Nation-State Formation in Argentina and Chile, 1810–1862* (Basingstoke, 2019); Nicolás A. González-Quintero, 'Exile and Empire in the 19th Century Spanish Caribbean' (Univ. of Texas at Austin Ph.D. thesis, 2020). Liberal exiles would dominate southern Europe's revolutionary struggles in the 1810s–20s; see Maurizio Isabella, *Risorgimento in Exile: Italian Émigrés and the Liberal International in the Post-Napoleonic Era* (Oxford, 2009); Juan Luis Simal, *Emigrados: España y el exilio internacional, 1814–1834* (Madrid, 2012).

³¹ Overviews for the better-researched diasporas are provided in Mary Beth Norton, *The British-Americans: The Loyalist Exiles in England, 1774–1789* (Boston, 1972); Cassandra Pybus, *Epic Journeys of Freedom: Runaway Slaves of the American Revolution and their Global Quest for Liberty* (Boston, 2006); In Jasanoff, *Liberty's Exiles*; Jerry Bannister and Liam Riordan (eds.), *The Loyal Atlantic: Remaking the British Atlantic in the Revolutionary Era* (Toronto, 2012); In Kirsty Carpenter and Philip Mansel (eds.), *The French Émigrés in Europe and the Struggle against Revolution, 1789–1814* (Basingstoke, 1999); Friedemann Pestel, *Kosmopoliten wider Willen: Die 'monarchiens' als Revolutionsemigranten* (Berlin, 2015); François Furstenberg, *When the United States Spoke French: Five Refugees who Shaped a Nation* (New York, 2014); Dessens, *From Saint-Domingue to New Orleans*, 15–20.

France's Atlantic port cities. In places such as Cuba, Puerto Rico and Venezuela, they often crossed paths with refugees from other Caribbean theatres of conflict such as Martinique, Guadeloupe and Santo Domingo.³² Authorities across Spanish America also grappled to resettle the former slave insurgents who had allied with them during the Haitian Revolution.³³ In the 1810s and 1820s, Spanish America itself would send tens of thousands of exiles across the Atlantic world; major movements, such as the refugees from Venezuela's revolutionary war or the Spaniards expelled from Mexico, would end up in the Spanish and British Caribbean, the United States and Europe.³⁴

In short, between 1780 and 1830, each of the major Atlantic empires, along with the new nation states that broke off from them, not only created, but also received refugees in large numbers.³⁵ Within the emerging geographies of exile, certain regions and places stood out as hubs of refugee movements. The Caribbean was a major destination and transit region for political refugees and other forced

³² Ángel Sanz Tapia, *Los militares emigrados y los prisioneros franceses en Venezuela durante la guerra contra la Revolución: un aspecto fundamental de la época de la preemancipación* (Caracas, 1977); Carlos Esteban Deive, *Las emigraciones dominicanas a Cuba, 1795–1808* (Santo Domingo, 1989); Graham T. Nessler, *An Islandwide Struggle for Freedom: Revolution, Emancipation, and Reenslavement in Hispaniola, 1789–1809* (Chapel Hill, 2016), 38–9, 73–5, 126–31; Christina Soriano, *Tides of Revolution: Information, Insurgencies, and the Crisis of Colonial Rule in Venezuela* (Albuquerque, 2018), 196–205; Nicolás A. González-Quintero, 'The Monarchical Caribbean: Tomas Wood, Exiles, and Royalist Strongholds during the Spanish American Independence Wars', *World History Connected*, xvi (2019).

³³ David P. Geggus, *Haitian Revolutionary Studies* (Bloomington, Ind., 2002), 179–203; Jane G. Landers, *Atlantic Creoles in the Age of Revolutions* (Cambridge, Mass., 2010), 55–94.

³⁴ Harold Sims, *Descolonización en México: el conflicto entre mexicanos y españoles, 1821–1831* (Mexico, 1982); Jesús Ruiz de Gordejuela Urquijo, *La expulsión de los españoles de México y su destino incierto, 1821–1836* (Seville, 2006); Raquel Rosario, *Los emigrantes llegados a Puerto Rico procedentes de Venezuela entre 1810–1848* (Rio Piedras, 1992); Kit Candlin, 'The Expansion of the Idea of the Refugee in the Early-Nineteenth-Century Atlantic World', *Slavery and Abolition*, xxx (2009), 524–9; Sarah C. Chambers, 'Rewarding Loyalty after the Wars of Independence in Spanish America: Displaced Bureaucrats in Cuba', in Alan Forrest, Karen Hagemann and Michael Rowe (eds.), *War, Demobilization and Memory: The Legacy of War in the Era of Atlantic Revolutions* (London, 2016); González-Quintero, 'Exile and Empire in the 19th Century Spanish Caribbean', 38–62.

³⁵ For the British Empire, see Caroline Shaw, *Britannia's Embrace: Modern Humanitarianism and the Imperial Origins of Refugee Relief* (Oxford, 2015).

migrants.³⁶ Much like Europe's famous capitals of exile (London, Paris, Brussels, Geneva), some Caribbean islands served almost continuously as places of refuge. Among them was Jamaica.³⁷ It was an early destination for American Loyalists, then for Saint-Domingue refugees — like Lecesne and Escoffery — and, in the 1810s and 1820s, for exiles from Spanish America. This continuous inflow of refugees left deep traces in Kingston, a city undergoing major transformations in the decades following US independence.³⁸

The great upheavals of the decades around 1800 created large numbers of political refugees. But to what extent did those refugees become agents in the unfolding transformations? Scholars have established that particular refugee groups had a profound impact on discrete localities — from Canada and Louisiana to Cuba and Sierra Leone.³⁹ Their involvement in transformations on an imperial level is much less certain. Most importantly, Maya Jasanoff and Keith Mason have argued that the Loyalist resettlement was a central arena of imperial reconfiguration.⁴⁰ The British Empire considered it crucial to take in the migrants from the former American colonies, precisely because they wanted to

³⁶ David P. Geggus, 'Slavery, War, and Revolution in the Greater Caribbean, 1789–1815', in David Barry Gaspar and David Patrick Geggus (eds.), *A Turbulent Time: The French Revolution and the Greater Caribbean* (Bloomington, Ind., 1997), 24–9.

³⁷ Jasanoff, *Liberty's Exiles*, 245–77; Philip Wright and Gabriel Debien, 'Les colons de Saint-Domingue passés à la Jamaïque, 1792–1835', *Bulletin de la Société d'Histoire de la Guadeloupe*, xxvi (1975); Verna, *Bolívar y los emigrados patriotas en el Caribe*, 38–45; Ernesto Bassi, *An Aqueous Territory: Sailor Geographies and New Grenada's Transimperial Greater Caribbean World* (Durham, NC, 2016), 151–8.

³⁸ Wilma R. Bailey, 'Kingston 1692–1843: A Colonial City' (Univ. of the West Indies Ph.D. thesis, 1974), 196–226.

³⁹ Neil MacKinnon, *This Unfriendly Soil: The Loyalist Experience in Nova Scotia, 1783–1791* (Kingston, ON, 1986); James W. St. G. Walker, *The Black Loyalists: The Search for a Promised Land in Nova Scotia and Sierra Leone, 1783–1870* (London, 1976); Paul Lachance, 'Repercussions of the Haitian Revolution in Louisiana', in David P. Geggus (ed.), *The Impact of the Haitian Revolution in the Atlantic World* (Columbia, SC, 2001), 209–30; Agnès Renault, *D'une île rebelle à une île fidèle: les Français de Santiago de Cuba, 1791–1825* (Mont-Saint-Aignan, 2012); Ada Ferrer, *Freedom's Mirror: Cuba and Haiti in the Age of Revolution* (Cambridge, 2014), 146–88.

⁴⁰ Jasanoff, *Liberty's Exiles*; Keith Mason, 'The American Loyalist Diaspora and the Reconfiguration of the British Atlantic World', in Eliga H. Gould and Peter S. Onuf (eds.), *Empire and Nation: The American Revolution in the Atlantic World* (Baltimore, 2005), 239–59. A similar argument has recently been put forth for the Spanish Empire by González-Quintero, 'Exile and Empire in the 19th Century Spanish Caribbean'.

remain British subjects. The legal battle around Lecesne, Escoffery and Gonville brings to the fore the impact of a different group among revolutionary-era refugees — namely, ‘aliens’.

III

When Kingston’s alien officer arrested Louis Celeste Lecesne and John Escoffery for the first time on 7 October 1823, he presented them with a warrant from the governor for their removal from the island. The warrant cited a law with an unwieldy title: ‘An act to consolidate and amend the several laws respecting the admission into this island of aliens, and for other purposes’.⁴¹ This 1818 law was the latest incarnation of a set of regulations that had existed in Jamaica for more than three decades, and were commonly known as the Alien Act.

Regulations aimed at foreigners were not unique to Jamaica or the British Empire. Starting in the 1790s, residents and authorities across North and South America, the Caribbean and Europe struggled to cope with surging numbers of foreign refugees. Governments and legislatures — wary of the spread of political turmoil — usually responded with a mix of selective humanitarian aid and sweeping regulations to control and limit the arrival of foreign refugees, and foreigners writ large. These regulations made the decades around 1800 the heyday of alien legislation across the Atlantic world.⁴² At the same time that states were redefining membership, often under the umbrella ‘citizenship’, they were also engaged in the no less far-reaching process of reshaping the status of those who did not belong. These laws were introduced both by counter-revolutionary regimes *and* regimes born out of revolution, both territorial nation states *and* overseas empires.

To be sure, states had long sought to control movement and restrict the rights of non-members. Since at least the late Middle Ages, states across Europe and beyond required travellers to carry identity papers and badges of different sorts, and local authorities

⁴¹ William Bullock, Secretary to the Governor, to Provost Marshall General, 3 Oct. 1823: TNA, CO 137/174, fo. 33^r; 59 Geo. III, c. 23 (1818), *Laws of Jamaica*, vii, 158–85.

⁴² Andreas Fahrmeir, Olivier Faron and Patrick Weil (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* (Oxford, 2003); In Jane Caplan and John Torpey (eds.), *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton, 2001).

used the right to remove non-resident paupers and ‘vagrants’.⁴³ With the emergence of slavery-based plantation colonies in the Americas, planters and colonial authorities made a priority of controlling the mobility of enslaved people.⁴⁴ While rooted in these earlier efforts, the proliferating regulations of the 1790s, which targeted *all* incoming aliens, were unprecedented in scope and ambition.⁴⁵ In many territories, this was the first time that aliens as such became the subject of written law. Even in the Spanish Empire, long known for its restrictive immigration policies, the 1790s and early 1800s stood out. While Spanish American territories had considerable experience by then in identifying, controlling and removing foreigners, recurring expulsion campaigns against foreign merchants in the eighteenth century had been mitigated by judicial review and practices that allowed many foreign-born to become *de facto* nationals.⁴⁶ In 1789, however, the Spanish Crown issued an entry ban, and enacted measures of surveillance and expulsion that went far beyond prior practice.⁴⁷ In the Americas, these measures were

⁴³ For overviews, see Valentin Groebner, *Who Are You? Identification, Deception, and Surveillance in Early Modern Europe* (New York, 2007); Andreas Fahrmeir, *Citizenship: The Rise and Fall of a Modern Concept* (New Haven, 2007), 9–26; In Gérard Noiriel (ed.), *L’identification: Genèse d’un travail d’État* (Paris, 2007). See also, as a case study, Luca Scholz, *Borders and Freedom of Movement in the Holy Roman Empire* (Oxford, 2020).

⁴⁴ For example, Stephanie M. H. Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (Chapel Hill, 2004), 12–16.

⁴⁵ Richard Plender, *International Migration Law*, revised 2nd ed. (Dordrecht, 1988), 64–6.

⁴⁶ Tamar Herzog, *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America* (New Haven, 2003), 111–18; Tamar Herzog, ‘Communities Becoming a Nation: Spain and Spanish America in the Wake of Modernity (and Thereafter)’, *Citizenship Studies*, xi (2007); Martin Biersack, ‘Duldung und Ausweisung von Ausländern im kolonialen Spanischamerika’, *Saeculum*, lxxvii (2017).

⁴⁷ On revolutionary-era alien regulations in Spain and the Americas, see Sanz Tapia, *Los militares emigrados y los prisioneros franceses en Venezuela durante la guerra contra la Revolución*; Julius S. Scott, *The Common Wind: Afro-American Currents in the Age of the Haitian Revolution* (London, 2018), 59–68; Frédérique Langue, ‘Los franceses en Nueva España a finales del siglo xviii: notas sobre un estado de opinión’, *Anuario de Estudios Americanos*, xlvii (1989); Jesús Manuel González Beltrán, ‘Legislación sobre extranjeros a finales del siglo xviii’, *Trocadero*, viii–ix (1997); Carrie Elizabeth Gibson, ‘The Impact of the Haitian Revolution on the Hispanic Caribbean, c.1791–1830’ (Univ. of Cambridge D.Phil. thesis, 2010), 29–35, 74–133; Gómez, *Le spectre de la révolution noire*, 149–51; Ferrer, *Freedom’s Mirror*, esp. 17–82; Soriano, *Tides of Revolution*, 77–114, 196–205; Bram Hoonhout and Thomas Mareite, ‘Freedom at the Fringes? Slave Flight and Empire-Building in the Early Modern Spanish Borderlands of

coupled with regulations enacted in response to revolutionary turmoil and migrations in the Caribbean. The centuries-long policy of encouraging the immigration of foreign enslaved fugitives was abruptly ended in 1790, even though local authorities continued it in some cases. In the following years, Spain's colonies in the Caribbean and in North and South America — from Santo Domingo, Cuba and Puerto Rico to Louisiana, Mexico and Venezuela — imposed strict regulations on foreigners. In many Spanish dominions, refugees from Saint-Domingue were the targets of particularly harsh measures, especially if they were black or mixed-race.

Stringent regulations on aliens were enacted throughout Europe and the Americas. The territories of the Holy Roman Empire, for example, responded to the influx of French émigrés with increased surveillance efforts and inter-state collaboration.⁴⁸ Revolutionary France turned a long-existing domestic passport regime into a system of strict alien control. During the 1790s and early 1800s, French authorities set in place systems of classification and control of various refugee communities, including hundreds of 'Egyptian refugees' after the failed French campaign in North Africa; in 1802, they revived older efforts at limiting the movement of blacks in metropolitan France in conjunction with the reintroduction of slavery in its colonies.⁴⁹ Portugal and Brazil ramped up the control

(n. 47 cont.)

Essequibo–Venezuela and Louisiana–Texas', *Slavery and Abolition*, xl (2018), 70–7; Martin Biersack, 'Spaniens Kolonialherrschaft und die extranjeros in Amerika (1700–1810)' (Ludwig-Maximilians-University of Munich Habil. thesis, 2021), 247–333; in comparative perspective, see Erika Pani, 'Saving the Nation through Exclusion: Alien Laws in the Early Republic in the United States and Mexico', *Americas*, lxxv, no. 2 (2008).

⁴⁸ Friedemann Pestel and Matthias Winkler, 'Provisorische Integration und Kulturtransfer: Französische Revolutionsemigranten im Heiligen Römischen Reich Deutscher Nation', *Francia*, xliii (2016), 141–5.

⁴⁹ John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge, 1999), 21–56; Gérard Noiriel, 'Surveiller les déplacements ou identifier les personnes? Contribution à l'histoire du passeport en France de la I^{re} à la III^e République', *Genèses*, xxx (1998); Ian Coller, *Arab France: Islam and the Making of Modern Europe, 1798–1831* (Berkeley, 2011), 47–74; Sue Peabody, 'There are No Slaves in France': *The Political Culture of Slaves and Slavery in the Ancien Régime* (Oxford, 1997), 138; Michael D. Sibalís, 'Les Noirs en France sous Napoleon: l'enquête de 1807', in Yves Bénot and Marcel Dorigny (eds.), *Rétablissement de l'esclavage dans les colonies françaises, 1802: ruptures et continuités de la politique coloniale française, 1800–1830* (Paris, 2003). Still there remained loopholes and pragmatism even during the Terror; see Michael Rapport, *Nationality and Citizenship in Revolutionary France: The Treatment of Foreigners, 1789–1799* (Oxford, 2000).

and expulsion of foreigners, in particular, after the transfer of the Portuguese Court to Brazil in 1808.⁵⁰ Beginning in 1793, several US states imposed strict limitations or bans on the entry of free and enslaved people of colour from the Caribbean, especially Saint-Domingue; in 1798, the US Congress passed the Alien and Sedition Acts, which mainly targeted French émigrés and Irish exiles, and are often cited as the first anti-immigration legislation in the country's history.⁵¹

All of these initiatives grew out of particular geographic and political contexts, and they responded to different political priorities and legal cultures. Still, many of them shared a number of important features. First, whether states viewed their residents as (revolutionary) citizens or (monarchical) subjects, they adopted similar policies when it came to reshaping the status of aliens. Most of them required the registration of all foreigners upon arrival, regulated their movements within the territory, and, sometimes, restricted the acquisition of citizenship or subjecthood. They also usually included provisions for the removal of unwanted foreigners. In many places, alien legislation was first and foremost about creating a viable framework for deportation.⁵² Second, governments and legislatures emphasized that these regulations were emergency measures enacted in response to the immediate threat of political disturbances by refugees. The regulations strengthened executive power and extrajudicial procedures. Third, while alien laws responded to particular revolution-induced migrations and threat scenarios, they did so in largely general terms. They usually applied to all foreigners, but also — explicitly or in practice — singled out particular groups. Broadly speaking, North Atlantic regulations focused on movements relating to the

⁵⁰ Debora Gerstenberger, *Gouvernementalität im Zeichen der globalen Krise: Der Transfer des portugiesischen Königshofes nach Brasilien* (Cologne, 2013), 158–74, 246–50, 268–304.

⁵¹ James Morton Smith, *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties* (Ithaca, NY, 1956); James H. Kettner, *The Development of American Citizenship, 1608–1870* (Chapel Hill, 1978), 239–45; Ashli White, *Encountering Revolution: Haiti and the Making of the Early Republic* (Baltimore, 2010), 149–52. Both efforts were connected as the debate about the 1798 federal law revolved around the constitutional Slave Trade Clause, interpreted as the states' general prerogative of regulating incoming migration.

⁵² On alien deportation becoming a central tool of governmentality, see William Walters, 'Deportation, Expulsion, and the International Police of Aliens', *Citizenship Studies*, vi (2002), 278.

French Revolution, while South Atlantic ones concentrated on the Haitian Revolution. While they appeared to homogenize outsiders, alien laws made sure that statuses among aliens varied tremendously.

The British alien legislation that provided the backdrop of the Lecesne–Ecoffery case reflected these broader patterns. Passed in January 1793, the British Alien Act was arguably the first large-scale statutory effort to control and curb immigration to the British Isles.⁵³ Its main purpose was to provide a legal foundation for the extrajudicial removal of foreigners.⁵⁴ This newly (re)established power of the Crown differed in important ways from the long-standing ‘transportation’ of convicts. Under the Aliens Act, the deportation of aliens was an emergency measure based on an order of the King in Council, rather than a form of punishment imposed by a court, and foreigners removed on the basis of this law would not leave in bondage to a British colony.⁵⁵ The metropolitan Aliens Act was part of a much larger effort to control the movement of aliens across the empire, in which colonies, not the British Isles, proved the crucial testing ground for counter-revolutionary migration control. A complex interplay of initiatives at the regional, national and imperial

⁵³ 33 Geo. III, c. 4. See Elizabeth Sparrow, ‘The Alien Office, 1792–1806’, *Historical Journal*, xxxiii (1990); Margrit Schulte Beerbühl, ‘British Nationality Policy as a Counter-Revolutionary Strategy during the Napoleonic Wars’, in Fahrmeir, Faron and Weil (eds.), *Migration Control in the North Atlantic World*; Caitlin Elizabeth Anderson, ‘Britons Abroad, Aliens at Home: Nationality Law and Policy in Britain, 1815–1870’ (Cambridge Univ. D.Phil. thesis, 2004), ch. 1; Kirsty Carpenter, *Refugees of the French Revolution: Émigrés in London, 1789–1802* (Basingstoke, 1999), 35–40; Juliette Reboul, *French Emigration to Great Britain in Response to the French Revolution* (Basingstoke, 2017), 63–7; in Franco-British comparison, see Renaud Morieux, *The Channel: England, France and the Construction of a Maritime Border in the Eighteenth Century* (Cambridge, 2016), 296–307.

⁵⁴ J. R. Dinwiddy, ‘The Use of the Crown’s Power of Deportation under the Alien Act, 1793–1826’, *Bulletin of the Institute of Historical Research*, xli (1968).

⁵⁵ On the convict transportation system, see A. Roger Ekirch, *Bound for America: The Transportation of British Convicts to the Colonies, 1718–1775* (Oxford, 1987); Hamish Maxwell-Stewart, ‘Convict Transportation from Britain and Ireland, 1615–1870’, *History Compass*, viii (2010); Gwenda Morgan and Peter Rushton, *Banishment in the Early Atlantic World: Convicts, Rebels and Slaves* (London, 2013); In Clare Anderson (ed.), *A Global History of Convicts and Penal Colonies* (London, 2018); In Christian De Vito, Clare Anderson and Ulbe Bosma (eds.), ‘Transportation, Deportation and Exile: Perspectives from the Colonies in the Nineteenth and Twentieth Centuries’, *International Review of Social History*, special issue 26, lxiii (2018).

levels reshaped the status of aliens throughout the British Empire. The 1794 Alien Act of Lower Canada sought to quell unrest among the province's Francophone population, responding in much the same way as Britain itself to the French Revolution; it resulted in the immediate internment of some one hundred individuals.⁵⁶ Even earlier, most islands of the British Caribbean had begun to institute stringent measures to limit and control revolution-induced migration.⁵⁷ The most ambitious effort occurred in Jamaica. Colonial authorities first enacted measures to curb the movement of people from Saint-Domingue in September 1791, followed by more sweeping alien legislation in the years that followed.⁵⁸

Like the British and Canadian Aliens Acts, the new regulations in Jamaica were framed as counter-revolutionary measures.⁵⁹ For Jamaica's slave-holding elites, however, the most feared source of revolutionary 'contagion' was not France, but Haiti. From the outset, harsh regulations targeted migrants from Saint-Domingue, in particular people of African descent, both free and enslaved. Enslaved (or re-enslaved) people from Saint-Domingue became the focus of a sub-genre of alien laws as part of Jamaica's migration control system. In the wake of the 1798 evacuations from Saint-Domingue, Jamaican legislators bundled existing

⁵⁶ 34 Geo. III, c. 5, *Provincial Statutes of Lower-Canada*, i, 61–77. See also F. Murray Greenwood, *The Legacies of Fear: Law and Politics in Quebec in the Era of the French Revolution* (Toronto, 1993), 116–22.

⁵⁷ Edward L. Cox, 'The British Caribbean in the Age of Revolution', in Gould and Onuf (eds.), *Empire and Nation*, 280–2. For Grenada, see Governor Ninian Home to Henry Dundas, 9 Feb. 1793: TNA, CO 101/33, fos. 23^r–24^v.

⁵⁸ The regulations were laid out in laws, resolutions by the Assembly and proclamations by the governors. See 32 Geo. III, c. 34 (1791); 34 Geo. III, c. 8 (1793), 35 Geo. III, c. 22 (1794), 36 Geo. III, c. 19 (1796), 39 Geo. III, c. 29 (1799), 39 Geo. III, c. 30 (1799), *Laws of Jamaica*, ii, 659; iii, 58, 61, 222–30, 500–33; Assembly of Jamaica, 6 Dec. 1791; 28 Feb. and 6 Mar. 1792; 18–19 Dec. 1794; 26 Sept. 1795; 9 and 13 Nov., 6, 11 and 18 Dec. 1798, *Journals of the Assembly of Jamaica*, ix, 50, 82, 85, 352–3, 385–6; x, 131–2, 156, 214–15, 218–20, 228–30; Governor Effingham to Henry Dundas, 17 Sept. 1791: TNA, CO 137/89, fos. 154^{r-v}; Proclamations by Governors Williamson and Balcarres, *Royal Gazette* (Kingston), 3 Jan. and 6 Apr. 1793; 12 Jan. 1799. The evolution of Jamaican alien legislation is discussed by William Burge to George Murray, 16 Sept. 1828: TNA, CO 137/176, fos. 174^r–182^r. See also Wright and Debien, 'Les colons de Saint-Domingue passés à la Jamaïque', 85–9, 112–47; Scott, *Common Wind*, 142–58.

⁵⁹ For example, Proclamation by Governor Williamson (16 Mar. 1793), *Royal Gazette*, 6 Apr. 1793.

regulations into two major alien laws that specifically outlawed the entry or presence of people categorized as slaves who had ‘inhabited or resided, or in anywise shall have been living or abiding, in the island of St. Domingo’. They set particularly low barriers for deporting ‘people of colour or negroes’ who ‘may be sent from St. Domingo . . . for the purpose of exciting sedition, or raising rebellions’, language that indiscriminately mixed free and enslaved individuals.⁶⁰ Whereas European (and North Atlantic) alien laws had made national belonging, especially ‘Frenchness’, a central criterion of alien legislation, the Jamaican regulations added race as a crucial marker. In the West Indies, race became the point of intersection between long-standing regulations for the suppression of slave rebellions and more recent migration control effort. The measures enacted by Jamaican legislators and authorities show how porous the boundaries between different types and legal frameworks (new and old alike) of coerced mobility — exile, convict transportation, military service, captivity, enslavement — were in the context of revolutionary-era migration control.⁶¹

The transportation — in fact, the sale — of enslaved people to non-British, mainly Spanish colonies, had been a common punishment by Jamaican slave courts.⁶² Slave laws, in particular, after a major uprising in 1760 (*Tacky’s Rebellion*), also threatened to punish free people of colour by stripping them of their freedom and selling them off the island, although it is unclear to what extent such provisions were actually used.⁶³ There appear, however, to have been no regulations in Jamaica that allowed for

⁶⁰ 39 Geo. III, c. 29 and c. 30, passed on 14 Mar. 1799, *Laws of Jamaica*, iii, quotes at 500 and 511.

⁶¹ Jansen, ‘Flucht und Exil im Zeitalter der Revolutionen’, 501–4.

⁶² Robert Worthington Smith, ‘The Legal Status of Jamaican Slaves before the Anti-Slavery Movement’, *Journal of Negro History*, xxx (1945), 301; Diana Paton, ‘An “Injurious” Population: Caribbean–Australian Penal Transportation and Imperial Racial Politics’, *Cultural and Social History*, v (2008), 449–52. For parallels in the case of French Martinique, see John Savage, ‘Unwanted Slaves: The Punishment of Transportation and the Making of Legal Subjects in Early Nineteenth-Century Martinique’, *Citizenship Studies*, x (2006).

⁶³ Assembly of Jamaica, 21 Nov. 1724, 21 Jan. 1725, *Journals of the Assembly of Jamaica*, ii, 512, 516; Edward Long, *The History of Jamaica*, 3 vols. (London, 1774), ii, 321. On the aftermath of Tacky’s Rebellion, see Vincent Brown, *Tacky’s Revolt: The Story of an Atlantic Slave War* (Cambridge, Mass., 2020), 209–16; Lisa Ford, *The King’s Peace: Law and Order in the British Empire* (Harvard University Press, 2021), 100–36, also on the importance of martial law.

the removal or transportation of a free person.⁶⁴ That changed in the 1790s. After the Second Maroon War (1795–6), Governor Balcarres decided to deport more than 550 Maroons from Jamaica's Cockpit Country — individuals whose freedom had been officially recognized and who were regarded by some as British subjects.⁶⁵ Drawing on the alien legislation and martial law, Balcarres also rounded up Saint-Domingue refugees of all backgrounds — especially free and (re)enslaved people of African descent — and shipped them off the island. In 1795, he bragged about having 'pushed out of the Island above one thousand of the greatest scoundrels in the Universe, most of them Frenchmen of colour and a multitude of French negroes'.⁶⁶ In late 1799 and early 1800, every white Frenchman without special approval and 'all Male French Free People of Colour above the age of Twelve Years, and also all French Free Male Negroes above that age', were ordered to leave the island. As a result, 1,000 to 1,200 black Saint-Domingans were shipped off the island during the first months of 1800.⁶⁷ In December 1803, Balcarres's successor, George Nugent, set in motion another wave of expulsions, proclaiming that 'all and every White Person or Persons, not being natural born subjects of His Majesty, and

⁶⁴ Jonathan Dalby, *Crime and Punishment in Jamaica: A Quantitative Analysis of the Assize Court Records, 1756–1856* (Mona, Jamaica, 2000), 78–9; Diana Paton, 'Punishment, Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica', *Journal of Social History*, xxxiv (2001), 936.

⁶⁵ On the Maroons, see Mavis C. Campbell, *The Maroons of Jamaica: A History of Resistance, Collaboration and Betrayal* (South Hadley, Mass., 1988), 209–49; Jeffrey A. Fortin, '“Blackened Beyond Our Native Hue”: Removal, Identity and the Trelawney Maroons on the Margins of the Atlantic World, 1796–1800', *Citizenship Studies*, x (2006); Ruma Chopra, *Almost Home: Maroons Between Slavery and Freedom in Jamaica, Nova Scotia, and Sierra Leone* (New Haven, 2018). On other cases of political transportation, see Julie Chun Kim, 'The Caribs of St. Vincent and Indigenous Resistance during the Age of Revolutions', *Early American Studies*, xi (2013); and Caitlin Anderson, 'Old Subjects, New Subjects and Non-Subjects: Silences and Subjecthood in Fédon's Rebellion, Grenada, 1795–96', in Richard Bessel, Nicholas Guyatt and Jane Rendall (eds.), *War, Empire and Slavery, 1770–1830* (Basingstoke, 2010). For the larger picture, see Clare Anderson, 'Transnational Histories of Penal Transportation: Punishment, Labour and Governance in the British Imperial World, 1788–1939', *Australian Historical Studies*, xlvii (2016), 391–2.

⁶⁶ Balcarres to Dundas, Oct. 1795: TNA, WO 1/92, fo. 143.

⁶⁷ Order by J. Grant, G.O., 31 Dec. 1799: NLS, Acc. 9769, 23/12/122; Balcarres to Portland, 8 Dec. 1799; Message from the Governor to the House of Assembly, 6 Feb. 1800: TNA, CO 137/103, fos. 131^r–134^v, 252^r–253^v. Estimate by Wright and Debiens, 'Les colons de Saint-Domingue passés à la Jamaïque', 147.

who have made returns of their slave' had to leave the island within a month.⁶⁸

Several thousand 'dangerous' aliens were subsequently removed from Jamaica — far more than the forty people ordered to leave the British Isles on average each year during the same period.⁶⁹ Most were sent to destinations outside the empire — Cuba, Louisiana and the United States, in particular. More than nine hundred individuals were reportedly sent to Haiti as part of an agreement with the country's first ruler, Jean-Jacques Dessalines.⁷⁰ Others were relocated to places under British control such as Trinidad. Hundreds of black Saint-Domingue refugees were resold into slavery in British-occupied Martinique.⁷¹ Several hundred black Saint-Domingans, many of whom had served in the British army, were absorbed along with a handful of prominent white colonists in the newly established regiments of black troops.⁷²

Jamaican authorities tenaciously held on to their newly created power to remove aliens. Whereas the British Aliens Act fell into disuse with the end of the Napoleonic Wars, the Jamaican alien legislation continued to be employed vigorously. In less than a year and a half (July 1823–Dec. 1824), for example, Jamaica deported

⁶⁸ Proclamation by Nugent, 25 Nov. 1803; George Kinghorn to Nugent, 28 Dec. 1803; 'Reports of People to Be Removed from the Island and Those Permitted to Stay', 28 Dec. 1803: NLJ, MS 72, Box 2, 633N, 492N, 869N, 870N and 871N.

⁶⁹ For the numbers, see Schulte-Beerbühl, 'British Nationality Policy as Counter-Revolutionary Strategy during the Napoleonic Wars', 62–3; Dinwiddy, 'Use of the Crown's Power of Deportation under the Alien Act', 206–10.

⁷⁰ Jean-Jacques Dessalines to Nugent, 6 Nov. 1803; Nugent to Dessalines, 27 Nov. 1803: NLJ, MS 72, Box 2, 718N and 851N; Edward Corbet to Dessalines, 10 Feb. 1804; Nugent to Robert Hobart, 10 June 1804: NLJ, MS 72, Box 3, 501N and 613N.

⁷¹ For example, Loppinot to Balcarres, Mar. 1799; 6 May 1799; 1 Feb. and 30 May 1800: NLS, Acc. 9769, 23/12/36–37 and 39. On re-enslavement in Martinique, see Council of Jamaica, 13 May 1799 and 30 July 1800, Minutes of the Council of Jamaica 1792–1799: JA, 1/B/5/3–20; Governor William Keppel to Portland, 12 Apr. 1800: TNA, WO 1/35, fos. 175–178; Keppel to Balcarres, 24 May 1800: NLS, Acc. 9769, 23/12/364.

⁷² Marquis de la Jaille, Loppinot and Marquis de Contades to Balcarres, 9, 19 and 26 Jan. 1800; Marquis de la Jaille and Marquis de Contades to Balcarres, 23 Jan. 1800; Marquis de la Jaille to Balcarres, 27 Jan. 1800; Comte de Rouvray to Balcarres, 19 and 26 Jan. 1800: NLS, Acc. 9769, 23/12/26–30, 57–8; Balcarres to Portland, 2 Jan. 1800; Balcarres to Duke of York, 29 Jan. 1800: TNA, CO 137/103, fos. 207^r–209^r, 272^r–273^r; 'Papers relating to the Earl of Balcarres' Period as Commander-in-Chief Jamaica, 1794–1801': National Army Museum, London (hereafter NAM), Acc. 1975-08-55.

more aliens than were removed from Great Britain in the entire decade between 1816 and 1826.⁷³ In addition, the Jamaican alien acts were continuously extended, expanded and sharpened.⁷⁴ Initially aimed at the Saint-Domingue refugees, they morphed into general migration laws in the 1810s. Some particularly arbitrary rules, though, continued to target people of colour connected to Haiti. The 1818 version of the Jamaican alien law stipulated that ‘negroes and people of colour from the island of Saint Domingo, found on shore here without a special licence from the governor . . . shall be deemed and taken to be persons of a dangerous description’.⁷⁵ This was the law that provided the legal foundation for the deportation of Lecesne, Escoffery and Gonville in 1823.

How do we account for the continuing importance of a body of legislation initially passed for emergency purposes? In several respects, the circumstances that gave rise to the alien laws in the 1790s persisted well into the nineteenth century in the British Caribbean. Political migrants continued to make their way to Jamaica throughout the revolutionary era. The 1810s brought refugees from violence-ridden Spanish America, including Simón Bolívar and other revolutionary leaders.⁷⁶ Quite a few of these migrants engaged in a ‘most nefarious trade’ with Haiti, which provided them with logistical support or recruits, and put the question of slavery on the agenda.⁷⁷ As in the 1790s and early 1800s, Jamaican legislators and authorities regarded the movement of aliens as a driver of revolution.

An even more obvious fact was that Haiti simply did not go away. Despite official ostracism and the ‘unthinkability’ of a state built by former slaves, Jamaica had considerable dealings

⁷³ ‘List of Persons Banished under the Alien Act as Being Dangerous and Suspicious Persons since 1st January 1823’: TNA, CO 137/162, fo. 74^r; *Journals of the House of Commons, 1824–5*, 901; Hansard, HC, xv, col. 499 (20 Apr. 1826).

⁷⁴ Especially 52 Geo. III, c. 13 (1811); 55 Geo. III, c. 14 (1814); 57 Geo. III, c. 30 (1816); 58 Geo. III, c. 28 (1817); 59 Geo. III, c. 23 (1818), *Laws of Jamaica*, vi, 90–7, 263–9, 539–41; vii, 53–73; 158–85.

⁷⁵ 59 Geo. III, c. 23, article 26, *Laws of Jamaica*, vii, 172.

⁷⁶ Verna, *Bolívar y los emigrados patriotas en el Caribe*; see also John Lynch, *Simón Bolívar: A Life* (New Haven, 2006), 91–7; Bassi, *Aqueous Territory*, 151–8.

⁷⁷ Quote from Manchester to Bathurst, 20 Dec. 1816: TNA, CO 137/142, fo. 134^v.

with Haiti.⁷⁸ During the revolution, Jamaica had been crucial in efforts to hash out trade agreements between Saint-Domingue and the British Empire. After those official efforts failed, Kingston's leading merchant houses continued to engage in business relationships with Haiti — a business considered inappropriate if not illegal.⁷⁹ While Jamaican authorities often turned a blind eye to these trade activities, attempts by Jamaican slaves to benefit from Haiti's free-soil policy led to tensions, most notably after seven men managed to relocate, and free themselves, in 1817.⁸⁰ Moreover, Saint-Domingue refugees continued to regard Jamaica as the ideal base for launching attempts to bring Haiti back under European — French or British — rule. Jean-Baptiste Lapointe, a former colonel in the British forces and, arguably, the most prominent refugee of colour in Jamaica, is a case in point.⁸¹ In 1811, Lapointe reached out to Haiti's southern leaders, Alexandre Pétion and André Rigaud, with the intention of negotiating their surrender to British rule. When Rigaud sent a negotiator to Kingston, the affair became known to British authorities. The government took quick action against the self-appointed British agent. Lapointe was declared a 'person of dangerous description' and,

⁷⁸ On the 'unthinkability' of Haiti, see Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston, 1995), 70–107; on Haitian–Jamaican connections, see Julia Gaffield, *Haitian Connections in the Atlantic World: Recognition after Revolution* (Chapel Hill, 2015), 61–92; Nathalie Pierre, 'Liberal Trade in the Postcolonial Americas: Haitian Leaders and British Agents, 1806–1813', *Journal of Haitian Studies*, xxi (2015).

⁷⁹ Examinations of Hector Mitchel, Wellwood Hyslop and John Pavageau, 27–28 Nov. and 4 Dec. 1816: TNA, CO 137/142, fos. 151^r–156^v, 175^v–177^r; Manchester to Horton, 24 Feb. 1825: TNA, CO 137/174, fos. 225^r–229^r; Lushington to William Courtenay, 17 Sept. 1826; Oral Evidence of L. C. Lecesne, 13 Aug. 1825: TNA, CO 137/175, fos. 248^r, 286^v–287^r, 306^r–308^r.

⁸⁰ *A Report of a Committee of the Honourable House of Assembly of Jamaica Presented to the House*, December 10, 1817 (London, 1818). See on this case, Ada Ferrer, 'Haiti, Free Soil, and Antislavery in the Revolutionary Atlantic', *American Historical Review*, cxvii (2012).

⁸¹ Colonel Lapointe to Balcarres, 11 July 1798; Maitland to Balcarres, 29 May 1798; Note, London, 4 Mar. 1800: NLS, Acc. 9769, 23/12/35, 114 and 441; Memorial of Jean Baptiste Lapointe: TNA, PRO 30/8/349/2, fos. 345–357; Examinations of Richard Poor, Moses Franco, John Evanson, L. Perrotin, Laurent Marie de Leaumont and Samuel Forster, 12 and 26 Nov., 5, 7 and 19 Dec. 1798, *Journals of the Assembly of Jamaica*, x, 296, 303–5, 308. On his role during the occupation, see Geggus, *Slavery, War, and Revolution*, 67, 109, 163–8, 240–2, 328–31, 343–5.

on the basis of the alien law, he was removed from the island to Pétion's southern republic.⁸² Throughout the 1810s, Saint-Domingue refugees in Jamaica continued to envision — and plot — Haiti's recolonization.⁸³

Despite efforts to isolate Haiti, there continued to be much coming and going between Jamaica and the pariah state. As France was ratcheting up a pressure campaign on its former colony to force a settlement, most of Kingston's merchants continued to regard Haiti, in the reported words of one customs officer, as the 'land of promise', where they could sell manufactured goods and buy agricultural produce, in particular coffee.⁸⁴ In 1822, Lecesne and Escoffery joined forces with Gonville, who had been involved in this ongoing trade in the service of a British merchant house. The persistence of this shadowy inter-island traffic was one reason why Jamaican authorities repeatedly extended the temporary regulations targeting Saint-Domingue refugees. By the early 1820s, however, alien legislation was no longer merely an emergency measure. Granting vast executive powers to arrest and deport persons based on their alienness — prefiguring what Paul Halliday has called the 'classificatory approach to detention' — alien laws had been taken up as a flexible tool in the colony's legal repertoire of repression.⁸⁵ The arrest of Lecesne and Escoffery in 1823 would attest to this. Their social activities and modest involvement in the informal Jamaican–Haitian trade were cited in support of vague allegations

⁸² Council of Jamaica, 12–13 Aug. 1811; 28 Oct. 1811; 6 Nov. 1811, 'Minutes of the Council of Jamaica, 1805–1815': JA, 1B/5/3/22; Ardouin, *Études sur l'histoire d'Haïti*, vii, 536.

⁸³ See, for example, Joseph-David de Montagnac to Pierre-Victor Malouet, 22 June, 30 July and 2 Aug. 1814; Marquis de Fontenilles, 'Projet d'une mission à Saint-Domingue', n.d. [1814]: ANOM, COL/CC9A/47; Laffon de Ladébat to Charles-Henri Dambray, 7 and 19 Apr., and 23 June 1815: ANOM, COL/CC9A/49; Louis Vendryes to François Joseph de Gratef, 7 Sept. 1816, 28 May and 1 June 1817; Vendryes to Laurent Gouvion, 29 June 1817; Vendryes to Pierre-Barthélémy Portal, 29 June 1817: ANOM, COL/CC9A/50. On the broader context, see Jean-François Brière, *Haïti et la France, 1804–1848: le rêve brisé* (Paris, 2008), 13–76.

⁸⁴ Oral Evidence of John Gonville, 13 Aug. 1825: TNA, CO 137/175, fo. 364^r. On the trade activities in general, and those of Lecesne and Escoffery, in particular, see Oral Evidence of John Gonville, 13 Aug. 1825; Oral Evidence of James Stewart Innes, 22 Aug. 1825; Affidavit by Jacques Pratt, 9 Dec. 1825: TNA, CO 137/175, fos. 352^v–365^v; 420^v–424^v, 496^r–497^r; Examination of John Harvey, 10 Feb. 1826: TNA, CO 318/66. On the French diplomatic activities in the early 1820s, see Brière, *Haïti et la France*, 85–105.

⁸⁵ Halliday, *Habeas Corpus*, 310; Benton, *Search for Sovereignty*, 208–17.

of conspiratorial dealings with an enemy state.⁸⁶ The case against the two men was later bolstered by inflated accusations that they had conspired to foment a slave uprising discovered weeks after their removal.⁸⁷ The use of alien law in this instance was most likely a response to broader events. A few months before Lecesne and Escoffery were arrested, leading free men of colour across Jamaica had established committees to press the case for full political rights. Lecesne and Escoffery, who had personal and professional connections with some of the campaign's leaders, joined the movement's central committee in 1823.⁸⁸ Along with calls in Britain's parliament for the 'amelioration' or even abolition of slavery and a major slave rebellion in Demerara, this free-coloured campaign fed into the fears of Jamaica's planters.⁸⁹ The flimsiness of the actual case against Lecesne and Escoffery suggests that the alien acts had grown beyond their origins to become a tool for internal repression.

In practice, however, this tool was flawed. The control of aliens was no more consistent or efficient in Jamaica than it was in Great Britain and the rest of the British Empire. From the

⁸⁶ Examination of James Stewart Innes, 21 Nov. 1823; Examination of Hector Mitchel, 18–19 Nov. 1824; Manchester to Horton, 24 Feb. 1825: TNA, CO 137/174, fos. 10^{F-v}, 218^{F-v}–224^F, 226^{F-v}.

⁸⁷ Manchester to Bathurst, 29 Feb. 1824; Examination of Hector Mitchel, 18 Nov. 1824: TNA, CO 137/174, fos. 87^F, 219^{F-v}; 'Abstract of Proceedings before and after and upon the Trials of Rebel Slaves in Jamaica and of the Correspondence Relating to the Subject': TNA, CO 137/176, fos. 788^F–840^F.

⁸⁸ Committee of the People of Colour, Minutes, 24 May 1823: TNA, CO 137/175, fo. 548^F; L. C. Lecesne to Duval, 18 May 1823: TNA, CO 318/66. On the struggle of free people of colour, see Heuman, *Between Black and White*; Trevor Burnard, *Jamaica in the Age of Revolutions* (Philadelphia, 2020), 131–50.

⁸⁹ Emilia Viotti da Costa, *Crowns of Glory, Tears of Blood: The Demerara Slave Rebellion of 1823* (New York, 1994), 278–90. On 'amelioration' and abolition, see J. R. Ward, *British West Indian Slavery, 1750–1834: The Process of Amelioration* (Oxford, 1988); Christer Petley, *Slaveholders in Jamaica: Colonial Society and Culture during the Era of Abolition* (London, 2009); Colleen A. Vasconcellos, *Slavery, Childhood, and Abolition in Jamaica, 1788–1838* (Athens, Ga, 2015); J. R. Oldfield, *The Ties that Bind: Transatlantic Abolitionism in the Age of Reform, 1820–1865* (Liverpool, 2020). The proceeding of the Jamaican government has an important parallel in Martinique, where authorities deported free-coloured activists on a similarly weak legal basis; on the 1823–4 'Bissette affair' and its broader context, see *Mémoire justificatif des hommes de couleur de la Martinique condamnés par l'arrêt de la Cour royale de cette colonie, contenant l'Histoire des Hommes de couleur dans les colonies françaises* (Paris, 1826); Melvin D. Kennedy, 'The Bissette Affair and the French Colonial Question', *Journal of Negro History*, xlv (1960); Paul Butel, *Histoire des Antilles françaises, XVII^e–XX^e siècle* (Paris, 2007), 353–60; Lorelle Semley, *To Be Free and French: Citizenship in France's Atlantic Empire* (Cambridge, 2017), 115–59.

outset, individuals had managed to bypass controls, entering or remaining in Jamaica without authorization. Governors and military commanders granted 'bona fide' exceptions and financial support to a number of refugees.⁹⁰ Despite their dread of slave revolution, Jamaican planters bought enslaved people from Saint-Domingue or hired them from their owners.⁹¹ Governors resisted pressure from the Assembly or the Kingston Common Council to apply the alien laws to all foreign residents.⁹² These flaws and loopholes were as important for the case of Lecesne, Escoffery and Gonville as the extraordinary provisions of Jamaica's alien legislation. Huge gaps in the archival record made (and still make) it impossible to know how the Lecesne and Escoffery families managed to stay in Jamaica. Were they exempted from deportation intentionally or accidentally? Neither family's name appears on the lists exempting refugee families from the last major expulsion campaign in 1803.⁹³ Influential supporters like Louis Nicholas Lecesne's then employer, Vaudreuil, and a pattern of leniency towards women and young children may have played a role; both Lecesne's and Escoffery's fathers obtained naturalization fairly quickly in 1799, an option only open to white fathers, but not to black or mixed-race members of their families.⁹⁴ Ignorance also likely played a role. Their families, like many others, may simply have passed under the radar of a rudimentary surveillance system.

That surveillance proved to be flawed in another important respect. There was no written record that showed whether Louis Celeste and John had been born before or after their parents' migration from Haiti. This was no negligible issue, as the delineation between alien and subject rested on it. Uncertainty about individuals' origins was anything but new, and in many

⁹⁰ Council of Jamaica, 5 Sept., 29 Oct., 27–28 Nov., 11, 20 and 25 Dec. 1798; 8–9 Jan. and 27–28 Feb. 1799, *Minutes of the Council of Jamaica 1792–1799*: JA, 1/B/5/3–20.

⁹¹ 'Evidence and Examinations Taken before the Secret Committee of Safety, Laid before the House', 14–20 Dec. 1798, *Journals of the Assembly of Jamaica*, x, 295–310.

⁹² See, for example, the debates in 1808, Kingston Common Council, 5, 12, 14 and 26 Sept. 1808: JA, 2/6/8, Kingston Common Council Minutes 1803–15, fos. 194–201.

⁹³ 'Names of Persons ... whose Residence in this Island ... Will Not Be Inconsistent with Its Safety and Tranquility', 28 Dec. 1803: NLJ, MS 72, Box 2, 871N.

⁹⁴ Patents of Naturalization: JA, 1B/11/1/36, fo. 221^r and 1B/11/1/37, fo. 13^f.

places authorities found ways to cope with it.⁹⁵ The harsh provisions of Jamaica's alien laws, however, raised the stakes considerably. They brought out more clearly the distinction between alien and subject — and set out to suppress the huge grey zone in practice between those statuses.

IV

The day after they had been brought to Kingston's jail in October 1823, Louis Celeste Lecesne and John Escoffery petitioned the governor.⁹⁶ Their petitions did not dwell on the allegations brought against them — after all, they had not been told why they were considered dangerous. Each insisted on one point: he had been born in Kingston. The status of 'natural-born subject' of the British Crown, conferred by birth, would have automatically shielded them from detention and deportation under the alien legislation. After waiting in vain for a response from the governor, Lecesne and Escoffery turned to the courts. They petitioned for a writ of *habeas corpus*, thus resorting to a long-standing practice that gave courts the power to review the lawfulness of a person's detention.⁹⁷ On 25 October, Jamaica's Supreme Court sided with the two men and ordered their discharge. This legal victory was rendered moot the following month when the men were arrested a second time. These proceedings nonetheless established what was to become the central issue in the case in the following years: Were Lecesne and Escoffery foreign-born aliens or natural-born British subjects?

The Lecesne–Escoffery affair was mapped onto a clear-cut binary system that was governed, in the words of an influential legal commentary, by the distinction between a person 'born within the dominions of the crown of England' and a person 'born out of it'.⁹⁸ This distinction had slowly taken shape as the

⁹⁵ See, for example, for Spanish America, Herzog, *Defining Nations*, 111–16.

⁹⁶ L. C. Lecesne, Petition to Governor, 8 Oct. 1823; J. Escoffery, Petition to Governor, 8 Oct. 1823: TNA, CO 137/174, fos. 37^v, 39^v

⁹⁷ Proceedings Filed in the Crown Office in a Matter Relating to Writs of Habeas Corpus at the Instance of Lewis Celeste Lecesne and John Escoffery [Copies], 13–25 Oct. 1823: TNA, CO 137/174, fos. 49^r–75^f. On the (imperial) history of habeas corpus, see Halliday, *Habeas Corpus*.

⁹⁸ William Blackstone, *Commentaries on the Laws of England*, 4 vols. (Oxford, 1765–70), i, 354. On British subjecthood and its development, see John W. Salmond, 'Citizenship and Allegiance', *Law Quarterly Review*, xvii (1901) and xviii (1902); Polly J. Price, 'Natural Law and Birthright Citizenship in Calvin's

central marker of status in English common law since the late medieval period, and was settled by case law in a 1608 landmark decision (*Calvin's Case*) about the status of the *postnati*, persons born in Scotland after the dynastic union with England in 1603.⁹⁹ Throughout the affair, participants upheld the appearance of a long-standing system in which birth invariably distinguished between natural-born subjects and aliens. Yet, British subjecthood was, from its earliest legal definitions, also marked by imprecisions that would help create a dynamic field between these two poles.¹⁰⁰ This had become evident in the decades before Lecesne's and Escoffery's deportation.

A key area of transformation during the decades around 1800 was the terms of belonging to a political community. The revolutionary era saw profound changes in the relationship between states and their residents.¹⁰¹ It was marked by intense struggles over who would enjoy the rights that came with legal recognition by the state. Historical accounts of the period still place emphasis on the rise of revolutionary citizenship that provided for greater legal equality in homogeneous, territorially defined nation states. More recently, scholars have cautioned against such a clear-cut opposition between (modern) citizenship and (premodern) monarchical subjecthood. New conceptions of republican citizenship did not at first mean a radical break in practice in many countries, and a firm delineation between insiders — male citizens with equal rights and duties — and outsiders — aliens — took shape only

(n. 98 cont.)

Case (1608)', *Yale Journal of Law and the Humanities*, ix (1997); Andreas Fahrmeir, *Citizens and Aliens: Foreigners and the Law in Britain and the German States, 1789–1870* (Oxford, 2000); Rieko Karatani, *Defining British Citizenship: Empire, Commonwealth and Modern Britain* (London, 2003); Anderson, 'Britons Abroad, Aliens at Home'; Muller, *Subjects and Sovereign*.

⁹⁹ Keechang Kim, *Aliens in Medieval Law: The Origins of Modern Citizenship* (Cambridge, 2000).

¹⁰⁰ Muller, *Subjects and Sovereign*, 16–44; Halliday, *Habeas Corpus*, 201–12.

¹⁰¹ On the complexities of citizenship during this period, see Pietro Costa, *Citadinanza* (Rome, 2005), 47–57; Fahrmeir, *Citizenship*; Frederick Cooper, *Citizenship, Inequality, and Difference: Historical Perspectives* (Princeton, 2018), 45–75; René Koekoek, *The Citizenship Experiment: Contesting the Limits of Civic Equality and Participation in the Age of Revolutions* (Leiden, 2020).

gradually.¹⁰² Colonial expansion by France, the United States, Spain and other imperial powers added to the complexities of citizenship; legal status and rights were shot through with varying and multi-layered systems of differentiation.

Between the 1770s and 1820s, Great Britain kept clear of revolutionary experiments in citizenship. Instead, it formally held on to its long-established notion that British subjects were bound to the state — and granted its protection — through personal allegiance to the monarch. Despite the appearance of continuity and immutability, however, British subjecthood underwent a fundamental reconfiguration as well. This reconfiguration was largely driven by the changing composition of the empire. The resettlement of the Loyalists after American independence was carried out under the premise that they were and wanted to remain loyal subjects of the British Crown.¹⁰³ At the same time, military conquest between the Seven Years' War (1756–63) and the Napoleonic Wars (1803–15) projected British rule over a more diverse set of people than ever before. As argued most forcefully by Hannah Weiss Muller, it was precisely the traditional notion of allegiance — with its built-in imprecision about how it could be obtained other than by birth, and about what kinds of protection and rights were attached to it — that proved a flexible tool amid these changes.¹⁰⁴ Colonial administrators and British subjects, old and new, reworked British subjecthood in practice, using vague ideas of allegiance and protection to grant or claim subject rights outside the 'natural' path of acquisition by birth. Legislatures and administrations established their own local laws, defining how aliens could acquire subject status individually, while treaties or proclamations conferred subject status en bloc to inhabitants of conquered or annexed territories who had been born outside the monarch's allegiance.¹⁰⁵ As a result, people recognized as British subjects were governed by wildly divergent laws and rules, and they enjoyed widely varying economic, social and political rights. In the 1760s–70s, for example, Grenada's foreign-born Catholics

¹⁰² Peter Sahlins, *Unnaturally French: Foreign Citizens in the Old Regime and After* (Ithaca, NY, 2004); Herzog, 'Communities Becoming a Nation'; Kettner, *Development of American Citizenship*.

¹⁰³ Jasanoff, *Liberty's Exiles*, 122–3, 345.

¹⁰⁴ Muller, *Subjects and Sovereign*.

¹⁰⁵ A useful typology is provided by Karatani, *Defining British Citizenship*, 42–3.

came to enjoy more economic and political rights than their British-born co-religionists in the metropole, only to lose many of them again in the following decades.¹⁰⁶ The multi-layered and hierarchically ordered space between natural-born subject and alien brimmed with partial, local, temporary and conditional forms of subjecthood.

Even if cast in the simple oppositional terms of natural-born subject versus alien, the case of Lecesne, Escoffery and Gonville unfolded in this variegated space of subjecthood. One of their first acts, the *habeas corpus* petition, was a case in point. As a form of protection from arbitrary detention, *habeas corpus* was, in theory, available to everyone in the custody of one of the monarch's officers, natural-born subjects and aliens alike. In the late eighteenth century, hundreds of foreign sailors in Caribbean ports had used it to resist their impressment into the Royal Navy.¹⁰⁷ While building on widespread practice in the West Indies, Lecesne and Escoffery's use of *habeas corpus* differed in an important way. Foreign sailors had turned to the courts to prove their alienness, whereas Lecesne and Escoffery claimed subjecthood. The Supreme Court decision on their case was perhaps the first time that a writ was issued in defiance of an arrest under an alien act, either in the metropole or overseas.¹⁰⁸

The 1823 Supreme Court proceedings, and all subsequent inquiries into their case, laid bare the strategies Lecesne and Escoffery had employed to live as de facto British subjects for decades, despite lacking written proof of their status. One strategy was to create an official paper trail. The first recorded documents to mention John's and Louis Celeste's births in Kingston (in 1795 and 1798, respectively) were baptismal certificates, issued in 1801 and 1814, respectively — from the Anglican Church, even though their parents were Jewish and Roman Catholic.¹⁰⁹ As the rector of the parish of Kingston

¹⁰⁶ Anderson, 'Old Subjects, New Subjects and Non-Subjects'.

¹⁰⁷ Kevin Costello, 'Habeas Corpus and Military and Naval Impressment, 1756–1816', *Journal of Legal History*, xxix (2008); Halliday, *Habeas Corpus*, 32–3, 113–16, 205–6.

¹⁰⁸ This is claimed by the commissioners of legal inquiry, Report of the Commissioners of Legal Inquiry in the Matter of Lecesne and Escoffery, 25 Feb. 1826: TNA, CO 318/66, fos. 84–5.

¹⁰⁹ Kingston Copy Register, Baptisms, ii: RGD/IRO, fos. 106 and 269; Parish Register of Baptisms, Kingston, 1813–20: JA, 1B/11/8/9/3, fo. 12; Certificate of baptism, John Escoffery (copy): TNA, CO 137/174, fo. 39^r; Certificate of baptism, Louis C. Lecesne (copy): TNA, CO 137/174, fo. 37^r.

recalled later, the dates and the places of birth mentioned in these certificates were largely unverified.¹¹⁰ That caveat, notwithstanding, in practice, the certificates served as crucial evidence of British birth, as can be seen in 1814, when Louis Celeste and John applied for their so-called ‘privilege papers’. Louis Celeste’s late baptism — 16 years after the family’s arrival in Jamaica — was triggered by the passing of the 1813 Privilege Act, a law that lifted some of the discriminatory measures against Jamaica’s free people of colour.¹¹¹ As this law only applied to baptized persons born or manumitted in Jamaica, it was crucial to provide the requisite documentation. In early March 1814, Louis Celeste was baptized, and later that month the magistrates accepted his certificate of baptism as proof of Jamaican birth. In the absence of birth certificates, certificates of baptism and ‘privilege papers’ were the starting point of paper trails that undergirded the two men’s claims to be natural-born British subjects.

Around the same time, Charlotte Lecesne, Louis Celeste’s mother, took similar actions. Her goal, however, was to secure her freedom. Shortly before his death in 1816, Louis Celeste’s father registered Charlotte’s manumission for the first time in Jamaica, placing a number of documents from Saint-Domingue on record.¹¹² The following year, Charlotte also registered the fact that Louis Celeste’s father had sold her a female slave almost 17 years earlier, submitting a receipt on record that explicitly identified her as a ‘free black woman’.¹¹³ Ironically, the enslavement of others proved an effective strategy for asserting one’s own freedom.¹¹⁴ Refugees like the members of the Lecesne household had to navigate complex and shifting legal landscapes on several levels at the same time — demonstrating degrees of freedom *and* belonging. Charlotte’s concerns about her potential re-enslavement were not entirely unfounded. During the

¹¹⁰ Isaac Mann to William Bullock, 27 July 1824: TNA, CO 137/174, fo. 183^r.

¹¹¹ 54 Geo. III, c. 20, *Laws of Jamaica*, vi, 249–50; on Lecesne’s case, see Burge to Bullock, 17 Feb. 1825: TNA, CO 137/174, fos. 346^v–348^r; Lushington to Courtenay, 17 Sept. 1826: TNA, CO 137/175, fos. 259^v–262^r.

¹¹² Vaudreuil to Charlotte, entered 25 Jan. 1816, Manumission of Slaves (1816): JA, 1B/11/6/47, fos. 26^r–27^r.

¹¹³ Sale of slave, Louis Lecesne to Charlotte Lecesne, 4 Sept. 1800, entered 30 July 1817: RGD/IRO, Deeds, LOS vol. 667, fo. 98^r.

¹¹⁴ For other examples, see Scott and Hébrard, *Freedom Papers*, 67–8; Nessler, *Islandwide Struggle*, 5, 172.

legal battle over her son's deportation, it was rumoured that her manumission had not been lawful — in which case she and Louis Celeste would in fact still be slaves belonging to the descendants of Comte de Vaudreuil!¹¹⁵

While paper trails were about asserting an unambiguous status as natural-born subject and free person, respectively, the Lecesne and Escoffery families employed another strategy based on a more subtle understanding of subjecthood. This strategy was to display good socio-economic standing and respectability, and thus underscore their social integration. Louis Celeste's father reportedly wanted to make sure that his son, 'an English Creole born in this Island', obtained 'an entirely English education'.¹¹⁶ He also appointed Louis Celeste as executor of his will, a lucrative and much sought-after position.¹¹⁷ In 1813, John and Louis Celeste joined the local militia and both were later promoted to the rank of sergeant.¹¹⁸ They each married into other Saint-Domingue families (Louis Celeste married John's eldest sister), but they also built private and business relationships with Kingston's wider free-coloured and white communities.¹¹⁹ They were fixtures in the Catholic community while remaining members of the Anglican Church; at least two of John Escoffery's four children were baptized both Catholic and Anglican.¹²⁰ By 1820, the growing Lecesne and Escoffery families had also attained modest economic independence. John and Louis Celeste took over their fathers' businesses. They became small freeholders and owned four and eleven slaves, respectively — facts they and their supporters were to emphasize in their petitions.¹²¹ They also maintained a thriving

¹¹⁵ Affidavit of George Quentin de St. Marie, 4 Aug. 1824: TNA, CO 137/174, fo. 175^f; Burge to Murray, 27 Dec. 1828: TNA, CO 137/176, fos. 201^f–202^f.

¹¹⁶ Affidavit of James Joffe, schoolmaster in Surry, 10 Oct. 1823: TNA, CO 137/174, fo. 62^f.

¹¹⁷ Wills Record: RGD/IRO, LOS vol. 93, fos. 14^v–15^v; Oral Evidence of L. C. Lecesne, 13 Aug. 1825: TNA, CO 137/174, fo. 344^v.

¹¹⁸ Oral Evidence of H. J. Hall, 22 Dec. 1825: TNA, CO 137/175, fos. 440^v–441^f.

¹¹⁹ Kingston Copy Register, Marriages, i, 1721–1825: RGD/IRO, fos. 209, 215; Parish Register of Marriages, Kingston, 1813–26: JA, 1B/11/8/9/15, fos. 11 and 17.

¹²⁰ Kingston Copy Register, Baptisms, ii: RGD/IRO, fo. 358; Baptismal Book, vol. 102, Kingston, 1818–1826: Chancery of the Roman Catholic Church, Archdiocese of Kingston, fos. 69^v, 107^f, 130^v.

¹²¹ Return of Slaves, Kingston 1823: JA, 1B/11/7/63, fos. 11^v–12^f, 181^f–^v; Inventory of Mr Lewis C. Lecesne's Property and Effects, 29 Nov. 1823: TNA, CO 318/66. Their freeholder and slave owner status was stressed in L. C.

social life. They hosted spectacular balls and became founding officers of *La Bienfaisance*, a benevolent society established in 1819 to assist poor Catholic people of colour.¹²²

This strategy points to the flexibility of everyday practices of subjecthood in early nineteenth-century Jamaica, not unlike Spain's much studied nativeness-by-integration.¹²³ Louis Celeste Lecesne and John Escoffery lived the lives of natural-born subjects, even though they lacked proof of that status. Even Kingston's alien officer, who claimed that their foreign birth was common knowledge, had never before 1823 formally applied the Alien Law to them.¹²⁴ Nor was their case unique. Even though John Gonville had never contested his foreign birth and had not sought naturalization, he had never been regulated by Jamaica's Alien Law during his frequent commercial trips.¹²⁵ The legal battle touched off by the three men's deportation, however, did not allow room for such indeterminacy. As the case of Lecesne and Escoffery unfolded, committees and commissions of inquiry, legal experts, ministers and politicians called into question what had been, in practice, indicators of subjecthood: How compelling was the evidence of a baptismal certificate, at that time one of the most important identity papers in the British world? What if 'privilege papers' had in fact been purchasable by non-subjects from corrupt magistrates, as one witness suggested?¹²⁶ What value did a career in the local militia hold? And — above all — what made a credible witness over subject status: intimacy, race, nationality, respectability?

(n. 121 cont.)

Lecesne, Petition to Governor, 8 Oct. 1823; J. Escoffery, Petition to Governor, 8 Oct. 1823; Petition of Sundry Merchants and Inhabitants of the City and Parish of Kingston to Governor, n.d. [1823]: TNA, CO 137/174, fos. 37^v, 39^v, 45^v; Lushington before the House of Commons, *Hansard*, 2nd ser., xiii, col. 1178 (16 June 1825).

¹²² 'Reglemens [sic] de la Société de Bienfaisance', 1 Apr. 1819; 'Comptes par recette [sic] et dépense, 1^{er} avril 1819–31 mars 1820 et 1^{er} avril 1820–31 mars 1821': TNA, CO 318/66; 'Opérations de la société de Bienfaisance, depuis le 1^{er} avril 1821 jusqu'au 31 de mars 1823': TNA, CO 137/175, fo. 504^f.

¹²³ Herzog, *Defining Nations*.

¹²⁴ Oral Evidence of James Stewart Innes, 22 Aug. 1825: TNA, CO 137/175, fos. 431^{r-v}.

¹²⁵ Oral Evidence of John Gonville, 13 Aug. 1825: TNA, CO 137/175, fo. 368^f.

¹²⁶ Examination of Edward Cowell, 30 Jan. 1826: TNA, CO 318/66. See also Burge to Murray, 27 Dec. 1828: TNA, CO 137/176, fos. 434^{r-v}; Report of the Commissioners of Legal Inquiry, 25 Feb. 1826: TNA, CO 318/66, fos. 161–162.

The Lecesne–Escoffery affair thus became tied up in a much larger debate over the boundaries and substance of British subjecthood. In the 1820s, this debate had entered a crucial new phase, and fed into major reform acts both in the metropole (Catholic emancipation, 1829; electoral reform, 1832) and across the empire.¹²⁷ The West Indies and Jamaica played an important part in these transformations, not just because of the centrality of the issue of slavery. In 1820, leaders of Jamaica’s Jewish community launched a campaign to gain full rights of British subjects, and, in 1823, free men of colour initiated a similar campaign.¹²⁸ Contesting long-standing racial theories about their inherent quasi-alien status, the Jewish and the free-coloured communities drew on the language of subjecthood.¹²⁹ The leaders of the free people of colour cast their constituents as loyal subjects, and emphasized that their demands applied only to persons born free or emancipated in Jamaica.¹³⁰

This context loomed large in the battle around Lecesne’s and Escoffery’s deportation. Even if they couched the case in purely legal terms, the protagonists behind the deportation — Magistrate, Hector Mitchel, Kingston Mayor, Joseph Barnes, and Attorney-General, William Burge — connected it to the campaign of the free people of colour. By casting Lecesne and Escoffery, members of the central committee, as dangerous aliens, they could deal a heavy blow to the committee’s claims of loyal subjecthood.¹³¹ Lecesne and Escoffery and their local supporters, in turn, emphasized the affair’s connections to the broader struggle over subjecthood. The Kingston committee understood their arrest as a direct attack on its aims, and used its

¹²⁷ Benton and Ford, *Rage for Order*; McKenzie, *Imperial Underworld*.

¹²⁸ On the case of the Jamaican Jews, Samuel J. Hurwitz and Edith Hurwitz, ‘The New World Sets an Example for the Old: The Jews of Jamaica and Political Rights 1661–1831’, *American Jewish Historical Quarterly*, lv (1965).

¹²⁹ Brooke N. Newman, *Dark Inheritance: Blood, Race, and Sex in Colonial Jamaica* (New Haven, 2018), 262–8.

¹³⁰ Committee of the People of Colour, Minutes, 12 May 1823; Affidavit of Charles Lake, 17 Nov. 1825: TNA, CO 137/175, fos. 543^{r-v}, 574^v; Statement of Proceedings of the People of Colour of Jamaica, n.d. [1823]: TNA, CO 318/66.

¹³¹ Committee of the People of Colour, Minutes, 24 May 1823: TNA, CO 137/175, fo. 548^r; L. C. Lecesne to Duval, 18 May 1823: TNA, CO 318/66; Examination of Hector Mitchel, 18 Nov. 1824; Manchester to Bathurst, 15 Sept. 1825: TNA, CO 137/174, fos. 219^f, 257^v; Burge to Murray, 27 Dec. 1828: TNA, CO 137/176, fos. 449^r–468^f.

funds to support the two men's legal expenses.¹³² While the deportation brought the committee's work to a halt, its leadership produced written evidence, established inventories of Lecesne's and Escoffery's property, and gathered affidavits for the Supreme Court hearings that caught Jamaica's administration off guard.¹³³ Some of their members stayed close to the deportees' families and helped send a continuous flow of information across the Atlantic.¹³⁴ They also made sure that the case entered the political arena in Great Britain, by joining forces with leading critics of the West Indies colonies and anti-slavery activists — including Zachary Macaulay and Stephen Lushington. Lushington, in particular, used the case to castigate colonial authorities, describing the 'plots and conspiracies' against Lecesne and Escoffery as an illustration 'of the total absence of Justice in Jamaica' — thus invoking widespread criticism that 'despotic' rule had taken hold in British colonies.¹³⁵

Local activists and opposition politicians in Westminster turned the case into a public scandal across the empire, and thereby added to the domestic pressure on the Tory government, which already faced blowback over Catholic emancipation and a string of scandals in colonial territories.¹³⁶ The clearest indication that the case became bound up with larger transformative processes, was the involvement of the commissioners of legal inquiry. As part of 'a vast imperial stocktaking' and central agents of imperial reform, the commissioners were touring the British Caribbean on

¹³² Minutes of the Committee of Persons of Colour, Meetings on 20 and 27 Oct., and 4 Nov. 1823: TNA, CO 137/175, fos. 559^v–563^r.

¹³³ Oral Evidence of L. C. Lecesne, 13 Aug. 1825: TNA, CO 137/175, fos. 328^r–329^r; Examination of Louis Charles Lecesne, 18 Jan. 1826; Examination of Alexander Dawson Sympson, 27 Jan. 1826; Further Examination of Charles Robertson Nelson, 14 Feb. 1826: TNA, CO 318/66.

¹³⁴ For example, A. F. M. to Lecesne, 17 June and 12 July 1824; Anne Rose Lecesne to Lecesne, 12 July 1824: TNA, CO 137/176, fos. 773^r–786^v.

¹³⁵ Lushington to Courtenay, 17 Sept. 1826: TNA, CO 137/175, fos. 251^r, 296^v; also Lushington before the House of Commons, 16 June 1825, *Hansard*, 2nd ser., xiii, cols. 1173–92. See also *Anti-Slavery Reporter*, Sept. 1825, 28–32.

¹³⁶ On the domestic context, see Stephen M. Lee, *George Canning and Liberal Toryism, 1801–1827* (Suffolk, 2008), 165–7; Norman Gash, *Lord Liverpool: The Life and Political Career of Robert Banks Jenkinson, Second Earl of Liverpool, 1770–1828* (London, 1984), 234–5; also see Kirsten McKenzie and Lisa Ford, "A Dance of Crown and Parliament: Empire and Reform in the Age of Liverpool", manuscript under review, on the domestic role of imperial scandals, including the Lecesne–Escoffery affair.

a sprawling mission to investigate the colonies' legal systems.¹³⁷ To deflect scrutiny by Parliament, the government instructed the commissioners to examine the Lecesne and Escoffery affair, and secretly entrusted them with the task of burying the case.¹³⁸ The commissioners' intervention, however, also ensured that the affair became enmeshed in some of the thorniest questions of colonial governance at the time. The issues of subjecthood and alienness extended into most of the central arenas of imperial reform. Jamaica's far-reaching alien legislation complicated the relationship between metropolitan and colonial laws, challenging the notion of a uniform rule of law across the empire. While leading British politicians expressed umbrage at the harsh treatment of aliens, others — including the commissioners — justified it as the necessary response to 'local circumstances'.¹³⁹ Even more importantly, the governor's decision to override the Supreme Court's writ of *habeas corpus* took a stand in an ongoing debate over executive power and its relationship to the judicial branch.¹⁴⁰ The colonial government offered an expansive interpretation of the governor's powers under the alien legislation, which entrusted the governor with 'the power of judging in the last resort who is an Alien'.¹⁴¹ Although endorsed by the commissioners, the claim that the executive had unfettered authority in determining who was a subject and who was an alien, was sharply criticized by other legal experts, opposition politicians and Kingston's chief justice.¹⁴² In defiance of mounting criticism, the 1824 version of the Alien

¹³⁷ Quote by McKenzie, *Imperial Underworld*, 5. On the commissions of legal inquiry, see also Benton and Ford, *Age for Order*, 56–84.

¹³⁸ Foreign Secretary George Canning before the House of Commons, 16 June 1825, *Hansard*, 2nd ser., xiii, cols. 1203–4.

¹³⁹ Quote from *First Report of the Commissioners of Inquiry into the Administration of Criminal and Civil Justice in the West Indies: Jamaica* (London, 1827), 34. See the opposing position by Lushington to Courtenay, 17 Sept. 1826: TNA, CO 137/175, fos. 87^v–93^v.

¹⁴⁰ Manchester to Horton, 13 Sept. 1824; Burge to Bullock, 17 Feb. 1825: TNA, CO 137/174, fos. 97^r–116^f, 361^{r-v}.

¹⁴¹ Quote from Report of the Commissioners of Legal Inquiry, 25 Feb. 1826: TNA, CO 318/66, fo. 70. Longest justification of this position in Burge to Murray, 27 Dec. 1828: TNA, CO 137/176, fos. 274–284.

¹⁴² Lushington to Courtenay, 17 Sept. 1826: TNA, CO 137/175, fo. 91^v; James Stephen to Horton, 22 Jan. 1825: TNA, CO 137/176, fos. 153^{r-v}; William Anglin Scarlett, *Extracts from Mr Burge's Printed Letter to the Right Honourable Sir George Murray; and Observations thereon. Intended as a Short Exposition of the Proceedings of the Government, and the Supreme Court of Jamaica, in the Case of Lecesne and Escoffery* (London, 1829).

Act stipulated that ‘no writ of *habeas corpus* shall be issued’ on behalf of dangerous aliens and that claims to subjecthood ‘shall be finally judged of and determined by the governor in council’.¹⁴³

The most pressing question for the British government, however, was this: Had the governor illegally deported British subjects, or had he used the legal powers vested in him to protect British subjects? Despite the mass of evidence that had been collected over five years, Lecesne’s and Escoffery’s places of birth could not be determined beyond doubt. In the meantime, the Colonial Office became increasingly anxious to settle the embarrassing case, and both sides put forward suggestions about how to cope with the indeterminacy. The administration and its allies insisted that the men should be considered aliens, as they had been unable to prove their subjecthood beyond doubt.¹⁴⁴ Their opponents sought to diminish the significance of place of birth for birthright claims. The idea of conferring a quasi-subject status on those who had been law-abiding residents, or otherwise blurring the subject-alien-binary, found some support among the British government.¹⁴⁵ But while a certain tolerance for indeterminacy had in practice governed Lecesne’s and Escoffery’s lives up to 1823, it was hard, if not impossible, to translate it into the legal terms of subjecthood. Because a claim to natural-born subjecthood was the only guaranteed defence against the alien laws, some began to revisit the moment at the origin of their families’ migration, Britain’s occupation of Saint-Domingue. In doing so, they faced yet another intricate question of imperial governance: namely, sovereignty.

V

The British government finally settled on a solution to the dilemmas posed by the case. This solution was no less radical and far-reaching — one is tempted to say revolutionary — than Jamaica’s alien laws: namely, it decided that Lecesne and

¹⁴³ 5 Geo. IV, c. 18, article 31, *Laws of Jamaica*, viii, 62.

¹⁴⁴ Burge to Murray, 27 Dec. 1828: TNA, CO 137/176, fos. 291^v–292^f, 322^v.

¹⁴⁵ Bathurst to Manchester, 18 June 1825; Horton to Manchester, 18 June 1825: TNA, CO 137/174, fos. 244^f–245^f, 249^f–250^f. This position was publicly supported by Lushington, *Hansard*, 2nd ser., xi, col. 804 (21 May 1824); *Hansard*, 2nd ser., xiii, col. 1178 (16 June 1825).

Escoffery — regardless of their actual places of birth — were to be considered natural-born British subjects. This ruling was decisively shaped by the case of the third deportee, John Gonville. Gonville, the orphan child of a white merchant and a free woman of colour, had come to Kingston with his older sister sometime in late 1798 or early 1799.¹⁴⁶ His case had received little attention as his birth in Jérémie in 1797 seemed to establish beyond doubt his alien status. It was Gonville who provided Lushington with a copy of an 1822 legal opinion about the case of an unnamed white Saint-Domingue refugee. This opinion implicitly acknowledged the quasi-subjecthood many Saint-Domingue refugees in Jamaica enjoyed in practice. It stated that a person born ‘in Saint Domingo whilst it was in the possession and under the Government of the British’ was to be considered ‘not an alien but . . . a British subject born to his Majesty the King of Great Britain, and as such entitled to the privileges of a British subject’.¹⁴⁷ The author of this opinion was none other than Jamaica’s attorney-general, William Burge, perhaps the fiercest advocate of the legality of the deportation of Lecesne and Escoffery. Equipped with this legal opinion, Lushington reinserted Gonville’s case in the deadlocked debate in mid-1827, and floated the idea that because he was born ‘during the four years [Saint-Domingue] was in British possession’, he might be considered ‘in law a British Subject’.¹⁴⁸

The controversy thereupon took another dramatic turn. Its focus shifted from the criteria of alienness and subjecthood to the nature of sovereignty during Britain’s military occupation of Saint-Domingue between 1793 and 1798 — tapping into yet another area of transformation during this period. More than a half-century of nearly uninterrupted global warfare, combined with competing concepts of sovereignty, posed thorny questions about the belonging of subjects during military occupation and conquest. Well into the eighteenth century, imperial sovereignty claims over territory employed often imprecise assertions of

¹⁴⁶ Oral Evidence of John Gonville, 13 Aug. 1825: TNA, CO 137/175, fo. 352^r; Lushington to Stephen, 15 Sept. 1829: TNA, CO 137/177, fos. 20^v–21^r.

¹⁴⁷ Legal Opinion by Burge, 31 July 1822: TNA, CO 137/175, fo. 578^r; Lushington to Stephen, 15 Sept. 1829: TNA, CO 137/177, fo. 19^r.

¹⁴⁸ Lushington to Horton, 16 Aug. 1827: TNA, CO 137/175, fos. 35^v–36^r.

possession or control of land and populations outside Europe and between European states.¹⁴⁹ Early-modern case law concerning British subjecthood was unclear on the question of whether inhabitants in conquered territories were automatically to be considered subjects. In the wake of the massive land acquisitions after the Seven Years' War, subjecthood was recognized for inhabitants of conquered territories when the transfer was confirmed by treaty or statute, though ambiguity remained about the status of inhabitants of occupied territories in the absence of such a treaty or statute.¹⁵⁰ Over the course of the nineteenth century, the relationship between temporary military occupation and sovereignty became a central concern for European theorists of international law. Parallel to the notion of occupation of unowned land or property (*res nullius* and *terra nullius*) as a central doctrine of colonial conquest, the concept of belligerent occupation (*occupatio bellica*) — a temporary military regime that does not automatically confer sovereignty over the territory — took shape as a legal doctrine.¹⁵¹ Well before international lawyers adopted the doctrine at the turn of the twentieth century, army leaders, governments and courts in the revolutionary era had prepared the way for it in their debates on the status of occupied territories during wartime.¹⁵²

With the turn initiated by John Gonville, participants in the Lecesne–Escoffery case engaged in these evolving debates. After all, the occupation of Saint-Domingue — one of the most disastrous episodes in Britain's global military campaign between the 1790s and 1810s — was a case in point. The occupation was never formally established by cession or treaty, and ended with

¹⁴⁹ Lauren Benton and Benjamin Straumann, 'Acquiring Empire by Law: From Roman Doctrine to Early Modern European Practice', *Law and History Review*, xxviii (2010); for Europe, various cases are discussed by Irénée Lameire, *Théorie et pratique de la conquête dans l'ancien droit*, 5 vols. (Paris, 1902–11).

¹⁵⁰ Karatani, *Defining British Citizenship*, 42; Muller, *Subjects and Sovereign*, 187–8. The 1774 landmark ruling, *Campbell v. Hall* referred to Grenada, formally ceded to Great Britain in 1763.

¹⁵¹ Scholarship on colonial occupation and belligerent occupation remains completely disconnected. On occupation, see Andrew Fitzmaurice, *Sovereignty, Property and Empire, 1500–2000* (Cambridge, 2014). On the emergence of 'occupatio bellica', Peter Haggemacher, 'L'occupation militaire en droit internationale: Genèse et profil d'une institution juridique', *Relations Internationales*, lxxix (1994); Eyal Benvenisti, 'The Origins of the Concept of Belligerent Occupation', *Law and History Review*, xxvi (2008).

¹⁵² Peter M. R. Stirk, *A History of Military Occupation from 1792 to 1914* (Edinburgh, 2016), 39–103.

the hasty evacuation of British troops. Colonial officials, led by Attorney-General Burge, clearly drew on the debate over *occupatio bellica* when they referred to Britain's occupation in Saint-Domingue as a 'temporary hostile occupation' that did not confer subjecthood on the territory's residents.¹⁵³ The deportees' supporters, by contrast, deliberately used more imprecise notions of 'occupation' and 'possession', and avoided distinguishing between occupation and conquest.¹⁵⁴ As part of this battle of words, Lushington even objected to the use of the term 'invasion' by a high-ranking Colonial Office official, insisting instead on 'occupation'.¹⁵⁵

These were competing concepts to describe a historical episode that was itself marked by contradictions and ambiguities. Driven by a desire to benefit from revolutionary turmoil in France's most productive colony, the British government had prepared for the occupation by an agreement with émigré planters in London.¹⁵⁶ The agreement did not commit British forces to restoring French monarchical sovereignty. Instead, they agreed to help the colonists 'keep their colony'. The permanent, peace-time 'sovereignty of Saint-Domingue' remained open for post-war negotiations between Great Britain, France and other allied powers. The ambiguity and vagueness of this formula was intentional. It was a compromise between British advocates of annexation and pro-British planters, on the one hand, and, on the other, planters who

¹⁵³ Burge to Murray, 16 Sept. 1828: TNA, CO 137/176, fo. 178^f; Note by Bathurst, n.d.: TNA, CO 137/177, fo. 55^f. This was in contradiction to Burge's 1822 legal opinion, which had argued to the contrary.

¹⁵⁴ For example, Lushington to R. W. Stephen, 15 Sept. 1829; Affidavit of Flore Rossignol, 16 Oct. 1829: TNA, CO 137/177, fos. 22^{f-v}, 25^f, 34^v.

¹⁵⁵ Hay to Lushington, 25 Aug. 1829: TNA, CO 137/177, fo. 9^v.

¹⁵⁶ 'Propositions faites à Sa Majesté Britannique par les Propriétaires français de l'Isle de Saint-Domingue résidant en Angleterre et acceptées par le Ministère de Sa Majesté', 25 Feb. 1793, in Charles Frostin (ed.), 'L'intervention britannique à Saint-Domingue en 1793', *Revue française d'histoire d'outre-mer*, xlix (1962), 362–5. For earlier drafts, see Propositions: TNA, WO 1/58, fos. 475–515. For discussions of this agreement, Robert Howell Griffiths, 'The Influence of French Émigré Colons on British Peace Negotiations, 1796–1797', *Proceedings of the Meeting of the French Colonial Historical Society*, i (1976); Geggus, *Slavery, War, and Revolution*, 46–78; Frostin, 'L'intervention britannique à Saint-Domingue en 1793', 305–16; Michael Duffy, *Soldiers, Sugar and Sea Power: The British Expeditions to the West Indies and the War against Revolutionary France* (Oxford, 1987), 26–33; Michael Wagner, *England und die französische Gegenrevolution, 1789–1802* (Munich, 1994), 239–45; Pestel, *Kosmopoliten wider Willen*, 265–9.

favoured independence for Saint-Domingue. The system of government set up in the occupied territories underpinned the ambiguity and provisional character of these arrangements.¹⁵⁷ The British set out to introduce a civil government despite the ongoing war, but they restored in their entirety the laws and judicial system of *ancien régime* Saint-Domingue. At the same time, the governor was invested with unprecedented executive powers, akin to those bestowed in the later Crown Colony system.

The 1793 agreement demanded the British Crown to consider Saint-Domingue colonists as 'loyal subjects', and emphasized the connection between allegiance and protection in all its polysemy. Nonetheless, their status remained ambiguous, and statements by British officials did not clarify matters. On the one hand, some officials stated that 'the King should receive and treat them [colonists] as subjects till the conclusion of the peace'; on the other, others held that they may '*become* subjects of the British Empire' after the war.¹⁵⁸ In any event, although French colonists were (at least partially) referred to as 'new' subjects in occupied Saint-Domingue, their status conferred almost none of the rights and privileges commonly regarded as the essence of British subjecthood. And their status immediately changed once they left the territory. In every British territory, Saint-Domingue refugees were considered aliens, unless, on their own initiative, they became naturalized subjects. In Jamaica, they were the primary targets of the emerging alien legislation.

The solution to the Lecesne–Escoffery battle, however, was not found by delving into the historical intricacies of British-occupied Saint-Domingue, but rather by casting them aside. A newly appointed legal referee in the Lecesne–Escoffery case, the renowned judge, John Bosanquet, adopted a vague notion of 'possession'. Relying on the flexible concept of allegiance, he developed a line of argument building on *Calvin's Case*:

Both these persons [Lecesne and Escoffery] ... came into the world under the protection of his late Majesty, in places then under his late Majesty's obedience, and consequently to him their natural allegiance was due, protection and allegiance being reciprocal, and natural

¹⁵⁷ D. J. Murray, *The West Indies and the Development of Colonial Government, 1801–1834* (Oxford, 1965), 49–56; Geggus, *Slavery, War, and Revolution*, 133–42.

¹⁵⁸ Pitt to Grenville, 30 Mar. 1793, in *The Manuscripts of J. B. Fortescue, Esq.*, 10 vols. (London, 1892–1927), ii, 388; Minute agreed to by the King, 5 Apr. 1793: TNA, WO 1/58, fo. 45^v. Emphasis by the author.

allegiance is by the law of England indelible. As both the persons in question were born out of wedlock any right or duty which might be supposed to arise from parentage may be laid out of the question . . . I could come to no other conclusion but that they were both natural born subjects of His Majesty and consequently not subject to the Alien Law of Jamaica.

Taking into account their migration to Jamaica upon British withdrawal from Saint-Domingue, Bosanquet updated the ruling in *Calvin's Case* in light of the era's refugee movements. As a result of their migration, they had 'continued to reside under the protection of British authorities', and thus retained their subject status.¹⁵⁹ Here, Bosanquet echoed an argument that had been advanced on behalf of the American Loyalists. Bosanquet's opinion was quickly endorsed by the new head of the Colonial Office, William Huskisson — who had begun his career as superintendent of aliens under the 1793 British Aliens Act — and government law officers.¹⁶⁰

Within only a few months, the government lay the legal foundation for the resolution of the Lecesne–Escoffery affair. For the government, this resolution offered several advantages at once. It helped settle the case in favour of the deported men without tarnishing the governor's reputation, and pursued its broader agenda of strengthening metropolitan control over the colonies. Notably, the resolution did not call into question a broad notion of executive power, central to Britain's imperial reordering.¹⁶¹ The Jamaican administration and the West India lobby at Westminster were taken aback.¹⁶² Attorney-General Burge led an increasingly futile fight against a legal position that Burge's own words bolstered.¹⁶³ The case came to a close with the three men concerned achieving victory. They were officially

¹⁵⁹ Legal Opinion by John Bosanquet, 5 Nov. 1827: TNA, CO 137/176, fos. 63^{r-v}.

¹⁶⁰ Huskisson to the Attorney and Solicitor General, 10 Nov. 1827; James Scarlett and N. C. Tindal to Huskisson, 24 Jan. 1828: TNA, CO 137/176, fos. 23^v–24^r, 27^r; Huskisson to Charles Nicholas Pallmer, 17 May 1828, Agents Out-Letter Books, 1824–1832: JA, 1B/5/14/5, fos. 67^v–68^r.

¹⁶¹ Benton and Ford, *Rage for Order*, 8–9.

¹⁶² Hibbert to Committee of Correspondence, 8 May 1828, Agents Out-Letter Books, 1824–1832: JA, 1B/5/14/5, fos. 66^{r-v}; Burge to Murray, 27 Dec. 1828; Pallmer to Huskisson, 1 and 14 May 1828: TNA, CO 137/176, fos. 251^r–544^r, 718^{r-v}, 722^{r-v}.

¹⁶³ Burge sought to undermine the foundation of the legal position embraced by the government, and to prove that the litigants had been born *before* the occupation. See Burge to Murray, 16 Sept. and 27 Dec. 1828: TNA, CO 137/176, fos. 174^r–182^r, 443^r, 444^v–445^r.

recognized natural-born British subjects — starting with John Gonville, who had initially not claimed to be one.¹⁶⁴ After more than five years of forced absence, they were allowed to join their families in Jamaica, and were granted compensation for the hardship and losses they had endured. Louis Celeste Lecesne and his family settled permanently in Great Britain. He joined his supporter Macaulay on the board of the Anti-Slavery Agency and became acknowledged as an expert on Jamaican affairs.¹⁶⁵

The legal position taken by the British government in 1827 did much more than resolve the Lecesne–Escoffery case. It brought to a close a sprawling debate that had meandered through intricate issues of belonging and sovereignty during a period of imperial reordering. What began with three individuals' attempts to defend themselves against an arbitrary order, resulted in an effort to redefine the boundaries of who was a natural-born British subject. While Lecesne's, Escoffery's and Gonville's claims to subject status were initially based on everyday practice rather than written law and documentation, the government in 1827 cast the case in terms of the established legal framework of allegiance and protection. But what was represented as an eloquent reassertion of time-honoured notions of conquest, allegiance and subjecthood, was in fact a dramatic innovation. For there was no precedent in the case law of subjecthood for the claim that the temporary military occupation of a territory would in itself confer the status of a natural-born subject upon a newly born resident of that territory. By arguing that this military occupation provided a basis for subjecthood, the three men and their supporters put forth a new legal interpretation that had the potential to upend more than common notions of Britain's occupation of Saint-Domingue. Born out of political expediency rather than a court ruling, this interpretation did not provide a widely used precedent. But it created a blueprint that could be used for claims arising from a period in which large parts of the

¹⁶⁴ Horton to Hay, 11 June 1829; Case Respecting the Claim of Mr. Gonville, 10 Dec. 1829; George Maule to Hay, 8 Aug. 1830: TNA, CO 137/177, fos. 44–45, 59–78, 91–92; *Hansard*, 3rd ser., iii, cols. 1123–4; vi, cols. 218–20. The government in this case even went back on its newly defined position, as Gonville was not born out of wedlock.

¹⁶⁵ See, for example, Lecesne to Earl of Aberdeen, 27 Mar. 1836: TNA, CO 137/207, fos. 291^{r-v}.

world had at some point been temporarily occupied by British troops.¹⁶⁶

The Lecesne–Esoffery case illustrates how inextricably connected the questions of dealing with aliens and defining the rights of citizens/subjects were, and how complicated they became during a time of near-continuous warfare, military occupations and territorial realignments, imperial breakdowns and independence movements, and forced migrations. It shows that the status of insiders — in this case, subjects — was not only reshaped from the inside, by constitutions or declarations of rights, but also from the outside, by the redefinition of the status of those who did not belong. It shows that these issues were fundamentally defined by the imperial context and legal innovations introduced by colonies — in this case, the sweeping Jamaican alien legislation and race as a central marker in the differentiation of foreigners. It shows that the legal frameworks of migration control and expulsion during this period emerged out of the confluence of political exile and other types of dislocation — of enslavement, punitive transportation, military deployment and war captivity. And, above all, it shows that the refugees of this momentous period stood not on the sidelines, but at the very centre of major transformations in conceptions of subjecthood and citizenship. These allegedly marginalized individuals, not only navigated the rapidly shifting boundaries of belonging and freedom, but turned into agents of these transformations, joining the growing ranks of those who worked to broaden and open up the category of fully fledged members of political communities.

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¹⁶⁶ A few years after the Lecesne–Esoffery affair, the French Court of Cassation, for example, faced an inheritance case from Martinique, in which one party argued that the British military occupation between 1809 and 1814 automatically exempted the island from French inheritance laws; see Magill C. Hérietiers Monnet et Gonnier, Cour de Cassation (1^{er} février 1837), *Journal du Palais* (Paris), 85–7.

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DOI: 10.1093/pastj/gtab022

URN: urn:nbn:de:hbz:465-20220516-114557-2

Jansen, Jan C (2022) Aliens in a Revolutionary World: Refugees, Migration Control and Subjecthood in the British Atlantic, 1790s–1820s. *Past & Present* 255, pp. 189–231. <https://doi.org/10.1093/pastj/gtab022>



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