

Cambridge University Press

978-1-108-04645-9 - Two Letters to Sir Charles Forbes: And Other Short Writings on the East India Company and the Freedom of the Press

James Silk Buckingham

Excerpt

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A
L E T T E R
TO
SIR CHARLES FORBES, BART. M.P.
ON THE
SUPPRESSION
OF
PUBLIC DISCUSSION IN INDIA,
AND THE
BANISHMENT, WITHOUT TRIAL,
OF
TWO BRITISH EDITORS
FROM
THAT COUNTRY
BY THE
ACTING GOVERNOR-GENERAL, MR. ADAM.

BY A
PROPRIETOR OF INDIA-STOCK.

LONDON:
PRINTED FOR J. M. RICHARDSON, 23, CORNHILL.

1824.

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MERCHANT, PRINTER, INGRAM-COURT, LONDON.

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A LETTER,

&c. &c.

SIR,

I ADDRESS this letter to you because you are said to have declared publicly, in the House of Commons and the India-House, that if any man would satisfy you that freedom of discussion in India would be beneficial TO THE NATIVES, you would assist in establishing that freedom by all the means in your power. In saying this, you put the question on its true and just footing, for the natives compose the infinite mass and majority of the governed in that country; but they are too commonly left out of view by the English debaters of the Press-question, who seem to treat it chiefly with reference to its bearings on commercial and political parties, or on family connexions, and matters of patronage.

It is the object of the following pages to con-

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vince you that the good of the Natives, including, of course, the mixed races, cannot possibly be ensured under the East-India Company's distant and doubly-delegated rule, without establishing among them a *local* check, by public scrutiny through the Press. If I should succeed in convincing you, you are too honest and independent, I am told and I believe it, not to shrink from avowing that conviction, and redeeming, to the uttermost, your pledge in favour of a people and country to whom you are indebted for much of the consideration you justly enjoy, with men who are not the zealots of party, or bigots of any caste or complexion.

In the following examination of the question under discussion, regarding the Indian Press, it is proposed—

First.—To give a brief view of the past and present condition of the Press in the British territories in India, which are entrusted to the temporary management of the East-India-Company.

Secondly.—To state the arguments that seem to bear on the general question of a Free Press in India.

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SECTION I.

Historical Sketch of the Indian Press.

1. Before commencing on the historical sketch proposed, it seems expedient to prepare the way by shortly defining the nature and limits of the *restraints* usually considered applicable to the dissemination of opinions through the Press.

2. In every nation, each individual is free to *think* unrestrained. No human contrivance can reach or prevent the fullest freedom of thought.

3. Thought may be communicated by spoken or by written language; and this intercommunication of thought between man and man *is* susceptible of human restraint.

4. That restraint is more or less effectual, according as the intercommunication takes place between the greater or smaller numbers of thinkers, at the same moment.

5. It is difficult to restrain conversations between two persons, or prevent their corresponding by writings. But it is easy to restrain men

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from addressing large assemblages, or from circulating multiplied copies of the same written address.

6. Printing is such a multiplication of copies. He who harangues a hundred men at once communicates his opinions one hundred times more rapidly than they could be spread from man to man. He who distributes one hundred copies of his opinions, enables one hundred men to harangue each his hundred ; therefore, intercommunication by the Press *may* be ten thousand times more rapidly effectual than ordinary communication between man and man ; and the copies being permanent in form, and exactly alike, may serve over and over again for successive assemblages of hearers.

7. The Press is, therefore, much more dangerous, if it be dangerous that men should intercommunicate thoughts, and much more beneficial, if intercommunication be beneficial, than any other mode of spreading opinions ; it is also more susceptible of restraint from those who have the wish and the power to restrain intercommunication, by reason of its machinery.

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8. The restraint may be *direct*, that is, may be applied in the form of prohibition, total or partial, against free intercommunication of thought: or it may be *indirect*, in the form of subsequent threatened punishment, the fear of which shall deter and intimidate those who print.

9. Previous censure of writings proposed to be printed, and systems of revocable licensing, are both modifications of *direct* restraint in its partial form. No nation has ever practised a total and absolute direct restraint; for tyrannical rulers always encourage the Press while it only praises them, and spreads agreeable or scientific intelligence. No nation has altogether dispensed with *indirect* restraint. Even in the United States of America, it exists in the cases of individuals who have civil remedy for false and malicious injury through the Press, as through any other vehicle of wrong. In England, the *indirect* restraint prevails by law in a very strong degree.

10. In the East-India Company's dominions, up to April, 1823, no special legal enactment, touching the liberty of printing, existed. The power of making *laws* for India, generally, rests

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with the British Legislature, and has no other limit than their discretion. The power of making local laws for the Company's territories, except within the cities of Calcutta, Madras, and Bombay, is vested in the governments of the three Presidencies above named. The power of making local or bye-laws for those three great cities is vested concurrently in the Governments and the King's Supreme Court of Judicature at each,—the former *proposing*, the latter *sanctioning*.

11. The local laws enacted by the Governments and King's Courts, *conjointly*, must not be repugnant to the laws of England, and may be appealed against by individuals, to the Privy Council, acting *judicially*, not ministerially. The laws enacted by the Governments *solely*, are *not* required to be consonant to English law, and may only be repealed by the Governments themselves, by the Court of Directors of the Company, or by the Board of Control.

12. Printing was first introduced into India by the English in their great cities; but the custom of circulating manuscript newspapers in multiplied copies is of considerable antiquity among

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the Natives, the Mahomedans particularly : and these Ukhbars (as they are called) have always contained political rumours and intelligence, often mixed up with satirical and personal remarks.

13. The English Governments have never, until 1823, restrained printing in the provinces under their *separate* legislative jurisdiction. That it was, therefore, lawful to print without restraint up to that period, may be inferred from the very step of passing a law, in 1823, which constitutes into a crime, punishable by heavy fine and long imprisonment, the having or using any press, materials, &c. without special license; or any book, or printed paper, of which the circulation shall be prohibited by Government in their Gazette: such fines or imprisonment to be summarily inflicted by a single justice, (appointed, paid, and removable by Government,) who is also vested with power of domiciliary visitation, and of seizing all such books or implements of printing, simply on his own belief that such obnoxious articles are concealed on any man's premises. Such has been the law since April, 1823, in the

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provinces of Bengal, without the ditch of Calcutta.

14. Within the metropolitan jurisdictions of the Supreme King's Courts, reside almost all the Europeans in India not in the service of the Company; most of the numerous mixed races of Anglo-Indians and Indo-Portuguese; most of the Armenians, Parsees, Chinese, and other Asiatic foreigners, together with a vast population of indigenous Mahomedans and Hindoos. No accurate census exists in India; but writers have supposed Calcutta, and its immediate suburbs, to contain 600,000 souls. Madras and Bombay, together with Calcutta, may perhaps reckon a million of inhabitants in all.

15. These cities and all their population, from the earliest charters of the Kings of England, have been governed by English criminal law alone; while the Mahomedan code has been the law of the provinces, excepting only where British-born subjects, or Native servants of the Company, are concerned; in which case, the King's Court at the metropolis had exclusive jurisdiction. Justice has always been administered in the name