

# Introduction

The success and longevity of the East India Company is well known, what is less known perhaps is that in the latter half of the 17<sup>th</sup> century, another English company with even more extensive privileges than the East India Company was founded. At the time of its incorporation, the Royal African Company enjoyed unprecedented freedoms to enforce its own monopoly rights. Despite the extent of its powers however, the Royal African Company succumbed to political opposition against its privileges over a period of little more than 40 years and ended up as a peripheral actor in the trade it had originally been granted exclusive access to. The East India Company faced many of the same challenges that the Royal African Company did but was still able to survive and adapt throughout the latter part of the 17<sup>th</sup> century and early 18<sup>th</sup> century. What factors contributed to the success of the East India Company and demise of the Royal African Company over these years?

This dissertation will compare the East India Company with the Royal African Company and investigate the developments that influenced their position in English society and abroad, between ca. 1660 and 1712. I will focus on the factors that I believe allowed the East India Company to survive political and commercial opposition to its existence better than the Royal African Company, particularly after the Glorious Revolution. Before we address the differences between these two companies however, we will have a look at the similarities. Both companies received a royal charter that gave each company exclusive access to a specific international trade in the 17<sup>th</sup> century.

## **Royal charters**

A company in possession of a royal charter had been given “certain rights and privileges and was bound by certain obligations, under a special charter granted to it by the sovereign authority of the state”. The charter outlined the specific rights and privileges enjoyed by the company, the limitations to these privileges and to what area they applied. These charters were issued to merchants who were willing and able to protect the political interests of the king abroad, in exchange for privileged access to commerce in the same region. The royal charter “usually conferred a trading monopoly upon the company in a specific geographic

area or for a specific type of trade item.”<sup>1</sup> Royally chartered companies were also granted extensive rights to protect their privileges from both foreign and English competition.

### **Opposition to royally chartered companies**

Both companies faced growing opposition against their monopolies from independent English traders wishing to participate in their respective trades in the latter half of the 17<sup>th</sup> century. The longer history and entrenched position of the East India Company in the East Indies proved to be an advantage in justifying its monopoly and resisting such opposition. The Royal African Company was given exclusive access to an area where independent English trade already existed, whereas the East India Company had assumed more of a pioneering role in opening up the East India trade. The Company received its first charter in 1600, making it an already well-established company when the Royal African Company received its first charter in 1672. The East India Company (EIC), received a monopoly on English trade to and from the East Indies. The Royal African Company (RAC), was granted a monopoly on the trade to and from Africa. The triangular trade of the Atlantic and the growing political influence of colonial interests in Parliament after the Glorious Revolution eventually put the RAC at the mercy of those who opposed its chartered monopoly rights. The EIC also faced growing political and commercial opposition after the Glorious Revolution, but its entrenched position in the East Indies allowed it to persist independently of public support in England. Despite growing political opposition to such companies, economic necessity and political self-interest led English monarchs of the period I am investigating to favor chartered monopolies as the preferable way to organize certain areas of international trade. The high profitability of these companies also made them an attractive source of extra-Parliamentary funds for a king who sought to be less reliant on Parliament.

### **Joint-stock companies**

The RAC was organized as a permanent joint-stock company, similar to the structure of the EIC after 1657. Following an act of Parliament in 1662, “the liability of individuals” was “limited . . . for all incorporated joint-stock companies in favor of shareholders.” The new law limited the potential losses of investors “in the event of bankruptcy”. Joint-stock organization with limited liability for each shareholder made it easier for both companies to raise money

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<sup>1</sup> <https://www.britannica.com/topic/chartered-company>

due to the relatively low risk of investors combined with the potential of significant profits.<sup>2</sup> Both companies had close ties with the monarch and their ability to raise funds to provide economic support for royal expenses was crucial in maintaining their privileged positions, renewing their charters and securing support in legal disputes. This was especially true after the Glorious Revolution, when opposition to such companies and their monopolies intensified, particularly in Parliament. After two decades of legal and political struggles following the Glorious Revolution, the *United Company of Merchants of England trading to the East Indies* emerged with a British monopoly on this trade. The Company was a result of the 1708 official union between the old EIC and a new rival, a regulated East India Company that was established by wealthy independent traders and Whig politicians in the late 1690s to replace the EIC monopoly. While the EIC had succeeded in effectively regaining its monopoly by incorporating its former competitors by the early 18<sup>th</sup> century, the RAC was in decline and the trade to and from Africa “proceeded with little state oversight”<sup>3</sup>

### **The Company-state in India**

What made these two companies face such different outcomes in the aftermath of the Glorious Revolution? My thesis is that the main reason for the eventual success of the EIC following the Glorious Revolution, was that the Company had successfully managed to build a permanent presence in India in the latter half of the 17<sup>th</sup> century that allowed it to fund itself through taxation of local inhabitants, acquire resources vital to England, and project its regional sovereignty efficiently. Because the RAC never established comparable settlements on the West-African coast, the Company was not able to attain a position in which it could assert itself independently of the English state. Thus, the territorial settlements the EIC possessed on the Indian subcontinent provided the Company with manpower and resources that made it able to operate independently of the English state. Furthermore, these settlements enabled the EIC to provide financial support and crucial resources to the English monarch at critical points in the last quarter of the 17<sup>th</sup> century. This allowed the Company to gain royal favor and buy political influence at times when its existence was threatened by public opposition. By the late 1680s, the EIC’s Company-state in the East Indies had become so strong that the Company was able to operate independently of English political support. The

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<sup>2</sup> Carlos, A. M., *Handbook of Key Global Financial Markets, Institutions and Infrastructure* - chapter four: British Corporate Finance, 1500–1860, Elsevier Inc: 2012, p. 41

<sup>3</sup>William A. Pettigrew, George W. van Cleve, “PARTING COMPANIES: THE GLORIOUS REVOLUTION, COMPANY POWER, AND IMPERIAL MERCANTILISM”, *The Historical Journal*, 57, 3 (2014), pp. 617–638 © Cambridge University Press 2014, p. 2

RAC on the other hand, was throughout its existence dependent on strong support from the king and his officials to enforce its monopoly in the Atlantic effectively. Thus, the EIC was better equipped to survive a political climate hostile to its privileges after the Glorious Revolution, because the territorial state the Company possessed in the East Indies gave it the necessary resources to thrive independently of English public support.

### **Historiography**

The East India Company has attracted considerable interest from historians, and among the many works on the topic, that by William A. Pettigrew and George W. van Cleve stands out for its focus on a *comparison* between the East India Company and another chartered company, the Royal African Company. While this is a salutary approach, leading to important findings about the East India Company, it is my view that the conclusions Pettigrew and van Cleve drew need to be nuanced. Pettigrew and van Cleve focus on the different public profiles of the two companies after the Glorious Revolution and argue that the East India Company's success in courting influence with William III was the main reason the Company was able to save its monopoly. My argument is that the resources and profits the East India Company was able to obtain from its growing territorial possessions in the East Indies made the Company able to thrive independently of public support in England by the end of the 17<sup>th</sup> century. Thus, we all agree that the East India Company managed better in comparison with the Royal African Company after the Glorious Revolution. I argue, however, that this had less to do with the popularity of the East India Company and more to do with the Company's ability to operate efficiently, independently of the English state. The Royal African Company on the other hand, lacking comparable territorial possessions, faced a steady decline when it lost crucial political support following the Glorious Revolution.

### **Research**

Since this investigation started off from a wish to nuance existing views on the topic at hand, addressing secondary sources was central to my study. I have used both secondary sources and primary sources to nuance the findings of Pettigrew and van Cleve. The secondary sources helped me find out what was already written on the subject and gave me inspiration to shape my argument. I particularly investigated the foundations of the Company-state in the East Indies, since I believed the development of this sovereign entity was of paramount significance to the East India Company's success in overcoming commercial and political opposition. Furthermore, I looked for material that would support my hypothesis that the East

India Company was able to operate as a sovereign entity independently of the English state by the late 17<sup>th</sup> century. The primary sources I was able to access<sup>4</sup> affected the amount of these sources I investigated, but the original royal charters were for example very helpful in highlighting the similarities between the powers that were granted to each company. This was an important finding because it indicated that the East India Company's comparative advantage lay elsewhere. George Jeffrey's book on the court case between the East India Company and the interloper Thomas Sandys was used to shed light on the contemporary view on the issue of company sovereignty and the role such companies should play in English trade. Jeffrey's memoirs and the secondary sources I found discussing the first Anglo-Mughal War, supported my theory that the Company-state had by the late 1680s become a sovereign entity that was able to operate independently of the English state. Other primary sources, such as the royal proclamations and the document discussing interlopers' access to the protection of Royal African Company forts under the Trade to Africa Act, are used to emphasize the ways in which the East India Company was better able to enforce its monopoly and thrive independently of royal aid compared to the Royal African Company.

### **Summary of the chapters**

Chapter one will discuss and compare the rights and privileges the East India Company (EIC), and the Royal African Company (RAC) were given by Charles II in their respective charters. I will investigate the geopolitical conditions both companies operated under before the Glorious Revolution and how these affected their success in enforcing their monopolies. The chapter will also address the issue of independent traders (interlopers), seeking to infringe on the companies' monopoly trades and how the two companies dealt with these traders.

Chapter two discuss the emerging Whig and Tory ideologies regarding royal prerogative and property, and how these affected the policies of a Tory-dominated EIC. Whig dominance in Parliament during the 1680s would also influence the amount of political opposition the EIC and the RAC faced during this decade. The chapter will focus on two significant events that I argue played a critical role in the development of the Company-state the EIC had created on

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<sup>4</sup> The outbreak of covid-19 this spring resulted in the closing of most libraries in Britain by late March. The developments in Norway following this outbreak also forced me to leave Scotland earlier than I had intended. Many of the sources I have used in this dissertation were thus sources that I was able to access online. I was fortunate that some primary sources, for example the charters granted to the East India Company was available for me online as a registered user at the National Library of Scotland.

NB: The French article "La Révolution anglaise de 1688: économie politique et transformation radicale", by Steve Pincus, Karim Ghorbal and Philippe Minard has been translated by me.

the Indian subcontinent. The first event was the court case between the Company and the interloper Thomas Sandys. I argue that the ruling in favor of the EIC in this court case sanctioned the emerging territorial state it was constructing in the East Indies and thus helped to facilitate the role the Company would adopt in the next significant event, the first Anglo-Mughal War. The EIC was emboldened by the ruling in the case against Thomas Sandys to embark on an aggressive military campaign against the Mughal emperor to assert its position as a sovereign actor on the Indian subcontinent. The strength of its territorial organization, illustrated by its ability to engage in a regional war independently of the English state, helped the EIC to thrive despite growing political opposition following the Glorious Revolution.

Chapter three address and discuss the political developments that led to the Glorious Revolution in England and the consequences this had for the EIC and the RAC. I discuss the legal ramifications of the court case *Nightingale v. Bridges*, in which the RAC was effectively stripped of its enforcement powers. Although the legal consequences of this case in principle was equally detrimental to the EIC, the resources it derived from its territorial possessions in the East Indies allowed the Company to maintain its privileged position for several years through political lobbyism and strategic imports. The chapter also looks at how the profits from its settlements enabled the EIC to turn possible dissolution of its company into a union with its main adversary and once again possess a legal monopoly on the trade to the East Indies. The RAC on the other hand, saw its authority diminish after the Glorious Revolution and ended up becoming a peripheral actor in the trade it had once possessed a monopoly on.

# Chapter One

## Chartered monopolies, interlopers and royal prerogative

### **Introduction:**

The years between 1660 and 1689 were characterized by rising tensions in England, both politically and commercially. Charles II had been restored to the English throne after a period of civil war and English commercial interests were growing both in the East Indies and the Atlantic. The East India Company received a renewed charter from Charles II that granted it exclusive access to English trade in the East Indies in 1661. The Royal African Company received its first charter in 1672, granting it exclusive English access to the African trade. These charters were private agreements between the king and the companies he chose to give trade monopolies. The charter granted trade privileges to the company but also committed it to protecting the interests of the English monarch abroad. Despite receiving royal monopolies on their trades, both the EIC and the RAC were faced with a rise in independent traders who challenged their monopolies during this period. Such independent traders were commonly referred to as interlopers. Interloping was a term used to describe traders that infringed on the commercial monopoly of a chartered company, by trading independently in an area in which a chartered company had been given exclusive access. The chartered companies did not only face commercial opposition though, they were also increasingly met with political challenges against their privileges. Before the Glorious Revolution, the king granted the chartered companies their monopolies independently of Parliament, and this led to political opposition from those in Parliament who wished to regulate the power of the monarch. The direct link between the king and the chartered companies meant that these companies enjoyed very close ties to the monarch during these years. The Glorious Revolution ushered in a shift in the balance of power between the monarch and Parliament however, and this presented new challenges to both companies. After the Glorious Revolution of 1688-89, the English Parliament effectively removed the current king and welcomed a new monarch under conditions that would give Parliament significantly more influence in political matters. These developments thus affected the future of chartered companies, whose privileges had historically been guaranteed by the monarch. The royally chartered companies were primarily expected to serve the imperial interests of the king abroad. The lack of Parliamentary regulation of these companies before the Glorious Revolution also allowed them to serve a financial function, one that threatened the sovereignty of Parliament in its relationship with

the monarch. Chartered companies were an attractive source of external revenue to the king, who sought to lessen his dependence on Parliamentary approval of funds. The nature of this conflict created a power struggle in English society where the king often would support and protect the chartered companies from interlopers, and political attacks on their privileges, because it was in his financial interest to do so. Parliament on the other hand, would usually support independent traders and seek to minimize the privileges of chartered companies.<sup>5</sup>

In the first chapter I will discuss and compare the rights granted to the EIC and the RAC in their 1661 and 1672 charters respectively. Furthermore, I will look at how these companies dealt with the growing threat of interlopers in the years between ca. 1660 and the Glorious Revolution. Finally, I will discuss political developments over these years, and look at how they affected both companies. The EIC and the RAC were granted charters that provided them with privileges to manage all English trade in a specific international region. Both companies were granted exclusive commercial access to their trades and given sovereign powers to enforce this privilege. Although both companies were given similar sovereign powers to enforce their monopolies, the EIC was in a better position to utilize these powers. My thesis is that the main reason the Company was able to use its sovereign powers more efficiently than the RAC, was that the EIC managed to cultivate larger, permanent settlements in the East Indies that allowed the Company to assert itself more independently of the English state. Furthermore, the profits and resources the EIC gained from having this self-sustained colonial empire, made the Company able to buy extensive political influence in England at critical times of widespread political opposition. Thus, my argument is that the organization the EIC was able to construct in the East Indies and the resources it derived from its settlements, made the Company better able than the RAC to enforce its sovereignty independently of active royal support. First, we will look at why European monarchs chose to organize some international trade through such chartered companies.

### **Why Chartered Companies?**

In his book on the RAC, K. G. Davies argues that one reason why many European monarchs preferred a corporation with chartered privileges in international trade that were of great national importance, was economic necessity. Many of these monarchs were too impoverished in the 17<sup>th</sup> century to take on the financial responsibility of building the infrastructure necessary to facilitate and defend such international trade effectively. Thus,

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<sup>5</sup> James M. Vaughn, "John Company Armed: The English East India Company, the Anglo-Mughal War and Absolutist Imperialism, c. 1675–1690", *Britain and the World* 11.1 (2018): 101–137



without the guarantee of substantial profits, these rulers were reluctant to take on the economic burden of securing their national interests in the overseas trades of Africa and the East Indies. These trades were considered too important to simply leave open to a free market though, since it was assumed that unregulated private traders would undercut each other and disregard agreements with non-Christian rulers, if it served their own private benefit. Chartered monopolies like those granted to the EIC and the RAC were thus considered a good compromise between these two options for European rulers. They relieved the monarch of the financial burden of securing and defending international trade, while at the same time providing the nation with the benefits of such trade.<sup>6</sup> The powers granted to the companies in their respective charters were intended to ensure that both companies would assume the responsibility of securing and defending English interests abroad.

The 1661 charter granted to the EIC by Charles II, demonstrates that the Company by this time had assumed functions and privileges that went beyond those of a simple commercial monopoly. Page two of the charter states the Company's right to "enjoy and retain Lands, Rents, Privileges, Liberties, jurisdictions . . . of what kind nature and quality forever they be to them and their successors." Page 13 grants the EIC the right to assemble its own military force. Finally, the Company is given the power to make war and peace with non-Christian states and rulers. Thus, the provisions of its charter afforded the EIC the status of a quasi-sovereign ruler in the East Indies. Such powers and privileges did not come without a cost though, and page 14 of the charter states that the monarch or his descendants are free to dismantle the Company and its charter with a three-year notice if it is considered non-profitable.<sup>7</sup> In other words, the ability to provide financial benefit to the monarch was paramount in ensuring the continued success of the EIC.

Glenn O. Nichols states that "During the Restoration the government's financial difficulties were well known and most people were reluctant to loan to the Crown."<sup>8</sup> Charles II and his government usually "had to pay from two to seven per cent more interest than private borrowers" in order to attract capital. By contrast "the Royal African Company . . .

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<sup>6</sup> Davies, K. G., *The Royal African Company*, Longmans, London: 1957, pp. 16-17

<sup>7</sup> England and Wales. Sovereign (1660-1685: Charles II). (1661). *The east-india companies charter, granted by the kings most excellent majesty charles the second, under the great seal of england, dated the third day of april, in the 13th. year of his majesties reign, 1661* London, s.n. Retrieved from <https://search-proquest-com.nls.idm.oclc.org/docview/2240900996?accountid=12801>

Accessed via logged in user at the National Library of Scotland webpage.

<sup>8</sup> Glenn O. Nichols, "English Government Borrowing, 1660-1688", *Journal of British Studies*, Vol. 10, No. 2 (May 1971), pp. 83-104, published by: Cambridge University Press on behalf of The North American Conference on British Studies. p. 84

borrowed at three per cent in 1677, while during the same year the government had to pay at least eight per cent.”<sup>9</sup> Raising money at favorable terms was in other words easier for the chartered companies than it was for the monarch and his government. Thus, the monarch had incentive to pressure these companies for money in exchange for supporting their charter privileges, since he knew the Companies could raise money more efficiently than he was able to. Nichols argues that Charles II used this strategy to raise funds for his government throughout the 1660s and 1670s. According to him, the full year it took Charles II to issue a new charter to the EIC after being reinstated in 1660;

was not the result of Charles's usual procrastination; it was Charles's way of reminding the Company that it owed its existence to his good will, and that which he had in his power to grant, he also had in his power to take away.<sup>10</sup>

Immediately after granting the EIC its 1661 charter, Charles II requested a loan, and he continued to loan heavily from the Company in order to fund his wars against the Dutch. Loans were not always made out in money though, many were “in the form of saltpeter supplied to the Royal forces on credit.” The saltpeter was supplied by the EIC from India and repayment of both saltpeter and cash loans were to “come from a remission of the Custom duties on East India Company imports.”<sup>11</sup> Thus, the king did not actually have to repay the Company, he could simply exempt it from future taxes he had intended to levy. This would also have given the Company a convenient way to offer the king “gifts” in a subtle way. If the monarch were to later “accidentally” default on these loans by failure to exempt the Company from future taxes, this could simply be attributed to the king’s financial difficulties. Such a subtle “gift” might then encourage the king to continue his political support of the Company. According to Nichols, the king’s treasurer would often take advantage of the EIC’s dependence on royal support in the 1660s and 1670s to extort such “gifts” from the Company. When “the clothiers, the merchants involved in the English silk industry, the Levant Company, and the bullionists united in opposition to the East India Company” in the fall of 1676, the Lord Treasurer Danby took advantage of the Company’s temporary political vulnerability to secure a favorable loan to the Crown.<sup>12</sup>

According to Arnold A. Sherman, such loans were not necessarily the result of the king using his power to extort the EIC however, sometimes the Company would use its

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<sup>9</sup> Nichols (1971) p. 84

<sup>10</sup> Nichols (1971) p. 85

<sup>11</sup> Nichols (1971) p. 86

<sup>12</sup> Nichols (1971) p. 86

financial means to ensure favorable state policies. The EIC and its lobby “played a key role in turning commercial rivalry in Asia into a matter of national concern, a basis for government policy formation, and ultimately a justification for war.”<sup>13</sup> This benefited the EIC because it gave the Company English military support to oppose the rival Dutch company. Sherman states that the hegemony of the Dutch in the East Indies was so strong in the mid-1600s that the EIC would have had no chance of resisting their domination without help from the English government. The Company had been driven almost to extinction under Oliver Cromwell and “hoped that Charles II would be more understanding and more conciliatory.”<sup>14</sup> The king delivered in full on these hopes, according to Sherman.

Despite its precarious position in 1660, the East India Company soon exercised enormous influence over government decisions and helped shape government policy on a wide range of issues. By 1672, when Sir John Banks became Governor of the Company, he headed what his biographer had called "the richest and most powerful mercantile corporation" in England.<sup>15</sup>

Thus, by the time the RAC was incorporated, the EIC already enjoyed significant influence in the English government and particularly on its foreign policy. Through obtaining influence both in “Parliament and on government councils”<sup>16</sup>, and providing financial aid to the monarch, the EIC managed to influence government policies through two different channels. By strategically using this political influence to shape English foreign policy during the critical years when the foundation for its emerging Company-state was laid in the East Indies, the Company managed to secure its existence until it was strong enough to operate more independently of the English state. In addition to its involvement in forming English foreign policy, the EIC also aimed to influence the commercial monopoly of the RAC. The Company was heavily invested in the African trade, and “eleven of the twenty-four officers of the new Royal African Company were tied to the East India Company in some way”<sup>17</sup> when the Company was granted its charter in 1672. Thus, part of the EIC’s success in comparison with the RAC was its ability to spread out its influence and use this strategically. The EIC used its profits to gain influence in Parliament, favor with the monarch and shares in rivaling

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<sup>13</sup> Arnold A. Sherman, “Pressure from Leadenhall: The East India Company Lobby, 1660-1678”, *The Business History Review*, Vol. 50, No. 3 (Autumn, 1976), pp. 329-355, published by: The President and Fellows of Harvard College. p. 332

<sup>14</sup> Sherman (1976) p. 335

<sup>15</sup> Sherman (1976) p. 335

<sup>16</sup> Sherman (1976) p. 335

<sup>17</sup> Sherman (1976) p. 334

merchant companies. This widespread influence provided the Company with favorable conditions that in turn allowed it to make more money, which it could use to buy even more influence and secure its position further.

The RAC and its predecessor, the Company of Royal Adventurers Trading to Africa, which was founded by Charles II in 1660, were dependent on royal support throughout their existence. The close ties between the African companies and the monarch is perhaps best illustrated by the fact that the Company of Royal Adventurers Trading to Africa was managed by “James, duke of York . . . his cousin Prince Rupert and a group of aristocratic supporters.”<sup>18</sup> Furthermore, the duke of York, who would later be King James II, was governor of the RAC when he fled England in the wake of the Glorious Revolution in 1688. According to William A. Pettigrew, the close ties between monopoly companies and the English king in the 1660s and 1670s reflected the absolutist ambitions of Stuart monarchs. Financial independence from Parliament through the revenue generated by these companies was one such ambition. Thus, while the king had economic incentive to support monopoly companies, Parliament would be inclined to support interlopers in these companies’ respective trades. This political conflict was a natural result of the fact that chartered monopoly companies represented an unregulated source of revenue for the English monarch and thus undermined Parliamentary sovereignty. During the Exclusion Crisis, in 1679, interlopers in the African trade sought to regulate the RAC by capitalizing on Parliamentary opposition to its main shareholder, the duke of York. The attempt to regulate the Company was short-lived though, and Charles II “intervened and prorogued Parliament.”<sup>19</sup> Thus, although both the EIC and the RAC had been given extensive powers of sovereignty in their trades, the king would often intervene on their behalf when these powers were challenged. This happened more frequently in the case of the RAC, which was more dependent on royal support to assert itself than the EIC was. The RAC enjoyed extensive powers of sovereignty on paper though, despite its reliance on royal aid to enforce its privileges effectively.

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<sup>18</sup> Pettigrew, William A., *Freedom's Debt: The Royal African Company and the Politics of the Atlantic Slave Trade, 1672-1752*, Institute of Early American History and Culture (Williamsburg, Va.), 1978, Chapel Hill: The University of North Carolina Press: 2013; p. 23

<sup>19</sup> William A. Pettigrew, “Free to Enslave: Politics and the Escalation of Britain's Transatlantic Slave Trade, 1688-1714”, *The William and Mary Quarterly*, Third Series, Vol. 64, No. 1 (Jan. 2007), pp. 3-38, published by: Omohundro Institute of Early American History and Culture. p. 11

## Company sovereignty

Starting in the 1670s, Charles II aimed to increase the taxation of the growing Atlantic economy by giving the RAC substantial powers to enforce its monopoly. The Company was given judicial power to assemble its own Admiralty courts and prosecute interlopers. The legal sovereignty afforded the RAC was unprecedented at the time, and the EIC was not granted equivalent judicial powers before 1683. The RAC “enjoyed perhaps the closest relations” of the two companies, “with the sovereign power of the ruling monarch between 1672 and 1688.”<sup>20</sup> Although this close relationship gave the Company very favorable terms as long as the king’s prerogative was not contested, it also made it more vulnerable when royal prerogative was met with political opposition. Thus, even though the RAC initially was granted even more extensive sovereign rights than the EIC possessed at the time, the EIC’s resources and more pragmatic distribution of influence made it better able to enforce the powers it had been given, and also made it less dependent on the monarch to do so.

The RAC’s 1672 charter granted the Company exclusive rights to the West African coast and its trade. Page 9 grants the “Governor, Sub-Governor” and “Deputy Governor” the right to be “one full power and authority”. Furthermore, the RAC is given the right “to assemble themselves” in any place necessary for its business or affairs. Finally, the Company is granted explicit rights to make laws to protect their charter privileges and prosecute those violating these laws in their own courts. The charter states that those violating the privileges of the RAC can be punished “either by Imprisonment or Fines” and the governors of the Company are given discretionary freedom to consider what punishment they deem most reasonable. Although the RAC is given specific rights to make laws in order to enforce its monopoly, the charter asserts that these laws must “bee reasonable and not repugnant to the laws of this our Realme of England.”<sup>21</sup>

The deference to the principles of English law was also asserted in the EIC’s charter which specify the Company’s judicial powers on page six. The charter declares that it shall be lawful for the Company to "assemble themselves for or about any the Matters, Causes, Affairs or Businesses of the said Trade . . . and there to hold Court for the said Company and the Affairs thereof." In other words, the EIC was granted the right to act as its own judicial power

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<sup>20</sup> Pettigrew (2013) p. 25

<sup>21</sup> *Charter granted to the company of Royal Adventurers of England relating to trade in Africa*. 1672. Available through: Adam Matthew, Marlborough, Empire Online, [http://www.empire.amdigital.co.uk.ezproxy.is.ed.ac.uk/Documents/Details/Charter granted to the company of Royal Adventurers of England\\_](http://www.empire.amdigital.co.uk.ezproxy.is.ed.ac.uk/Documents/Details/Charter%20granted%20to%20the%20company%20of%20Royal%20Adventurers%20of%20England_) [Accessed February 01, 2020].

in settlements that were considered under its jurisdiction. The Company was also required to ensure that such legal systems were "reasonable and not contrary or repugnant to the Laws, Statutes or Customs of this Our Realm." Thus, both the RAC and the EIC had in their charters been awarded a regional, semi-sovereign status provided that they acted in accordance with English law. A referral to the sovereign jurisdiction of the EIC on page five of its charter, illustrates the pragmatic role the Company would adopt as a facilitator of English trade in the East Indies in the 1660s and 1670s. The page states that Company employees and their descendants are free to trade within the jurisdiction of the EIC.<sup>22</sup>

This implies that the EIC had achieved the position of a sovereign regulator of English trade in the East Indies by the time it was granted its charter in 1661. This meant that the Company in addition to trading on its own account, acted as a facilitator of trade for other Englishmen in the region. The enormous area its charter gave exclusive access to, presented an interesting dilemma to the Company in this regard. The EIC was effectively given exclusive access to the entire known world between East Africa and the Pacific Ocean, even stretching west to St. Helena, an island possessed by the Company in the South Atlantic. Thus, although the EIC technically could claim exclusive access to all English trade in this vast region, it did not have the organizational capacity to reap its full trading benefits. Emily Erikson argues that this dilemma led the Company to adopt a more pragmatic approach to both its own employees, who had secretly traded on their own behalf while conducting EIC business, and independent English traders, that sought to capitalize on the plentiful trading opportunities existing within the East Indies. The Company was very persistent in prosecuting and reducing the activities "of private individuals whom it believed were infringing upon the Company monopoly on goods transported between Asia and Britain."<sup>23</sup> Local trade conducted within the East Indies that did not interfere with Company trade however, were to some extent tolerated, and led to a growth of what Erikson refers to as the "country trade". The country trade was the English trade conducted locally in the East Indies that was not affiliated with EIC trade. The trade was conducted independently of the Company, by company employees and independent English traders. This trade was mostly tolerated by the EIC so long as it did not interfere with Company operations, profits or diplomatic relationships in the region.

The way the EIC chose to handle independent traders and company employees trading on their own behalf within the East Indies, demonstrates one way the Company managed to

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<sup>22</sup> EIC charter (1661)

<sup>23</sup> Erikson, Emily, *Between Monopoly and Free Trade: the English East India Company, 1600-1757*, Princeton, Oxford, Princeton University Press: 2014, p. 57

control the threat of interloping better than the RAC. According to Erikson, the pragmatic approach of the EIC in tackling both interlopers and violation of its monopoly rights by their own employees, contributed significantly to the Company's success in maintaining its position in the East India trade. She explains that after 1662 "Englishmen operating outside of the Company were formally allowed to trade on their own account within the East Indies, as long as their own trade did not interfere with the Company trade." The liberties of Company employees and non-Company individuals continued to expand in the following two decades and by 1679 "all country trade" was made available "to private individuals and employees." Erikson argues that these acts basically formalized what was already an existing practice in the East Indies.<sup>24</sup> Thus, rather than depleting its resources on combating private trade within its jurisdiction, the EIC instead focused on its role as a facilitator of English trade in the East Indies and attempted to regulate this illicit trade to its own benefit.

Prior to 1660, private traders faced significant difficulties in remitting their fortune — if they had made one — back to England. Such fortunes had to be hidden from the Company since there was no legal means by which individuals would have been able to acquire them. When the country trade was legalized, employees acquired a reliable means of remitting money back to England: They could use Company bills of exchange.<sup>25</sup>

This meant that the EIC was able to profit of the trading activity that in principle violated its charter. The Company offered the services of its superior infrastructure within the region to facilitate private trade and charged these traders to use its services. I would argue that the EIC through this pragmatic arrangement effectively managed to reap benefits similar to that of a sovereign state from non-Company trade in the East Indies. Through taxing, regulating and selling services to employees and independent merchants conducting private trade, the EIC was able to increase profits from English trade in the East Indies without increasing its own trading activity. According to Erikson, the chartered monopoly of jurisdiction the EIC had been given, also served the interests of the private traders.

The Company negotiated diplomatic accords with foreign powers in order to establish legitimate access to different ports and markets and in many cases to reduce tariff

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<sup>24</sup> Erikson (2014) p. 59

<sup>25</sup> Erikson (2014) p. 60

rates, thus legitimizing the presence of English private traders, whether they were Company servants or not, as well as reducing their customs burden.<sup>26</sup>

Thus, in many cases the EIC charter created a win-win situation where the negotiating power the Company was able to wield, when making agreements with foreign rulers in the East Indies, benefited the private traders that were operating under its jurisdiction. For such a negotiation power to appear legitimate however, the EIC was dependent on retaining its superior position in relation to other English traders in the region. Despite the Company's attempts to implement smaller, existing violations against its charter into its business model, some interlopers were not happy with the limited freedoms this provided. James M. Vaughn describes how "Thomas 'Diamond' Pitt, perhaps the greatest interloper of the period" attempted to establish himself on equal footing with the Company on the Indian subcontinent. He arrived "with 4 or 5 files of soldiers in red coats" and resided with the Dutch. Although these were hired soldiers and not associated with the English state in an official capacity, their presence, together with a powerful English trader who did not submit to the authority of the EIC, effectively undermined the supremacy of the Company in the East Indies. To local rulers, interlopers like Pitt exposed the controversy of the EIC's charter privileges in England. He demonstrated that the supreme sovereignty of the Company in the East India trade was not something that was unanimously agreed upon. This could in turn encourage local rulers in conflict with the EIC to challenge its authority as well. Thus, dealing with interlopers like Thomas Pitt was paramount to the Company in order to protect its sovereign position in the East Indies. By supplying his own military protection and making agreements with local rulers independently of the EIC, Pitt also undermined the authority of the Company as the facilitator of English trade in the East Indies.

Independent traders like Pitt was a symptom of the political developments in England that emerged in the wake of the Exclusion Crisis. When Charles II's brother, the future James II, converted to Catholicism, it was ill-received by an English political community predominantly hostile to Catholicism. To ensure a Protestant future for the kingdom of England, an anti-Catholic faction in Parliament "introduced a bill in the House of Commons with the intention of excluding James from the succession."<sup>27</sup> The opposing parties during the Exclusion Crisis laid the foundation for the two parties that would dominate the political debate in the years leading up to the Glorious Revolution, Whigs and Tories. Whigs sought to

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<sup>26</sup> Erikson (2014) p. 61

<sup>27</sup> <http://stuartsexeter.ac.uk/education/moments/exclusion-crisis/>



limit the powers of the monarch and increase the powers of Parliament, whereas Tories to a greater extent considered the monarch infallible and sought to limit Parliamentary challenges to his rule. Because the chartered monopoly companies were associated with a king who had unchecked powers, Whigs would often support interlopers whereas Tories would support the chartered companies. The growing influence of Whigs in English politics led to a growth in interlopers who challenged the sovereignty of chartered companies.

### **Challenges to Company sovereignty**

The growing power of the Whig Party, and their opposition to Charles II's assumed successor, the future king James II, led to an influx of interlopers challenging the privileges of the chartered companies. Since these companies were known for their close ties with the monarch, independent traders were emboldened to challenge their privileges when they observed political challenges to the king that had granted these privileges back in England. The interlopers in India "defied the EIC's legal monopoly by building commercial settlements on the subcontinent, transporting Asian goods back to England, and underselling the Company."<sup>28</sup> This presented a significant challenge to the EIC, not only did the activities of interlopers hurt the Company's profits, but their presence and success in conducting their trade undermined the authority and legitimacy of the sovereign status the EIC had fought so hard to secure in its charter. Opposition to the Company's monopoly increased in the 1680s, and "by May 1685, the EIC was involved in causes and suits against no less than twenty-five prominent interlopers." Furthermore, throughout the decade leading up to the Glorious Revolution, "eighty-two individuals were charged with illegally plying the East India trade".<sup>29</sup>

Opposition to the RAC was persistent throughout its existence, and the Company was faced with challenges to its charter privileges from English interlopers immediately following its incorporation. Throughout the 17<sup>th</sup> century all European attempts at monopolizing the West African trade had proven very challenging. The acknowledgement of the near impossibility "of excluding other nations" from this trade, led to a "policy of live-and-let-live, born of weakness and exhaustion not of principle," among Europeans, according to K. G. Davies. He states that this was as "true of the rivalry of nations", as it was "true of the rivalry of different groups within nations." England "committed their interests in the African trade to" the RAC, "endowed with a monopoly against other nationals." Davies argues however,

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<sup>28</sup> Vaughn (2018) p. 112

<sup>29</sup> Vaughn (2018) p. 116

that enforcing this monopoly proved to be futile despite substantial efforts from the RAC.<sup>30</sup>

The great difficulty experienced by the RAC in enforcing its monopoly is illustrated by an official proclamation to defend its monopoly rights by Charles II, only two years after he granted the charter. The king emphasizes the great cost the Company has taken upon themselves in constructing “forts and factories” to ensure that trade with “infidels and barbarous nations” can be conducted. He states that due to the “great and constant Expense” of maintaining these forts and factories, there is no other option than “managing the whole Trade by a Joint Stock”. Charles II reasserts the privileges of the RAC and the necessity of these. He goes on to criticize attempts of English subjects in the American colonies to freeload on the African trade and asserts that the only way for the RAC to fulfill its responsibility of defending the English interest in the trade, is to have exclusive access to it. Finally, the king commands all his civil servants to ensure that no English subject, except for those in the service of the RAC, partake in the trade to and from Africa in any capacity.<sup>31</sup>

This proclamation highlights two important challenges to the monopoly of the RAC that were not experienced to the same extent by the EIC. The fact that the RAC traded in a triangular market where two corners of the triangle consisted of English subjects whose economic interests would be naturally opposed to the economic interests of a monopoly company is the first. The English plantation owners of the West Indies were in demand of slave labor and would thus prefer this labor as inexpensive as possible. An effective monopoly on the trade would put the RAC in a position where they could control price and supply of slaves to these plantations. Thus, it was in the interest of the plantation owners to undermine the monopoly of the RAC, provided that the competitors of the Company could supply more slaves for a lower price. Both the EIC and the RAC had to deal with English subjects that opposed their monopolies in England. However, the EIC did not have a triangular trade and for the most part only had to deal with non-Christian local rulers in the East Indies. Because none of these local rulers would be able to petition Parliament or the English king, the Company had more freedom to assert its position by force in the East Indies than the RAC would have in the American colonies. Another challenge faced by the RAC, illustrated by the fact that the king commanded his civil servants to enforce its monopoly, is

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<sup>30</sup> Davies (1957) pp. 10-11

<sup>31</sup> England and Wales. Sovereign (1660-1685 : Charles II). (1674). *By the king. A proclamation. charles R. whereas it is found by experience, that traffique with infidels and barbarous nations not in amity with us,* .. London, Printed by the assigns of John Bill and Christopher Barker, printers to the Kings most excellent Majesty. Retrieved from <https://search-proquest-com.nls.idm.oclc.org/docview/2264190728?accountid=12801>  
Accessed via logged in user at the National Library of Scotland webpage.

that the RAC appears powerless to enforce its own monopoly efficiently. Although the RAC's charter granted the Company the right to prosecute interlopers in its own courts, it would seem the RAC did not have the resources to do this efficiently in 1674 and thus had to petition the king when it felt its charter was violated. The Company's apparent lack of military strength thus made it dependent on English civil servants to enforce its monopoly rights.

The territorial possessions of the EIC and the resources they provided allowed the Company to enforce its sovereignty more independently of the English state. After trying to undersell and price out English interlopers without success in the early 1680s, the EIC requested expanded military powers from the Crown in the mid-1680s to quell interlopers and keep foreign competition in check. The Company was granted such powers and embarked on a war against interlopers in the broader context of its commercial rivalry with the Dutch East India Company. The extended powers allowed the EIC to adopt a more aggressive approach to assert its monopoly in Asia. The Company started to enforce existing agreements with local rulers and embarked on military campaigns to ensure new, favorable agreements. These expansive military policies did not come without a cost, however. To cover its expenses, the EIC turned the loosely organized urban centers around their factories in Madras and Bombay into Company-ran cities that provided tax revenue to the Company. "These city-states were designed, on the one hand, to effectively consolidate the EIC's new politico-military capacities into centralised means of coercion, and, on the other, to raise the revenues necessary to pay for those coercive capacities."<sup>32</sup> The Company made its servants abroad into local administrators that would have the responsibility of raising funds to cover the cost of asserting the EIC's sovereignty militarily. These efforts were inspired by the Dutch trading empire in the East Indies and the Company instructed its overseas servants to enact policies that made "places conquered or fortified to pay the charge of their future preservation". Company administrators were instructed to collect "customs and excise taxes as well as rents from lands they controlled". These funds would then be used to provide defense for the growing EIC settlements.<sup>33</sup> Thus, when faced with growing commercial competition, the EIC managed to utilize its sovereign privileges and existing trading centers around its factories on the Indian subcontinent to consolidate a Company-state that would be able to fund its own military force. Both the pragmatic approach the Company adopted to capitalize on the existing country trade in the 1660s and 1670s, and its militaristic approach in the 1680s, demonstrate the EIC's ability to adapt to different challenges through utilizing its territorial

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<sup>32</sup> Vaughn (2018) p. 121

<sup>33</sup> Vaughn (2018) p. 121

possessions in the East Indies. The governor of the Company in the 1680s, Josiah Child, held the belief that the EIC should have "absolute sovereign power in India" to the end of his life. The militarized city-states of Bombay and Madras would become symbols of this power.<sup>34</sup>

The RAC on the other hand, did not only struggle with interlopers in its trade, the Company was also consistently challenged by English subjects in the American colonies during the 1670s and 1680s. Disagreement on whether the RAC or the English colonies exercised superior sovereignty in colonial waters led to clashes between colonial and Company interests. The RAC's seizure of the ship *Saint George* in 1676 illustrates this conflict. With the help of Jamaica's governor, the RAC seized the ship on the grounds that it was interloping in its trade and thus violating its charter. The colonial elites opposed the seizure however and argued that it violated the laws of the Jamaican legislature. The colonial elites in effect argued that their legislature was "equivalent, not subordinate to the English Parliament." According to their reasoning, the Admiralty jurisdiction given to the RAC would not be valid in their waters. Furthermore, interlopers would use colonial courts "to obtain redress" from similar Company seizures. These courts would often reach a verdict in favor of the interloper rather than the RAC. "In 1682 . . . a Jamaican court awarded damages of £1,627 to an interloper after seizure by the African Company". Pettigrew argues that as a result of having its authority consistently questioned by colonial subjects, "The company . . . became more timid in enforcing its monopoly in the colonies".<sup>35</sup> Thus, while the EIC consolidated its Company-state in the 1680s and began to militarily assert itself, independently of the English state, the RAC was forced to adopt a more passive approach and remained dependent on royal support to enforce its monopoly effectively.

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<sup>34</sup> Vaughn (2018) p. 122

<sup>35</sup> Pettigrew (2013) p. 26

## **Conclusion**

Through its dependence on trade with colonial subjects that were generally opposed to its monopoly, the RAC faced a challenge against effectively enforcing its monopoly the EIC did not face to the same extent. The fact that the colonial administrations in the Americas were English subjects, who could challenge the authority of the RAC in English courts, meant that the RAC was unable to assert itself militarily in the American colonies in the same manner the EIC was able to do in the East Indies. The EIC had by the 1680s managed to create a territorial presence in India that could be turned into what effectively became colonial settlements under Company rule. The Company was able to use these settlements to raise money and recruit soldiers that allowed the EIC to enforce its monopoly and sovereign privileges independently of the English state. The RAC on the other hand, was at the mercy of colonial governments when it sought to enforce its monopoly rights in the American colonies. The RAC's close ties to the English monarch in the 1670s and 1680s led to frequent intervention by the king, on behalf of the Company, to guarantee its privileges and enforce its monopoly. Given that the colonial governments were unable to politically challenge the king efficiently during these two decades, the RAC managed to maintain its privileged position in the African trade for a while. The Company's dependence on royal support would make it very vulnerable after the Glorious Revolution though.

## Chapter Two

### Company settlements and the first Anglo-Mughal War

#### **Introduction:**

In the first chapter I discussed the rights the EIC and the RAC were given in their respective charters and to what extent they were able to enforce these rights, faced with growing political opposition at home and interloper activity in the East Indies and the Atlantic respectively. As we saw in the previous chapter, the growth of interloping activity had forced the EIC to adopt a more militant approach to safeguard its sovereignty in the East Indies. Furthermore, political developments in England in the late 1670s and 80s led to increased political opposition against the chartered privileges of companies such as the EIC and the RAC.

A royal charter was essentially a written agreement between the monarch and a select group of his subjects that were given exclusive access to an area of international trade in return for protecting the king's interests in this trade. As I discussed in chapter one, chartered companies were considered a good option because they were committed to securing and defending English interests abroad while relieving the monarch of the financial responsibility for this endeavor. As the frontiers of the English trading empire became more accessible to independent merchants towards the end of the 17<sup>th</sup> century however, the legality of such charters was increasingly contested. In this chapter I will discuss a case where an interloper in the East India trade contested the legality of the EIC charter in court. The case between the Company and Thomas Sandys is particularly interesting because it illustrates the unique position the EIC had achieved by the 1680s. The ruling was in favor of the Company and encouraged the EIC to assert itself by force in the East Indies. A Company leadership that emphasized the importance of territorial possessions, combined with a drive to forcefully assert itself against local rulers and interlopers, in turn led to the first Anglo-Mughal War.

I have chosen to focus on the 1680s in this chapter because it was a decade where the EIC effectively became a sovereign, territorial power in the East Indies. The Company was able to create self-sustained city states that could raise revenue and enlist soldiers locally. These developments gave the EIC an advantage in protecting its sovereignty compared to the RAC. The EIC was able to act as a sovereign power and assert itself independently of the English monarch in the East Indies, the RAC on the other hand, was dependent on the king to enforce its monopoly. Because the EIC was able to consolidate city states with a substantial taxable population, its settlements were beneficial to Company sovereignty and made it more

financially independent of the English state. The RAC's fortified settlements on the African coast however, represented an economic disadvantage to the Company since they did not provide revenue of any significance and were costly to maintain. Political debates in England, the ideological convictions of EIC leaders, and demographic developments in the East Indies all contributed to the consolidation of Company settlements and the militaristic policies the EIC adopted to enforce its chartered privileges in the 1680s. These developments culminated in the first Anglo-Mughal War in the second half of the decade. Although the war ended in humiliating defeat for the Company, it also illustrated the extent to which the EIC had become a sovereign power in the East Indies by the late 1680s.

I would argue that this decade laid the foundation for what would be the EIC's main advantage compared to the RAC when faced with growing political opposition to royally chartered companies after the Glorious Revolution. Growing territorial possessions on the Indian subcontinent made the EIC more independent of the English state and thus enabled the Company to sustain itself despite political opposition in England. These settlements also provided the EIC with profits that could buy political influence, and secured resources that were vital to England. We will begin with the political debate in England that inspired the ideology of territorial expansion under Company governor Josiah Child.

### **The Whig-Tory debate on Property**

The politics of those in favor and those opposed to chartered monopoly companies were influenced by the political debate in England in the 1680s. K. N. Chaudhuri states that starting in 1680, the EIC was attacked by the Levant Company and "other rival commercial groups who felt excluded from a profitable branch of English overseas trade."<sup>36</sup> Exclusion was the keyword here, because a common criticism of the Company "was the closed and limited ownership of its capital." Thus, some of the people who criticized the chartered monopoly of the EIC were not necessarily against a monopoly on trade to the East Indies, they simply demanded an opportunity to be part of that enterprise. Josiah Child "and other leading members of the Court of Committees" were not against increasing the stock, they were however opposed to changes that would negatively affect either the relative value of their stock or their position of power in the Company. Rather than trying to accommodate rival merchants that felt left out however, the EIC decided in 1682 to pay dividends of 150 percent to existing shareholders where 100 percent was reinvested "to double the value of all existing

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<sup>36</sup> Chaudhuri, K. N., *The trading world of Asia and the English East India Company, 1660-1760*, Cambridge, Cambridge University Press: 1978, p. 426

shares". Thus, the existing shareholders received 50 percent dividends in cash payments, whereas the rest of the money was added to the Company's trading capital "at no extra cost to the old shareholders, though it did nothing to bring in new subscribers."<sup>37</sup>

The EIC also became more politically polarized in the 1680s and this may have inspired political opposition to its chartered privileges based on ideological conviction in addition to commercial envy. Vaughn states that while "the EIC's Court of Committees was for the most part dominated by moderate Tories during the 1670s, by 1682 it was under the control of Child and a clique of arch-Tories and ardent royalists." Furthermore, the king would sometimes interfere "in elections to the Company's Court of Committees" to avoid Whig merchants rising in the ranks. The hardline Tory leadership of the EIC effectively cleansed the Company of Whigs, and in the spring of 1683 "informed the Secretary of State's office that most of the Whigs are left out of the East India Committee."<sup>38</sup>

Tories generally supported a king with more absolute powers whereas the Whigs wanted a monarch whose power was checked by Parliament. Because the chartered companies in effect represented an unchecked source of revenue for the king, the Whig-Tory divide in English politics in the 1680s and the Tory sympathies of the EIC governor led to very close ties between the Company and the monarch. Thus, in addition to effectively closing of its stock from other Englishmen that wanted to partake in the trade, the EIC also ensured a company leadership that would favor an absolutist king. Whigs and Tories did not just debate the extent of royal prerogative in the 1680s however, they also discussed the nature of property and how to best attain and increase wealth.<sup>39</sup>

Steve Pincus, Karim Ghorbal and Philippe Minard argue that most Whigs by the advent of James II viewed the production of work rather than landed property as the main driver of increasing prosperity and power. This meant that Whigs considered the potential of wealth to be infinite and thus, the more men that were employed in trade or the production of goods, the better it would be for the prosperity of England. Tories on the other hand, viewed property as finite and something that was derived primarily from the ownership of land. Sir Josiah Child, who became governor of the EIC towards the end of Charles II's reign, shared the Tory view and wanted to implement policies that favored land ownership over industrial manufacture. Thus, the Tory ideology of the EIC under governor Child could partly explain

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<sup>37</sup> Chaudhuri (1978) p. 427

<sup>38</sup> Vaughn (2018) p. 132

<sup>39</sup> Steve Pincus, Karim Ghorbal and Philippe Minard, "La Révolution anglaise de 1688: économie politique et transformation radicale", *Revue d'histoire moderne et contemporaine* (1954-), T. 58e, No. 1 (janvier-mars 2011), pp. 7-52, published by: Societe d'Histoire Moderne et Contemporaine. [Translated from French]



why the Company accelerated its efforts to turn loosely organized commercial settlements in India into Company-governed colonial city-states in the 1680s. This would have increased its territorial possessions and thus the Company's wealth, according to Tory ideology. The EIC under Child's leadership gave its full support to James II when he ascended the throne in 1685, and in turn the king invested heavily in the Company. The EIC's support of the new monarch and his financial interest in the Company reinforced the existing political divide between Whigs and Tories. Whigs, who wanted a king that was accountable to Parliament, opposed chartered monopoly companies like the EIC and the RAC because they believed such companies enabled an absolutist monarch and weakened the power of Parliament. Tories on the other hand supported an absolutist king and believed chartered companies was the most viable way to ensure English interests overseas. The conflicting views between Whigs and Tories on the extent of royal prerogative also influenced their ideas on international market policy. While Whigs in the 1680s supported more free markets in the belief that this would ensure maximum output of English labor, many Tories supported a strictly controlled international trade in the belief that competition among the English would jeopardize their dominance of the trade relative to other international actors.<sup>40</sup>

The question of whether or not a chartered monopoly was the best way to secure English interests abroad was contested in a court case between the EIC and the interloper Thomas Sandys between 1683-85. Thomas Sandys had been trading without license from the Company in the East Indies. Upon his return to England, the Company seized his ship and attempted to fine him for violating its exclusive access to the East India trade.<sup>41</sup> Trade monopolies within England and Wales were prohibited according to the Monopoly Act of 1624.<sup>42</sup> Thomas Sandys and his supporters argued that the monopoly of the EIC was illegal according to the same law. The rules that applied to international trade were still contested in the 1680s however, unlike the domestic trade, where English common law prohibited trade monopolies. The growth of interlopers challenging the supremacy of the Company in the East India trade created a demand for legal clarity on such matters.

I have chosen to focus on this case because its verdict supported and encouraged the efforts of the EIC to acquire a territorial presence in the East Indies and assert itself militarily to protect its sovereignty. The case was heard in the Court of King's Bench, "the highest court

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<sup>40</sup> Pincus, Ghorbal and Minard, (2011) pp. 19-23 [Translated from French]

<sup>41</sup> Wilson, Jon Edward, *India Conquered. Britain's Raj and the Chaos of Empire*, Simon and Schuster, London: 2016

<sup>42</sup> <http://www.legislation.gov.uk/aep/Ja1/21/3>

of common law in England and Wales”.<sup>43</sup> The ruling of Chief Justice George Jeffreys sanctioned the emerging “company-state” as an ambassador for the king and acknowledged the Company as a superior institution to other English traders in the East Indies. According to Pincus, Ghorbal and Minard, the belief that wealth was finite, and the perceived ruthlessness of international trade, led Tories to believe that the only way to ensure England’s position abroad was to have chartered monopolistic companies “with sovereign powers”. Before the court case between the EIC and Thomas Sandys however, these companies’ right to exclude other Englishmen from their trade, and to confiscate their goods, had not been explicitly validated in English courts.<sup>44</sup>

### **The East India Company v. Thomas Sandys**

Ian Barrow states that supporters of the Company tried to circumvent Sandys’s charges that the EIC monopoly was unlawful by claiming that the Company was in fact not a monopoly. The argument was that for something to constitute an illegal monopoly, it had to award privileges of trade to one commercial actor while denying these privileges to another. “In other words, a monopoly was a privilege given to one person and stripped from another.” The “presiding lord chief justice, George Jeffreys” argued that since there had been no trade between the East Indies and England before the EIC received its first charter in 1600, there existed no privilege to strip from independent traders. Thus, giving the Company exclusive rights to the East Indies did not deny any Englishman access to a trade he had previously engaged in, it simply prevented him from independently participating in a trade that would not have existed had it not been for the EIC.<sup>45</sup>

Jeffreys’s reasoning illustrates an advantage the Company had over the RAC when it came to justifying its chartered privileges. The longevity of the EIC and its pioneer role in opening the East India trade to England, gave it an authority as the main facilitator of that trade. The RAC on the other hand, was granted its charter after independent English traders and other short-lived monopoly companies had participated in the African trade. This strengthened “the case against monopoly” in the African trade according to Davies, “for the existence of an alternative means of organizing the trade could not be denied.”<sup>46</sup> In the case of

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<sup>43</sup> <https://www.nationalarchives.gov.uk/help-with-your-research/research-guides/court-kings-bench-crown-side-1675-1875/>

<sup>44</sup> Pincus, Ghorbal and Minard, (2011), p. 24 [Translated from French]

<sup>45</sup> Barrow, Ian J., *The East India Company, 1600/1858: a short history with documents*, Cambridge, MA: Hackett Publishing Company, Incorporated: 2017 p. 37

<sup>46</sup> Davies (1957) p. 106

the EIC however, George Jeffreys could argue that the Company had created a trade that would not have existed, had it not been for the EIC. The Company charter then, did not grant the EIC a commercial monopoly as such, but rather the exclusive privilege to benefit the nation through this trade. In order to provide this benefit, the EIC required that its sovereignty was respected. The Company argued that a sovereign, monopoly company was paramount in order to protect Christianity abroad, control international trade and allow the monarch to restrict access to this trade from foreign actors. The Whig defense of Thomas Sandys argued that if the king could restrict trade, then this would be the equivalent of taxation without Parliamentary consent. Chief Justice Jeffreys ruled in favor of the EIC however, asserted the rights of chartered monopoly companies in international trade, and emphasized the king's right to dispose as he wished "the lands discovered or conquered by his subjects". Thus, the case effectively concluded that the monarch could regulate economic activity in international trade independently of Parliament.<sup>47</sup>

In his book describing the case from 1689, Chief Justice Jeffreys comments on how Mr. Williams, Thomas Sandys's defense lawyer, wanted Parliament to decide on the controversies of the case. Thus, the defense of Thomas Sandys might have been equally concerned with who had the power to grant trade monopolies, as they were principally opposed to such monopolies.<sup>48</sup> Mr. Williams might also have sought a more impartial ruling, less influenced by the monarch's ambitions. Although English judges had received higher salaries and had become more independent over the course of the first half of the 17<sup>th</sup> century, the latter part of Charles II's reign and the years under James II were characterized by judges who served at the mercy of monarchial approval.<sup>49</sup> This probably contributed to the favorable predisposition Chief Justice Jeffreys had towards the extent of the royal prerogative in his ruling. In his account, Jeffreys asserted that the regulation, restraint and government of foreign trade and commerce was the prerogative of the king and was not "abridged or controlled by Any act of Parliament now in force."<sup>50</sup>

Part of the reason for his dismissal of Parliamentary regulation of international trade

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<sup>47</sup> Pincus, Ghorbal and Minard, (2011), pp. 24-25 [Translated from French]

<sup>48</sup> Jeffreys, George, *The argument of the Lord Chief Justice of the Court of King's bench concerning the great case of monopolies, between the East-India Company, plaintiff, and Thomas Sandys, defendant. Wherein their patent for trading to the East-Indies, exclusive of all others, is adjudged good*, Printed and sold by Randal Taylor, London: 1689

Accessed via logged in user at the National Library of Scotland webpage.

<sup>49</sup> <https://www.judiciary.uk/about-the-judiciary/history-of-the-judiciary/>

<sup>50</sup> Jeffreys (1689) pp. 9-10

was that the king was the only one who could make agreements with foreign princes.<sup>51</sup> Furthermore, he argued that the king's power of war and peace and securing his subjects in either would be threatened by the obstinate behavior of interlopers like Thomas Sandys.<sup>52</sup> Jeffreys then describes how it would make the king look weak in the eyes of foreign leaders if he had to consult his Parliament on all matters of international trade.<sup>53</sup> Furthermore, he states that Sandys would be dependent on the guidance of the EIC to safely navigate the world of the East Indies according to the king's diplomatic affairs.<sup>54</sup> Finally, because of the complex nature of East Indian diplomacy, Jeffreys argued that unregulated private enterprise would lead to a ruin of the trade and asserted that only "the Conduct and Government of a publick Society" could prevent such ruin.<sup>55</sup> Thus, Chief Justice Jeffreys effectively endorsed the EIC's emerging company-state and its right to govern English trade in the East Indies.

Although the RAC could not claim the same pioneering status in the African trade as the EIC could in the East Indian trade, it still considered the court ruling a confirmation of the validity of its chartered privileges. According to Pettigrew, the ruling of the case against Sandys confirmed the right of both companies "to indict the interlopers in their respective trades." Furthermore, given the close ties between James II and the RAC, the Company was able to use the Royal Navy to limit "the activities of interlopers." Throughout the 1680s, the RAC increased its market share in the Atlantic slave trade and successfully asserted itself against both the Dutch and the French monopoly companies.<sup>56</sup> The success of the RAC was entirely dependent on strong support from the English state however, according to Ann M. Carlos and Jamie Brown Kruse. They describe how the Company's market share increased, and interloper activity decreased if royal support for its charter could be guaranteed. Carlos and Kruse argue that the forts the RAC had committed itself to maintain on the West-African coast in order to secure the trade, represented a fixed additional cost to the Company that put them at an economic disadvantage compared with interlopers. The interlopers in the African trade only had to supply their own ships and goods in order to trade, thus their initial cost was lower than that of the RAC. If the risk of having their ships seized by the Royal Navy was a real threat however, the potential cost of this would deter a significant portion of interloper ships. Thus, as long as the RAC could enforce its monopoly with support from the English

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<sup>51</sup> Jeffreys (1689) p. 12

<sup>52</sup> Jeffreys (1689) p. 13

<sup>53</sup> Jeffreys (1689) p. 15

<sup>54</sup> Jeffreys (1689) p. 17

<sup>55</sup> Jeffreys (1689) p. 25

<sup>56</sup> Pettigrew (2013) p. 30

state, it would maintain and even increase its market share. Given the added cost of maintaining forts on the African coast however, interlopers would necessarily be more efficient and profitable than the Company in an open market.<sup>57</sup>

This is where the EIC had a significant advantage compared to the RAC. Both companies were required to build and maintain forts to secure and defend English trade in their respective regions. A crucial difference was that the demographic, cultural and geographic conditions around the EIC forts provided them with the potential to be turned into city-states that could supply the Company with both manpower and revenue. Thus, while the chartered commitment to build forts represented an additional cost to the RAC, it came to represent a source of territorial power and prosperity to the EIC. Territorial possessions in the East Indies were considered so valuable that the Company was even willing to rent them from the king. James II granted the EIC a renewed charter in 1686 that illustrates the assertion of Company rights in the East Indies following the court case against Thomas Sandys. Page 18-19 reaffirms the EIC's rights to the island of Bombay given them by Charles II in 1668. The island, which had been a Portuguese possession in the early 17<sup>th</sup> century, was given to Charles II as part of a substantial dowry he received for marrying Catherine of Braganza in 1662. Rather than ruling this territory on his own however, the king decided it was more mutually beneficial to rent it out to the EIC.<sup>58</sup> Thus, the Company was able to utilize its financial capacity to expand its territorial power. The monarch needed money and the EIC provided him with funds in exchange for effectively assuming control over royal territory in the East Indies. The 1686 charter granted the Company the right "to have, hold, use, exercise, enjoy and execute all and singular the Jurisdictions, Powers, Liberties, Privileges, Benefits and Advantages whatsoever within the said Port and Island Bombay".<sup>59</sup> The EIC continued to pay James II annual rent for the territory in accordance with the original agreement with Charles II, from when the Company first took over the colony in 1668.

The ruling of the case against Thomas Sandys is interesting, because although Chief Justice Jeffreys primarily emphasized the monarch's right to govern foreign affairs independently of Parliament, his ruling would allow the EIC to effectively become a

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<sup>57</sup> Ann M. Carlos and Jamie Brown Kruse, "The Decline of the Royal African Company: Fringe Firms and the Role of the Charter", *The Economic History Review*, New Series, Vol. 49, No. 2 (May 1996), pp. 291-313, Published by: Wiley on behalf of the Economic History Society. pp. 3-4

<sup>58</sup> <https://www.bl.uk/learning/histcitizen/trading/bombay/history.html>

<sup>59</sup> 1686 EIC charter, p. 19

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sovereign state that could act independently of the English king. The RAC's ability to enforce its sovereignty, following the court case against Sandys, was still dependent on the king's active support. The EIC on the other hand, possessed growing territorial settlements in the 1680s that provided the Company with the means to assert its sovereignty without royal aid. Thus, although the court case did give both companies explicit rights to indict interlopers and enforce their monopolies, the RAC was still dependent on the support of a strong king to exercise these rights efficiently. Since Jeffreys considered the chartered companies an extension of the royal prerogative, the EIC had effectively been given the power to rule as a representative of the king in the East Indies. Contrary to the RAC, the EIC was able to, and preferred to do this without too much interference from the English monarch. I will now take a closer look at how the EIC constructed its company-state in the East Indies and how it affected the political sovereignty of the Company.

### **The Company-state**

Pincus, Ghorbal and Minard state that the court decision against Sandys asserted the EIC's right and duty to acquire and maintain a territorial presence in India. Due to the extensive powers given to the EIC, their governor, Josiah Child, in effect became an absolute ruler of the emerging Company "state" on the Indian subcontinent. In addition to Bombay, the city of Madras with around hundred thousand inhabitants illustrated the growing importance of Company settlements in the region. According to Pincus, Ghorbal and Minard, the EIC managed to assume a political position in which it claimed to advance the cause of England against Holland for domination of the Indian Sea. Thus, by positioning itself as an extension of the English empire, the Company in effect took on the responsibilities of a regional power. It branded itself as the manager of English interests in the East Indies and claimed to fight Dutch supremacy on behalf of the English state. Due to the critical nature of the conflict with the Dutch, James II even supplied English soldiers to aid the EIC in resisting Dutch domination.<sup>60</sup> Although the Company and the king were unified in their antagonism towards the Dutch, the EIC went to great lengths to establish a legal system in its settlements that was independent of the English monarch.

Starting with Bombay in the 1670s, the Company established complex legal systems that allowed non-English residents consultative representation within EIC settlements. Elections for these councils were "authorized in 1674 and the Portuguese council for Bombay

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<sup>60</sup> Pincus, Ghorbal and Minard, (2011), pp. 26-27 [Translated from French]

was established the next year.”<sup>61</sup> The Company implemented the old legal system of Madras, the “choultry”, in the “high judicature court” that was established there in 1678. The EIC prided itself on creating a legitimate legal system where even Company employees would be held accountable. According to George Wilcox, the first chief judge at the Bombay high judicature court, the conviction of a Company soldier charged with rape brought “a General Satisfaction to the people and has brought such a repute to our Justice that they think themselves happy under our Government.”<sup>62</sup> Many EIC leaders considered a just legal system the key to the legitimacy of their sovereign status. Thus, by providing a political platform for non-English residents and enforcing a legal code that even held Company employees accountable, the Company was able to assert itself as a political entity with exclusive sovereignty in its settlements. Furthermore, “none of the Company’s seventeenth-century settlements, even the royally chartered governments of St. Helena and Bombay, permitted formal appeals to authorities in England”.<sup>63</sup> Philip J. Stern argues that on the rare occasion that appeals were still allowed, this was treated as an act of leniency on the part of the Company rather than a political right of the person submitting the appeal. The “Lords Commissioners of Trade and Plantations” defended the EIC policy of not permitting appeals to England in its settlements, and advised Charles II in 1677 that allowing such formal complaints could eventually threaten “the King’s “sovereignty”.”<sup>64</sup> I would argue that this advice followed the reasoning done by Chief Justice Jeffreys when he affirmed the position of the EIC as an institution superior to other English merchants in the East Indies. Given that the king had granted the Company sovereign rights in its charter, accepting appeals that undermined this sovereignty would effectively undermine his authority to grant these privileges in the first place. Thus, by convincing the king not to meddle with its legal affairs, the Company had effectively created a sovereign entity in the East Indies that within its jurisdiction was equal to and not subordinate to the English state. The EIC further demonstrated its ability to operate independently of the English state when the Company in the 1680s embarked on expansionist, aggressive campaigns in the East Indies, independently of English diplomatic relations.

K. N. Chaudhuri argues that throughout the 17<sup>th</sup> century, the EIC had practiced “armed trading” in the East Indies. This meant that the Company was willing to use force, usually

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<sup>61</sup> Stern, Philip J., *The Company-State: Corporate Sovereignty and the Early Modern Foundations of the British Empire in India*, Print publication date: 2011, ch. 1: p. 9

<sup>62</sup> Stern (2011) ch. 1: p. 10

<sup>63</sup> Stern (2011) ch. 1: p. 10

<sup>64</sup> Stern (2011) ch. 1: p. 10

through superior naval power, to retaliate if it felt that its position was undermined by local rulers. This was not part of a hostile foreign policy towards local rulers however, Company officials had simply concluded that it was the most profitable way to do business. Negotiating through fear was considered superior to negotiating through appeasement. The Company preferred not to use force but considered it crucial to have the ability, if it was deemed necessary to protect its trade. Despite its openness to the use of force however, the EIC predominantly adopted a pacific policy towards local rulers throughout most of the 17<sup>th</sup> century. According to Chaudhuri, this would radically change in the 1680s. “As late as 1679”, the Company leadership “was deploring the Dutch method of trading from a position of armed strength.” When Josiah Child became governor in 1681 however, things would change rapidly. Chaudhuri states that “for the first time in its history the direction of the Company was in the hands of a man who was a political thinker and had a fixed plan of action.”<sup>65</sup> Child would introduce expansionist policies that aimed to make the EIC a territorial power in the East Indies. These policies were not always successful though, and the first Anglo-Mughal War would become an example that ended in failure for the Company. I have chosen to focus on the Anglo-Mughal War because it illustrates how the EIC under the leadership of Josiah Child in the 1680s had become a territorial power that was able to conduct its own foreign policy to protect its sovereignty, independently of the English state.

### **The Anglo-Mughal War**

The region of Bengal in the North-East of the Indian subcontinent was growing in commercial importance to the Company in the 1680s. Despite the significance of the region however, the EIC had not yet managed to establish any Company strongholds there. The area was also heavily influenced by Dutch traders and English interlopers. According to Vaughn, this motivated the Company to take aggressive action to assert its sovereignty and ensure favorable conditions for future trade in the region. Vaughn states that the aim of the first Anglo-Mughal War was to establish a permanent Company settlement in Bengal which would project EIC power in the region and give them command of the Hugli river. Furthermore, the Company also planned strategical strikes targeting the Western coast of India from its fortified base in Bombay. These attacks were intended to interrupt and harass trade “throughout the Arabian Sea and Indian Ocean in order to achieve ‘a deep stand of trade in all the Mogull’s Dominions’”.<sup>66</sup> The EIC sought to force the Mughal emperor to seek peace with

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<sup>65</sup> Chaudhuri (1978) p. 116

<sup>66</sup> Vaughn (2018) p. 125



the Company on terms that would guarantee it more favorable trading conditions throughout the Mughal empire. Vaughn argues that the Anglo-Mughal War was a natural consequence of the increased powers and privileges afforded the EIC in the 1670s and 80s and its increasingly aggressive efforts to halt interloper activity.<sup>67</sup> Although both of these played a part, I would argue that the two main factors that led to the first Anglo-Mughal War was the aggressive expansionist policies the Company adopted under Josiah Child, and the court ruling against Thomas Sandys. The court case legitimized the EIC's right to act as a territorial power in the East Indies and Josiah Child had a plan for how to do it. Ian Barrow also attributes the Anglo-Mughal War primarily to the aggressive leadership of Josiah Child and his dominance of Company policy in the 1680s. "The war was launched to force the Mughals to treat the Company as a sovereign power and thereby grant it trading privileges and a fortified settlement in Bengal." This settlement was "seen as a way to protect the Company . . . from interlopers who, as Child wrote to Madras, had prompted the Company to leave its peaceable way."<sup>68</sup> Thus, the threat of interlopers was used as a justification to wage war on one of the most powerful empires on the Indian subcontinent. The main grievance of the EIC though, appears to be that it was treated like a simple commercial company by the Mughal empire, rather than the sovereign entity it considered itself to be. In other words, the Company initiated the first Anglo-Mughal War to force local rulers in the East Indies to acknowledge the EIC as a superior institution to other English traders. Thus, the Company under Josiah Child aimed to compel the Mughal empire to give the EIC the same official recognition that Chief Justice Jeffreys had given them in the case against Thomas Sandys.

I would argue that the Company's aim to destroy interloping activity and keep European competitors and Asian regimes in check made the creation of fortified, self-financed city-states on the Indian subcontinent inevitable as a mean to achieve this aim. The increasing threat of English interlopers and Dutch competition forced a more aggressive stance from the EIC to protect its sovereignty. Furthermore, the recognition as a sovereign entity the Company was given in the court case against Thomas Sandys allowed it to assert itself more effectively in the East Indies. Finally, the Tory ideology that dominated the EIC under the leadership of Sir Josiah Child contributed to more expansionist policies that emphasized territorial possessions as a source of wealth. The attack on the Bengal region to establish a base there was led by "a force of ten ships carrying 250 guns and 670 men" from England,

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<sup>67</sup> Vaughn (2018) pp. 123-125

<sup>68</sup> Barrow (2017) p. 17

and “a similar force assembled in Madras.”<sup>69</sup> The fact that the Company was able to supply a similar force to that which it sent from England from one of its sovereign city-states in India demonstrates how important these colonial settlements had become to the EIC and its ability to operate independently of the English state. This meant that the Company could raise an army exclusively from the resources and available manpower it possessed in the East Indies.

The RAC never possessed a similar capacity to enforce its sovereignty, due to its lack of self-sustained Company-governed settlements and the nature of the triangular trade it was involved in. Compared to the EIC settlement of Madras with more than 100 thousand inhabitants already by the late 1680s, the biggest RAC settlement at the time was Cape Coast, which reached its top population of 115 men in 1688.<sup>70</sup> Cape Coast was essentially a fort the RAC used to project its influence over the nearby region on the Gold Coast. The residents of the fort consisted of mainly Company officers and soldiers, there were however a small number of artisans employed in the maintenance of the fort and some slaves. Due to the small number of men, soldiers who claimed to be proficient in a trade would often be used as additional skilled labor. Smaller forts and factories the RAC possessed along the African coast would sometimes only have a couple of men stationed there at a time. The fact that the Company had to get most of the materials it needed shipped from England, added to the maintenance cost of these forts.<sup>71</sup> Thus, the largest African settlement of the RAC had a permanent population barely large enough to maintain its fort and engage in small-scale trade. Furthermore, dependence on English supplies made RAC settlements less self-sustained than those belonging to the EIC. Finally, the lack of a substantial taxable population residing in these settlements made it impossible for the RAC to fund its maintenance expenses locally.

The EIC on the other hand was in a position in the 1680s where it could conduct expansionist military operations on two fronts of the Indian subcontinent. The Anglo-Mughal War ended in Company defeat though, with a 15-months Mughal siege of the Bombay settlement. According to Margaret R. Hunt, EIC strategy on the western coast “was to use its heavily armed merchantmen to seize ships and cargo belonging to Mughal subjects, either while in port or at sea.” Although relations between the Mughal emperor Aurangzeb, and the Company “swiftly deteriorated as a result”, there were still hopes that at peaceful solution

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<sup>69</sup> Vaughn (2018) pp. 123-124

<sup>70</sup> Davies (1957) pp. 247-248

<sup>71</sup> Davies (1957) pp. 241-242

could be reached until January 1689.<sup>72</sup> Hunt argues that quickly after this, the EIC made the mistake of seizing a ship that was carrying supplies to a Mughal army stationed close to a warlord ally of the Mughal emperor, Sidi Yakut Khan. Khan possessed a stronghold “about forty miles down the coast from Bombay”. In response to the provoking act of withholding army supplies, Khan sent his army north to attack the Bombay settlement. Company officials were unprepared for the attack and despite hastily recruiting around two thousand mercenaries to aid their three hundred “British and Indo-Portuguese” soldiers, the colony was overrun and within a week the EIC had virtually nothing left to defend than the fort itself. “Over the course of the siege 115 of the Company’s soldiers and sailors deserted and almost all of them went over to the enemy side.” Hunt states that at least half of the deserters were English, the rest were “Portuguese or Portuguese creole”. Throughout the siege “it appears that over a third of the original defenders deserted over to Sidi Yakut Khan.”<sup>73</sup> Hunt argues that the Company was defeated in part because the governor of Bombay underestimated the threat that Khan’s forces represented to the Bombay settlement. Apparently, Khan had warned the governor of Bombay that he would attack the settlement if the army supplies seized by the EIC were not returned. The Bombay governor had ignored these threats however, and neither stocked up on additional supplies, nor prepared for a potential attack. Hunt also suggests that the defeat of the Company can be partly attributed to the EIC leadership’s inability to combine commercial activity and warfare.<sup>74</sup> The Company underestimated the strength of Khan’s forces and overestimated the Mughal emperor’s dependence on naval trade. Thus, the interruption and harassment of this trade did not have the intended effect of forcing the emperor to acknowledge the sovereign status of the EIC.

Although the Company faced a humiliating defeat at the end of the war, the siege of Bombay gives an interesting insight into the resources available to the EIC in India. Even though the Company had an inferior military force to that of Sidi Yakut Khan, it had the resources and diplomatic knowledge to enlist a two thousand men-strong force of mercenaries. These men were recruited from the Marathas, a group that at the time was at war with the Mughal emperor. The Marathas were no friends of the English either, however, they were also engaged in hostilities with the EIC. Despite this conflict, the Company was able to convince them “to suspend temporarily their hostility to the English at Bombay in return for

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<sup>72</sup> Margaret R. Hunt, “The 1689 Mughal Siege of East India Company Bombay: Crisis and Historical Erasure”, Uppsala University, History Workshop Journal Issue 84 Advance Access, publication 14 August 2017. Published by Oxford University Press on behalf of History Workshop Journal, all rights reserved. p. 151

<sup>73</sup> Hunt (2017) pp. 151-152

<sup>74</sup> Hunt (2017) p. 161

large if irregularly paid infusions of cash and an opportunity to take revenge on one of their most hated enemies, Sidi Yakut Khan.”<sup>75</sup> Thus, the EIC was able to use the financial means provided by its permanent settlements, and the diplomatic knowledge obtained through its extensive network to muster a local army more than six times as large as their European garrison at Bombay. Furthermore, given that there was no significant difference between English and Portuguese or Portuguese creole desertion following the siege, one could argue that Company rule mostly was considered legitimate, also by many non-English subjects residing within EIC settlements. In his book about the early days of the Bombay settlement, Samuel Pechel describes how the Company presided harmoniously over an increasingly diverse population after taking over the colony. “Many were invited by the freedom granted to all religions, and the mildness of the government”.<sup>76</sup> Pechel wrote his book in the late 18<sup>th</sup> century when English influence was growing on the Indian subcontinent, and this would of course have made him inclined to present an optimistic historical account of early acceptance of English rule in the region. I would argue though, that the ability of the Company to sustain its position in Bombay despite mounting military pressure from Khan, makes it plausible that the EIC had obtained a certain degree of legitimacy as a sovereign ruler by the 1680s.

The Company’s defeat at the hands of the Mughal army after the long siege of Bombay did not serve to strengthen its appearance of sovereignty in the region though. According to Hunt, the EIC leadership defending the fort had been so desperate that they at one point even considered abandoning the settlement. They chose to sue for peace however and reached an agreement with the Mughal emperor in 1690. Neither Khan nor the emperor were in any rush to complete the peace process though. According to “Alexander Hamilton, a sea captain who lived through the siege, but who was no friend of the Company, . . . the Company’s envoys had to approach the Emperor Aurangzeb on their knees with bound hands before he would agree to receive them.” Furthermore, EIC officers were misled into thinking that any peace agreement being made would include trade concessions to the Company. The peace treaty, known as a “farman”, the Company finally received from the Mughal emperor

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<sup>75</sup> Hunt (2017) p. 151

<sup>76</sup> Pechel, Samuel, *An historical account of the settlement and possession of Bombay, by the English East India Company, and of the rise and progress of the war with the Mahratta nation*. London: printed by W. Richardson, Strand, for J. Robson, Bookseller, New Bond-Street, M.D.CCLXXXI. [1781]. British Library, p. 6

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“offered no trade benefits whatsoever”, however, and “the tone was insulting in the extreme.”<sup>77</sup> Hunt concludes that:

instead of treating Company officials like foreign dignitaries with their own independent settlements, . . . the farman addressed them as if they were disobedient Mughal feudatories who needed to be cut down to size.<sup>78</sup>

Thus, despite Company efforts to assert its territorial dominance and affirm its sovereignty, the EIC’s military campaign against the Mughal empire ended in humiliating defeat. The fact that the Company independently of the English state, was able to engage in warfare against one of the largest armies of the world at the time, does however, illustrate how self-sufficient its East Indian network of Company settlements had become by the mid-1680s. Furthermore, widows of dead EIC sailors testifying before Parliament in the early 1690s claimed their husbands who left England in the late 1680s to work for the Company, were not told of the ongoing war against the Mughal empire before they were approaching India. Many of them were “never even offered combat pay.” Thus, the ability to effectively keep an ongoing war secret both shows how independent Company policy had become of the English state, and the degree of hegemony the EIC had in the East Indies.<sup>79</sup>

Despite Company efforts to cover up the events of the war, “a disgruntled employee” managed to leak the details of the humiliating farman “to the London press”. The details of the siege however, remained largely unknown because very few ships with information about ongoing events were able to return to England during the siege and immediately after. According to Hunt, this created a space for the Company to create their own narrative of what had happened. The limited information of the siege of Bombay made it difficult for critics of the EIC to pinpoint at what point the Company had actually “lost” the war. The EIC took advantage of the opportunity this confusion created and constructed a narrative where it claimed that despite initial appearances, it had in fact won the war. The harsh tone of the farman was attributed to cultural differences and the Company claimed that through its military efforts it had gained both favorable trading concessions and increased respect from its neighbors in the region.<sup>80</sup> Even though the EIC managed to somewhat blur the realities of its defeat back in England, the war still received widespread criticism. “One critic published an eight-page pamphlet complaining that Josiah Child had single-handedly caused the stock price

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<sup>77</sup> Hunt (2017) p. 158

<sup>78</sup> Hunt (2017) p. 158

<sup>79</sup> Hunt (2017) p. 159

<sup>80</sup> Hunt (2017) pp. 158-160

to fall by embarking on “fatal and destructive” policies.” Furthermore, the Company under the leadership of Child was accused of smearing the reputation of all Englishmen in the East Indies through their reckless behavior.<sup>81</sup>

Despite the widespread criticism it received, the result of the war was not all bad for the EIC according to Barrow. He states that the peace treaty did lay “the foundation for the establishment of Calcutta”<sup>82</sup>, a Company settlement in the increasingly important Bengal region. Barrow connects the growing importance of Bengal with the EIC’s shift in focus from spices and pepper to cotton textiles in the second half of the 17<sup>th</sup> century. Company imports of Indian textiles increased from 250 thousand pieces in 1664 to 1,4 million in 1694. Although the EIC’s pepper trade only saw a minor reduction in the same three decades, its relative importance compared to that of textiles declined significantly. Demographic developments following this shift can help to explain the Company’s territorial consolidation of their settlements at the same time. The substantial increase in Company demand of cotton textiles led to an influx of weavers and local merchants immigrating to Company settlements, particularly Madras. Bengal was the most attractive region for the EIC’s growing textile trade however, and this left the Company in a precarious situation as long as it did not possess a permanent settlement there.<sup>83</sup>

Thus, the commercial priorities of the EIC led to increasing prosperity and growing populations in its settlements on the Indian subcontinent. These developments made the settlements more profitable and the potential of a growing taxable population made them more self-sufficient. Furthermore, the growing importance of these settlements warranted a stronger emphasis on Company control and jurisdiction within them. This led to the development of complex legal codes that effectively created a sovereign Company-state in these settlements. To protect its sovereignty from interlopers and foreign competitors, the EIC embarked on an aggressive military campaign to assert its position. The resources and manpower provided by its territorial settlements enabled the Company to do this independently of the English state. Finally, the growing importance of Bengal, a region where the Company by the 1680s still did not possess a permanent settlement, motivated the EIC to pursue a risky military strategy to gain a stronger position there.

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<sup>81</sup> Barrow (2017) p. 18

<sup>82</sup> Barrow (2017) p. 18

<sup>83</sup> Barrow (2017) pp. 24-26

## **Conclusion**

Several factors contributed to an EIC more concerned with territorial consolidation and expansion in the 1680s. Tory ideology shared by both Company officials and supporters of the monarch emphasized land ownership rather than production of labor as the most viable way to increase wealth. The increased threat of interlopers and foreign competitors encouraged the EIC to fortify and expand its existing territorial presence in the East Indies. The growing size and prosperity of the settlements under Company rule allowed the Company to create self-sustained city-states that would have the capacity to raise local regiments of soldiers. This capacity, combined with the EIC's right to wage war on non-Christian rulers, enabled the Company to engage in an aggressive foreign policy, independently of the English state, that eventually led to the first Anglo-Mughal War. The profits and resources the EIC derived from its settlements made the Company better able to withstand growing political and commercial opposition against chartered companies after the Glorious Revolution than the RAC. The next and final chapter addresses the impact of the Glorious Revolution on the relationship between king and Parliament in England. These changes would have significant consequences for companies like the EIC and the RAC. The final chapter will also discuss how the RAC's dependence on aid from Stuart monarchs to enforce its monopoly made the Company very vulnerable when James II was no longer king. Although the EIC had cultivated close ties to the Stuart monarchs too, the Company had by the advent of the Glorious Revolution developed into an organization that was able to operate relatively independently of the English state. This allowed the EIC to persist and thrive in the face of shifting political sentiment towards royally chartered monopolies.

## Chapter Three

### The Glorious Revolution and the Dissolution of Royal Charters

#### Introduction:

As we saw in the previous chapter, the 1680s was a turbulent decade, not only for the chartered companies fighting to preserve their privileges, but also in English politics. After the death of Charles II, his brother James II ascended the English throne in 1685. James II was an authoritarian ruler and punished those who expressed opposition to his rule harshly. The unwillingness to acknowledge the grievances of his subjects created even more discontent with his reign. James II sought to introduce Catholics to prominent positions in England, Scotland and Ireland at the expense of protestants who had held these positions before his ascension to the throne. Despite these attacks on protestants in position of power, “Tory-Anglicans” responded “to these policies” with “non-resistance and passive obedience”. According to David L. Smith, “the political elite was still remarkably deferential towards the Crown.”<sup>84</sup> When James II’s Catholic wife had a son in the summer of 1688 however, the future prospect of an England under continuous Catholic rule became too much to bear for those that had previously deferred to the king’s authoritarian rule. “Seven eminent Englishmen, including one bishop and six prominent politicians of both Whig and Tory persuasions, wrote to William of Orange, a Stadtholder of Holland, inviting him to come over with an army to redress the nation’s grievances.” William of Orange was the husband of James II’s daughter Mary. Despite her father’s later conversion to Catholicism she had been brought up Protestant. “William was both James’s nephew and his son-in-law, and, until the birth of James’s son, William’s wife, Mary, was heir apparent.” Thus, to an English elite willing to make pragmatic considerations in order to ensure a future Protestant monarch on the English throne, the couple was an appealing choice. Realizing his lack of support in England, James II decided to flee to France when William III arrived with his army in 1688. The former monarch’s flight was convenient to a political elite attempting to forcibly replace an unpopular king while struggling to philosophically justify this to themselves and the rest of England. It was declared that James II had voluntarily abdicated the throne, thus leaving it open for William III and Mary II. These developments left chartered companies like the EIC and the RAC in a vulnerable situation, due to their close ties to an unpopular king now in

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<sup>84</sup> Smith, David L., *A History of the Modern British Isles 1603-1707-The Double Crown*, Blackwell Publishing, Oxford: 1998



exile. Furthermore, because an English elite now effectively offered the throne to a foreigner and his English wife, they made sure to make the offer conditional. They ensured that the new king and queen accepted a Bill of Rights that limited the powers of the monarch and increased the power of Parliament. Thus, Parliamentary approval would be much more important to royally chartered companies following this Glorious Revolution.<sup>85</sup> The legitimacy of royal charters was challenged on several occasions in the years following the Glorious Revolution. This chapter will look at how the resources the EIC was able to derive from its territorial possessions in the East Indies secured crucial political support that allowed the Company to survive such challenges to its organization better than the RAC. In addition to interlopers challenging its right to enforce its monopoly, the growing political power of colonial planters in Parliament also represented an increased challenge to the RAC. By the late 1690s, public sentiment still favored a monopoly on trade to the East Indies while an open trade free to all Englishmen was considered the best option for the African trade. The EIC would eventually be challenged by a rival company that was granted a new monopoly on the trade to the East Indies. Although the Company for a short time faced dissolution, the resources and commercial superiority of the EIC allowed it to force a unification with its rival company to once again possess a monopoly on the East India trade a few years later. We will start by looking at how the two companies' enforcement powers were challenged in court following the Glorious Revolution.

### **Enforcing royally chartered monopolies after the Glorious Revolution**

William A. Pettigrew and George W. van Cleve describe how new judges that favored the Revolution settlement made it harder for the chartered companies to defend their privileges in court. "Sir John Holt, who became chief justice of the court of king's bench" after the Glorious Revolution was the "most prominent among them". The court case of *Beake v. Terrell* in the spring of 1689 illustrates the political balancing act the EIC had to engage in to protect its established sovereignty. The Company had seized an English ship in the East Indies using one of their own courts. The owner of the ship considered the seizure unlawful and took the EIC to court in England. The Company argued in its defense that "the entire case was outside the king's bench jurisdiction because it fell squarely within the admiralty jurisdiction." The English "Common Law courts" had "a concurrent jurisdiction with the Admiralty", however, and the plaintiff was thus allowed to choose which court he wanted to

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<sup>85</sup> <https://www.britannica.com/event/Glorious-Revolution>

appeal to. Chief Justice Holt argued that the evidence supporting the EIC's right to seize the ship was insufficient. As a final attempt to avoid having its seizure powers tested in court, the Company had through "artful" rhetoric offered Holt the chance to sustain its seizure by simply abstaining from legal interference and deferring to royal authority. This appears to have been a badly calculated move in the time of post-Revolution sentiment.<sup>86</sup> "Holt's decision rejected that gambit and affirmatively declared that the court would review the legality of seizures, at least those affected using East India company courts." Furthermore, the court would require the EIC to justify its right to seize other English ships by letting the court examine its chartered privileges. According to Pettigrew and Van Cleve, the Company declined to defend its case further because it "did not want to test the validity of its charter".<sup>87</sup> Thus, Chief Justice Holt challenged the notion that EIC courts in the East Indies possessed a jurisdiction equal to that of English Common Law courts. Furthermore, in support of the post-Revolution idea that the monarch was accountable to Parliament, he dismissed the Company's claim that its seizure was legal according to royal authority alone. When compared to what happened in a similar case against the RAC, it would seem that the choice not to defend the case further was a smart tactical move on the part of the EIC.

The same year Chief Justice John Holt presided over the case of *Nightingale v. Bridges* where the RAC had seized the cargo of a ship owned by the interloper Nightingale. "Holt ruled that the company's seizure . . . was unlawful because its monopoly derived from the prerogative and had been executed through admiralty courts. "Holt added that any future enforcement of monopolistic privileges must derive from statute."<sup>88</sup> Through this ruling Holt effectively asserted the superiority of Parliamentary law to that which derived from royal prerogative. Statutory law in the 17<sup>th</sup> century referred to "written law" that was "enacted by the sovereign authority of Parliament."<sup>89</sup> Thus, unless the RAC could prove that its charter was derived from law passed by Parliament rather than the king, Holt had effectively invalidated the Company's charter with his ruling. The RAC "paid Nightingale damages, dispatched warnings to its colonial agents not to seize or detain interlopers and applied to the reformed Parliament for a statutory confirmation of its charter."<sup>90</sup>

Steve Pincus, Karim Ghorbal and Philippe Minard, argue that the RAC was better able

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<sup>86</sup> William A. Pettigrew, George W. van Cleve, "PARTING COMPANIES: THE GLORIOUS REVOLUTION, COMPANY POWER, AND IMPERIAL MERCANTILISM", *The Historical Journal*, 57, 3 (2014), pp. 617–638 © Cambridge University Press 2014. p. 625

<sup>87</sup> Pettigrew & Van Cleve (2014) p. 626

<sup>88</sup> Pettigrew (2007) p. 11

<sup>89</sup> <https://www.rieti.go.jp/en/events/bbl/09061201.html>

<sup>90</sup> Pettigrew (2007) p. 11

than the EIC to deter attacks on its monopoly after the Glorious Revolution because the RAC effectively had conceded that the question of the legitimacy of its chartered privileges was for Parliament to decide. Furthermore, they claim that the main target of John Holt and his Whig supporters was the EIC, because its court of directors was dominated by Tories.<sup>91</sup> Thus, according to Pincus, Ghorbal and Minard, the court's opposition to royally chartered companies after the Glorious Revolution was primarily motivated by political considerations. I would argue however, that although the RAC might have suffered less political attacks on its chartered privileges following *Nightingale v. Bridges*, this was largely the result of the Company effectively losing its ability to enforce its monopoly after this court case. Thus, because the RAC seldom enforced its monopoly after the validity of its charter had been questioned in court, interlopers in the African trade were in practice rarely restrained from participating in the trade after *Nightingale v. Bridges*.

This is supported by the findings of Carlos and Kruse, who argue that the RAC adopted a passive approach to enforcing its monopoly in the West Indies in the 1690s. The RAC instructed its agents in the colonies to notify local authorities if they suspected interloping activity and rather accept an unfavorable outcome than risk having the powers of the Company's charter questioned. This passive approach led to a decline in the RAC's market share and an increasing market share held by interlopers in the 1690s. Carlos and Kruse's estimates suggest that in the slave trade, "the Company accounted for only one-fifth of total deliveries to British America" in the last decade of the 17<sup>th</sup> century.<sup>92</sup> There were two main reasons the RAC saw a decline in its market share compared to interlopers after the Glorious Revolution. The first was the Company's inability to enforce its monopoly effectively without the aid of Stuart monarchs, the other was growing political influence among interlopers and their supporters in the colonies. According to Pettigrew;

The growing power of Parliament after the revolutionary settlement altered the location of political initiative because the legislature became increasingly sympathetic to the interests of a more powerful and assertive periphery in the provinces and colonies that wished to see control of the lucrative trade in human beings wrested from what was regarded as an overprivileged and corrupt metropolis.<sup>93</sup>

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<sup>91</sup>Pincus, Ghorbal and Minard, (2011), p. 35 [Translated from French]

<sup>92</sup> Carlos, Kruse (1996) p. 312

<sup>93</sup> Pettigrew (2007) p. 20

Pettigrew argues that the success of the “separate traders” was based on their ability to present themselves as a “marginalized majority” who suffered under the restrictions imposed by a London “minority that had proved itself an ineffective custodian of the national economic interest.”<sup>94</sup> Thus, the RAC was viewed as an overprivileged and corrupt remnant of Stuart absolutism in the metropolis of London, that stood in the way of national economic interest by denying the more efficient separate traders access to its trade. Furthermore, planters in the colonies were now allowed greater influence in Parliament and united with the interlopers in their opposition to the Company. Thus, the RAC had to manage political resistance from two powerful lobby groups rather than just one. The EIC also faced a growing challenge to its trade from English interlopers, but there existed no English group on the consumer end of its trade in the East Indies who was represented in Parliament.

The RAC’s choice to apply to Parliament for a validation of its charter effectively put it at the mercy of all those in Parliament who were opposed to its monopoly. The EIC however, had managed to tactically evade any final decision on the validity of its charter in *Beake v. Terrell*. Thus, even though Chief Justice John Holt did not explicitly validate the Company’s charter, like Chief Justice George Jeffreys had done four years earlier, the EIC still managed to evade the same fate as the RAC. According to Pettigrew, some saw the ruling of Holt as “an official endorsement of independent slave trading.” There was a rapid increase in “interloping slave voyages” following the court case, and “the price of company stock therefore plummeted in the early 1690s.”<sup>95</sup> Although the EIC had managed to tackle the initial legal challenges to its monopoly better than the RAC, the Company also faced growing challenges from rival merchants in London following the Glorious Revolution.

### **Rival merchants and challenges to EIC hegemony**

In the summer of 1689 rumours were circulating in the City that the old Company was to be dissolved, and a rival syndicate was formed with sizeable campaign funds to persuade the parliament either to force the Company to issue a new subscription or to authorise the establishment of a new company.<sup>96</sup>

The EIC was more adept at responding strategically to political challenges in the 1690s than the RAC. K. N Chaudhuri states that the Company responded to the challenge from the rival syndicate by petitioning Parliament and emphasizing its vital role in ensuring the existence of

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<sup>94</sup> Pettigrew (2007) p. 20

<sup>95</sup> Pettigrew (2007) p. 11

<sup>96</sup> Chaudhuri (1978) p. 429

an English trade to the East Indies. The EIC argued that if it “was abolished as a joint-stock organisation the East India trade would be lost to other European nations and with it the sovereignty of the seas.”<sup>97</sup> Thus, the Company capitalized on its existing hegemony in the East Indies by advocating the idea that jeopardizing its privileges could lead to the loss of an English foothold in the region altogether. The EIC did not always choose a confrontational approach however, it would be cooperative when this approach suited its future aims. Henry Horwitz describes how the Company was good at “running with the storm” in the face of political opposition. Following the creation of a committee “to investigate the Company's conduct and to make recommendations for the future management of the East India trade” in October 1689, the EIC publicly declared its willingness to cooperate with Parliament. The Company acted swiftly and laid out a plan for reorganizing the EIC in such a manner that would allow increased subscription to its joint stock, but also retained its “quasi-sovereign coercive powers”.<sup>98</sup> Thus, the EIC was proactive when faced with growing political opposition, and rather than passively await Parliamentary judgement on its sovereign privileges, it actively sought compromises that the Company would be able to influence to its own benefit. The growing capacity of its Company-state in the East Indies, and its ability to operate independently of the English state, allowed the EIC to negotiate from a position of strength in England. I would argue that by the 1690s, England was as dependent on the Company's organization in the East Indies as the EIC was dependent on the English state. This allowed the Company to adopt a proactive approach in the face of political opposition. K. N Chaudhuri supports my argument and states that;

It is a measure of the Company's financial and political strength that, until 1693, the powerful opposition in spite of its advantages was not able to bring about any radical changes either in the corporate management or in the composition of capital ownership.<sup>99</sup>

Thus, the strength of the EIC and its organization made the Company able to resist widespread political opposition even after it lost its support from the Stuart kings. Henry Horwitz argues that the Company's extensive Parliamentary influence also played a part in its ability to resist attempts to dissolve it. After the Glorious Revolution, the EIC “still had

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<sup>97</sup> Chaudhuri (1978) p. 429

<sup>98</sup> Henry Horwitz, “The East India Trade, the Politicians, and the Constitution: 1689-1702”, *Journal of British Studies*, Vol. 17, No. 2 (Spring, 1978), pp. 1-18, published by: Cambridge University Press on behalf of The North American Conference on British Studies. p. 2

<sup>99</sup> Chaudhuri (1978) p. 430

enough friends in St. Stephen's Chapel to prevent passage of the bills introduced in each session and designed to void its charter and to establish a new joint stock corporation.”<sup>100</sup>

Thus, the strategical investments in political influence the Company had made in the 1660s and 1670s continued to benefit the EIC after the Glorious Revolution.

Political influence was not the only advantage the EIC had however, the commercial significance of its trade also played a part. James Bohun attributes the resilience of the EIC to the new monarch's dependence on the revenue from the EIC's trade to support his war efforts in France and Ireland. Bohun uses the king's reaction to a resolution made by a Parliamentary Committee in January 1690 to illustrate this. The Committee's resolution asserted, “that the best way to manage the East-India trade is to have it in a new Company, and a new Joint Stock, and this to be established by Act of Parliament”.<sup>101</sup> In response to this attack on the EIC and its chartered privileges, William III prorogued and dissolved Parliament two weeks after its resolution. According to Bohun, the king was willing to risk the election of a new, potentially unfriendly Parliament, rather than keep one he knew would jeopardize the revenue he currently received from the East India Trade. The EIC's trade was very profitable to the king and a single “East India ship alone could provide over £10,000 in tax revenue.” This demonstrates that despite mounting political pressure, the Company was so valuable to the new monarch that he was willing to make unpopular political decisions to safeguard the EIC's privileges and the benefits they afforded him. The House of Commons continued their opposition to the Company under its existing charter however, and in the fall of 1691, it “resolved that the East India trade should be carried on by a joint stock company with exclusive privileges confirmed by Parliament.” Thus, even a Parliament that opposed the chartered privileges of the EIC, did support an exclusive access to the trade itself.<sup>102</sup> After *Nightingale v. Bridges*, the RAC found itself in a position where it had to justify the need for a monopoly on the African trade. The EIC on the other hand did not have to defend a monopoly on the East India trade as such. The Company had to convince Parliament that it was the best candidate to administer the monopoly though. I would argue that Parliament's support for a monopoly on the trade to the East Indies is illustrative of the operational capacity and success of the Company-state the EIC had created in the East Indies. While the

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<sup>100</sup> Horwitz (1978) p. 4

<sup>101</sup> James Bohun, “Protecting Prerogative: William III and the East India Trade Debate, 1689-1698”, *Past Imperfect*, vol. 2, 1993, pp. 63-86

<https://journals.library.ualberta.ca/pi/index.php/pi/article/view/1363> p. 67

<sup>102</sup> Bohun (1993) p. 67

RAC would be criticized for being an inefficient alternative to free trade after the Glorious Revolution, opposition to the EIC was often based on commercial and political jealousy.

### **Royal prerogative in the age of Parliamentary sovereignty**

Most of the House of Commons supported the establishment of a new company in January 1692 whereas the House of Lords predominantly supported the EIC. The lack of Parliamentary unity forced the House of Commons to ask the king “to dissolve the old Company and establish a new one”. Bohun argues that Parliament’s request that William III should establish the new company “in such manner as his Majesty, in his Royal Wisdom, shall think fit”, was proof that the royal prerogative still carried some weight politically, even after the Glorious Revolution.<sup>103</sup> According to Horwitz, the gesture can be seen more as a last resort for a House of Commons frustrated with the EIC’s obstructions of their attempts to dissolve the Company through Parliament.<sup>104</sup> The monarch’s right to dissolve the Company with a three year notice if it was deemed unprofitable for the kingdom was clearly stated in its 1661 charter.<sup>105</sup> Thus, if the House of Commons managed to convince William III that the EIC did not conduct the trade as effectively as a new company would, this might motivate him to dissolve the old company. The king was unwilling to risk the trade to the East Indies however, because of his financial dependence on customs from the Company’s trade. Furthermore, the EIC also exercised considerable influence with some of the monarch’s closest advisors. One example was “the Earl of Portland, one of William's confidants,” who “received old Company money for services rendered.”<sup>106</sup>

Thus, although the ruling of *Nightingale v. Bridges* could have been used to invalidate the charter of the EIC just as it was used to invalidate that of the RAC, the resources and profits the EIC derived from its Company-state and the influence these could buy in England, made the Company able to withstand growing political opposition to its privileges. Furthermore, the Company’s power and resources allowed it to make itself so indispensable to the new king that he would persistently deny Parliamentary encroachments on the EIC’s privileged status for four years. An important point to make here is that John Holt’s ruling in *Nightingale v. Bridges* had effectively reversed the ruling of George Jeffreys in the case

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<sup>103</sup> Bohun (1993) p. 68

<sup>104</sup> Horwitz (1978) pp. 4-5

<sup>105</sup> EIC charter (1661) p. 14

<sup>106</sup> Bohun (1993) p. 70

against Thomas Sandys. According to W. Darrel Stump, Holt's ruling "condemned all prerogative monopolies."<sup>107</sup> Stump refers to the original court decision made by Holt in 1689:

The King may create a corporation of merchants, and give them by charter, an exclusive right to trade, and hold territories, within certain limits herein described; but a clause prohibiting others to trade within the said limits, under pain of imprisonment, and the forfeiture and loss both of their ship and goods wheresoever found, and c. and giving power to enter into, search, and seize ships and goods, is void, for the King cannot by letters patent create a forfeiture of, or any way, by his own act, confiscate a subject's property.<sup>108</sup>

Thus, the ruling allowed the monarch to grant chartered privileges to corporations, but those corporations were not allowed to enforce such privileges, unless they had Parliamentary approval. Judge Holt had in other words, effectively asserted that the monarch could not seize the property of his subjects even in international waters, unless this was in accordance with Parliamentary law. The legal consequences of this ruling would in principle be equally detrimental to the sovereign powers of the RAC and the EIC. This meant that it was not legal preference that allowed the EIC to maintain its position virtually unchanged for four years after the ruling of Holt. Pettigrew and Van Cleve argue that the creation of "an embryonic English territorial government" in the East Indies, "that could project English power . . . abroad and provide military supplies at home" allowed the EIC to gain favor with the new monarch.<sup>109</sup> Although this is true, I would argue that the king was in fact more dependent on the Company than the EIC was reliant on the king in this regard. Saltpeter was one of the commodities the EIC was able to import in great quantities from its territorial possessions in the East Indies. The Company was not dependent on the new king to conduct this trade efficiently however, in fact, it had been able to assert its own sovereign position on the Indian subcontinent since the 1680s as we saw in the previous chapter. William III on the other hand, was dependent on the saltpeter the Company imported to supply his war with France. Thus, while the king's success in his war with France definitely was dependent on a steady supply of saltpeter by the EIC, the success of the Company's East India trade was not as dependent on favor with William III. The growing importance of saltpeter highlights one of the

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<sup>107</sup> W. Darrell Stump, "An Economic Consequence of 1688", *Albion: A Quarterly Journal Concerned with British Studies*, Vol. 6, No. 1 (Spring, 1974), pp. 26-35, published by: The North American Conference on British Studies. p. 32

<sup>108</sup> Stump (1974) p. 32

<sup>109</sup> Pettigrew, Van Cleve (2014) p. 619



advantages the Company's territorial possessions in India gave the EIC. Gunpowder had by the end of the 17<sup>th</sup> century become an integral part of European warfare. Furthermore, European supplies grew increasingly inadequate to satisfy the growing demand. According to James W. Frey, "saltpeter could be produced efficiently only under optimal environmental conditions", in the "Early Modern world". "India, specifically the region of Bihar, was the only place that combined all of these conditions".<sup>110</sup> Bihar was situated just north of the Bengal region where the Company had managed to establish a permanent settlement after the first Anglo-Mughal War. Thus, the Company-state in India allowed the EIC to be the main supplier of a commodity that was critical to the king's war effort. David Cressy describes how the extraction of saltpeter in England was surrounded by controversy in the 16<sup>th</sup> and early 17<sup>th</sup> century. Supplies were scarce and of variable quality before the EIC began importing it on a large scale from India in the latter half of the 17<sup>th</sup> century. Until the early 17<sup>th</sup> century, saltpeter men employed by the king had dug up the private properties of English subjects in pursuit of saltpeter to supply the growing gunpowder needs of the state. This created widespread discontent and the saltpeter that was retrieved was seldom of the same quality as the one the EIC was able to import from India in later years.

Expensive and unreliable importation from Europe, vexatious digging in private grounds, and ambitious schemes of projectors, all became unnecessary by the later seventeenth century when India supplied England's saltpetre needs.<sup>111</sup>

The value of saltpeter in William III's war with France is illustrated by a proclamation from him and the queen in 1689, strictly forbidding the exportation of saltpeter from the realm.<sup>112</sup> French access to Indian saltpeter was also indirectly affected by EIC operations according to Aniruddha Ray. He states that the Mughal emperor stopped all European trade in Surat and Bengal after the Anglo-Mughal War. Thus, the expansive efforts of the EIC in the late 1680s to establish a territorial foothold in the Bengal region indirectly hindered French trade in the

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<sup>110</sup> James W. Frey, "The Indian Saltpeter Trade, the Military Revolution, and the Rise of Britain as a Global Superpower", *The Historian*, Vol. 71, No. 3 (FALL 2009), pp. 507-554, published by: Taylor & Francis, Ltd. p. 511

<sup>111</sup> David Cressy, *SALTPETRE, STATE SECURITY AND VEXATION IN EARLY MODERN ENGLAND*, Past & Present, No. 212 (AUGUST 2011), pp. 73-111, published by: Oxford University Press on behalf of The Past and Present Society, p. 107

<sup>112</sup> *By the King and Queen*, a proclamation to prohibit the exportation of salt petre. London: printed by Charles Bill and Thomas Newcomb, printers to the King and Queens most excellent Majesties, 1689. Bib name/

number: Wing (CD-ROM, 1996)/W2631, Steele/I, 4019  
Early English books tract supplement interim guide / 21.h.3[80]

Reproduction of original in the British Library.

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same area. Furthermore, Ray argues that the EIC recovered from the Mughal sanctions a lot faster than the French company because of “their superior organisation and better fund position.”<sup>113</sup> In other words, although the first Anglo-Mughal War had ended in defeat for the Company, a short-term benefit was that it also negatively affected European competitors in India. The faster recovery of the English company in comparison with the French would have been an even greater blessing at a time when William III was at war with France. This would explain why the king was willing to go to such lengths to protect the EIC from political attacks that could interrupt its trade. The profitability of the Company-state and its operations also allowed the Company to invest heavily in political lobbyism back home.

The financial power of the EIC is illustrated by the amount of money it was able to put into political lobbying in the year of 1693. The Company “spent over £200,000 to secure MPs to their cause.”<sup>114</sup> Furthermore, it “granted the King £10,000 and offered another £50,000, which he refused.”<sup>115</sup> The unwillingness of William III to indiscriminately accept financial gifts from the EIC suggests that although he was dependent on the revenue and saltpeter he received from the Company’s trade, he was still concerned with retaining political independence from the EIC itself. Thus, although the Company was able to secure substantial political support with its financial means, it did not enjoy the unconditional support from the new monarch it had largely been guaranteed from his two predecessors. William III’s conditional support of royally chartered companies proved detrimental to the RAC. Because the Company neither provided an essential commodity to the war effort, nor was able to enforce its sovereignty effectively, it would have been more costly for the new king to support the RAC’s monopoly. Thus, I would argue that William III’s support of the EIC was primarily based on shifting pragmatic concerns and political self-interest. This meant that in order to ensure its continued success, the Company had to make sure that the king was more dependent on the EIC than the Company was on the monarch.

Bohun argues that William III had preferred to leave the settling of “the East India trade to Parliament”.<sup>116</sup> Because of the inability of those who supported the old and those who favored a new company to come to an agreement however, the issue of the trade was forced on the new monarch to decide. In the spring of 1693, an agreement seemed to have been made

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<sup>113</sup> ANIRUDDHA RAY, THE CRISIS OF THE FRENCH EAST INDIA COMPANY AT SURAT AND BENGAL AT THE END OF THE 17TH CENTURY (SUMMARY), Proceedings of the Indian History Congress, Vol. 54 (1993), p. 361, published by: Indian History Congress

<sup>114</sup> Bohun (1993) p. 74

<sup>115</sup> Bohun (1993) p. 73

<sup>116</sup> Bohun (1993) p. 72

between the opposing sides. The EIC's failure "to pay a tax on its joint stock," the same year however, "left it open to the forfeiture of its monopoly charter." "Sir John Somers, who served as Lord Keeper," suggested that this might have been a calculated move from the old Company to avoid the unfavorable terms of the newly agreed upon regulations.<sup>117</sup> Thus, the EIC forced the issue on the king, who had to decide if the Company should be dissolved because of its failure to pay the tax. This was a political gamble by the EIC and William III's choice to issue a new charter to the Company rather than dissolving it in October 1693, was indicative of the strength the EIC held in relation to the king. I would argue that the Company was willing to risk such a gamble because it was aware that the king would suffer more from losing the EIC's trade than the Company would suffer from losing political support.

The new charter gave the EIC "virtually the same terms as before". The king did however, reserve "the right to impose additional terms by Michaelmas 1694."<sup>118</sup> William III addressed the issue of the failure of the Company to pay its tax earlier that year in the beginning of the new charter and effectively absolved the EIC of any wrongdoing. The new charter states on page two that the Company should enjoy all powers and privileges as if the tax payment "had been duly and regularly Made".<sup>119</sup> The willingness of the king to grant the EIC a new charter despite its failure to pay its tax, demonstrates the position of power the Company had managed to obtain by the early 1690s. Although William III did not punish the EIC for its failure to pay tax earlier that year, he ensured its compliance in future payments in the 1693 charter. It states that the rights of the Company expressed in the charter will cease immediately if it does not pay the tax it owes by December the same year.<sup>120</sup> Although this seems like the king asserting his authority over the EIC, I would argue that his insistence that the Company pays its tax to retain its privileges in the new charter, also could be seen as an attempt to appease those that opposed the EIC in English politics. The Company had effectively been given all it wanted without having to compromise, because the new charter essentially gave the EIC the same privileges it had in the 1680s. Thus, William III wanted to make it seem like he held the Company accountable by giving himself the opportunity to alter the new charter within a year and demanding future payment of taxes. The king had

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<sup>117</sup> Bohun (1993) p. 73

<sup>118</sup> Bohun (1993) p. 74

<sup>119</sup> England and Wales. Sovereign (1689-1694: William and Mary). (1695). *A charter granted by their sacred majesties, king william and queen mary, under the great seal of england, dated the 7th. of october 1693. for incorporating the present east-india company, and confirmation of their former charters* London, s.n.

Retrieved from <https://search-proquest-com.nls.idm.oclc.org/docview/2240883711?accountid=12801>

Accessed via logged in user at the National Library of Scotland webpage.

<sup>120</sup> EIC charter (1693) p. 7

effectively allowed the EIC to force him into granting it a new charter however, because he was less willing to risk losing the benefits of the East India trade, than the Company was willing to risk losing the monarch's favor over unpaid tax. Emboldened by its new charter, the EIC continued a practice of forcing ships departing from England to post "bonds forfeitable if they violated the monopoly". Thus, the Company effectively forced English traders to insure the EIC against future violations of its monopoly up front, regardless of to what extent this was the intention of the independent trader. According to Pettigrew and Van Cleve, "the most notorious incident of this kind" in 1693 led to a passage of a resolution in the House of Commons the next year, "asserting that all British subjects had a right to leave England to trade."<sup>121</sup> Pettigrew and Van Cleve argue that the consequences of this resolution was minimal to the EIC because it enjoyed widespread support in the House of Lords and from the king. The consequences were detrimental to the RAC however, because "independent slave traders interpreted this resolution as evidence of parliamentary countenance for an entirely deregulated trade."<sup>122</sup> Despite its new charter and widespread political support, opposition to the EIC still persisted over the next four years.

The incorporation of the Bank of England as a joint-stock operation in 1694 provided an opportunity for "wealthy Londoners" that were opposed to the Company to unite their forces. The EIC had attempted to buy a charter sanctioned by Parliament in the spring of 1694 by offering an interest-free loan of £600,000 to fund the ongoing war. The charter would have granted the Company a statutory right to its monopoly for the duration of 21 years. Horwitz argues that the proposal was rejected because Parliament believed that it could get the same amount of money with more favorable conditions if "a new Company and subscription" was "authorized".<sup>123</sup> Parliament, aware of its growing political power, aimed to encourage both the EIC and those who opposed the Company to outbid each other in pursuit of Parliamentary approval. A corruption scandal that tainted the name of the EIC followed in the spring of 1695. The "public disclosure . . . of the East India Company's large expenditures on special service"<sup>124</sup>, left the Company vulnerable to those who sought to dissolve it. Although the corruption scandal was bad for the Company's image, Horwitz argues that the EIC stock price was affected even more by the formation of a rival Scottish company in 1695. The EIC requested that it was granted statutory confirmation by king and Parliament "to compete more

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<sup>121</sup> Pettigrew & Van Cleve (2014) p. 631

<sup>122</sup> Pettigrew & Van Cleve (2014) p. 632

<sup>123</sup> Horwitz (1978) p. 6

<sup>124</sup> Horwitz (1978) p. 7

effectively with both its old Dutch and its young Scottish rivals.”<sup>125</sup> The Company’s efforts to gain statutory approval by Parliament illustrate that despite its sovereign capacity and territorial possessions, the EIC was still aware that it operated in an ambiguous legal sphere in England. The growing political opposition to the Company and its royally chartered privileges was temporarily tempered however, by “the disclosure in late February 1696 of a Jacobite assassination conspiracy against William.”<sup>126</sup> Both houses of Parliament rallied in support of the king and challenges to the EIC was dropped “for the time being”.<sup>127</sup> Over the course of the next two years however, the growing financial power of the interlopers and the economic needs of the monarch led to a new bidding war for statutory approval between the EIC and a new regulated company trading to the East Indies.

### **A new company trading to the East Indies**

William Robert Scott argues that “the burden of the English war expenditure had become so great” by 1698, that the government decided to grant exclusive access to the East India trade to those “capitalists that would contribute most towards relieving the necessities of the State.”<sup>128</sup> The EIC was approached in December 1697 by “persons of considerable rank in the government”, who asked the Company to make an offer that would encourage Parliament to settle the conditions for the trade to the East Indies in its favor.<sup>129</sup> The Company made an offer to grant the king a loan of £700,000 at four percent interest and reevaluate its stock to permit many of the former interlopers to subscribe to the EIC, in April 1698. Interlopers and opponents of the old company, that had united in pursuit of a new regulated company, had by this time come up with a counteroffer however, and offered the Crown £2,000,000 at eight percent interest. According to Scott, the financial needs of the English government were so severe by this time, that the larger sum was preferable, even though it came with significantly worse conditions than what the EIC offered.<sup>130</sup> Horwitz argues that the backing of powerful Whig ministers who exercised extensive influence in Parliament, also played a part in ensuring the success of the new regulated company trading to the East Indies.<sup>131</sup> Scott describes how the legislation of 1698 created a new regulated company that was a

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<sup>125</sup> Horwitz (1978) p. 8

<sup>126</sup> Horwitz (1978) p. 8

<sup>127</sup> Horwitz (1978) p. 9

<sup>128</sup> Scott, William Robert, *The constitution and finance of English, Scottish and Irish joint-stock companies to 1720*, Cambridge University press: 1910, online version v. 2, retrieved from University of Michigan, p. 163  
Accessed via: <https://babel.hathitrust.org/cgi/pt?id=uiug.30112084266672&view=1up&seq=7>

<sup>129</sup> Horwitz (1978) p. 10

<sup>130</sup> Scott (1910) p. 164

<sup>131</sup> Horwitz (1978) p. 11

compromise between those who favored a joint-stock company and those who considered a regulated company the preferable option for the trade to the East Indies. Subscribers to the company's capital would be allowed to trade in proportion to their share of its total capital. Individual subscribers were allowed to unite their capital in a joint-stock corporation before subscribing to the new company however, this would enable them to buy a larger share of the regulated company's total capital.<sup>132</sup> The rule gave the EIC a crucial opportunity to endure, even though it had received notice from the king that it was to be dissolved in three years. The Company subscribed to £315,000 of the new company's total capital of £2,000,000. Once again, the EIC was able to utilize its resources to escape defeat in a political climate hostile to its chartered privileges. By becoming a substantial shareholder in the new company, the old company could not be decimated completely without also hurting the financial standing of the new regulated company. Horwitz suggests that political developments that followed after the war with France ended in 1698, and the growing financial capacity of a Whig-dominated syndicate that was able to outbid the EIC, contributed to William III's willingness to dissolve the old company and encourage the formation of a new, regulated one.<sup>133</sup> Thus, even though the EIC had managed to gain favor with the new king in the early 1690s because of his dependence on its trade, the pragmatic considerations of the monarch left the Company politically vulnerable if the king's priorities shifted. In other words, the only thing that could ensure the EIC's continued survival, was its ability to thrive independently of political support in England. Ironically, while the EIC faced oblivion after 1698, the RAC was given statutory recognition as the facilitator of English trade in Africa.

The Trade to Africa Bill of 1698 gave all interlopers equal access to the African trade and the protection of Company forts and castles, provided that they paid the RAC a 10 percent duty on the manufactured goods they intended to trade for slaves in Africa.<sup>134</sup> A digital copy of a document that accompanied the bill the same year illustrates the difficulty the RAC had in enforcing its monopoly at that time. Colonial planters objecting to the bill argued that the experience of the last decade demonstrated that the Company's claim that its forts and castles were vital to protect the trade was false. To prove their point, the planters mock the RAC's inability to enforce its sovereignty in the region with the help of these forts and castles.

The Experience of Ten Years hath assured us, that the Trade may be carried on, and to a greater degree than ever the Company could pretend to, not only without the

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<sup>132</sup> Scott (1910) p. 165

<sup>133</sup> Horwitz (1978) p. 11

<sup>134</sup> Pettigrew & Van Cleve (2014) p. 633

assistance of their Forts and Castles, but directly contrary to their Inclinations, for they would gladly have prevented it, if they had known how<sup>135</sup>

The colonial planters state that if castles and forts were in fact necessary to conduct the trade efficiently, they would have no problem paying their share of the cost. The RAC answered the objections made by colonial planters and asserted the Company's view that all English subjects participating in the trade to Africa should contribute to the cost of protecting this trade. The document closes with a statement that the trade to Africa should be "Free and Open . . . to all his Majesties Subjects in England, the Colonies and Plantations", provided that everyone shares the cost of protecting the trade. Thus, although the Bill recognized the RAC as the facilitator of English trade in Africa, it also asserted the rights of all Englishmen to trade in the region.<sup>136</sup> In other words, by the close of the 17<sup>th</sup> century, a monopoly was still considered the preferable way to conduct the East India trade, whereas the idea of a royally chartered monopoly on the African trade had been discarded in favor of a trade open to all English subjects. Despite its initial success in gaining a statutory monopoly on the East India trade, the hegemony of the new regulated company was short-lived.

### **The commercial superiority of the EIC**

During the negotiations in 1698, the EIC had secured the concession that although it was to be dissolved, it would be granted its three-year notice. This meant that even though the new company officially had been granted exclusive access to the East Indies, the EIC could in practice continue its trade until 1701. According to Scott, the entrenched position and local knowledge the old company possessed in the East Indies allowed it to compete successfully with the new company and secure higher profits from the trade than its adversary. He argues that the formation of a new company consisting of former interlopers in many ways represented an advantage to the EIC because it concentrated and organized its competition. Thus, it was easier to compete with an organized rival that was clearly visible and bound by a set of rules than it was to compete with interlopers that independently undermined the authority of the EIC. The sharp increase in the old Company's stock prices over the next few years, despite the formation of its formidable rival, demonstrates how crucial the territorial sovereign entity the EIC possessed in the region was to the success of its commerce. The

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<sup>135</sup> Access to Company forts (1698)

<https://digitalarchive.parliament.uk/book/view?bookName=Access%20to%20company%20forts%201698&catRef=HL%2fPO%2fJO%2f10%2f3%2f204%2f5&mfstId=a849cccf-d00b-48e7-9b0b-b23e3ae7ec87#page/n1/mode/2up>

<sup>136</sup> Access to Company forts (1698)

Company's stock price had reached a low point of £33,25 after the passage of the Act that provided for the formation of a new company in the summer of 1698. By the end of the next year however, the stock price had doubled, and in April 1700 it rose to £142. With increased confidence in its commercial superiority, the EIC suggested in May 1701 to buy up the "whole two million loan" of the new company and re-lend it to the state at almost half the interest rate. A condition for supplying this loan was that Parliament would give the Company similar rights to the East India trade as those afforded the new company in 1698. Thus, the EIC was effectively trying to buy back its former monopoly and secure statutory recognition of its exclusive access to the East Indies at the same time. The new company was unwilling to accept such an arrangement however, and instead tried to convince the EIC to increase its ownership share in the new company to one third of the total capital. Despite their differences, the superior profitability of the EIC and the statutory legitimacy of the new company made a union between the two companies an attractive prospect to both parties. Particularly after Parliament passed an Act in February 1700 that allowed the EIC to continue "as a corporation after 1701", such an arrangement seemed preferable. According to Scott, "an amalgamation" between the two companies seemed "inevitable".<sup>137</sup>

### **The United East India Company**

The partisan divide between the predominantly Tory-backed EIC and the Whig-supported, incorporated English Company (the new company)<sup>138</sup>, hindered productive steps towards unification the first couple of years after 1698, but these political tensions were tempered in the fall of 1701. Horwitz attributes this pragmatic appeasement to "the growing threat of a new war against France" and "the prohibition on the domestic sale of Asian textiles". These developments challenged the stability of the East India trade and a union between the two companies seemed to be the most favorable solution to secure the trade.<sup>139</sup> Thus, "in late December 1701, the two companies ratified the articles of union which laid down the basis for the eventual amalgamation of the two corporations." There were continued negotiations between the two companies to sort out "financial details" over the next seven years, but after 1702, both companies had effectively been united under "a joint management committee composed of equal numbers of directors from the two companies."<sup>140</sup> The EIC went from facing dissolution of its organization to becoming a dominating force in a new united

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<sup>137</sup> Scott (1910) pp. 167-168

<sup>138</sup> Scott (1910) p. 181

<sup>139</sup> Horwitz (1978) pp. 16-17

<sup>140</sup> Horwitz (1978) p. 17



company with a monopoly on trade to the East Indies in less than four years. This development demonstrates the strength the Company derived from its territorial possessions in the East Indies. Despite institutional preference for the new company in England, the EIC was able to trade more efficiently and profitably than its rival. Furthermore, the fact that it had the ability to conduct this trade without interference or aid from the English state after it lost its monopoly, implies that both the military and institutional strength of its organization was superior to that of the new company. Thus, because of the advantages provided by its Company-state in the East Indies, the EIC and its organization had become essential to the commercial success of English trade in the region. The RAC on the other hand, had by the early 18<sup>th</sup> century become obsolete in the African trade. The Trade to Africa Act had opened the trade to all interlopers as long as they contributed to the maintenance of Company forts by paying 10 percent of the value of their exports. The Act expired in 1712 and “fully independent British slave trading” in the Atlantic followed thereafter.<sup>141</sup> The fact that the British government decided to not renew the Act illustrates the demise of RAC authority over these years. According to Pettigrew, “the separate traders used Parliament to engineer a legislative vacuum that would ensure a deregulated trade.” He argues that the independent traders and colonial planters used their growing political power after the Glorious Revolution to block attempts to give the RAC statutory approval of its charter. They would use the Company’s “dismal economic record” and history of “financial mismanagement” as proof of its inability to conduct the trade efficiently with monopoly rights.<sup>142</sup> Thus, without guaranteed political support from a strong monarch the RAC was exposed as an inefficient alternative to open trade. The EIC however, had by the late 1680s built an organization that would be more commercially effective than its future Parliament-approved rival, even when this company enjoyed widespread political support and the EIC faced dissolution. Although the Company had been able to secure more support from William III than the RAC in the early 1690s, this was not the crucial factor that allowed it to endure until it was united with its former rival in 1702. Despite losing the support of William III and having to compete with a new company that enjoyed much stronger political backing, the EIC still managed to remain the superior commercial actor in the East India trade. Thus, I would argue that the main comparative advantage the EIC had over the RAC was its sovereign Company-state in the East Indies. These territorial settlements and the resources they provided allowed the EIC to sustain itself through legal and political challenges over two decades following the Glorious Revolution.

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<sup>141</sup> Pettigrew & Van Cleve (2014) p. 633

<sup>142</sup> Pettigrew (2007) p. 37

The sovereign capacity of its Company-state also enabled the Company to operate more independently of the English state by the late 17<sup>th</sup> century, and thus become less reliant on political support in England.

## Conclusion

The two decades of growing political opposition against royally chartered companies that followed the Glorious Revolution ended in very different outcomes for the EIC and the RAC. The EIC was united with its main rival and granted a renewed monopoly, sanctioned by Parliament, on the trade to the East Indies. The RAC on the other hand saw its enforcement power dismantled by the ruling in *Nightingale v. Bridges* and effectively ceased to assert its privileges by the early 18<sup>th</sup> century. The main factor that allowed the EIC to succeed and prosper in a hostile political climate was its ability to operate as a sovereign entity in the East Indies, independently of the English state. This ability allowed the Company to maintain its commercial supremacy and operational efficiency even when competing with a new company that enjoyed stronger legal backing and widespread political support in England. The EIC was able to operate independently of the English state because of the sovereign entity it had constructed on the Indian subcontinent. These territorial possessions and the resources and profit the Company was able to derive from them, also enabled the EIC to buy favor and political influence at critical moments in England. William III's dependence on Company-imported saltpeter from India during his war with France, illustrates the position of power the EIC enjoyed in relation to the English state. The Company was able to force political concessions in the early 1690s, despite widespread opposition against chartered companies, because the EIC was so indispensable to the monarch. The RAC on the other hand, had been dependent on active support from the Stuart monarchs to enforce its monopoly effectively, and quickly lost market shares to interlopers when this support disappeared after the Glorious Revolution. The dwindling profits from its trade, owed primarily to its inability to compete effectively with interlopers, made the RAC unable to buy the same political influence as the EIC. Thus, despite the fact that both companies in principle lost their right to enforce their chartered privileges after *Nightingale v. Bridges*, the ability of the EIC to operate independently of the English state made it better able to persist and overcome political opposition following the Glorious Revolution than the RAC.

# Conclusion

Royally granted monopolies were often given to companies in England in the 17<sup>th</sup> century in exchange for such a company's commitment to secure English interests in international trade. The appeal of this arrangement was that it allowed the monarch to outsource the cost of securing and defending English interests in such trades to the companies that were given exclusive access to them. Monopoly rights to international trade was usually granted by a royal charter, a document that outlined the specific privileges granted to the company, and the obligations it had to meet in order to secure exclusive access to the trade and the interests of the English monarch. The East India Company and the Royal African Company were both incorporated and granted royally chartered monopolies on their respective trades in the 17<sup>th</sup> century. They were also given extensive powers to enforce these monopolies against both English and foreign competition. While the East India Company had existed longer than the Royal African Company, they both became permanent joint-stock companies around the same time. Despite sharing many of the same attributes however, the East India Company (EIC), proved more adept at asserting and maintaining its position than the Royal African Company (RAC). This dissertation has investigated the factors that allowed the EIC to maintain and enforce its position more effectively than the RAC over the years between ca. 1660-1712.

The first chapter looked at the rights and privileges both companies were given in their respective charters and to what extent they were able to enforce these privileges effectively. The chapter also addressed the geopolitical conditions the companies operated under before the Glorious Revolution, and how they dealt with the threat of interlopers.

Chapter two discussed how the Whig-Tory debate on royal prerogative and property affected both the policies of the companies and the political opposition they faced in the 1680s. The chapter focused on two events that contributed to the development of the EIC's sovereign Company-state in the East Indies, the court case between the interloper Thomas Sandys and the EIC, and the first Anglo-Mughal War. The ruling of the court case against Thomas Sandys sanctioned the sovereign territorial state the EIC was building on the Indian subcontinent. The ruling in favor of the Company also emboldened the EIC to embark on an aggressive military campaign, independently of the English state, to assert its sovereignty in the East Indies. Although the first Anglo-Mughal War ended in defeat for the Company, the conflict demonstrated that the EIC had become strong enough to assert itself independently of the English state.

The third and final chapter discussed the political developments that led to the Glorious Revolution in England and the consequences this had for the EIC and the RAC. Furthermore, I analyzed the legal ramifications of the court case *Nightingale v. Bridges*, where the ruling effectively stripped the RAC of its enforcement powers. The chapter then discussed how the resources the EIC was able to derive from its territorial settlements allowed it to suffer less consequences after *Nightingale v. Bridges* than the RAC. Finally, the last chapter considered how the sovereign capacity the EIC gained from its Company-state in the East Indies, enabled the Company to escape dissolution and force a unification with a rival company that originally had been incorporated to ensure the removal of the EIC.

From its incorporation in 1672, the RAC was more dependent on active support from the English monarch in order to effectively enforce its monopoly than the EIC was. The EIC managed to create a quasi-sovereign territorial state on the Indian subcontinent in the 1670s and 1680s that provided it with resources and manpower which allowed it to operate more independently of the English state. The commercial efficiency and authority of the sovereign entity the EIC possessed in the East Indies also enabled the Company to capitalize on local trade that in principle violated its chartered privileges. Thus, the quasi-sovereign territorial state the EIC was constructing, allowed it to enforce its privileges through more pragmatic means that were less costly to the Company. This utilization of its trade network and territorial possessions in turn made the EIC less dependent on the English state to enforce its sovereignty effectively. The cultural, geographic and demographic conditions on the West-African coast made such a utilization of RAC settlements impossible. Another factor that disadvantaged the RAC was the triangular nature of the African-Atlantic trade.

The triangle that connected the English colonies in the Americas, England and the West-African coast forced the RAC to deal with English subjects that were opposed to its monopoly in two corners of its triangular trade. Like the EIC, it was forced to deal with English interlopers who sought to infringe on the Company's trade in Africa. Furthermore, English planters in the American colonies also sought to undermine its monopoly in an effort to achieve lower prices on slaves from Africa. Finally, unlike the EIC, who had been given explicit rights to wage war on non-Christian rulers in the East Indies, the RAC was unable to assert itself as forcefully against those who undermined it in the American colonies, due to the fact that they were English subjects. The growing influence of these colonial planters in Parliament, particularly after the Glorious Revolution contributed to a steady decline in the perceived authority of the RAC in the final decade of the 17<sup>th</sup> century. A final factor that would prove particularly important to the survival of the EIC in the late 17<sup>th</sup> century was its

commercial efficiency and ability to compete with other English traders.

While the territorial settlements of the EIC provided it with more resources and manpower, those belonging to the RAC represented an added cost to its operations. Thus, the EIC's obligation to protect English interests in its trade by constructing forts and settlements provided it with a commercial advantage due to the nature of these settlements, while the same obligation became an economic disadvantage to the RAC. The EIC's territorial possessions were particularly important after the Glorious Revolution when they ensured a steady supply of saltpeter to the new king's war with France. In other words, the EIC's forts and settlements made the Company more commercially effective, whereas the RAC's forts and settlements made it less commercially effective. The difference in commercial efficiency between the two companies would become particularly significant towards the end of the 17<sup>th</sup> century. The Company-state and the trade network the EIC possessed, allowed it to compete effectively and surpass the profits of a rival company that was incorporated in order to remove the EIC from the East India trade. The fact that a company with more capital and stronger political and legal backing than the EIC still was unable to compete effectively, demonstrates the strength of the sovereign institution the EIC had managed to build in the East Indies by the late 17<sup>th</sup> century. Thus, it was not public support or royal favor that ensured the continued success of the Company by the late 1690s, it was the EIC's ability to prosper regardless of shifts in public sentiment towards its organization. The RAC on the other hand, was not able to derive any significant commercial advantages from its forts and settlements on the African coast and ended up as less effective than the interlopers seeking to infringe on its trade. The commercial superiority the EIC attained from its territorial settlements and trade networks however, allowed it to force a unification with its former rival and once again possess a legal monopoly on the trade to the East Indies.

By way of conclusion I would argue that the main factor that contributed to the success of the EIC compared to the decline of the RAC after the Glorious Revolution was the EIC's ability to thrive independently of political support in England. The quasi-sovereign state the EIC had created in the East Indies provided manpower and resources that allowed the Company to become more or less independent of the English state by the 1690s. The sovereign capacity and commercial efficiency of the EIC enabled it to persist and thrive, despite facing dissolution and competition from a rival company that enjoyed widespread public support, had stronger legal backing, and more capital. After the Company was unified with its former rival in the early 18<sup>th</sup> century, the new *United Company of Merchants of England Trading to the East Indies* would continue the legacy of the Company-state the EIC

had begun constructing in the late 17<sup>th</sup> century. The new Company conquered large parts of the Indian subcontinent over the course of the 18<sup>th</sup> century and thus expanded the influence of the Company-state. Compared to the short-lived existence of the RAC, the new United East India Company evolved and adapted into an agent of British imperialism in India for more than 150 years.<sup>143</sup>

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<sup>143</sup> <https://www.britannica.com/topic/East-India-Company>

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