
**CHAPTER-I: BACKGROUND LEADING TO THE FORMATION OF
JOINT-STOCK COMPANIES IN ENGLAND**

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Commerce Created Cities

Increasing use of money freeing serfs and replacement of old agricultural implements by new ones transformed English trade in 16th century. It is in this way that the commerce necessarily led to a renaissance of city life. In the first place the travelling merchants could not be always on the road. They needed a permanent base for their operations, and that base must be at some place where they could form an association with others of their kind for mutual protection against the dangers of a lawless society that provided at least a little security for the trader. In the second place, foreign trade stimulated local trade and broke up the isolated production and consumption economy of feudalism. By introducing foreign goods and skillfully manufactured articles, the travelling merchant created a demand for commodities that was not the need of feudal lords but a commercial community. As a result of this change commerce created skilled industry. Some one had to make the clothes, weapons, armour, and so forth that the merchant sold to satisfy the demand for more skillfully made goods than could be produced for feudal based workmen. So skilled artisans appeared and congregated in places where opportunities for trade and protection were available. This is the nucleus of

a town.¹

In late medieval period everywhere, therefore, we find the townsfolk working together to secure greater freedom and a larger share of self-government.

City Government

The Government of the typical medieval city was in the hands of a council and a number of executive officers or Magistrates who were nearly always burghers (traders) of the city and were chosen by their fellow burghers freely or in collaboration with the lord, depending on the extent of the freedom they had obtained. Their principal duty was to levy and collect taxes. There were usually direct taxes on income and indirect taxes on the sale of goods. From the money raised in this way the city government maintained the defences and public works and the cost of government. And paid whatever taxes, the city owed to the King or its Lord. The growing political power of the cities and their influence with the Monarchy depended largely on this ability to raise money taxes, which had no parallel in the feudal system. The city had also its own system of civil and criminal law and its own courts and judges. City laws and judicial procedure were usually much more enlightened than the ancient customs still enforced in the feudal courts. At least they were better suited to the needs of men who made their living from commerce and industry. The right to take part

in the government of the city was seldom open to all inhabitants. It was limited normally to men of property who were legally recognized as burghers, a privilege, which they defended jealously against the poor of the city or outsiders. In some places a small oligarchy of the wealthiest burghers succeeded in gaining control of the government and shutting out the rest.²

Markets

Among the duties of the city magistrates was the supervision of the town market and the collection of market tolls which formed an important part of the city's revenues. Nearly every city had the legal right to hold a market though they often had to pay dearly for it. In thirteenth century in England the king asserted their exclusive right to issue charters granting that privilege. The markets must not be confused with the fairs. The former were purely municipal institutions for local trade. They were held for one day only once or twice a week. Here the peasants from the countryside displayed their produce for sale to the burghers. In some places in order to augment the tolls even the merchants of the city were forced to close their shops and sell on the market during market days. The city government controlled the prices to protect the consumers' and also to extract the revenue as much as it could for the government through the magistrate.³

The Merchant and Craft Guild

A merchant guild was founded quite early in the history of most of the cities in England. It was mentioned in the original charters of many of them. Indeed, the guild was often largely responsible for the success of the city's struggle for a charter. The merchant guild was an association, in which membership was a compulsory condition of all the burghers of the city who made their living by selling goods, including in its early days at any rate, the artisans who made goods and sold them directly to the consumer.⁴ By the end of the thirteenth century almost all towns of any size except a few under monastic rule had won a certain measure of self-government. After gaining freedom from feudal exactions, the main object of any town was to keep its trade in the hands of its own burghesses, on the principle that only those who paid their share towards the freedom of the town had the right to share in its privileges.⁵

It may be true that all townsmen were in some way connected with trade. The growth of the towns in population and extent the original owners of urban land enriched themselves from sales of land or from leases at a high rent and this formed an important source of capital accumulation in the thirteenth and fourteenth centuries; but there also cannot be any doubt that at the outset the petty mode of production remained true of the handicraft body at any rate. It has been noted that

at this time many of the agricultural burghers in England devoted themselves to husbandry and to small home industries at the same time, just as on the other hand craftsmen were often partially occupied with agriculture.⁶

Craftsmen were freely admitted to the Guild Merchant in the twelfth, thirteenth and fourteenth centuries. The term merchant as is well known was not in those days confined to large dealers but embraced all who traded. The line of demarcation between merchant and craftsmen was not that sharply defined. Every master craftsman was regarded as a merchant, for he bought his raw materials and sold the products of his handiwork in his shop or at his stall. Craftsmen were not only admitted to the Guild merchant but also in all probability constituted the majority of its members.⁷

At first the journeymen do not appear to have constituted a separate class, but were men who might expect to become masters themselves. Towards the end of the thirteenth century, however, clearer class divisions begin to appear. The number of journeymen increased and many of them remained wage-earners all their lives. By imposing high entrance fees and by other devices the guilds became more exclusive and harder to enter. As a result, separate guild of journeymen, the so called yeoman guilds began to arise.⁸

The period of the three Edwards constitutes an important

epoch in the history of industry and guilds. With the rapid development and specialisation of industry, particularly under Edward III, guilds or craftsmen multiplied and grew in power. Many master-craftsmen became wealthy employers of labour, dealing extensively in the wares which they produced. The class of dealers or merchants, as distinguished from trading artisans, also greatly increased, forming themselves into separate fraternities or mysteries. When these various unions of dealers and of craftsmen embraced all the traders and branches of production in the town little or no vitality remained in the Guild Merchant. In short the function of guarding and supervising the trade monopoly had become split up into various fragments or sections, the aggregate of the crafts superseding the old Guild merchant. A natural process of elimination, the absorption of its powers by other bodies, had rendered the old organisation superfluous. This transference of authority from the ancient guild merchant to a number of distinct bodies and the consequent disintegration and decay of the former was a gradual, spontaneous movement, which, generally speaking, may be assigned to the fourteenth and fifteenth centuries, the very period of which the craft guilds attained the zenith of their power.⁹

Merchant Guilds and City Government

The merchant guilds were in many respects the same as

those of the city government. The guildsmen were the most active burghers and frequently controlled the government of the city. Often the same men served as city and guild officers. But the city government had always wider powers and was superior to the guild which merely administered the economic side of government and exercised a monopoly of trade. In course of time as the merchant guilds began to decline, their powers were taken over in many places by the city administration. The twelfth century was the period of greatest power for the merchant guilds. When industry became more highly specialised, their place was largely taken by the various craft guilds. The merchant guilds or companies, which reappear in the later middle ages were of a different character dealing usually with some particular line of trade.

To fully understand this development we must recall to mind the two great transformations that occurred in English Municipalities during the fourteenth and fifteenth centuries, namely, the expansion of trade and the growth of a select governing town council. The economic development gave the crafts a more important position in the town community and materially altered the old qualifications of burghership. In the larger boroughs commerce and industry became the exclusive occupation of the townsmen the 'runs in urbe' gradually vanishing. The ancient burgage tenure the natural concomitant of the old burghal communities, in which agriculture rather than capital

and industry played the chief role - was no longer connected with citizenship.¹⁰

Journeyman

When the apprentice had completed his period of training satisfactorily, he was promoted to the status of journeyman. He was now a free worker paid by the day, and could hire with any master who wanted his services. During the next few years he was expected to acquire more experience and skill and to save enough money to set himself up in a shop of his own. The next step was to apply for full membership in the guild. He must have then undergone a strict examination at the hands of the masters and submit a sample of his work, his "masterpiece" together with proof of good character and orthodoxy. If he passed this test he was received into the guild as a Master.¹¹

Master

The Master was at once a worker employer and retail merchant. In the little shop on the ground floor of his house in full view of those who passed on the street he manufactured his goods with his own hands, supervised the work of his journeymen and apprentices and displayed his products for sale. No permanent class distinction cut him off from his employees. Since they themselves expected to become masters in course of time, He was not a capitalist in any real sense of the word,

since the restriction imposed by the guild on the price and quality of his goods and the number of men whom he could employ prevented him from making more than a decent living for himself. These restrictions were in part self-imposed and for the master was a full member of the guild and had his share in choosing its officers and in making its rules. But if those rules prevented him from rising above his fellows, they also protected him from the competition of others who might try to do the same.¹²

Purpose of the Craft Guilds

In this we find the chief purpose of the craft guilds. They were designed to limit competition and to keep any member from doing anything that would be to the disadvantage of the rest. At the same time they exercised a local monopoly and protected their members from outside competition. The sense of social solidarity and corporate responsibility the conviction that the interests of the individual should be subordinated to the good of the whole community as characteristic of the medieval cities, was felt very intensely within the guilds.

While they (guildsmen) themselves enjoyed the right to trade freely unfranchised merchants when allowed to practise vocation, were hammed in on every side by onerous restrictions. Of these the most irksome was probably the payment of toll on all wares that they were permitted to buy or sell. From such payments the

guildsmen were generally wholly exempt; even when this was not the case. They usually enjoyed discriminating rates of toll in their favour.¹³

The growing English merchant bourgeoisie established their position in society. In the fourteenth century at the end of the reign of Edward III, the burgesses at large were entirely excluded from their right of suffrage in parliamentary election.¹⁴

But in the development of foreign trade at first the English merchants came across serious opposition from foreign merchants. For a long time the monopoly position of England as a wool growing country had attracted the notice of the merchants of Flanders and Italy where merchant capital had a more rapid development and, therefore, they had invaded England and established themselves with regard to the country's most precious export-trade. More important was the monopoly position of England as a wool growing country.

Obviously, therefore, the first and most important field that merchant capital found for its operation in England was the wool trade.¹⁵

As early as the twelfth century the cistercian monks had established huge sheep farms on the dry eastern slopes of the pennines. The cistercians were not only large scale

farmers but financiers as well and through their hands and those of the Lombard and Florentine merchants who acted as their agents was passed much of the revenue which the pope's drew from England a revenue stated in Parliament in the reign of Edward III to be five times that of crown. Much of this revenue was collected in ^{the} form of wool rather than of currency.¹⁶

Moreover, the position of these merchants in England was "strengthened by special privileges from the English crown" for the English crown was not only debtor to these foreign concessionaries, but was under the recurrent necessity of new borrowing.¹⁸

The staplers were merchants who had the monopoly of exporting the principal raw commodities of the realm, especially wool, woolfels, leather, tins, and lead, wool figuring most prominently among these staple wares. The merchants of the staple used to claim that their privileges dated from the time of Henry III, but existing records do not refer to the staple before the time of Edward I. Previous to this reign the export trade was mainly in the hands of the German Hanse Merchants.

The staples were the towns to which the above-mentioned wares had to be brought for sale or exportation. Sometimes there was only one such mart and this was situated abroad generally at

Bruges or Calais occasionally at Antwerp, St. Omer, or Middleburgh. From the reign of Richard II until 1558 the foreign staple was at Calais. The list of home staples was also frequently changed.¹⁹

The simplest expedient for maintaining a hold upon foreign commerce so as to regulate it on wise lines was to confer special trading privileges on a body of merchants who should be responsible for conducting the traffic in the manner that was most advantageous to the realm.

This was one reason for the organisation of commercial companies which were much more extensively developed among English traders than among those of any other nation and the practice of merchant vessels sailing in fleets for mutual safety also rendered some organisation among traders desirable.²⁰

These companies were of two distinct types; several of them were regulated companies. Each member of such an association though he traded separately on his own capital was bound to observe certain rules which were laid down for all the fellowship. The stock exchange at the present day may serve as an illustration of a regulated company for each member conducts his business independently, though all are bound to settle fortnightly with the other members to refrain from advertising and to abide by the other rules imposed upon the whole body.

On the other hand the joint stock company is a single corporation with one capital which the members hold jointly; they trade as one individual and subsequently divide the profits. The London and North Western Railway is a modern instance of a joint-stock company; the share holders do not compete against one another at all but hold shares in a single undertaking. If the corporation has the sole right to deal in a certain class of goods or to trade in a given area, the joint-stock company is of the nature of a monopoly; and no one can have any part in the business unless he succeeds in buying stock from one of the shareholders. The regulated company on the other hand, permitted limited competition between its members; as any subject could join it and take his chance in the trade by paying the entrance fee and complying with the accepted conditions. The regulated companies were not monopolies in form; but the constant complaint to which they gave rise seems to show that they tended to become monopolies in fact and that the rules they made often had the effect of putting the whole of some important line of trade into the hands of a narrow clique.²¹

The Companies appear to have served a useful purpose the Merchant Adventurers the East India and other companies as well as the grievances of the customers and the Interloopers we are inclined to condemn the whole system as utterly bad and corrupt; and this view seems to be confirmed by the fact



that these institutions have gradually passed away. It is none the less true that companies were generally believed to serve a useful purpose. The question was carefully examined by commissioners of Trade in 1622. At that date the Government seems to have come to the conclusion that the Companies should be maintained but twenty years later there was a brief period when the advocates of open trade obtained their own way. Though a trade commission appointed in 1650 was instructed to "take care that government and order in trade may be preserved and confusion avoided this principle seems to have been set aside in practice as the opponents of monarchy were not inclined to favour the privileged bodies which had obtained exclusive powers from the King. After a few years experience of unregulated trade, however, it seemed necessary to abandon or limit it. The regulated companies were re-established and after protracted consideration it was decided to grant the new charter to the East India Company by which it became a permanent institution erected as a joint-stock. 22

Muscovy Company

Chartered Companies were hard at work. Existing companies were strengthened. In 1564 the merchant Adventurers were given a new charter and their great rivals the Hansards were finally driven out of the field in England in 1598. In 1566 the Muscovy Company secured an Act of Parliament for the corporation

of Merchants adventurers for the discovering at new trades.

On the other hand Tench was perfectly alive to the evils of a practical monopoly. Such as the muscovy company had become. The career of this body had been most disappointing; it had been organised after the remarkable expedition of Sir Hugh Willoughby. Partly at least in the hope of finding a North-East passage and planting settlement upon the route. The hopes of the traders had been frustrated, however, as the Czar had become less favourable to them in the reign of Elizabeth. The management of the Company was severely criticised in the common report of 1604. "The Muscovy Company consisting of eight score persons or thereabouts have fifteen directors who manage the whole trade; these limit to every man the proportion of stock which he shall trade for, make one purse and stock of all and consign it into the hands of one agent at Muscow and so again at their return to one agent in London, who sell all and give such account as they please. This is a strange and shameful monopoly, a monopoly in a monopoly both abroad and at home a whole Company by this means is become as one man who alone hath the uttering of all the commodities of so great a country."²³

The First West African Company

Williams Hawkins calls at the West African coast on his

way to Brazil were followed a little later by other voyages to West Africa. In 1553, syndicate of Adventurers to Guinea was formed in London and two ships sailed for Guinea and Benin. It was an unsuccessful venture but in the next year and the next English ships went out again bringing back gold dust, ivory and the spice known as Guinea pepper. In 1562 English slave-trading began with a visit by Sir John Hawkings to Sierra Leone, and in 1588, the year of the Armada the First African Company was incorporated by Royal patent the members being merchants of Exeter, the West country and London and the sphere of their operations the Senegal and Gambia rivers.²⁴

Hudson's Bay Company

The Hudson's Bay Company has been able to maintain its constitution and character with but little modification since its foundation and it thus serves as a monument of the remarkable outburst of trading activity which characterised the ear of the Restoration. Like the East India and the African Companies as re-established at that time it was organised upon a joint-stock basis. Despite the difficulties with which they had to contend and the criticism they had to face the Hudson's Bay Company continued to exercise exclusive rights in a lucrative trade long after the time when other branches of commerce were thrown open to all subjects. The favour they enjoyed was largely due to the fact that the existence of the

company and its forts was a constant menace to the French for trade and checked the extension of French influence in the North of Canada.²⁵

The Eastland Company

In 1579, the "fellowship of Eastland Merchants received a charter empowering them to trade through the sound to Scandinavia, Lithuania, Poland and Russia. This was an expansion of an old grant for the benefit of Merchants trading to the Baltic made by King Henry IV in 1408, the year after the first charter of the Merchant Adventurers Company. Frobishers first Arctic venture in 1576 led, in the following year to a charter for a Company at Catnay, the governor being Michael Lok a great traveller in the Levant and a man for his knowledge in diverse languages and especially in Cosmogaphy able to do his country good."²⁶

Turkey Company

The year 1581 established great Turkey Company probably an offshoot of the Brocers Guild. For years the English had been coming more and more into the Mediterranean bent on carrying the produce of the Levant to England in their own ships, instead of letting it be carried by the galleys of Venice. Hakluyt tells us that in the early years of the Sixteenth Century "divers tall ships of London ... with certain

other ships of Southampton and Bristol had an ordinary and usual trade to Sicilia, Candie, Chio and some whiles to Cyprus as also to Tripohies and Barutti in Syria, but till the middle of the Century the Levantine trade was still mainly carried in Venetian carracks or argosies a word coired out of the name of the port of Ragusa.

In 1553 the indefatigable Anthony Jerkinson obtained from the Turkish Sultan trading privileges for English merchants at Aleppo. In 1579 three English merchants went on a mission to Constantinople. In 1581 Queen Elizabeth made a treaty with the Sultan and by Letters patent conferred upon a Merchant syndicate a grant of exclusive trade to Turkey for seven years. The Turkey merchants subsequently combined with merchants trading to Venice and in 1592 second letters patent created the corporation of the Governor and company of Merchants of the Levant. This marked the end of the era in which the Levantine trade to England was carried in foreign vessels and it marked the beginning of direct British political and commercial relations with Constantinople, the company be it noted paying the salaries of the Ambassador and consuls.²⁷

The British East-India Company

The condition in Europe had, however, changed towards the beginning of the latter half of the 16th century. On September 22, 1599 some prominent merchants of London held a

meeting at founders Hall and from this meeting sprang up an association for the purpose of trade with India. The meeting was held under the Chairmanship of Lord Mayor and after preparing the plan a petition was submitted by them to the Queen to incorporate them into a association of 31st of December, 1600. The Queen issued a royal charter to the petitioners as required and thus was the East India Company founded.

The East India Company thus came in a logical sequence of the growth of merchant capital in England. In the earliest phase of this growth of the old Guild Merchant of England consisted mainly of small shopkeepers and artisans, "lacking the line of demarcation between merchants and manual craftsmen".

Afterwards with the distinct separation of commerce from a fellowship of general dealers in petty wares the mercers' company developed into a body "a wholesale traders." Then with the growing importance of foreign trade out of the womb of the Mercers Company there emerged the Company of Merchant Adventurers which had to do wholly with foreign trade and its members were forbidden to exercise a manual occupation or even to be retail shopkeepers.

Finally when the English Merchant capital had markedly extended its sphere of influence and several monopolist companies were already in action in order to enjoy the exclusive trade of specific areas of Europe, Western Asia and Northern

and Western Africa the East India Company came into being as the most powerful of them all.²⁸

There was little to suggest, the acquisition of dominion in India in the debut of the Governor and Company of Merchants of London trading into the East Indies to whom Queen Elizabeth after much hesitation, granted a charter of incorporation on December 31st, 1600. The aims of the company were essential in order to obtain those species necessary to render palatable the limited food stuffs available under the primitive agricultural conditions of the day and the other products prized for their utility or beauty in the West. The traditional route passed through the dominions of the Sultan of Turkey and Elizabeth in 1581 granted a charter to the Levant Company to trade with these dominions under the terms of the concessions made by the Sultan in 1579. When he granted privileges of trade and residence with exemption for most purposes from Turkish criminal and Civil jurisdiction to English subjects. The Company sought to extend its trade to India and in 1592 secured a fresh charter authorizing them to trade to India overland through Ottoman territories.

Serious difficulties, however, were placed by the Sultan in the way of the development of overland trade. While the discovery of a practical passage to India by the Cape of Good Hope suggested a new line of approach. Political conditions

favoured action. The Bull of May, 1493 of Pope Alexander VI had assigned India to Portugal in its division between that country and Spain of the undiscovered non-Christian world; and subsequent treaties between these countries had recognized with modifications the allocation.²⁹

When meeting of Founder's Hall arranged under the auspices of the Lord Mayor on September 22nd, 1599 the vital resolution was arrived at to form an association to trade direct with India. In securing this end the Levant Company was clearly much interested; the first Governor of the Company which received the Royal charter in 1600 when all hope of peace with Spain had been abandoned was also Governor of the Levant Company.

In these circumstances all that was contemplated by the merchants and their more aristocratic associates who supported them at Court, was the creating of an association to carry on trade by dispatching ships to Indian territories and by founding there in trading stations with the permission of the Local rulers on lines similar to those on which trade was conducted with the Ottoman dominions.³⁰

The constitution of the Company was simple, falling within the type of 'regulated companies' as opposed to 'joint-stock companies'. In such companies members were subjected to certain regulations and enjoyed certain privileges, but traded

on their own capital. In practice the company in its early days functioned as a Syndicate with a concession for the Indian trade, which it worked by forming minor groups from among its members who found the capital for each separate voyage, and whose liability was normally limited to the voyage for which they had subscribed, though they might be forced to contribute to a further venture if fresh capital could not be raised from a new group of subscribers. After 1612 the subscribers threw their contributions into a joint stock, though not yet on a permanent basis, the joint stock being formed for a series of voyages only.³¹

Membership of the company's business was democratic in principle. The company was authorized to elect annually a governor and twenty-four committees, the precursors of the later directors, who were to have the direction of the Company's voyages, the provision of shipping and merchandises, the sale of merchandise brought to England and the managing of all other things belonging to the company. Other officers were soon added, including a deputy Governor, Secretary and Treasurer. In general detail of the voyages, but they called together a general meeting of the members when they deemed it necessary.

To the Company were conceded certain limited powers of a legislative character, based on those recognized at the time

as appropriate for Municipal and commercial corporate bodies. The company might assemble themselves in any convenient place, within their dominions or elsewhere and there hold court for the company and its affairs, and might make, ordain, and constitute such and so many reasonable laws, constitutions, orders, and ordinances, as to them or the greater part of them being then and there present shall seem necessary and convenient for the good government of the said company, and of all factors, masters, mariners, and other officers, employed or to be employed in any of their voyages, and for the better advancement and continuance of the said trade and traffic. They were further authorized to impose such pains, punishments, and penalties by imprisonment of body or by fines and ^Sameriaments as might seem necessary or convenient for the observation of such laws and ordinance. Both laws and punishments must be reasonable and not contrary or repugnant to the laws, statutes or customs of the realm of England. It will be seen that the power given is essentially a power of minor legislation, forbidding any fundamental alteration of the principles of English law, and limited drastically by the character of the punishments which could be inflicted in respect of contraventions. The limited character of the Company's authority is clearly marked in the earliest copy of such laws extent that printed in 1621. They deal chiefly with the management of the company's meetings and its officers in

England, the administrative arrangement in the East, whereby Bantum in Java and Surat were made the Principal factories and the employment of shipping. They assert in accordance with the charter the illegality of private trade and order factors to seize goods so shipped and to send them home, and they require - an ominous hint of evils to come - that all presents made by foreign princes, rulers or commanders to members of the Company shall be brought into the general account of the company.³²

It is important to contrast the terms of this grant with those made to the companies or individuals who contemporaneously were seeking to establish themselves in the newly discovered Western lands. The charter of Charles I to the governor and Company of the Massachusetts Bay in New England confers on the general meeting of that company the right to elect officers and admit members, but the legislative power is in wider terms, 'to make Laws and Ordinances for the Good and welfare of the said Landes and plantations and the people inhabiting and to inhabit the same. There is here unmistakably a definite power to legislate for and govern territory which is not contemplated in the case of the London company. It was understood in the widest sense by the people of Massachusetts when the charter was by resolution taken in London with acquiescence of the crown, carried to the plantation, and despite the restriction that the laws and ordinances should not be contrary or repugnant

to the laws of England, there was enacted a code of legislation which in certain vital respects went to severity towards dissident members of the community beyond English law. In the same spirit it was held in the colony that it was entitled to execute the fullest powers of penal jurisdiction and it was not until 1693-4 that the crown felt itself strong enough to secure the forfeiture of the charter on the score that the colony had usurped power not granted to it as in the imposition of taxation on English imported goods.³³

The powers of the London company were manifestly unequal to the situation unless supplemented but the crown made good this defect by a further exercise of prerogative. For each voyage the crown granted to the 'General' in command of the vessel the right to inflict punishment for capital offences, such as murder or mutiny, and to put in execution martial law. At this time the extent and the authority to maintain discipline during long voyages. The position of the company itself became better defined on May 31st, 1609 when James I granted a fresh charter making that of Elizabeth perpetual, subject however, to the right of the crown to determine in three years' notice on proof of injury to the public. This was followed by a Royal grant of December 14th, 1615 authorizing the Company itself to issue commissions to their captains with the important proviso that in capital cases a verdict must be found by a jury. The power, it will be seen, was intended to cover the

case of the maintenance of discipline on board ships, but as soon as the company established on the Indian coast trading settlement to the contrary to the control of the native ruler, but it was not to be expected that the local authority would concern itself with disputes arising among the members of a foreign settlement. The difference between the local systems of Law, whether Hindu or Muhammadan, and English law was inevitably such as to render it natural that local authorities would not concern themselves with the disputes Inter se of tolerated intruders.³⁴

James I, therefore, on February 4th, 1623 extended the power of the company by authorizing it to grant commissions to their presidents and chief officers for the punishment of offences committed by the company's servants on land, subject to the same provision for trial by jury in capital cases, thus at last placing the company in the position to provide more or less effectively for the due government of its servants, both on the high seas and in India.³⁵

On October 19th, 1657, reconstituted the company in the form in which it was established by the charter of Charles II on April 3rd, 1667. Under the charter the company was established on a regular permanent joint-stock basis, and voting power at its meetings was accorded to each member on the basis of one vote for every 500 Pounds subscribed by him. To the company

thus reorganized that the Company owned fortresses and not merely trading factories. They were authorized to send ships of war, men and ammunition for the security of their factories and to erect fortifications and supply them with provision and ammunition for the free of export duty, and to transport volunteers to garrison them. They might choose commanders and officers and give them commission under their common seal or otherwise to make peace or war with any non-Christian people in any places of their trade for the advantage and benefit of the company and their trade. They were to exercise power and command over their fortresses and to appoint governors and other officers. They might govern their employees in a legal and reasonable manner and punish them for misdemeanour and fine them for breach of orders.³⁶

The trading monopoly of the company was reaffirmed; they might seize unlicensed persons and send them to England, where they might suffer such punishment as the laws would allow.

In addition to the authority over their servants a general judicial authority was given to the governor and Council of each factory to judge all persons belonging to the said Governor and Company or that shall live under them, in all causes, whether civil or criminal, according to the laws of this Kingdom, and to execute judgement accordingly. In any place where there was no Governor the Chief factor and Council were empowered to send offenders to punishment, either to a place where there was a

Governor and Council or to England. The same power to send persons as prisoners to England was accorded by the charter in the case of appeal being made against their sentence by persons in the employment of the company, when punished by its officers. But even at this period there already existed grave doubt as to the possibility of taking punitive proceedings in England in respect of actions happening outside that country.³⁷

The extended authority, both political and judicial, accorded to the company by the charter of Charles II was further reinforced on the occasion of the transfer to the control of the company of the island of Bombay, which was ceded by Portugal by the marriage treaty of 1661. Portugal had held the island in full sovereignty and the King at first proposed to govern it as a royal ceded colony. But the King soon found that his new possession was likely to be more troublesome than profit and by charter of March 27th, 1668, he transferred the island to the company to be held of the crown as of the manor of East Green which in free and common soccage for the annual rent of ten pounds, which was actually paid to 1730. The prerogative of the crown to govern a ceded colony was absolute, subject to the international obligation of respect for the terms of cession, and the king accordingly was in the position to conform on the company full sovereign rights over the territory and the inhabitants of the island as well as over the servants of the company. The company, therefore, were authorized through

their general Court or Court of Committees to make laws, orders, ordinances, and constitutions for the good government of the port and island and of the inhabitants thereof. They were authorised by their Governors and other officers to exercise judicial authority. Moreover, they were to have power and authority of government and command in the island with power to repel any force which should attempt to inhabit precincts without licence or to annoy the inhabitants. The company were also empowered to take into their service such of the king's officers and soldiers on the island as might be willing to volunteer, thus forming the nucleus of the company's first European regiment, or Bombay Fusiliers.⁸⁹ The definite establishment of the political authority of the company was further marked by the grant by charter of October 5th, 1676 of the power of coining money at Bombay to be called rupee, pices or such other name as the Company might think fit, such coinage to be current in the East Indies but not in England. The charter is of special interest as marking the complete sovereignty of the crown over Bombay, and the necessity, therefore, of a royal charter for the exercise of the prerogative right of coinage. In Madras, on the other hand a mint had already been established for the coinage of pagodas by the company, but under the authority derived from the company's Indian overlord.

Further extension of the company's authority was shortly to be granted in consequence of the decision taken on

the instigation of Sir Josiah Child to extend the power of the company on the analogy of Dutch East Indies company and to create an Empire in India. By charter of August 9th, 1683 the company were given full power to declare and make peace and war with any of the heathen nations of Asia and Africa within the charter limits, to raise, arm, train and muster such military forces as seemed requisite and necessary, And to execute martial law for the defence of their forts, places and plantations against foreign invasion or domestic insurrection or rebellion. This remarkable grant was accompanied by a provision reserving to the crown the power of making peace and war when it shall be pleased to interpose our royal authority therein and the sovereign right, powers and dominion over all the forts, places and plantations. We have here expressed in unmistakable fashion the essential rule that the acquisition of sovereignty by subjects of the crown is on behalf of the crown and not in their own right.³⁸

The favours of Charles II were renewed by James II in 1686 (April 12th) with certain additions. They were expressly authorized to appoint admirals and other sea-officers in any of their ships within the charter limits. With power for these officers to raise naval forces and exercise within their ships on the other side of the cape of Good Hope in the time of open hostility with some other nation the law martial for the defence of their ships. The charter also accorded to the company a

general power within their forts to coin any species of money usually coined by native princes, such coin to be current within the charter limits. The judicial provisions for the charter of 1683 were likewise repeated, with some modifications. But a very important innovation was made in the decision to permit the company to extend constitutional government in its Indian territories by the establishment of a Municipal constitution for Madras. The decision must have been influenced by the precedent of Tangier, which had been granted such a constitution by Charles II in the hope of encouraging mercantile activity and constitutionally the determination is noteworthy in two respects. It marks the development of the territorial character of the company's rule in Madras and it signalizes the readiness of the crown to accord the fullest power to the company.

Normally so high a prerogative would have been exercised directly but the company had found that difficulties had arisen from the claims of officers appointed under the powers of the charters of 1683 and 1686 to judicial office to be royal rather than company's officers, and accordingly the company was authorized by the king on December 11th, 1687 to grant a Municipal charter to Madras. The grant was inseparably bound up with the new policy of the acquisition of political sovereignty and the new policy of the acquisition of political sovereignty and the creation of sources of revenue based thereon it was intended largely to increase the revenues of Madras and

it was hoped that the creation of a Municipality on a generous basis would facilitate the increase of taxation.³⁹

The King's absolute right to regulate all import and export trade whatever and this included the power to decide by whom it might be carried out, existed. Stress was also laid on the fact upon that the legislation under James I (1624) which struck at Monopolies, was so framed as not to affect the London Company's Indian trade. In fact as noted above, the monopoly when it was granted could be supported on the broad ground of public advantage, and the bitterness of the attack upon it was largely due to the change in the political situation and the conflict of interested personalities. The rivals of the company formed themselves into an association which struggled against the old company both in parliament and in the city. Petitions were presented by both to parliament and the city, which resolved in 1691 that the trade with the East Indies was profitable to the nation, and that it would be best carried on by a joint-stock company with wide privileges. It seems clear that the view of the majority of the commons favoured the maintenance of monopoly, but its enjoyment by a body in which the newly formed association would be merged in the existing company; but this project failed owing to the unwillingness of Sr. J. Child to accept as the adequate terms offered. The House of Commons, therefore, requested the Crown to give the requisite three years' notice of the termination of the charter, but before

this could take effect the company, apparently by oversight rather than of fixed purpose, incurred a forfeiture by failing to pay a new tax imposed on joint-stock companies.⁴⁰ The crown was, however, not inclined to press matters against the company. Sir J. Child being lavish in gifts to certain of its advisers, and on October 7th, 1693 a charter was granted confirming its existing charter but subject to the acceptance by the company of such further regulation as might be imposed. The policy of the Government was directed towards giving effect to the wishes of the commons, as indicated in the resolution of 1691 and the Bill founded thereon, which had failed through the intransigence of Sir J. Child.

Accordingly, a supplementary charter of November 11th, 1693 opened the way to the wide increase of membership of the company by adding 744,000 Pounds to the capital and forbidding any individual to subscribe more than 10,000 Pounds. To prevent the gathering of voting power into the hands of a clique, while one was given for each 1,000 Pounds subscribed, the maximum voting power was restricted to ten votes. The qualification of the Governor and Deputy Governor was fixed at 4,000 Pounds, that of each committee at 7,000 Pounds. A subsequent charter of April 13th, 1698 varied these rules; it reduced to amount required for a vote to 500 Pounds and the total votes of any member of five, but doubled the qualification of the committees. By a charter of September 28th, 1694 the principle of rotation of

office was made compulsory. Neither Governor nor deputy Governor was to continue in office for more than two years, eight new committees must be elected each year and to increase the control of the general court of members, it must be specially summoned to meet within eight days on the request of six members holding 1,000 Pounds stock. The renewal of the company's powers was expressly made subject to the maintenance of the right of the crown to determine its privileges on three year's notice.⁴¹

The scheme was rendered operative by an Act following the precedent set by Montague in 1694 when the Bank of England was established in consideration of a loan of 1,200,000 Pounds and by two charters. The first of these, dated Sept. 3rd, 1698, incorporated most of the members of the society as a joint-stock company. 'The English Company trading to the East Indies'. The English company was to have a monopoly of joint-stock trading subject until Sept. 29th, 1701 to the concurrent right of the London company, whose rights were to terminate on notice of three years. But the old company had secured 315,000 Pounds of the stock issued, and was the largest single holder in the English company; its position in India was enterenced, its influence at home very strong, and in 1700 it procured, an Act of Parliament permitting it to continue trading until the improbable event of the repayment by the Government of the 2,000,000 Pounds loan. It was, therefore, in a position of negotiating on advantageous terms with the New Company. Lord

Godolphin exerted his influence and the authority of the crown to secure agreement and on July 22nd, 1702 an Indenture Tripartite between the Queen and the companies attested an accord. The old company was to maintain its separate existence for seven years, but thereafter to surrender its charter. In the meantime the trade of the two companies was to be carried on jointly in the name of the English Company by twenty-four Managers, half selected by either Company, while the English Company was to be renamed, The United Company of Merchants of England trading to the East Indies. This body was to operate under the terms of the charter of Sept. 5th, 1698, and it was only by the charter Act 1833 that it received the shorter name of the East India Company, by which, however, it is convenient to designate the united company.⁴²

The agreement proved to have certain obscurities affecting chiefly the financial relations of the two companies and it was necessary for intervention by the crown and parliament to adjust the issue. By an Act of 1708 the company was required to advance 1,200,000 Pounds without interest, making in effect the debt of the crown 3,200,000 Pounds at 5 per cent and was given in return the continuance of its privileges of at least until March 25th, 1729. Matters in dispute were to be arbitrated by Godolphin, whose award was issued on Sept. 29th. On May 7th, 1709 the Queen accepted the surrender of the Old Company's charters, becoming the first directors under its charter. Its

position which provided that its rights were not to determine on the repayment of the 2,000,000 Pounds loan and successive Acts extended the duration of its rights to 1780 at the cost of further loans and reduction of interest on existing loans. At the same time Parliament fulfilled its duty of protecting the company's monopoly now legally operated by strengthening from time to time the legislation penalizing interlopers, and by countering the efforts of the Emperor Charles VI to maintain the Ostend Company chartered by him in 1722 as a rival in the Indian trade.⁴³

The constitution of the company as defined by the charter of 1698 was essentially similar to that of the old company, though by adoption of more modern terminology the committees were now styled directors. The qualification for directors was fixed at 2,000 Pounds stock; election was to be annual by the general court in which only whose credit is 500 Pounds stock could vote, no member having more than one vote. The general court must meet at least four times a year; a special meeting must be convened by the Directors if requested by at least nine members duly qualified to vote. The carrying on of the business of the company was entrusted to the Court of Directors, subject to the by-laws, constitutions, orders, rules or directions of the general court. That court had also power to make reasonable by-laws, constitutions, orders and ordinances for the purposes of the company, including the raising of money, and declaration

of dividends and the good government of the trade and of the agents, factors and other officers concerned in the same with power to inflict reasonable punishment by imprisonment, fines or the like for breaches of their enactments. But their by-laws must not be contrary to the laws of England and must be made in due form.

At the same time the charter contemplated the exercise of sovereign powers in India by the company, for it continued the powers given by the Stuarts or rule and government of their forts, factories and plantations, with authority to appoint governors and officers who should as directed by the company, raise, train and muster military forces for the defence of their forts, factories and plantations, the sovereign power and dominion over all the said forts, places and plantations, to us our heirs and successors, being always secured. The charter further continued in operation the provisions of the charters of 1683 and 1686 for the erection of courts of judicature to deal with specified classes of causes. In essence the New Company was maintained by William III in the powers of the old, and this regime remained unaltered under Anne and her Hanoverian successors.

Changes, however, were introduced in the judiciary, as a result, it appears, of the fact that the company in England found itself liable to suit in certain cases in part as the

result of the non-existence of fully organized judiciaries in the settlement.⁴⁴

The Company had authorized the local councils to take possession of the assets of deceased servants and to dispose of them for cash for the benefit of their heirs, but difficulties sometimes arose from this practice, as in the case of a certain Mr. Woolaston, who brought several actions in respect of the estate of his deceased son.⁴⁵

The fall of the Stuart dynasty was a serious blow to Child. 'The Revolution' says Sir William Hender, 'brought the company face to face with parliament. The London company's numerous enemies associated themselves with the whig party, and as early as 1690 succeeded in including a parliamentary committee to pass a resolution in favour of a new company. About this time they banded themselves together in an informal kind of association meeting in the Hall of the Skinners' Company in Dowgate Street. Parliament and the King in vain endeavoured to persuade the old Company to admit new members and finally the commons petitioned the crown to dissolve the defiant corporation. So far from being intimidated Sir Josia Child expended over 80,000 Pounds in bribery among Ministers and actually thus procured a new charter for the Old Company in 1693. The result was as might be expected, an outburst of great anger in the country and in the Commons. An interloper, Gilbert Heathcote,

whose ship was seized in the Thame^e, voiced the national feeling when he declared before a committee of the House of Commons, that he did not think it any sin to trade to the East Indies, and would trade thither till there was an Act of Parliament to the contrary. Parliament itself subscribed to this view and resolved in 1694, that all the subjects of England have equal right to trade to the East Indies, unless prohibited by Act of Parliament.⁴⁶

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